

RESOLUTION NO. 2011-70

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK
ESTABLISHING WILFRED/DOWDELL SPECIFIC PLAN REIMBURSEMENT FEE
AND SUPERSEDING SPECIFIC PLAN FEE ESTABLISHED BY
RESOLUTION NO. 98-45**

WHEREAS, on February 24, 1998, the City Council adopted Resolution No. 98-45, directing the preparation of the Wilfred/Dowdell Specific Plan and establishing a specific plan fee schedule to collect \$63,581 from property owners and/or developers in the Wilfred/Dowdell Specific Plan Area ("Specific Plan Area") for the estimated cost of preparation, approval and administration of the Wilfred/Dowdell Specific Plan ("Specific Plan");

WHEREAS, the City incurred costs to prepare the Specific Plan, Environmental Impact Report ("EIR"), and Supplemental EIR for the Specific Plan;

WHEREAS, the City Council certified the EIR for the project and adopted the Wilfred/Dowdell Specific Plan on September 23, 2008;

WHEREAS, the Specific Plan Area was approved for annexation by the Local Agency Formation Commission on August 5, 2009 and the boundary maps were recorded by the County of Sonoma on December 10, 2009;

WHEREAS, the total costs incurred by the City in preparing the Wilfred/Dowdell Specific Plan and its supporting documents totaled \$345,652.69 as of April 30, 2011;

WHEREAS, Baney Corporation dba Oxford Inns and Suites ("Initial Developer"), is currently processing development permits for the Oxford Suites Hotel project in the North Village portion of the Specific Plan Area and, in compliance with the terms of an existing Reimbursement Agreement dated January 14, 2011, and reasonably expects to incur at least \$64,025.00 in additional costs for environmental review required pursuant to CEQA;

WHEREAS, the City Council finds and determines as follows:

- A. The Specific Plan was prepared and adopted by the City to facilitate the orderly and systematic development of the Specific Plan Area through the establishment of a comprehensive planning program consistent with the Rohnert Park General Plan.
- B. Persons or entities seeking to develop projects in the Specific Plan Area derive substantial benefits from the preparation and adoption of the Wilfred/Dowdell Specific Plan in that:
 1. Environmental documents prepared in connection with the Wilfred/Dowdell Specific Plan, including the EIR and Supplemental EIR and additional environmental review documents to be prepared in connection with Initial Developer's application, reduce the scope and cost of subsequent

environmental review that otherwise would be required in connection with Specific Plan Area development projects;

2. Preparation of the Specific Plan substantially reduces the scope and cost of planning review otherwise required in connection with Specific Plan Area developments projects;
- C. California Government Code Section 65456 allows that the City Council “after adopting a specific plan, may impose a specific plan fee upon persons seeking governmental approvals which are required to be consistent with the specific plan. The fees shall be established so that, in the aggregate, they defray but as estimated do not exceed, the cost of preparation, adoption, and administration of the specific plan, including costs incurred pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code.”
- D. Rohnert Park Municipal Code 17.06.450 allows the City Council to adopt by resolution, a fee schedule for “costs incurred in the preparation, adoption, and implementation of a specific plan including the preliminary application and costs incurred pursuant to CEQA.”
- E. A specific plan reimbursement fee as contemplated by California Government Code Section 65456 and Rohnert Park Municipal Code 17.06.450 is not a tax subject to the supermajority voting provisions of Article XIII of the California Constitution as amended by Proposition 26, but is an exception under Section 1(e)(1) and (6) of Article XIII C of the California Constitution as amended by Proposition 26, to wit:
- (e) As used in this article, "tax" means any levy, charge, or exaction of any kind imposed by a local government except the following:*
- (1) A charge imposed for a specific benefit conferred or privilege granted directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of conferring the benefit or granting the privilege....*
- (6) A charge imposed as a condition of property development.*
- F. Through April 30, 2011, the City has incurred \$345,652.69 in costs documented in ***Exhibit A: Wilfred/Dowdell Specific Plan Processing Costs as of April 30, 2011.***
- G. The Initial Developer of the “North Village” portion of the Specific Plan Area expects that in order to bring their proposed project to completion, additional costs must be incurred pursuant to CEQA for development within the Specific Plan Area, including, but not limited to, the anticipated costs of \$64,025.00 shown in ***Exhibit B: Fifth Amendment to the Consultant Services Agreement with MACTEC Inc. for Biological-Environmental Services for the Wilfred Dowdell Specific Plan Project.***
- H. The costs shown in ***Exhibit A*** and ***Exhibit B*** total \$409,677.69 and are reimbursable costs pursuant to California Government Code Section 65456 and Rohnert Park

Municipal Code 17.06.450. These costs exceed that of the original fee of \$63,581 established by Rohnert Park City Council and shown in *Exhibit C: Rohnert Park City Council Resolution No. 98-45*.

- I. City staff anticipates that additional costs for the administration of the Wilfred/Dowdell Specific Plan may be incurred. Pursuant to Rohnert Park Municipal Code 17.06.450F, City staff will report to the City Council least once every year or more frequently as needed, the updated costs of the preparation, adoption and administration of the Wilfred/Dowdell Specific Plan, and may request that the City Council consider amending the Wilfred/Dowdell Specific Plan Reimbursement Fee as established by this Resolution.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROHNERT PARK DOES RESOLVE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That the above recitations are true and correct.

Section 2. **Environmental Clearance.** The adoption of this Resolution is exempt from the California Environmental Quality Act as this action is not considered a "project" as defined in California Code of Regulations, Title 14, Chapter 3, Article 20, Section 15378(a):

(a) "Project" means the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment, ...

Section 3. **Fee Established.** The Wilfred/Dowdell Specific Plan Reimbursement Fee ("Wilfred/Dowdell Reimbursement Fee") is established to reimburse the City and Initial Developer for expenses associated with preparing and adopting the Wilfred/Dowdell Specific Plan, including costs incurred pursuant to CEQA for the Wilfred/Dowdell Specific Plan.

The Wilfred/Dowdell Reimbursement Fee is a permit processing fee to reimburse the City for costs incurred in the adoption of the Wilfred/Dowdell Specific Plan. It is not a monetary exaction for the purposes of defraying the costs of public facilities. Payment of the Wilfred/Dowdell Reimbursement Fee is in addition to any applicable fee(s) which may be imposed to offset impacts to public facilities.

Section 4. **Amount of Fee.** The Wilfred/Dowdell Reimbursement Fee charged for each parcel is a prorated amount in accordance with the applicant's relative benefit derived from the specific plan, as nearly as can be estimated. For the purposes of estimating relative benefit, the amount of the Wilfred/Dowdell Reimbursement Fee is based on a prorated share of developable acreage within the Wilfred Dowdell Specific Plan acreage. The amount of the Wilfred/Dowdell Reimbursement Fee allocated to each parcel is calculated below:

Allocation of Wilfred Dowdell Specific Plan Reimbursement Fee

The following formula shall be used to allocate the Reimbursable Costs over all Developable Acreage anticipated to be developed within the Specific Plan:

$(\text{Parcel Acreage} \div \text{Total Developable Acreage}) = \text{Percentage Share of Reimbursable Costs}$

Total developable acreage

Total Specific Plan Acreage public right-of-way*: 25.40 acres
Less Public Right-of-Way - 0.30 acres

Total developable acreage 25.10 acres

* Public right-of-way derives no increased benefit from specific plan and therefore is not subject to payment of the Wilfred Dowdell Reimbursement Fee

Reimbursable costs

Specific Plan Costs incurred by City as of April 30, 2011: \$345,652.69
Plus anticipated costs pursuant to CEQA approved by City + \$64,025.00

Total reimbursable costs \$409,677.69

Percentage Share of Wilfred Dowdell Specific Plan Costs and Resulting Fee Amount

Parcel No.	Parcel Acreage	Percentage share of specific plan costs	Fee Amount
045-075-001	2.51	10.00%	\$40,967.77
045-075-002:	1.25	4.98%	\$20,402.28
045-075-003:	1.25	4.98%	\$20,402.28
045-075-005:	5.06	20.16%	\$82,588.41
045-075-006:	5.08	20.24%	\$82,914.85
045-075-008:	3.78	15.06%	\$61,696.48
045-075-009:	1.26	5.02%	\$20,565.49
045-075-010:	0.16	0.64%	\$2,611.49
045-075-011:	0.05	0.20%	\$816.09
045-075-012:	0.12	0.48%	\$1,958.62
045-055-007	4.58	18.25%	\$74,753.94
Total	25.10 acres	100%	\$409,677.69

Section 5. Time of Payment. The Wilfred/Dowdell Reimbursement Fee shall be due and payable prior to the issuance of a building permit, or at time of application of subdivision map or parcel map, whichever comes first.

Section 6. Uses of Fee Revenue. Revenue generated from the Wilfred/Dowdell Reimbursement Fee shall be used only to reimburse the City and/or Initial Developer for costs incurred in the preparation and adoption of the Wilfred/Dowdell Specific Plan and costs incurred pursuant to CEQA for the Wilfred/Dowdell Specific Plan.

Section 7. Creation of Fee Account. Wilfred/Dowdell Reimbursement Fees collected shall be deposited in a restricted account maintained by the City. Revenue within this account, and any interest accrued thereon, shall be used solely for the purpose set forth by this Resolution. Once monies in the account are disbursed to reimburse the City for its costs incurred, those monies shall be unrestricted revenue of the City.

Section 8. Refunds. No applicant shall be entitled to a refund of the Wilfred/Dowdell Reimbursement Fee collected if, for any reason, development subject to the Wilfred/Dowdell Reimbursement Fee does not proceed.

Section 9. Exemptions. The fee shall not apply to building permits for reconstruction and expansion of legal non-conforming residential uses in the Specific Plan Area as determined by the City Manager or designee.

Section 10. Appeals. Appeal of any reimbursement fee imposed pursuant to this Resolution shall be made in accordance with the appeal procedures established in the Rohnert Park Municipal Code for the City Council.

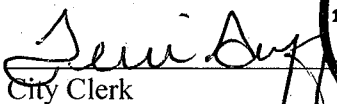
Section 11. Amendments to Fee. This fee may be reviewed and amended by resolution from time to time as provided by Rohnert Park Municipal Code 17.06.450.

Section 12. Severability. If any action, subsection, sentence, clause or phrase of this Resolution or the fees levied by this Resolution shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Resolution or the fees levied by this Resolution that can be given effect without the invalid provisions.

BE IT FURTHER RESOLVED, that the Wilfred/Dowdell Specific Plan Reimbursement Fee established by this resolution supersedes the specific plan fee established by Resolution No. 98-45 shown in *Exhibit C: Rohnert Park City Council Resolution No. 98-45*.

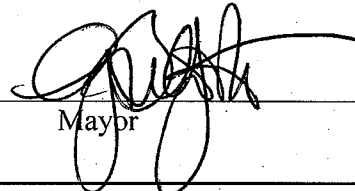
DULY AND REGULARLY ADOPTED by the City Council of the City of Rohnert Park on this 26th day of July, 2011.

ATTEST:


City Clerk



CITY OF ROHNERT PARK


Mayor

AHANOTU: AYE CALLINAN: AYE MACKENZIE: AYE STAFFORD: AYE BELFORTE: AYE
AYES: (5) NOES: (0) ABSENT: (0) ABSTAIN: (0)

Wilfred Dowdell Specific Plan Processing Costs Summary and Notes

SPECIFIC PLAN PROCESSING COSTS SUMMARY

Item	Total Costs to Date
EIR Contract & Supplemental EIR Contract	\$253,210.45
Specific Plan Processing and Annexation	\$92,442.23
SPECIFIC PLAN PROCESSING COSTS THROUGH 4/30/2011	
	\$345,652.69

Notes:

- (1) This accounting includes costs of consultants invoiced and paid through 4/30/2011 and staff services rendered through 4/30/2011 for:
 - Preliminary Specific Plan
 - Specific Plan
 - Environmental Impact Report (EIR)
 - Supplemental EIR
 - Annexation
 - Studies and development of environmental mitigation and monitoring program as required by the EIR.
- (2) City Staff Project Time is based on hourly rates and/or fully burdened hourly rates (i.e. hourly rates + overhead as determined by fee schedule in place at the time staff labor costs were incurred).
- (3) 20% EIR Administrative Fee covers Planning staff labor costs through the completion of the Supplemental EIR. The 20% EIR Administrative Fee is not applied to environmental consultant costs associated with carrying out studies required by the EIR and Supplemental EIR. Instead, the 7% City Administrative Fee is applied to the cost of these activities, and staff labor costs are directly charged.
- (4) 7% City Administrative Fee is applied to all other consultant costs.
- (5) No administrative fee is applied to services (i.e. printing, public noticing) and other agency fees.
- (6) No administrative fee is applied to staff labor costs.

Wilfred Dowdell Specific Plan Processing Costs
EIR and Supplemental EIR costs

Last updated 5/2/11
 Costs through 4/30/11

EIR CONSULTANT

Company/Organization	Total Contract amount	Expenditures to Date*
PARSONS HBA	\$ 89,282.00	\$ 89,272.00

Company/Organization	Invoice No.	Invoice Date	Amount
PARSONS HBA	1468785	11/2/98	9,340.00
PARSONS HBA	*	Dec. 98	24,840.00
PARSONS HBA	1545123	1/31/99	27,380.00
PARSONS HBA	1592690	4/1/99	10,044.00
PARSONS HBA	*		17,668.00

Subtotal	89,272.00
City administrative fee 20%	17,854.40
TOTAL CONSULTANT: \$	107,126.40

* Supported by attached documentation

SUPPLEMENTAL EIR CONSULTANT

Company/Organization	Invoice No.	Invoice Date	Date Paid	Paid by Check No	Amount
MACTEC Engineering and Consulting	8094452	6/16/04	6/30/04	146158	1,911.00
MACTEC Engineering and Consulting	8100011	7/26/04	8/11/04	146618	705.25
MACTEC Engineering and Consulting	8106272	8/30/04	9/15/04	147427	564.90
MACTEC Engineering and Consulting	8111631	9/29/04	10/13/04	147986	1,284.68
MACTEC Engineering and Consulting	8117371	11/3/04	11/9/04	148714	1,480.53
MACTEC Engineering and Consulting	8123898	12/3/04	12/14/04	149455	2,849.43
MACTEC Engineering and Consulting	8127687	12/31/04	1/12/05	149944	710.26
MACTEC Engineering and Consulting	8133495	2/4/05	2/15/05	150856	7,424.45
MACTEC Engineering and Consulting	8137475	3/4/05	4/6/05	151837	5,521.15
MACTEC Engineering and Consulting	8141651	5/4/05	5/18/05	451973	5,715.79
MACTEC Engineering and Consulting	8146319	6/3/05	6/15/05	152876	1,894.80
MACTEC Engineering and Consulting	8151908	6/29/05	6/30/05	153440	4,123.40
MACTEC Engineering and Consulting	8156115	8/1/05	8/16/05	154278	2,163.71
MACTEC Engineering and Consulting	8159705	8/1/05	8/16/05	154798	428.08
MACTEC Engineering and Consulting	8163947	8/19/05	9/23/05	155792	7,065.64
MACTEC Engineering and Consulting	8167981	9/22/05	10/5/05	156002	17,674.40
MACTEC Engineering and Consulting	8174312	11/1/05	11/17/05	157011	6,992.91
MACTEC Engineering and Consulting	8183801	12/23/05	1/31/06	158465	1,174.31
MACTEC Engineering and Consulting	8201916	5/2/06	6/7/06	161338	1,131.24
MACTEC Engineering and Consulting	8207063	5/31/06	6/30/06	162184	5,012.37
MACTEC Engineering and Consulting	8212723	6/30/06	6/30/06	162574	6,636.78
MACTEC Engineering and Consulting	8215638	8/2/06	8/16/06	165692	356.74
MACTEC Engineering and Consulting	8219420	8/28/06	9/20/06	163792	432.34
MACTEC Engineering and Consulting	8230663	11/6/06	11/15/06	165043	853.13
MACTEC Engineering and Consulting	8224334	9/27/06	11/15/06	165043	981.75
MACTEC Engineering and Consulting	8232347	11/27/06	12/20/06	165973	577.50
MACTEC Engineering and Consulting	8240073	1/29/07	2/26/07	167395	1,141.38
MACTEC Engineering and Consulting	8245406	3/2/07	3/21/07	167956	7,613.65
MACTEC Engineering and Consulting	8250033a	3/30/07	7/27/07	170492	1,993.53
MACTEC Engineering and Consulting	8254919	5/4/07	6/1/07	169680	1,929.88
MACTEC Engineering and Consulting	8266859	7/20/07	9/11/07	171683	1,429.48
MACTEC Engineering and Consulting	8274503	8/31/07	12/3/07	172274	2,686.36
MACTEC Engineering and Consulting	8296675	2/15/08	2/29/08	176133	2,105.91
MACTEC Engineering and Consulting	8302133	3/28/08	4/11/08	177261	2,812.01
MACTEC Engineering and Consulting	8306464	5/2/08	6/4/08	178444	230.00
MACTEC Engineering and Consulting	8317548	7/31/08	9/24/08	181099	2,225.56
MACTEC Engineering and Consulting	8321154	8/22/08	9/24/08	181099	668.63
MACTEC Engineering and Consulting	8340502	2/9/09	7/15/09	187232	11,233.78

Subtotal	121,736.71
City administrative fee 20%	24,347.34
TOTAL CONSULTANT: \$	146,084.05

TOTAL EIR CONSULTANTS: \$ 253,210.45

Wilfred Dowdell Specific Plan Processing Costs

Specific Plan Processing

Last updated 5/23/11
 Costs through 4/30/2011

LEGAL AND CONSULTING SUPPORT SERVICES

Company/Organization	Invoice No.	Invoice Date	Date Paid	Paid by Check No	Amount
Whitlock & Weinberger Transportation, Inc.	2218	3/27/00	4/20/00	104762	6,325.00
Whitlock & Weinberger Transportation, Inc.	2164	2/28/00	6/9/00	105957	2,360.35
Whitlock & Weinberger Transportation, Inc.	2270	4/24/00	6/9/00	105957	1,650.00
Whitlock & Weinberger Transportation, Inc.	2361	5/29/00	10/6/00	110427	605.00
Whitlock & Weinberger Transportation, Inc.	2395	6/26/00	10/6/00	110427	110.00
Whitlock & Weinberger Transportation, Inc.	2459	7/31/00	10/6/00	110427	275.00
Whitlock & Weinberger Transportation, Inc.	2521	8/28/00	10/6/00	110427	1,009.00
Whitlock & Weinberger Transportation, Inc.	2581	9/25/00	11/9/00	111267	1,457.50
Whitlock & Weinberger Transportation, Inc.	2649	10/30/00	11/30/00	111829	5,539.20
Whitlock & Weinberger Transportation, Inc.	2725	11/27/00	1/12/01	112934	1,135.00
Whitlock & Weinberger Transportation, Inc.	2803	1/2/01	2/9/01	113638	408.65
Whitlock & Weinberger Transportation, Inc.	2898	1/29/01	2/23/01	113898	110.00
Whitlock & Weinberger Transportation, Inc.	2986	2/26/01	3/9/01	114319	1,207.50
Whitlock & Weinberger Transportation, Inc.	3077	3/26/01	4/5/01	115003	330.00
Winzler & Kelly Consulting Engineers	12472	11/24/04	2/7/05	153080	546.75
Winzler & Kelly Consulting Engineers	13096	12/13/04	5/25/05	153080	525.50
Winzler & Kelly Consulting Engineers	14702	3/17/05	5/25/05	153080	212.00
McDonough Holland & Allen	178556	7/27/06	8/9/06	162663	202.80
McDonough Holland & Allen	179953	8/31/06	9/15/06	163681	1,054.56
McDonough Holland & Allen	181115	9/28/06	10/19/06	164397	3,240.12
McDonough Holland & Allen	182125	10/31/06	11/15/06	165049	3,850.08
McDonough Holland & Allen	183062	11/29/06	12/13/06	165699	450.84
McDonough Holland & Allen	184071	12/23/06	1/17/07	166347	1,414.92
McDonough Holland & Allen	185158	1/29/07	2/7/07	166935	932.88
McDonough Holland & Allen	186406	2/24/07	3/14/07	167787	503.88
McDonough Holland & Allen	187389	3/27/07	4/25/07	168838	2,988.96
McDonough Holland & Allen	189456	5/24/07	6/6/07	169857	85.80
McDonough Holland & Allen	190287	6/23/07	6/23/07	Accrued	2,516.80
McDonough Holland & Allen	191660	7/31/07	6/30/07	171684	1,038.44
McDonough Holland & Allen	192312	8/27/07	10/3/07	172405	1,009.32
Winzler & Kelly Consulting Engineers	31870	9/17/07	10/17/07	172882	1,764.00
McDonough Holland & Allen	193534	9/29/07	10/31/07	173101	163.80
Winzler & Kelly Consulting Engineers	32371	10/16/07	11/14/07	173504	1,134.00
Winzler & Kelly Consulting Engineers	33730	12/24/07	1/16/08	175049	378.00
McDonough Holland & Allen	196810	12/28/07	1/16/08	174981	932.88
McDonough Holland & Allen	199796	3/31/08	5/14/08	178054	301.60
McDonough Holland & Allen	203520	7/31/08	6/30/08	180678	507.00
McDonough Holland & Allen	204455	8/27/08	10/8/08	181487	4,089.80
McDonough Holland & Allen	205261	9/26/08	10/15/08	181584	642.20
Coastland Civil Engineering, Inc.	29205	10/31/08	12/3/08	182491	4,109.25
Coastland Civil Engineering, Inc.	29280	11/30/08	12/17/08	182919	451.25
McDonough Holland & Allen	207341	11/26/08	1/21/09	183524	257.40
McDonough Holland & Allen	206334	10/31/08	1/21/09	183524	1,437.80
Coastland Civil Engineering, Inc.	29686	3/31/09	4/29/09	185478	267.50
Alicia Giudice	2009-121	12/10/09	12/22/09	190110	580.00
North Fork Associates	PL09-052-01	12/31/09	2/8/10	190931	174.36
North Fork Associates	PL09-052-69	3/7/11	3/16/11	198136	751.25
North Fork Associates	PL09-052-75	4/7/11	4/27/11	198827	289.25

	Subtotal	61,327.19
City administrative fee	7%	4,292.90
SUBTOTAL CONSULTANTS: \$		65,620.09

Wilfred Dowdell Specific Plan Processing Costs
Specific Plan Processing

Last updated 5/23/11
 Costs through 4/30/2011

PUBLIC NOTICING AND OTHER SERVICES

Company/Organization	Invoice No.	Invoice		Paid by		Amount
		Date	Date paid	Check No		
Fedex Kinko's	109000003173	2/22/07	3/14/07	167775		872.24
The Community Voice	8498	9/12/08	9/24/08	181074		214.50
Sonoma County Clerk	n/a	9/23/08	9/24/08	181137		2,656.75
Sign-A-Rama	5186	8/22/08	9/24/08	181134		1,003.99
The Community Voice	8613	10/17/08	10/17/08	181794		173.25
Sonoma County Clerk	n/a	4/14/09	4/15/09	185410		50.00
Sonoma LAFCO	n/a	4/14/09	4/15/09	185411		5,800.00
The Community Voice	8433	8/15/08	6/30/09	181074		103.50
CA Board of Equalization	n/a	n/a	10/30/09	189233		1,200.00
Your Other Office, Inc.	3713	11/18/09	12/2/09	189733		22.89
SUBTOTAL \$						12,097.12

CITY STAFF PROJECT TIME

City staff time (Engineering) 2005	Draft EIR; mtgs; correspondence; files	115.50
City staff time (Engineering) 2006	Draft EIR; mtgs.; correspondence; prelim. plan review	1,059.12
City staff time (Engineering) 2007	Draft EIR; correspondence; specific plan review; files	798.35
City staff time (Engineering) 2008	Draft EIR; final draft EIR; reorganization; files	1,968.30
City staff time (Engineering) 2009	Specific plan review; annexation; files	3,405.25
City staff time (Dev. Services) 2010	ROW issues; street imprvmnts; mtgs; corrspdnc; files	1,665.00
City staff time (Dev. Services) through 3/11	Accounting; files	2,121.00
City staff time (Dev. Services) through 4/11	Accounting; files; biological assessment	3,592.50
SUBTOTAL \$		14,725.02

PROCESSING TOTAL: \$ 92,442.23

**FIFTH AMENDMENT TO THE CONSULTANT SERVICES AGREEMENT WITH
MACTEC, INC
FOR ENVIRONMENTAL-BIOLOGICAL SERVICES FOR THE WILFRED
DOWDELL SPECIFIC PLAN
PROJECT**

This Fifth Amendment to the Agreement between the City of Rohnert Park ("City") and MACTEC, Inc ("Consultant") for additional services ("Fifth Amendment") is entered into as of the 9th day of March, 2011, ("Effective Date"), by and between City and Consultant.

RECITALS

- A. City and Consultant are parties to that certain Agreement for Services for the Wilfred Dowdell Specific Plan dated February 19, 2004 for an amount of \$63,973.00.
1. On September 14, 2004, the City Council approved Resolution No. 2004-234 authorizing the First Amendment to the Agreement for an additional amount of \$35,000.
 2. On July 24, 2007, the City Council approved Resolution No. 2007-12 authorizing the Second Amendment to the Agreement for an additional amount of \$5,600.
 3. On December 3, 2008, the Third Amendment to the Agreement was authorized through the Purchasing Ordinance for an additional amount of \$6,000.
 4. On December 9, 2008 the City Council approved Resolution No 2008-195 authorizing the Fourth Amendment to the Agreement for an additional amount of \$11, 300.
- B. City and Consultant now desire to enter into this Fifth Amendment to provide for additional work as described below.

AGREEMENT

NOW, THEREFORE, in consideration of the following mutual promises, the parties hereby amend the Agreement as follows:

1. Scope of Services. In addition to the services provided under the Agreement, as amended, Consultant shall provide additional services, including but not limited to, the preparation of necessary plans, modification of reports & documents, and additional meetings as described in the attached Exhibit A.
2. Compensation. Consultant shall perform the services described in this Fifth Amendment for a total not-to-exceed amount of \$ 64, 025.00
3. Agreement in Effect. Except as modified by the prior four amendments, and by this Fifth Amendment, the Agreement shall remain in full force and effect.
4. Counterpart Signatures. This Fifth Amendment may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement.

IN WITNESS THEREOF, the parties have executed this Fifth Amendment as of the date first written above.

CITY OF ROHNERT PARK:

CONSULTANT:

By: Gabriel A. Gonzalez / 3/12/11
Gabriel A. Gonzalez, City Manager (Date)
Per Resolution No. 2011-17 adopted by the Rohnert Park
City Council on March 8, 2011.

By: Gary A. Lieberman / 2/28/11
Name: Gary A. Lieberman (Date)
Title: Project manager

ATTEST:

Jean Sigmund
City Clerk



APPROVED AS TO FORM:

[Signature]
City Attorney

By: _____ / _____
Name: _____ (Date)
Title: _____



engineering and constructing a better tomorrow

February 1, 2011

Ms. Marilyn Ponton
City of Rohnert Park
Planning Department
130 Avram Avenue
Rohnert Park, California 94927

Subject: **Proposal and Fee Estimate - Revised
Biological Consulting Services
Wilfred Dowdell Specific Plan Area
Rohnert Park, California
MACTEC Proposal No. PROP10BAYA 103**

Dear Ms. Ponton:

MACTEC Engineering and Consulting, Inc. (MACTEC) is pleased to submit this revised proposal to the City of Rohnert Park (the City) in response to your request. The work was requested during our December 10, 2010, telephone conversation and is to conduct biological consulting services associated with the development of the Wilfred Dowdell Specific Plan Area – Village North Parcels in Rohnert Park, California (Site).

The City has requested the scope to include both the Village North and Village South parcels, which encompasses approximately 24.8-acres divided into multiple parcels and bisected by Wilfred Avenue. The parcels are located on the west side of Highway 101 between Dowdell Avenue and Redwood Drive and are bounded to the north by retail properties, to the south by fallow fields and commercial properties and to the east by fallow agricultural fields.

At the request of the City, MACTEC solicited bids from two natural resources consultants (Vollmar Consulting and ESA Biological Resources) with demonstrated biological experience which MACTEC has worked with in the past. Based on follow up conversations with the City in late December 2010, MACTEC was also requested to solicit a bid from AECOM, a firm that has performed work on behalf of the City in past. On the basis of the January 27, 2011, meeting between you and Gary Lieberman of MACTEC, the City requested that AECOM be selected as the natural resources sub consultant based on their extensive permitting resume.

BACKGROUND

Based on our conversations, it is MACTEC's understanding that the City is prepared to move forward with the development of the Site which will be initiated with the construction of a hotel and a McDonalds restaurant on the Village North Parcels. Based on the results of the January 29, 2008, Final Environmental Impact Report (EIR) and August 20, 2008, Final EIR Response to Comments, the project applicant (i.e. the City) needs to comply with existing regulatory commitments as part of the project planning process. These requirements include commitments outlined in the *Santa Rosa Plain Conservation Strategy* (2005, Santa Rosa Plain Conservation Strategy Team) and the *Programmatic*

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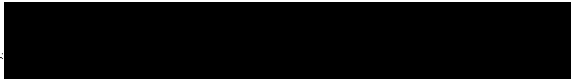
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*Biological Opinion for U.S. Army Corps of Engineers (USACE) Permitted Projects that May Affect
California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, California
(U. S. Fish and Wildlife Service [USFWS], 2007).*

We appreciate the opportunity to submit this proposal to the City and look forward to working with you on this and future assignments. Please feel free to contact Gary Lieberman at (707) 585-3808 if you have questions.

Yours very truly,

MACTEC ENGINEERING AND CONSULTING, INC.


Gary A. Lieberman
Project Manager


Sarah Raker, PG, CHG
Senior Principal Geologist

GAL/SR:sac

Attachments: MACTEC Schedule of Charges
Scope of Work
Subcontractor Bids

SCOPE OF WORK

On the basis of the City's request and the requirements of the EIR documents and existing regulatory commitments, the following scope of work is proposed.

Task 1 – Background Research

AECOM will review available environmental documentation, recent and historic aerial photographs, and other relevant background information provided by MACTEC and the City. This review will include conducting a review of the California Natural Diversity Database and the California Native Plant Society's inventory of rare and endangered vascular plants of California to verify the continued applicability of the list of potentially occurring special-status plant and animal species included in the existing EIR. AECOM will also review their internal files for information generated regarding biological resources on other project sites in the vicinity of the Wilfred Dowdell Specific Plan Area.

Task 2 – Update of 2005 Biological Assessment and Wetlands Delineation

MACTEC prepared a biological assessment and preliminary delineation of waters and wetlands at the Site in January 2005; however, it appears that these documents were not submitted to the USACE for verification due to the delay in the project. A verified delineation is typically considered valid for three years and therefore additional assessment of wetlands is necessary. An update of the biological assessment is also necessary in determining the quality of habitat available for special status species known to inhabit the area in the immediate vicinity of the project area, including California Tiger Salamander (CTS).

Biologists with suitable expertise will conduct a formal delineation in order to determine the location and extent of waters and wetlands potentially considered to be jurisdictional by the USACE, State Water Resources Control Board (State Water Board), and/or California Department of Fish and Game (CDFG). Determination of the boundaries of potential jurisdictional areas will follow standard methodologies as described in the USACE 1987 *Wetland Delineation Manual* and the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region, Version 2.0*. Features that meet the USACE's, State Water Board's, and/or CDFG's definition of potentially jurisdictional waters or wetlands will be photographed and mapped by a hand-held global positioning system (GPS) unit and/or by hand on available aerial imagery, topographic maps, or project maps and then downloaded/digitized onto the appropriate base map in ArcGIS or similar electronic format. Information will also be recorded in order to complete the *Approved Jurisdictional Delineation Form*. It is also assumed that an early spring visit will be sufficient to complete this task. If the USACE requires additional data, an expanded scope of work and cost estimate will be submitted to the City. It is assumed that no more than one Site visit will be necessary to delineate the location and extent of potentially jurisdictional waters and wetlands, including collecting the necessary data for the *Approved Jurisdictional Delineation Form*.

Concurrent with the wetlands delineation, a qualified botanist and wildlife biologist familiar with the target special-status species within the region will conduct a reconnaissance-level site visit to assess the sensitivity of on-site habitats, make a preliminary assessment of the potential for occurrence of the target special-status plant and animal species based on existing habitat availability, and identify the need for focused surveys. This assessment will include surveying the Site to determine if the Site could be used by the California Tiger Salamander (CTS) as breeding and/or upland habitat. Areas of potential habitat for special-status species, vegetation communities present, plant and wildlife and species observed, and identified sensitive natural communities will be recorded and mapped during the site visit.

Upon completion of field activities, the biologist will synthesize the data and field maps and prepare a combined delineation report and biological assessment, including a map of potential jurisdictional waters and wetlands identified within the proposed project area (the Site). The report will be prepared in accordance with USACE San Francisco District 2007 guidance to consultants for submitting delineation reports and will be prepared to meet the requirements of the *Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander* (USFWS, 2003) and will include a detailed analysis of wetlands on the Site that may provide potential CTS breeding habitat. This analysis will be based on proximity to documented occurrences of the species as well as onsite conditions such as dominant plant communities, the presence of burrows or other aestivation habitat, and potential migration barriers. The report will include a regional vicinity map of documented occurrences of CTS in the California Natural Diversity Database (CNDDB) and other available documented occurrences that are known for the area. Two versions of this report will be prepared, a draft report and a final report. The final report will incorporate comments from the City on the draft report.

Task 3 – Consultation with CDFG, USACE, and USFWS

This task includes services associated with requesting verification of the jurisdictional delineation report from the regulatory and resource agencies (including but not limited to, report submittal verification and field meetings with agency representatives). This task also assumes that the City will move forward with permitting the entire project (Village North and South Parcels) area and that permits would be prepared in conjunction with Section 7 Consultation (Option B of the AECOM Proposal) with the USFWS as well as Sections 401 and 404 of the Clean Water Act Clean Water Act, and Section 1602, California Fish and Game Code. This task includes costs associated with obtaining the necessary permits, agreements, and certifications, preparation of the project descriptions for the permits, and management of the permitting process. A detailed description of this task is included in the attached AECOM proposal.

Task 4 – Site Assessment/Field Surveys for Rare Plants

Results of the January 2005 biological assessment for the Site indicated no federally-Threatened or Endangered plant species were detected during the survey and only marginally suitable habitat was observed at the Site for five special-status plants. A site assessment is the first step in determining if a protocol-level survey for listed plants is appropriate. The purpose of a site assessment is to evaluate the potential for vegetation communities present on a proposed project site to support listed species known to or with the potential to occur in the project site vicinity. If vegetation communities present have the potential to support listed plants, a protocol-level survey is required before a negative finding can be supported.

For proposed project sites located in the Santa Rosa Plain, a protocol-level survey requires a minimum of two years of surveys with at least three field visits per year and surveys no older than three years from the current date of the project proposal. Based on MACTEC's January 2005 biological assessment, it does not appear that habitat for listed plants is present on the proposed project site. Therefore, MACTEC does not anticipate that a protocol level plant survey will be required. However, due to the project delay (over five years) since the previous field survey was conducted for the EIR, completion of a site assessment will need to be conducted to verify that the proposed project site conditions have not substantially changed since the previous field survey was conducted and to document the survey for future permitting actions. The site assessment will be completed concurrently with the field survey for the jurisdiction wetland delineation described above.

After completion of the site assessment, a technical report will be prepared that provides a description of plant communities on the project site, as well as other environmental conditions. The report will include

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a geographic information system (GIS)-based map to document habitat conditions and significant findings on the site. In the event that the site is sufficiently disturbed that no habitat with potential to support special-status plants occurs on the project site, a less detailed memorandum will present the case that no special-status plants are expected to occur on the project site. Two versions of this report will be included, a draft report and a final report. The final report will incorporate comments from the City on the draft report.

Task 5 – Nesting Birds Preconstruction Surveys

As detailed in Mitigation Measure 3.4-6a of the January and August 2008 Final EIR documents, completion of a preconstruction nesting bird survey would be required prior to the implementation of construction activities during the bird nesting season (typically February through August). A wildlife biologist will conduct the surveys within 30 days of construction activities. Habitats potentially used for nesting on the Site and located within 200 to 500 feet of the Site will be searched for active bird nests. This task assumes that one survey would be conducted and that bird species that are observed will be identified and the locations of active nests will be mapped with a professional GPS unit.

Upon completion of the survey, a technical report will be prepared summarizing the methods and results of the bird surveys. The report will include recommendations for required buffers around active nests, if present. The buffer size will be determined based on the sensitivity to disturbance of the bird species present and discussions with the CDFG.

Task 6 – Meetings and Project Management

This task is for AECOM to provide City and agency coordination and project management and includes time for meetings between AECOM, MACTEC, and the City. MACTEC's labor for project management and coordination with the subcontractor is included in each task discussed above.

ESTIMATED BUDGET

Based on the January 27 meeting between yourself and MACTEC we have costed this proposal using costs provided by AECOM. The total estimated budget for this scope of work includes MACTEC labor for project management and coordination with the subcontractor and is summarized below:

Task 1 –Background Research	\$925
Task 2 –Update of 2005 Biological Assessment and Wetlands Delineation	\$11,800
Task 3 – Consultation with CDFG, USACE, and USFWS	\$29,000
Task 4 – Site Assessment/Field Surveys for Rare Plants	\$10,350
Task 5 – Nesting Birds Preconstruction Surveys	\$5,400
Task 6 – Meetings and Project Management	\$6,550
Total Estimated Budget	\$64,025

MACTEC will perform the work described in this proposal on a time and materials basis in accordance with the attached schedule of charges and MACTEC's existing Master Services Agreement with the City, dated February 19, 2004 and, once executed, the work will be Amendment 4 to the Master Services Agreement. Actual invoice amounts will be based on actual labor hours and expenses associated with this

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work and the total invoice amount may be less than the budgeted amount. The budgeted amount of \$64,025 is an estimate. If during the performance of this work, the assumptions for the scope of work described above change, MACTEC will contact you and request a modification to the fee accordingly.

SCHEDULE

We are prepared to begin work within one week following receipt of Amendment 4 to the Contract which references the scope of services described in this proposal. Preliminary work for wetlands, rare plant, and CTS surveys which include gathering background data will be initiated within two weeks of authorization to proceed and the surveys will be scheduled to correspond with the wet season and blooming period of the wetland indicator plants. The draft Wetlands Delineation report will be completed within six weeks of completion of this survey and the rare plant and CTS reports will be completed within 30 days of completion of those respective surveys. The schedule for the nesting bird survey and associated report will be developed after the construction schedule for the Site has been developed.

AUTHORIZATION

Please provide MACTEC with Amendment 4 to the Master Agreement that references the proposal and we will return an executed copy for your records.

RESOLUTION NO. 98-45

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF ROHNERT PARK
APPROVING THE INITIATION OF A WILFRED/DOWDELL SPECIFIC PLAN,
DIRECTING CITY STAFF TO UNDERTAKE THE PREPARATION OF THE
WILFRED/DOWDELL SPECIFIC PLAN, ESTABLISHING A SPECIFIC PLAN FEE
SCHEDULE, AND AUTHORIZING THE CITY MANAGER TO SIGN A
REIMBURSEMENT OR LIEN AGREEMENT WITH THE AFFECTED PROPERTY
OWNERS FOR THE PREPARATION OF THE SPECIFIC PLAN**

WHEREAS, owners of property located immediately west of the City limits, north and south of Wilfred Ave. submitted a petition requesting annexation and pre-zoning on September 20, 1996; and

WHEREAS, on October 22, 1996, the City Council denied the application without prejudice and asked that a specific plan be prepared for the area; and

WHEREAS, on January 14, 1997, the City Council approved Resolution 97-19 approving an amendment of the 1995 General Plan of the City of Rohnert Park and designating a specific plan area in the unincorporated area of the County between Willis Avenue and the City limits on the east; Dowdell Avenue on the west; extending from 380 ft. north of Wilfred Avenue southerly to the City limits and Business park; and

WHEREAS, Measure N and the Urban Boundary Policy includes the above described area within the Urban Boundary of the City of Rohnert Park; and

WHEREAS, the above described area is within the City's Sphere of Influence; and

WHEREAS, owners of property within the above described area have not submitted an application for a specific plan; and

WHEREAS, there exists limited amounts of vacant land within the current City limits that are suitable for commercial and industrial construction; and

WHEREAS, Section 17.57.030(A) of the Rohnert Park Municipal Code provides that the adoption of a new specific plan may be initiated by the majority of the City Council; and

WHEREAS, on October 14, 1997, staff presented four alternatives for preparing the specific plan, and based on City Council direction, staff proceeded with preparing a draft reimbursement agreement between the property owners and the City to recover the cost of preparing the specific plan and associated environmental and annexation costs; and

WHEREAS, subsequent to the October 14, 1997, City Council meeting, staff met with a majority of the property owners and received a commitment from 70 percent of the property owners to reimburse the City for the plan preparation cost; and

WHEREAS, the City Attorney will prepare a reimbursement or lien agreement that will ensure recovery of the costs associated from the affected property owners for the specific plan preparation; and

WHEREAS, Section 17.57.070 of the Rohnert Park Municipal Code provides that the City Council may approve a schedule of fees to pay for the cost of preparation, approval and administration of a specific plan and that such fees may be collected as a condition of development approval; and

WHEREAS, City staff estimates that it will cost sixty three thousand, five hundred and eighty one dollars (\$63,581) to prepare, approve and administer the Wilfred/Dowdell Specific Plan.

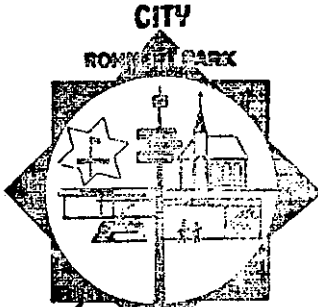
NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Rohnert Park that a specific plan is hereby initiated for the specific plan area in the unincorporated area of the County between Willis Avenue and the City limits on the east; Dowdell Avenue on the west; extending from 380 ft. north of Wilfred Avenue southerly to the City limits and Business park which shall hereafter be designated the Wilfred/Dowdell Specific Plan.

BE IT FURTHER RESOLVED, by the City Council of the City of Rohnert Park that the City Manager is hereby directed to undertake the preparation of the Wilfred/Dowdell Specific Plan for consideration by the Planning Commission and the City Council and enter into a reimbursement or lien agreement with the affected property owners to ensure specific plan cost recovery.

BE IT FURTHER RESOLVED, by the City Council of the City of Rohnert Park that the City Council hereby adopts the following Specific Plan fee schedule:

Parcel Number	Acreage	Percent of Area	Specific Plan Fee
45-075-01	2.51	10.13%	\$6,443
45-075-02	1.25	5.05%	\$3,209
45-075-03	1.25	5.05%	\$3,209
45-075-05	5.06	20.43%	\$12,988
45-075-06	5.08	20.51%	\$13,039
45-075-08	3.78	15.26%	\$9,703
45-075-09	1.26	5.09%	\$3,234
45-054-07	4.58	18.49%	\$11,756
TOTAL	24.77	100.00%	\$63,581.00

DULY AND REGULARLY ADOPTED by the City Council of the City of Rohnert Park this twenty fourth day of February 1998.



THE CITY OF ROHNERT PARK

ATTEST:

[Handwritten Signature]

Mayor

[Handwritten Signature]

Deputy City Clerk

FLORES	<u> AYE </u>	MACKENZIE	<u> AYE </u>	REILLY	<u> AYE </u>	VIDAK-MARTINEZ	<u> AYE </u>	SPIRO	<u> AYE </u>
AYES:	<u> 5 </u>	NOES:	<u> 0 </u>	ABSENT:	<u> 0 </u>	ABSTAIN:	<u> 0 </u>		