

Council Meeting of  
November 9, 2010

Honorable Mayor and Members  
of the City Council  
City Hall  
Torrance, California

Members of the Council:

**Subject: Public Works – Award of Public Works Agreement and Contract Services Agreement for the Walteria Reservoir Slope Stability Project, C.I.P. No. I-95. Expenditure: \$394,217.38**

### **RECOMMENDATION**

Recommendation of the Public Works Director that City Council:

1. Approve an appropriation of \$179,003 from the Water Enterprise Fund balance to CIP No. I-95; and
2. Approve the plans and specifications for the Walteria Reservoir Slope Stability Project (B2010-17); and
3. Accept an error in the total bid price of the lowest bidder, MG Construction & Development, Inc., that was corrected from \$305,065.80 to \$341,965.80; and
4. Award a Public Works Agreement to the lowest bidder, MG Construction & Development, Inc. in the amount of \$341,965.80 and authorize a 10% contingency of \$34,196.58; and
5. Award a Contract Services Agreement to Geo-Environmental, Inc. in the amount of \$18,055.00 to provide geo-technical and inspection services.

### **Funding**

Funding is available from remaining funds from CIP No. I-95, and an appropriation of funds from the Water Enterprise Fund balance.

### **BACKGROUND**

The project involves the stabilization of the slope behind and between the office buildings at 25690 Crenshaw Boulevard, at the base of the Walteria and Ben Haggot reservoirs. This location has experienced slope failures, resulting in a geotechnical investigation and recommendation for slope stabilization. This project was previously bid in May 2007 with a soiled nail wall method (Schedule A) as the lone stabilization construction method, and all bids were subsequently rejected due to the bids being substantially higher than the engineer's estimate and project budget. Those bids ranged from **\$607,000 to \$1,500,000**.

Consequently, upon the recommendation of Geo-Environmental, Inc., two additional stabilization methods were designed, which proved more cost effective. The second method involved the construction of two retaining block walls with reinforced compacted fill (Schedule B), and the third method involves reinforced compacted fill with layers of geo-textile wire mesh (Schedule C). We provided contractors all three alternative slope stabilization methods to bid on, with the lowest alternative bid being selected. Providing alternative slope stabilization designs and re-bidding the project saved the City **\$250,000**.

## **ANALYSIS**

The project was publicly advertised on August 29, 2010 and September 1, 2010, and twelve bids were received on September 30, 2010. The five lowest bids are listed below:

<u>BIDDER</u>	<u>AMOUNT</u>
1. MG Construction & Development	\$341,965.80 (Schedule C) *
2. Excavating Engineers	\$343,686.00 (Schedule C)
3. Cal Fran Engineering, Inc.	\$387,073.00 (Schedule B)
4. MG Construction & Development	\$413,991.00 (Schedule B) *
5. Earth Construction & Mining	\$418,917.90 (Schedule B)

\* Corrected Amount

The Engineer's estimate for either Schedule B or C was approximately \$350,000. MG Construction & Development, Inc. is the apparent lowest, responsive bidder. Upon review of the bids, it was determined that MG Construction & Development, Inc. had misrepresented a bid quantity which resulted in an arithmetical error in their total bid. Instructions to the Bidders stated that, "In the case of discrepancy between unit bid prices and total bid, the unit price shall prevail." Staff consulted with the City Attorney's Office to review the bid and it was determined that the error did not alter the ranking of the bids. MG Construction & Development, Inc. was made aware of their error and submitted a letter stating that they recognize the error and will perform the contract work at the unit prices, for the corrected dollar amount of \$341,965.80. This is \$36,900 more than they had originally submitted.

The second low bidder, Excavating Engineers, subsequently submitted a protest letter challenging the qualifications of MG Construction & Development, Inc. and the reason their bid total was increased. Staff has contacted and checked the references and contractor's license provided by MG Construction & Development and they were found to be in order.

Geo-Environmental, Inc. provided the alternative slope stabilization designs and is experienced in the construction of the selected method. They have confirmed that reinforced compacted fill is a simple construction procedure. Staff recommends that the City Council award a Contract Services Agreement to Geo-Environmental, Inc. for construction observation. They have performed previous work for the City and their fee is very reasonable. Staff also recommends that the City Council waive the error in the bid total and award a Public Works Agreement to MG Construction & Development, Inc.

Upon Council approval, the anticipated construction schedule would last approximately 36 weeks (December, 2010 though July, 2011).

The total estimated budget for this project is as follows:

Design	\$59,785.62
Construction	\$341,965.80
Contingency @ 10%	\$ 34,196.58
Outside Geotechnical Inspection Services	\$ 18,055.00
Construction Management	<u>\$ 25,000.00</u>
<b>Total Estimated Project Budget:</b>	<b>\$479,003.00</b>

The current CIP I-95 project budget is \$300,000 with a remaining balance of \$240,215. Additional funding of \$179,003, available from the Water Enterprise Fund, will be necessary to cover the remaining cost.

The 10% contingency is being requested because the contractor will be required to excavate down to bedrock and the quantity of excavation can vary greatly depending on the location of bedrock. The exact volume of excavated soil cannot be determined until all excavation is complete.

Staff is coordinating this project with the adjacent property owner and the Building and Safety Division.

Respectfully submitted,

ROBERT J. BESTE  
Public Works Director

  
By John C. Dettle, P.E.  
Engineering Manager

CONCUR:



Robert J. Beste  
Public Works Director



LeRoy J. Jackson  
City Manager

- Attachments:
- A. Public Works Agreement – MG Construction & Development, Inc.
  - B. Contract Services Agreement – Geo-Environmental, Inc.
  - C. Letter from MG Construction & Development, Inc.
  - D. Protest Letter from Excavating Engineers
  - E. City's response to Excavating Engineers' Protest Letter

## PUBLIC WORKS AGREEMENT

This PUBLIC WORKS AGREEMENT ("Agreement") is made and entered into as of November 9, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and MG Construction & Development, Inc., a California corporation ("CONTRACTOR").

### RECITALS:

- A. The CITY wishes to retain the services of an experienced and qualified CONTRACTOR to construct the Walteria Reservoir Slope Stability Project, C.I.P. No. I-95;
- B. In order to obtain the desired services, The CITY has circulated a Notice Inviting Bids for the construction of Walteria Reservoir Slope Stability Project, Notice Inviting Bids No. B2010-17 (the "NIB"); and
- C. CONTRACTOR has submitted a Bid (the "Bid") in response to the NIB. CONTRACTOR represents that it is qualified to perform those services requested in the Plans and Specifications. Based upon its review of all Bids submitted in response to the NIB, The CITY is willing to award the contract to CONTRACTOR.

### AGREEMENT:

#### 1. SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR will provide the services and install those materials listed in the Plans and Specifications, which are on file in the Public Works Department. The NIB and the Plans and Specifications are made a part of this Agreement. A copy of the Bid is attached as Exhibit A.

#### 2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect for one year from the Effective Date.

#### 3. COMPENSATION

- A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with CONTRACTOR's Bid; provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of

\$341,965.80 ("Agreement Sum"), unless otherwise first approved in writing by the CITY.

B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid monthly, within 30 days after the date of the monthly invoice.

**4. TERMINATION OF AGREEMENT**

A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
  - a) cease operations as directed by CITY in the notice;
  - b) take actions necessary, or that CITY may direct, for the protection preservation of the work; and
  - c) except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR

under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

#### C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

## 5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

**6. RETENTION OF FUNDS**

CONTRACTOR authorizes the CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate the CITY for any losses, costs, liabilities, or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONTRACTOR's negligent acts or omissions or willful misconduct in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness exists that appears to be the basis for a claim of lien, the CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of the CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect the CITY as elsewhere provided in this Agreement.

**7. THE CITY'S REPRESENTATIVE**

The Public Works Director is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by the CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

**8. CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Gerald Caruthers, President

**9. INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to the CITY, a wholly independent contractor. Neither the CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the CITY.

**10. BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

**11. OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

**12. FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform the CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from the CITY.

**13. CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by the CITY, except those losses or damages as may be caused by the CITY's own negligence.

**14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between the CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to the CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

**15. INDEMNIFICATION**

CONTRACTOR will indemnify, defend, and hold harmless CITY, the City Council, each member thereof, present and future, its officers, agents and employees from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**16. NON-LIABILITY OF THE CITY'S OFFICERS AND EMPLOYEES**

No officer or employee of the CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

**17. INSURANCE**

- A. CONTRACTOR must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
    - a. Combined single limits of \$2,000,000 per occurrence.
  2. General Liability including coverage for premises, products and completed operations, independent contractors, personal injury and contractual obligations with combined single limits of coverage of at

least \$3,000,000 per occurrence, with an annual aggregate of no less than \$5,000,000.

3. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONTRACTOR will be primary and non-contributory.
  - C. The CITY of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insureds under the automobile and general liability policies.
  - D. CONTRACTOR must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
  - E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to the CITY.
  - F. CONTRACTOR must include all subcontractors as insureds under its policies or must furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors will be subject to all of the requirements of this Paragraph 17.

## **18. SUFFICIENCY OF INSURERS**

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of the CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies and/or the performance bond required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of the CITY within 10 days of receipt of notice from the Risk Manager.

**19. CONFLICT OF INTEREST**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

**20. NOTICE**

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
  - 1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.
  - 2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
  - 3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
  - 4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
  - 5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the

next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

6. Addresses for purpose of giving notice are as follows:

CONTRACTOR:                   MG Construction & Development,  
Inc.  
8900 Eton Avenue #C  
Canoga Park, California 91304  
Fax: (818) 773-7350

CITY:                             City Clerk  
City of Torrance  
3031 Torrance Boulevard  
Torrance, CA 90509-2970  
Fax: (310) 618-2931

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

## **21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either the CITY or CONTRACTOR without the prior written consent of the other.

## **22. INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of the CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

## **23. INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**24. SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**25. TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

**26. GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**27. COMPLIANCE WITH STATUTES AND REGULATIONS**

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**28. WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**29. ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

**30. EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

**31. CONTRACTOR'S AUTHORITY TO EXECUTE**

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE,  
a Municipal Corporation

MG Construction & Development, Inc.  
A California Corporation

\_\_\_\_\_  
Frank Scotto, Mayor

By: \_\_\_\_\_  
Gerald Caruthers, President

ATTEST:

\_\_\_\_\_  
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_

Attachments: Exhibit A: Bid

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Revised: 3/3/99  
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**BID SCHEDULE C  
REINFORCED COMPACTED FILL**

Item No.	Approx. Qty	Unit of Measure	Item Description	Unit Price	Total Bid
1	1	LS	MOBILIZATION (5% MAX. OF CONTRACT BID)	20,000	20,000
2	1	LS	CONSTRUCTION SURVEYING	4,500	4,500
3	1	LS	CONSTRUCTION BMPs AND SWPPP	33,700	33,700
4	17,500	SF	CLEARING AND GRUBBING	35¢	6,125-
5	1	LS	REMOVE PORTION OF EXISTING WROUGHT IRON FENCE AND REPLACE AFTER COMPLETION OF CONSTRUCTION	1,350	1,350
6	1	EA	REMOVE EXISTING TRASH ENCLOSURE AND REPLACE IN KIND AFTER COMPLETION OF CONSTRUCTION	4,250	4,250
7	5,100	CY	EXCAVATE, DISPOSE OFF SITE AND KEY AND BENCH SOIL FOR REINFORCED COMPACTED FILL CONSTRUCTION AND SLOPE RE-GRADING	20.10	102,510
8	735	LF	FURNISH AND INSTALL SUBDRAIN COLLECTION PIPING	12-	8,820-
9	5,600	CY	FURNISH AND PLACE REINFORCED COMPACTED FILL	15-	94,000 <sup>10</sup> 47,100
10	6,281	SY	FURNISH AND INSTALL WELDED WIRE REINFORCEMENT	1.80 <del>2.00</del>	11,305.80 <del>12,562.00</del>
11	25	SF	CONSTRUCT 4" THICK CONCRETE SPLASH PAD	15-	375-
12	370	LF	REMOVE EXISTING PARKING LOT CURB AND CONSTRUCT 2' CONCRETE CURB AND GUTTER	44-	16,280-
13	20	LF	CONSTRUCT 4' CONCRETE SWALE	20-	400-
14	40	LF	CONSTRUCT 4" DIA. CURB DRAIN PIPES	15-	600-
15	17,500	SF	FURNISH AND INSTALL PARKING LOT SLURRY SEAL, AND REPLACE IN KIND STRIPING AND PAVEMENT MARKING	70¢	12,250-
16	17,500	SF	HYDROSEEDING	.18¢	3,150-
17	1	LS	IRRIGATION (SPRINKLER) SYSTEM MODIFICATIONS	7,600	7,600

Item No	Approx Qty	Unit of Measure	Item Description	Unit Price	Total Bid
18	1	LS	PLANTING, TREE REPLACEMENT, AND OTHER LANDSCAPING WORK	2,500-	2,500
19	1	LS	90 DAY PLANT ESTABLISHMENT AND MAINTENANCE	1,500	1,500
20	17,500	SF	SUPPLY AND INSTALL EROSION PROTECTION FABRIC AND POST CONSTRUCTION BMPs	90¢	15,750-
21	1,000	CY	ADDITIONAL EXCAVATION AND RECOMPACTION AS DIRECTED BY ENGINEER	\$ 5.00	5,000

**BID SCHEDULE C**

TOTAL BID PRICE \$ ~~305,065.80~~ \$ 341,965.80 PD  
 (Figures)\*

TOTAL BID PRICE: ~~Three hundred five thousand sixty~~  
 five dollars and eight cents PD  
 (Words)\*

**\*BID MAY BE REJECTED IF TOTAL IS NOT SHOWN IN FIGURES AND WORDS.**

**B2010-17**

## CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of November 9, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Geo-Environmental, Inc., a California Corporation ("CONTRACTOR").

### RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide geotechnical observation and materials testing services for the Walteria Reservoir Slope Stability Project.
- B. CONTRACTOR represents that it is qualified to perform those services.

### AGREEMENT:

#### 1. **SERVICES TO BE PERFORMED BY CONTRACTOR**

CONTRACTOR will provide the services listed in the Scope of Services attached as Exhibit A. CONTRACTOR warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner.

#### 2. **TERM**

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through November 8, 2011.

#### 3. **COMPENSATION**

- A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B, provided, however, that in no event will the total amount of money paid the CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of \$18,055.00 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

- B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid the fees described in Paragraph 3.A. above, according to the Compensation Schedule. Payment will be due within 30 days after the date of the invoice.

#### 4. **TERMINATION OF AGREEMENT**

##### A. Termination by CITY for Convenience.

1. CITY may, at any time, terminate the Agreement for CITY's convenience and without cause.
2. Upon receipt of written notice from CITY of such termination for CITY's convenience, CONTRACTOR will:
  - a. cease operations as directed by CITY in the notice;
  - b. take actions necessary, or that CITY may direct, for the protection and preservation of the work; and
  - c. except for work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.
3. In case of such termination for CITY's convenience, CONTRACTOR will be entitled to receive payment for work executed; and costs incurred by reason of such termination, along with reasonable overhead and profit on the work not executed.

##### B. Termination for Cause.

1. If either party fails to perform any term, covenant or condition in this Agreement and that failure continues for 15 calendar days after the nondefaulting party gives the defaulting party written notice of the failure to perform, this Agreement may be terminated for cause; provided, however, that if during the notice period the defaulting party has promptly commenced and continues diligent efforts to remedy the default, the defaulting party will have such additional time as is reasonably necessary to remedy the default.
2. In the event this Agreement is terminated for cause by the default of the CONTRACTOR, the CITY may, at the expense of the CONTRACTOR and its surety, complete this Agreement or cause it to be completed. Any check or bond delivered to the CITY in connection with this Agreement, and the money payable thereon, will be forfeited to and remain the property of the CITY. All moneys due the CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR and its surety will be credited with the amount of money retained, toward any amount by which the cost of completion exceeds the Agreement Sum and any amount authorized for extra services.

3. Termination for cause will not affect or terminate any of the rights of the CITY as against the CONTRACTOR or its surety then existing, or which may thereafter accrue because of the default; this provision is in addition to all other rights and remedies available to the CITY under law.

C. Termination for Breach of Law.

In the event the CONTRACTOR or any of its officers, directors, shareholders, employees, agents, subsidiaries or affiliates is convicted (i) of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performance of a contract or subcontract; (ii) under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which currently, seriously, and directly affects responsibility as a public consultant or contractor; (iii) under state or federal antitrust statutes arising out of the submission of bids or proposals; or (iv) of violation of Paragraph 19 of this Agreement; or for any other cause the CITY determines to be so serious and compelling as to affect CONTRACTOR's responsibility as a public consultant or contractor, including but not limited to, debarment by another governmental agency, then the CITY reserves the unilateral right to terminate this Agreement or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it deems proper. The CITY will not take action until CONTRACTOR has been given notice and an opportunity to present evidence in mitigation.

5. **FORCE MAJEURE**

If any party fails to perform its obligations because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental control, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond the reasonable control of the party obligated to perform, then that party's performance shall be excused for a period equal to the period of such cause for failure to perform.

6. **RETENTION OF FUNDS**

CONTRACTOR authorizes CITY to deduct from any amount payable to CONTRACTOR (whether or not arising out of this Agreement) any amounts the payment of which may be in dispute or that are necessary to compensate CITY for any losses, costs, liabilities, or damages suffered by CITY, and all amounts for which CITY may be liable to third parties, by reason of CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR's obligations under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by CONTRACTOR, or any indebtedness

exists that appears to be the basis for a claim of lien, CITY may withhold from any payment due, without liability for interest because of the withholding, an amount sufficient to cover the claim. The failure of CITY to exercise the right to deduct or to withhold will not, however, affect the obligations of CONTRACTOR to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

**7. CITY REPRESENTATIVE**

Robert J. Beste, Public Works Director, is designated as the "City Representative," authorized to act in its behalf with respect to the work and services specified in this Agreement and to make all decisions in connection with this Agreement. Whenever approval, directions, or other actions are required by CITY under this Agreement, those actions will be taken by the City Representative, unless otherwise stated. The City Manager has the right to designate another City Representative at any time, by providing notice to CONTRACTOR.

**8. CONTRACTOR REPRESENTATIVE(S)**

The following principal(s) of CONTRACTOR are designated as being the principal(s) and representative(s) of CONTRACTOR authorized to act in its behalf with respect to the work specified in this Agreement and make all decisions in connection with this Agreement:

Farhat H. Siddiqi, Ph.D., P.E.  
Principal Engineer

**9 INDEPENDENT CONTRACTOR**

The CONTRACTOR is, and at all times will remain as to CITY, a wholly independent contractor. Neither CITY nor any of its agents will have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR may not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of CITY.

**10. BUSINESS LICENSE**

The CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

**11. OTHER LICENSES AND PERMITS**

CONTRACTOR warrants that it has all professional, contracting and other permits and licenses required to undertake the work contemplated by this Agreement.

**12. FAMILIARITY WITH WORK**

By executing this Agreement, CONTRACTOR warrants that CONTRACTOR (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed,

and (c) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, CONTRACTOR warrants that CONTRACTOR has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services set forth in this Agreement. Should CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from CITY.

**13. CARE OF WORK**

CONTRACTOR must adopt reasonable methods during the term of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the work by CITY, except those losses or damages as may be caused by CITY's own negligence.

**14. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS**

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR will also maintain all other records, including without limitation specifications, drawings, progress reports and the like, relating to the project. All records will be available to CITY during normal working hours. CONTRACTOR will maintain these records for three years after final payment.

**15. INDEMNIFICATION**

CONTRACTOR will indemnify, defend, and hold harmless CITY, the Redevelopment Agency of the City of Torrance, the City Council, each member thereof, present and future, members of boards and commissions, its officers, agents, employees and volunteers from and against any and all liability, expenses, including defense costs and legal fees, and claims for damages whatsoever, including, but not limited to, those arising from breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss however the same may be caused and regardless of the responsibility for negligence. The obligation to indemnify, defend and hold harmless includes, but is not limited to, any liability or expense, including defense costs and legal fees, arising from the negligent acts or omissions, or willful misconduct of CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR's obligations to indemnify, defend and hold harmless will apply even in the event of concurrent negligence on the part of CITY, the City Council, each member thereof, present and future, or its officers, agents and employees, except for liability resulting solely from the negligence or willful misconduct of CITY, its officers, employees or agents. Payment by CITY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONTRACTOR and CITY, as to whether liability arises from the

sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR will be obligated to pay for CITY's defense until such time as a final judgment has been entered adjudicating the CITY as solely negligent. CONTRACTOR will not be entitled in the event of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

**16. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES**

No officer or employee of CITY will be personally liable to CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

**17. INSURANCE**

A. CONTRACTOR and its subcontractors must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:

1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
  - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
  - b. Primary Property Damage of at least \$250,000 per occurrence; or
  - c. Combined single limits of \$1,000,000 per occurrence.
2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
3. Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least \$1,000,000.

B. The insurance provided by CONTRACTOR will be primary and non-contributory.

C. CITY ("City of Torrance"), the Redevelopment Agency of the City of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.

D. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, to the City Clerk of the City of Torrance before the commencement of work.

- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

**18. SUFFICIENCY OF INSURERS**

Insurance required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to CITY, the CONTRACTOR agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONTRACTOR will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

**19. CONFLICT OF INTEREST**

- A. No officer or employee of the CITY may have any financial interest, direct or indirect, in this Agreement, nor may any officer or employee participate in any decision relating to the Agreement that effects the officer or employee's financial interest or the financial interest of any corporation, partnership or association in which the officer or employee is, directly or indirectly interested, in violation of any law, rule or regulation.
- B. No person may offer, give, or agree to give any officer or employee or former officer or employee, nor may any officer or employee solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any way pertaining to any program requirement, contract or subcontract, or to any solicitation or proposal.

**20. NOTICE**

- A. All notices, requests, demands, or other communications under this Agreement will be in writing. Notice will be sufficiently given for all purposes as follows:
1. Personal delivery. When personally delivered to the recipient: notice is effective on delivery.

2. First Class mail. When mailed first class to the last address of the recipient known to the party giving notice: notice is effective three mail delivery days after deposit in an United States Postal Service office or mailbox.
3. Certified mail. When mailed certified mail, return receipt requested: notice is effective on receipt, if delivery is confirmed by a return receipt.
4. Overnight delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account: notice is effective on delivery, if delivery is confirmed by the delivery service.
5. Facsimile transmission. When sent by fax to the last fax number of the recipient known to the party giving notice: notice is effective on receipt. Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.
6. Addresses for purpose of giving notice are as follows:

CONTRACTOR	Geo-Environmental, Inc. 2691 Richter Avenue Suite 127 Irvine, California 92606-5125 Fax: (949) 263-8338
------------	---

CITY:	City Clerk City of Torrance 3031 Torrance Boulevard Torrance, CA 90509-2970 Fax: (310) 618-2931
-------	---

- B. Any correctly addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified, will be deemed effective as of the first date the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messenger or overnight delivery service.
- C. Either party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

## **21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING**

This Agreement and all exhibits are binding on the heirs, successors, and assigns of the parties. The Agreement may not be assigned or subcontracted by either CITY or CONTRACTOR without the prior written consent of the other.

**22. INTEGRATION; AMENDMENT**

This Agreement represents the entire understanding of CITY and CONTRACTOR as to those matters contained in it. No prior oral or written understanding will be of any force or effect with respect to the terms of this Agreement. The Agreement may not be modified or altered except in writing signed by both parties.

**23. INTERPRETATION**

The terms of this Agreement should be construed in accordance with the meaning of the language used and should not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction that might otherwise apply.

**24. SEVERABILITY**

If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

**25. TIME OF ESSENCE**

Time is of the essence in the performance of this Agreement.

**26. GOVERNING LAW; JURISDICTION**

This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.

**27. COMPLIANCE WITH STATUTES AND REGULATIONS**

CONTRACTOR will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.

**28. WAIVER OF BREACH**

No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.

**29. ATTORNEY'S FEES**

Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.

**30. EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

**31. CONTRACTOR'S AUTHORITY TO EXECUTE**

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE  
a Municipal Corporation

Geo-Environmental, Inc.  
a California Corporation

\_\_\_\_\_  
Robert J. Beste  
Public Works Director

By: \_\_\_\_\_  
Farhat H. Siddiqi, Ph.D., P.E.  
Principal Engineer

\_\_\_\_\_  
LeRoy J. Jackson, City Manager

APPROVED AS TO FORM:

JOHN L. FELLOWS III  
City Attorney

By: \_\_\_\_\_

Attachments:      Exhibit A      Scope of Services  
                         Exhibit B      Compensation Schedule

Revised:      10/29/2008

**EXHIBIT A**  
**SCOPE OF SERVICES**



GEO-ENVIRONMENTAL, INC.

Caltrans Certified  
DBE Firm

September 27, 2010

John C. Dettle, P.E.  
*Engineering Manager*  
**City of Torrance Public Works Department**  
20500 Madrona Avenue  
City of Torrance, California 90503

**Subject: Geotechnical Observation and Materials Testing Services  
Walteria Reservoir Slope Repair Project  
City of Torrance, Los Angeles County, California**

*GEI Proposal No. 10-123*

Dear Mr. Dettle:

In response to your request, Geo-Environmental, Inc. (GEI) has prepared this proposal to provide geotechnical observation and materials testing services for the reconstruction of the slope located on the northeast corner of Crenshaw Boulevard and Rolling Hills Road in the City of Torrance, County of Los Angeles, California.

A geotechnical investigation was conducted for formulating recommendations regarding soil-related issues, the results of which were presented in GEI's report entitled, "GEOTECHNICAL INVESTIGATION REPORT, Slope Stabilization Methods, Northwest Portion of Walteria Reservoir, City of Torrance, Los Angeles County, California" dated April 29, 2009 (GEI Project No. 172-43). Consequently, during the construction, GEI's Staff Engineer, Staff Geologist, and Engineering Technician will need to make engineering judgments regarding the reconstruction depending upon the recommendations given in the said report. GEI will perform all pertinent testing on materials in the laboratory for the verification for the required compaction level.

## **1.0 SCOPE OF CONSULTING ENGINEERING SERVICES**

### **1.1 Field Observations and Soils Testing**

- 1.1.2 ***Evaluation of excavation***: GEI's field staff will inspect the excavation bottom to ensure that competent material has been exposed for the placement of the engineered fill.
- 1.1.3 ***Evaluation of earth material to be used as fill***: GEI's field staff will collect samples of the proposed fill material and deliver them to the materials laboratory. Appropriate

Walteria Reservoir Slope Repair Project  
City of Torrance, Los Angeles County, California  
GEI Proposal No. 10-123  
September 27, 2010  
Page 2

soil testing will be performed to determine whether the fill material is suitable for use in the reconstruction of the slope.

- 1.1.4 **Evaluation of compaction procedures**: GEI's field staff will evaluate the compaction procedure for the backfill of the slope to ensure that the project specifications have been followed (appropriate thickness of lift, proper compaction method, etc.). If needed, similar evaluations will be performed for the subgrade and AB for the parking lot pavement section.
- 1.1.5 **Testing of compaction, moisture content, etc.**: GEI's field staff will conduct compaction testing by Sand Cone Test Method (ASTM D1556) and Nuclear Method (ASTM D 2922-01) to determine the relative compaction of the fill material placed for the restoration of the slope. Sufficient testing will be performed within the subgrade soils to verify compliance related to the relative compaction requirements contained in the project specifications.
- 1.1.6 **Observation of selected system (block wall/reinforced compacted fill/soil-nail wall) construction**: GEI's field staff will check and observe the construction of the selected repair system on compacted soil. This will include inspection of materials to ensure that the Contractor complies with the project specifications. Additionally, GEI's Staff Engineer will inspect the placement of drains.

During the progress of our work, GEI's field staff will prepare daily field reports. A copy of these reports will be submitted to the City Inspector on a daily basis. The reports will include written summaries of the days' activities, summaries of all field-testing performed, and listings of outstanding failing tests that have not been reworked or retested. In addition, the locations of all field-density tests taken during the project will be plotted on a set of plans that is maintained by technicians. The Contractor will be asked not to place any backfill material that does not meet project specifications.

The testing time and the associated fees can be minimized by proficient and timely work by the Contractor and by coordination among the Project Superintendent, the City Inspector, and GEI engineers and technicians. *When a larger number of tests are scheduled at a time, greater efficiency can be achieved, resulting in lower overall fees. However, GEI's testing and inspection duration is totally dependent on the progress of work by the Contractor.*

The inspections, observations, and testing will be provided after the preconstruction meeting and the commencement of construction activities, and will continue until all components associated with the reconstruction have been achieved in accordance with the project specifications. GEI's technicians will be present at the site on all days when the geotechnical observations, inspections, and testing are needed, and will spend an appropriate amount of time in the field commensurate with the testing requirements.

Walteria Reservoir Slope Repair Project  
City of Torrance, Los Angeles County, California  
GEI Proposal No. 10-123  
September 27, 2010  
Page 3

## 1.2 Laboratory Testing

The following tests will be conducted in GEI's materials laboratory to determine the engineering characteristics of the subgrade soils, AB, and AC:

### 2.2.1. *Modified Proctor Tests to Determine Maximum Dry Density and Optimum Moisture Content:*

- i. Max. Density/Opt. Moisture – ASTM D1557 (Methods A & B)
- ii. Max. Density/Opt. Moisture – ASTM D1557 (Method C)

### 2.2.2. *Soil Classification:*

- i. Grain Size Analysis – ASTM D422
- ii. Atterberg Limits (LL&PL) – ASTM D4318-D84 or CT204

### 2.2.3. *Concrete/Shotcrete/Grout Testing:*

- i. Compressive Strength – ASTM C39/C109

### 2.2.4. *Asphalt Testing (Asphalt Emulsion):*

- i. Wet Track Abrasion Test – ASTM 3910

## 1.3 Technical Management

GEI's Staff Engineer or Staff Geologist will provide project coordination, technical support, and management during the project. This will include work scheduling and the review of the project geotechnical reports, plans, and specifications. Additionally, GEI's Project Manager will attend all preconstruction meetings, construction field meetings, and other coordination meetings to assure the City that all work being performed is in accordance with the approved plans and specifications. After consulting with the Principal Engineer, he will provide guidance and recommendations to the field staff. GEI's field staff will implement all of the decisions made during the construction meetings. The field compaction procedures will be evaluated and recommendations will be made where appropriate.

## 1.4 Report Preparation

At the completion of our services, GEI will prepare a final report that will summarize all of the work performed on the project. The report will include our observations during construction,

Walteria Reservoir Slope Repair Project  
City of Torrance, Los Angeles County, California  
GEI Proposal No. 10-123  
September 27, 2010  
Page 4

results of our field and laboratory testing, and a conclusion as to the project's compliance with the contract plans and specifications. Four (4) wet-signed copies of the report will be provided.

### **1.5 Associated Fees**

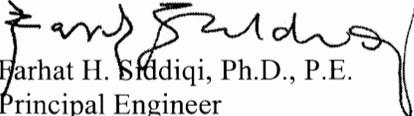
GEI will provide its geotechnical observation and material testing services for the above referenced project on a time and material basis in accordance with the estimated fee as presented in Table 1 (Fee Estimate). Travel time from GEI's headquarters in Irvine will be charged for every visit (within the four (4) hour minimum if applicable).

### **2.0 CLOSURE**

We appreciate the opportunity to propose our services and look forward to working with you on this project. If you have any questions regarding this proposal or need further information, please do not hesitate to contact the undersigned at (949) 263-8334, extension 22, or Mr. Roberto C. Flores at extension 28.

Very truly yours,

Geo-Environmental, Inc.

  
Farhat H. Siddiqi, Ph.D., P.E.  
Principal Engineer

Attachments: Fee Estimate (Table 1)  
2009 Schedule of Charges



**EXHIBIT B**  
**COMPENSATION SCHEDULE**



GEO-ENVIRONMENTAL, INC.

Caltrans Certified  
DBE Firm

## TABLE NO. 1 FEE ESTIMATE

**Walteria Reservoir Slope Repair**  
**City of Torrance, Los Angeles County, California**  
 Geotechnical Observation and Materials Testing Services  
 GEI Proposal No. 10-123  
 September 27, 2010

	<u>Units (hrs.)</u>	<u>Unit Cost</u>	<u>Unit Total</u>	<u>Total</u>
<b>1. Field Observation and Testing</b>				
<i>Evaluation of Excavations and Fill Material</i>				
<i>Performance of Field Density Tests on Subgrade:</i>				
Staff Engineer & Geologist*	80	\$85.00	\$6,800.00	
Vehicle and Equipment (daily fee)	10	\$100.00	\$1,000.00	
Nuclear Gauge (daily fee)	10	\$40.00	\$400.00	
				\$8,200.00
<i>Observation of Block Wall System or Reinforced Compacted Fill System or Soil-Nail Wall System Construction:</i>				
Staff Engineer & Geologist*	40	\$85.00	\$3,400.00	
Vehicle and Equipment (daily fee)	5	\$100.00	\$500.00	
Nuclear Gauge (daily fee)	5	\$40.00	\$200.00	
				\$4,100.00
<i>Observation and Testing of Concrete/Grout/Shotcrete and Asphalt (Emulsion):</i>				
Staff Engineer & Geologist*	16	\$85.00	\$1,360.00	
Vehicle and Equipment (daily fee)	2	\$100.00	\$200.00	
				\$1,560.00
<b>2. Materials Testing in Laboratory</b>				
Compressive Strength per specimen – ASTM C39	10	\$30.00	\$300.00	
Compressive Strength per specimen – ASTM C109	5	\$25.00	\$125.00	
Grain Size Analysis – ASTM D422	3	\$80.00	\$240.00	
Atterberg Limits (LL&PL) – ASTM D4318-D84 or CT204	3	\$90.00	\$270.00	
Max. Density/Opt. Moisture – ASTM D1557 (Methods A & B)	3	\$130.00	\$390.00	
Max. Density/Opt. Moisture – ASTM D1557 (Method C)	2	\$145.00	\$290.00	
Wet Track Abrasion Test – ASTM D3910	1	\$150.00	\$150.00	
				\$1,765.00
<b>3. Technical Management/Pregrade, Field, and Other Coordination Meetings with City Personnel</b>				
Staff Engineer & Geologist*	10	\$85.00	\$850.00	
Vehicle (daily fee)	2	\$60.00	\$120.00	
				\$970.00
<b>4. Summarization of Data/Data Analysis/Report Preparation</b>				
Principal Engineer & Geologist	2	\$155.00	\$310.00	
Staff Engineer & Geologist	6	\$85.00	\$510.00	
Drafter/CAD Operator	5	\$70.00	\$350.00	
Technical Word Processor	2	\$45.00	\$90.00	
Color Report Reproduction	3	\$50.00	\$150.00	
Black and White Report Reproduction	1	\$50.00	\$50.00	
				\$1,460.00
* Travel time is included				
<b>Estimated Total Cost</b>			<b>\$18,055.00</b>	



Tuesday, October 19, 2010

**TO:** John Dettle  
City of Torrance  
**ADD:** 20500 Madrona Ave  
Torrance, CA 90503

**RE:** Schedule C - Soil Nailed Wall At Walteria Reservoir  
CIP Project I-95

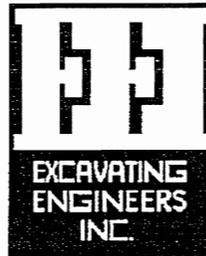
Mr. Dettle,

Please note that we made a clerical mistake on our bid for the above referenced project. Bid item number 9 was calculated incorrectly at the time of our bid submittal. The Unit price of \$15 per Cubic Yard is correct. However, the value of the quantities was incorrect. Please note that Bid Item #9 should total \$84,000. This changes our overall bid amount to **\$341,965.80**. Please feel free to contact us with any questions, comments or concerns you might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gerald Caruthers', written over a horizontal line.

Gerald Caruthers  
President  
**MG Construction and Development Inc.**



October 8, 2010

Mr. John Dettle P.E.  
 City of Torrance  
 Public Works  
 3031 Torrance Blvd  
 Torrance, CA. 90509  
 Tel: (310) 618-3059  
[jdettle@torranceca.gov](mailto:jdettle@torranceca.gov)

Re: Project: Walteria Reservoir Slope Stability Project, I-95  
 Matter: Formal Protest of M.G. Construction & Development, Inc.

Mr. Dettle,

I am writing to protest an award of the referenced project by the City of Torrance to the apparent low bidder, M.G. Construction & Development, Inc..

In particular, we have made numerous requests to receive a public record copy of the M.G. Construction bid package. To date, we have not received any of the information requested.

Secondly, we have researched the background, experience, and capabilities of M.G. Construction & Development, Inc. It is important to note that M.G. Construction & Development, Inc. identifies their business as a building contractor on the company website [www.mgcad.com](http://www.mgcad.com) with project references and experience noted as "Residential and Commercial" building projects. There is no indication of any experience in general engineering and public works construction. In accordance with the project specifications "Instructions to Bidders - Qualification of Bidders (A1)", it is clear that M.G. Construction & Development, Inc. does not meet the "Competency of Bidders" requirements.

In addition, M.G. Construction & Development, Inc. was announced as the apparent low bidder on the day of the bid opening at an amount of \$305,065.80. Subsequent to the bid announcement, the results of the bid have been posted on the City of Torrance website. The noted listing identifies the bid from M.G. Construction & Development, Inc. as \$341,968.80. Since a contractor cannot revise or modify their bid due to any clerical or math errors, we request an explanation as to the change in the final bid amount noted on the Torrance website.

Accordingly, Excavating Engineers, Inc. respectfully requests that the City of Torrance decline to award the subject project to M.G. Construction & Development, Inc., and instead award the contract to Excavating Engineers, Inc. as the lowest responsive and responsible contractor. Excavating Engineers, Inc. also requests that it be given notice of the date, time and location of any public meeting at which this matter is scheduled to be discussed.

Sincerely,

Robert P. LaVigne

cc: Marks, Golia and Finch; David Golia ESQ.

5256 S. Mission Rd., #703-002  
 Bonsall, California 92003  
 (760) 451-8600 Office  
 (760) 451-8602 Fax  
 License #716401



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CITY OF  
TORRANCE

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October 25, 2010

Robert P. LaVigne  
Excavating Engineers Inc.  
5256 S. Mission Road, #703-002  
Bonsall, CA 92003

Dear Mr. LaVigne:

**Subject: Formal Protest of M.G. Construction & Development, Inc's bid for  
Walteria Reservoir Slope Stability Project, CIP No. I-95**

This letter is in response to your protest letter regarding award of the Walteria Reservoir Slope Stability Project, CIP No. I-95, Bid No. B2010-17 to M.G. Construction & Development, Inc.

The City of Torrance e-mailed you a complete copy of the bid package from M.G. Construction & Development, Inc. for the referenced project on Tuesday, October 19, 2010.

With respect to your concerns regarding M.G. Construction & Development, Inc's experience with reinforced slope construction, the City of Torrance has required a Class A contractor's license to bid the reinforced slope alternative. Additionally, the City will be contracting with Geo-Environmental Inc. to perform inspection services for the reinforced slope. Geo-Environmental Inc. provided the design for the reinforce slope alternative and have experience with construction observation for this design. The City has contacted the project engineer from Geo-Environmental Inc. to discuss your concerns about M.G. Construction & Development, Inc's experience with this type of construction and we were assured that this will be a relatively simple construction process and they are confident that a general contractor can perform the work. The work will also be inspected by the City's grading inspector who has experience in observing slope repairs.

With respect to the total bid amount for this project changing from \$305,065.80 to \$341,968.80, M.G. Construction & Development, Inc. did make a mathematical error with respect to bid item No. 9. We have since received a letter from M.G. Construction & Development, Inc. confirming their error and confirming that their unit price for bid

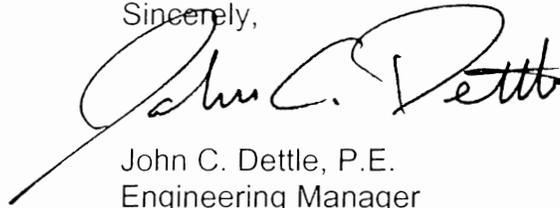
Excavating Engineers, Inc.  
Page 2 of 2

item No. 9 is correct. Under the "Instructions to Bidders" part of the contract documents, Section D, Item 3, it is stated that "In case of discrepancy between unit bid prices and total bid, the unit price shall prevail." After correcting the total bid, the bid for M.G. Construction & Development, Inc. is still the lowest bid.

The City is proposing to award the Waleria Reservoir Slope Repair Project to M.G. Construction & Development, Inc. at the November 9, 2010 City Council meeting.

Thank you for bringing these concerns to our attention. The City of Torrance appreciates you providing a bid for this project and hopes you will continue to bid on our Public Works projects.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Dettle". The signature is written in a cursive style with a long, sweeping underline that extends to the left.

John C. Dettle, P.E.  
Engineering Manager