

**AMENDMENT NO. 1 TO THE AGREEMENT
BETWEEN THE CITY OF SAN MATEO AND
WRA, INC. FOR
Marina Lagoon Operations and Maintenance Permit Assistance
(\$49,000 + \$117,000 = \$166,000)**

WHEREAS, the City of San Mateo ("City"), a municipal corporation of the State of California, and WRA, Inc. (Consultant"), entered into an Agreement for Marina Lagoon Operations and Maintenance Permit Assistance ("Agreement") on February 9, 2021; and

WHEREAS, City and WRA, Inc. wish to amend the Agreement effective May 17, 2021 to add \$117,000 for additional scope of work and permitting assistance described Exhibit A1.

NOW, THEREFORE, the parties agree as follows:

1. Section 1 – Scope of Services of the Agreement is amended to reference "Exhibit A, and A1"
2. Section 5 – Payment of the Agreement is amended to reference "Exhibit B and B1." The fee schedule set forth in Exhibit B and B1 to the Agreement is attached and incorporated by reference, changing the fee from \$49,000 to \$166,000.

3. The remaining terms of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, CITY OF SAN MATEO and WRA, INC. have executed this Amendment on

CITY OF SAN MATEO

CONSULTANT

Azalea Mitch
Public Works Director

DocuSigned by:
Geoffrey Smick
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Mr. Geoffrey Smick
Chief Executive Officer

Attachments:

Exhibit A1 – Scope of Services
Exhibit B1 – Fee Rates

Exhibit A1 Scope of Work



CITY OF SAN MATEO MARINA LAGOON OPERATIONS AND MAINTENANCE PROGRAM PERMIT ASSISTANCE

Prepared for:
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City of San Mateo
1949 Pacific Boulevard
San Mateo, CA 94403

April 14, 2021

WRA Project No. 31027

PURPOSE

The purpose of this Scope of Work is to outline coordination, planning, and costs related to securing all environmental regulatory permits for routine operations and maintenance (Project) of the City of San Mateo (City) Marina Lagoon. Project activities include construction, maintenance, and improvement of public and private boat docks, ramps, and pile-supported boardwalks; stormwater outfalls where authorized, including maintenance sediment removal; fences; bank protection; sand replenishment; debris removal; and aquatic vegetation harvesting. The Project term will be five (5) years. In support of the permit process, a Dock Permit Packet update is also needed, and WRA will provide this service. Regulatory permits anticipated to be required are Clean Water Act Section 401/404, State Lands Commission Application for Use of State Lands, Bay Conservation and Development Commission, and California Department of Fish and Wildlife Streambed Alteration Agreement. This scope also includes additional time needed to prepare a final project description for use in California Environmental Quality Act (CEQA) review and documentation; the additional time is incorporated into the Corps application task (Task 1) and Dock Permit Packet updates (Task 7). This scope assumes that the Categorical Exclusion documentation prepared under the original scope will be accepted, and no further CEQA documentation is required. Services to obtain these regulatory permit approvals are described in detail below.

ADDITIONAL WORK PRODUCTS

- U.S. Army Corps of Engineers (Corps) Section 404 permit application;
- Regional Water Quality Control Board (RWQCB) Section 401 water quality certification application;
- State Lands Commission application;
- Endangered Species Act Section 7 report;
- California Department of Fish and Wildlife (CDFW) Streambed Alteration Agreement Notification;
- Bay Conservation and Development Commission (BCDC) permit application;
- Project Dock Permit Packet updates;
- Agency coordination

Optional Tasks:

- Cultural: National Historic Preservation Act Section 106 consultation support
- Habitat mitigation and monitoring plan

ADDITIONAL SCOPE OF WORK

In addition to the original Scope of Work, a new phase with the following tasks will be conducted:

Phase 2: Regulatory Permit Applications and Coordination

Task 1: Corps and RWQCB Permit Applications

WRA is assuming that all proposed activities will be covered under a Regional General Permit (RGP) Corps authorization for Section 404. Once approved, the RGP would allow the City to submit brief annual work plans for review and approval rather than going through the Corps' complete permit review process annually. Initial RGP application submittals include the preliminary jurisdictional delineation conducted under the original scope of work. The application will include a quantified Project Description containing a list of anticipated maintenance activities, anticipated annual impact limits, avoidance and minimization measures, and a mitigation proposal. Additional time needed under the original scope of work on the project description is included in this task, as it will facilitate preparation of the application with a complete project description. Additional submittals include typical work plans, projections of recurrence intervals for different maintenance activities, proposed timing and schedules. WRA will produce a draft RGP application for City review prior to submittal. As part of the application process a cultural resources analysis may be necessary to support National Historic Preservation Act (NHPA) Section 106 consultation. If this is determined necessary, this would be conducted under Optional Task 9. Federal Endangered Species Act Section 7 consultation is assumed to be required, and a report to support consultation by the Corps with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) will be produced under Task 2.

The San Francisco Bay RWQCB must certify the use of the Corps RGP. WRA will process an application for Section 401 Water Quality Certification (WQC) for the RGP. For any wetlands or jurisdictional areas found not to fall under Corps jurisdiction, the RWQCB will likely claim these areas as "Waters of the State." Based on reviews conducted under the original scope of work, no Waters of the State outside of Corps jurisdiction are anticipated. WRA will prepare and submit a Section 401 WQC application addressing federal jurisdictional areas for submittal to the RWQCB. WRA will produce a draft WQC application for City review prior to submittal. As part of the application process, the new regulations require a pre-application meeting with the RWQCB prior to application submittal. It is recommended that this be an interagency meeting and include the Corps for feedback prior to application submittal. This task includes time to prepare materials for one pre-application meeting, but time in attendance or coordinating with agencies for the meeting will be conducted under Task 6. In addition, the pre-application meeting will confirm the level of alternatives analysis needed and if a Habitat Mitigation and Monitoring Plan (HMMP) will be required. This task assumes a minimal amount of time necessary to prepare the alternatives analysis, and no time to prepare an HMMP. Should an HMMP be determined to be necessary, this work would occur under Optional Task 10. It is also assumed the Dock Permit Packet to be provided to residents will need to be updated and provided to the RWQCB for review as part of the application process. The updates to the Dock Permit Packet are outlined as a separate task, Task 7, below. Permit fees required for WQC application are the responsibility of the City.

This task covers time prior to and submittal of permit applications; coordination with agency staff following permit application will be conducted under Task 6.

Task 2: Federal Endangered Species Act Section 7 Consultation

The Project tidal gate maintenance may have the potential to impact federal-listed fish and wildlife species under the jurisdiction of NMFS and USFWS, their habitat, and Essential Fish Habitat (EFH) designated under the Magnuson-Stevens Act. As such, the Corps may determine that Section 7 consultation with the NMFS and USFWS is necessary. At this time it is presumed that if consultation is necessary, it will be completed through informal concurrence of a “Not Likely to Adversely Affect” determination for both agencies. WRA will prepare a Section 7 report which will describe the following:

- suitability of on-site habitat conditions to support federal-listed species;
- the expected (or known) occurrence of federal-listed species and critical habitat in the vicinity of the Project site and within the Project footprint;
- the known occurrence of EFH in the vicinity of the Project site and within the Project footprint;
- any impacts which may occur as a result of the Project; and
- conservation measures recommended to avoid or minimize potential impacts.

The Corps will forward the letter to NMFS and USFWS with its request for Section 7 consultation. WRA will compile the necessary information required for the agencies to complete consultation in a format which can be submitted to the Corps, NMFS, and USFWS. WRA will also provide any supplemental information requested by NMFS or USFWS during the consultation process.

Task 3: State Lands Commission

The State Lands Commission granted jurisdiction of the Marina Lagoon to the City of San Mateo for management, however, the State of California still maintains mineral rights and an application for dredging (sediment removal) activities and other uses of State Lands must be made to the Commission. WRA will prepare this application. Information for the application will be compiled from other tasks including the BRTR under the original scope and RGP application (Task 1). This task covers time prior to and submittal of permit applications; coordination with agency staff following permit application will be conducted under Task 6. Permit fees required by State Lands Commission are the responsibility of the City.

Task 4: CDFW Streambed Alteration Agreement for Routine Maintenance

Under Section 1602 of California Fish and Game Code, a Lake or Streambed Alteration Agreement is required from CDFW for activities that modify the physical characteristics of a stream or lake and activities that may affect fish and wildlife resources that use the stream or lake and surrounding habitat (i.e., riparian vegetation or wetlands). The CDFW requires any person who may affect the physical characteristics of a perennial, intermittent, or ephemeral river, stream, or lake to request a Section 1602 Streambed Alteration Agreement (SAA). The SAA notification requires completion of an application form and project environmental questionnaire, and inclusion of supplemental data regarding issues covered in the project questionnaire. WRA will prepare the application using the prior agreement information, the current standard forms and attachments, and additional information, such as site plans, maps, and the BRTR, needed to support application processing. The complete 1602 permit application will be submitted to CDFW electronically following City review. WRA will follow-up with agency staff to ensure timely review and approval of the application under Task 6. Once CDFW issues a draft agreement, WRA will review the draft agreement and make recommendations to the City to accept the agreement or request modifications. Permit fees required for submittal of the SAA application are the responsibility of the City.

Task 5: Bay Conservation and Development Commission Application

WRA will prepare a BCDC permit application for work in BCDC's jurisdiction. It is anticipated that BCDC would process this application as either a regionwide or minor (administrative) permit. The application would include a project description, description of impacts in jurisdictional areas, project plans, a description of avoidance and minimization measures, project schedule, CEQA documentation, property interest documentation, any required local discretionary approvals, and a permit processing fee. This task assumes that the proposed project would not raise any significant policy issues for BCDC (e.g. adverse environmental impacts, public access issues, sea level rise considerations, etc.).

WRA will prepare the draft BCDC application using the current standard forms and attachments, and additional information, such as site plans, maps, and the BRTR, needed to support the application. With City approval, a final version will be submitted to BCDC.

Task 6: Regulatory Agency Communications

This task covers meetings with the City and Project team as well as negotiations with the resource agencies as part of the permit application process. Most time in this task will be spent after submittal of the applications; however, this task does include one interagency pre-application meeting for initial feedback on permit pathways and application details required. Beyond the pre-application meeting, this task will include response to comments on the applications and other agency coordination as necessary. WRA staff will be available to attend up to two meetings with the City and regulatory agencies as needed, in addition to the pre-application interagency meeting. From time to time, resource agencies make requests and require information or substantial revisions that is beyond the bounds of normal expectations for projects of similar size and scope. If this situation arises, WRA will notify the City immediately and discuss the best path forward for the Project, including whether or not additional supplemental budget may be necessary.

Task 7: Project Dock Permit Packet Update

The existing Dock Permit Packet established by the City for residents to comply with the City's Dock Program needs to be updated based on the Project description and impact avoidance and minimization measures included in the permit applications. The updated Dock Permit Packet will need to be reviewed by the RWQCB, likely concurrently with its review of the Section 401 WQC application. This task covers preparation of a revised Dock Permit Packet and revised Dock Permit Packet Exhibit H, Conditions of Approval. The revision will include time to update the Dock Permit Packet into a format to streamline the information with the intent to make the document more user friendly and increase use of and compliance by residents. This task includes five hours already spent over the original scope in preparing an approach for Dock Permit Packet revisions. Following one round of City review and revisions by WRA, the revised Dock Permit Packet and Exhibit H would be submitted to RWQCB along with the Section 401 WQC application outlined in Task 1.

Task 8: Project Management

This task will cover general project team meetings with the City and internal collaboration, and keeping the City up to date on the permitting process and schedule. This task will also support WRA providing assistance to the project team and being available for project questions. It is anticipated that this task will last several months, during report preparation and permit processing.

Optional Tasks

Task 9: Cultural Section 106 Consultation Support (Optional)

A cultural resources report will likely be necessary to support a new Corps Section 404 permit application. This will be confirmed during the agency pre-application meeting and may depend on the potential to use previous consultation from the Lagoon O&M permit applications. Should this be required, WRA will subcontract a qualified firm to prepare the cultural resources analysis for the Project site. The cultural resources study will be sufficient to satisfy federal requirements defined in Section 106 of the National Historic Preservation Act (NHPA). At a minimum, the scope of work includes four tasks: (1) records research, (2) Native American consultation, (3) field surveys, and (4) preparation of a Historic Properties Survey Report and Finding of Effect document. The estimated cost provided is typical for project sites about this size; however, a precise scope for services would be provided upon confirmation to move forward with this task.

Task 10: Habitat Mitigation and Monitoring Plan (Optional)

As part of the Section 401 Water Quality Certification from the RWQCB, compensation for permanent and temporary impacts on shoreline and open water habitats is required for Project approval. The RWQCB requires that a mitigation plan be prepared in a specific format called a Habitat Mitigation and Monitoring Plan (HMMP); this format will specify the methods, interim monitoring, and success criteria at the off-site mitigation area to offset impacts from the proposed Project. The plan will be submitted as part of the larger RWQCB permit application package for review and approval. If alternate forms of mitigation are decided upon that do not require preparation of an HMMP such as an in-lieu fee program, this task would not be conducted.

SCHEDULE

Work can begin upon execution of this Amendment.

STAFFING

Geoff Smick will be the principal in charge of the project. Patricia Valcarcel will be the project director, and Erik Schmidt will be the project manager. Other staff will be assigned to the project as necessary.

ASSUMPTIONS

- Any previous correspondence between the client and government agencies that relate to biological issues for the project will be provided to WRA.
- Any biological survey, assessment, or other reconnaissance is dependent on current conditions, and the biological data obtained may not be accurate or applicable in subsequent years.
- Substantial changes in design plans related to shoreline work or project description for maintenance activities after work on the permit applications has been initiated may result in additional work to revise the applications and an amendment may be necessary.
- Agency required permitting fees are not included under this scope of work.
- WRA cannot guarantee schedules or costs for actions taken by regulatory and other third-party entities with authority to approve project activities, as these actions are outside of WRA's control.
- Changes beyond one (1) round of revisions in each task with City review is outside this scope.
- Should the client require additional work, WRA will prepare a scope of work describing the additional work and proposed cost to be approved by the client prior to commencing such additional work.

- This scope assumes the BCDC permit application would be processed as a regionwide or minor (administrative) permit, and it is assumed that BCDC will not require the project to create, enhance, or dedicate public access in association with this project or require other compensatory mitigation.
- It is assumed the project will not be required to present to the BCDC Engineering Criteria Review Board (ECRB) or Design Review Board (DRB).
- No CEQA reporting is included in this scope. This assumes the Categorical Exclusion documentation prepared under the original scope will be accepted, and no further CEQA documentation is required. If additional documentation or reporting is needed, WRA will prepare a scope of work describing the additional work and proposed cost to be approved by the client prior to commencing such additional work.

EXHIBIT B1 FEE RATES

The estimated cost for the services described in this Amendment is provided below. This cost is based on the assumptions above and in the original Scope of Work. Costs may be reallocated between tasks, but the total cost will not be exceeded without authorization.

Task	Cost
1. Corps and RWQCB Permit Applications	\$ 35,000
2. Federal Endangered Species Act Section 7 Consultation	\$ 13,000
3. State Lands Commission	\$ 8,000
4. CDFW Streambed Alteration Agreement for Routine Maintenance	\$ 10,000
5. Bay Conservation and Development Commission Application	\$ 10,000
6. Regulatory Agency Communications	\$ 12,000
7. Project Dock Permit Packet Update	\$6,000
8. Project Management	\$ 6,000
Total:	\$100,000
Optional Tasks	
9. Cultural Section 106 Consultation Support	\$ 9,000
10. Habitat Mitigation and Monitoring Plan	\$ 8,000
Total for Optional Tasks:	\$17,000
Total for All Tasks:	\$117,000

TERMS AND CONDITIONS

This Scope of Work is subject to WRA's Standard Terms and Conditions as incorporated in the original Scope of Work, dated **February 9, 2021**.