SUBJECT: AWARD OF CONTRACT - WASTEWATER TREATMENT FACILITY REVENUE PROGRAM (BARTLE WELLS ASSOCIATES, $20,000)

SOURCE: Engineering and Building Department

COMMENT: Staff has followed the procedure for selecting consultants as adopted by City Council in selecting the consulting firm of Bartle Wells Associates for the purpose of preparing a Wastewater Financial Plan, Revenue Program, Rate Study and the work required for a bond issue. The consulting firm of Bartle Wells Associates was selected from a list of consulting firms that have the depth of experience to successfully complete the tasks at hand. A copy of the Service Agreement with “Scope of Services” is attached.

The formal request for proposals and selection process can take up to 45 days from advertisement to award of contract. City policy allows staff to select a consultant from a qualified list if the consulting fee is less than $25,000. The consulting fee for this contract is $20,000. Included in this consideration is the fact that Bartle Wells Associates has successfully worked with Carollo Engineers on other wastewater projects similar to the City’s project.

The Regional Water Quality Control Board (RWQCB) has set a very aggressive schedule for the City to complete all studies and move ahead with the implementation of the study’s recommendations. Staff feels that the work described above must move forward as quickly as possible to provide the best chance of meeting the schedule established by the RWQCB. By awarding a contract to Bartle Wells Associates at this time, the City improves its chances of meeting the RWQCB’s schedule.

RECOMMENDATION: That City Council:

1. Allocate $24,500 from the Wastewater Capital Reserve Fund to Capital Project No. 89-9674-88;

2. Award the Wastewater Treatment Facility Revenue Program to the firm of Bartle Wells Associates in the amount of $20,000; and

3. Authorize staff to approve addenda for future tasks that may become necessary as the study develops with a not to exceed $4,500 limit for all future addenda.

ATTACHMENT: Service Agreement
SERVICE AGREEMENT

DATE: September 3, 2002

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and Bartle Wells Associates, hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name: Porterville Waste Discharge Requirements, Phase 2

Description of Project: Wastewater Financial Plan, Revenue Program, Rate Study and Bond Issuance for Improvements required by the California Regional Water Quality Control Board

AGREEMENTS:

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES: CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described in Exhibit "A", Scope of Services, in connection with the above described project.

SECTION 2. PAYMENT: In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis, not to exceed Twenty Thousand Dollars, ($20,000) in accordance with Exhibit "B", Billing Rate Schedule 2002.

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 30 days
of the date the bill is received.

**SECTION 3. COMPLETION DATE:** The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all “work directives” shall be completed in accordance with the Exhibit “C”, City of Porterville Wastewater Financial Plan, Revenue Program, Rate Study and Bond Issue - Preliminary Schedule.

The parties agree that time is of the essence under this contract. Inasmuch as it would be difficult to ascertain the actual amount of damages sustained by delay in performance of said contract, the amount of fifty dollars ($50) per calendar day shall be deducted from the contract price for liquidated damages for each calendar day beyond the completion date listed in Schedule “C”. Said deduction will not be made if CONSULTANT submits proof in writing that delay in completion was due to a cause beyond its control.

**SECTION 4. FAMILIARITY WITH PROJECT:** CONSULTANT agrees that it will familiarize itself with the details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

**SECTION 5. INDEPENDENT CONTRACTOR:** It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

1. Full liability under worker’s compensation laws of the State of California; and
(ii) Bodily injury and property damage insurance in the amount not less than Five Hundred Thousand Dollars ($500,000) per occurrence; and

(iii) Errors and Omissions insurance of Five Hundred Thousand Dollars ($500,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars ($50,000) or more, the City may require a Surety Bond for the deductible; and

(iv) Automotive liability in the amount not less than Five Hundred Thousand Dollars ($500,000) per occurrence;

fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT agrees to indemnify, defend (at CITY’S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents.

SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.
SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that all work will be performed by CONSULTANT. CONSULTANT shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others.

SECTION 8. AFFIRMATIVE ACTION: CONSULTANT will not discriminate against any employee, or applicant for employment because of race, color, religion, gender, marital status, or national origin.

SECTION 9. CONFLICT OF INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY’S “Conflict of Interest Code”. Said code is in accordance with the requirements of the Political Reform Act of 1974. CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION: This contract may be terminated by either party for just cause by giving seven (7) days written notice to the other party. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed, except CITY can withhold damages incurred as a result of the termination.

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this
Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys’ fees and costs.

SECTION 12. DISPUTES; VENUE: If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. CONSULTANT hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.
IN WITNESS WHEREOF, the parties have executed this Service Agreement on the date and year first above written.

CITY OF PORTERVILLE

By________________________________________

Gordon T. Woods, Mayor

Date______________________________

CONSULTANT

By________________________________________

Date______________________________

HLH:vs

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