

**TOWN OF FAIRFAX  
STAFF REPORT**

**Date:** August 1, 2012  
**To:** Mayor and Members of the Town Council  
**From:** Judy Anderson, Town Clerk  
**Subject:** Council review of Pastori Outfall/Bank Restoration Project and request for direction after consideration of options regarding the request for the trimming of a Town tree and other proposed changes in the scope of the work and schedule for the project – Interim Town Manager

---

**RECOMMENDATION**

It is recommended that the Town Council consider all the changes in schedule, costs of the project, the proposed tree removal and direct staff accordingly.

**DISCUSSION**

Late in the afternoon of Friday, August 17<sup>th</sup>, I received an email from Alice Rich of AA Rich and Associates with an estimate for the cost of the fish related work of \$63,000. I hadn't realized until that point that the work would be so expensive. After consulting with the Mayor and Town Counsel, a special meeting was set for Monday, August 20<sup>th</sup>. At the meeting, after discussion and public testimony, the Council directed staff to go forward and negotiate a revised contract with AA Rich.

A meeting was held on the site of the project on Wednesday, August 22<sup>nd</sup>, and was attended by Alice Rich, fish biologist, Chad of Wildcat Engineering, Georgia of CSW Engineering, Mark Lockaby, Fairfax Public Works Manager, and Mayor Hartwell-Herrero. As a result of this meeting, it was evident that the project schedule was not clear to all parties.

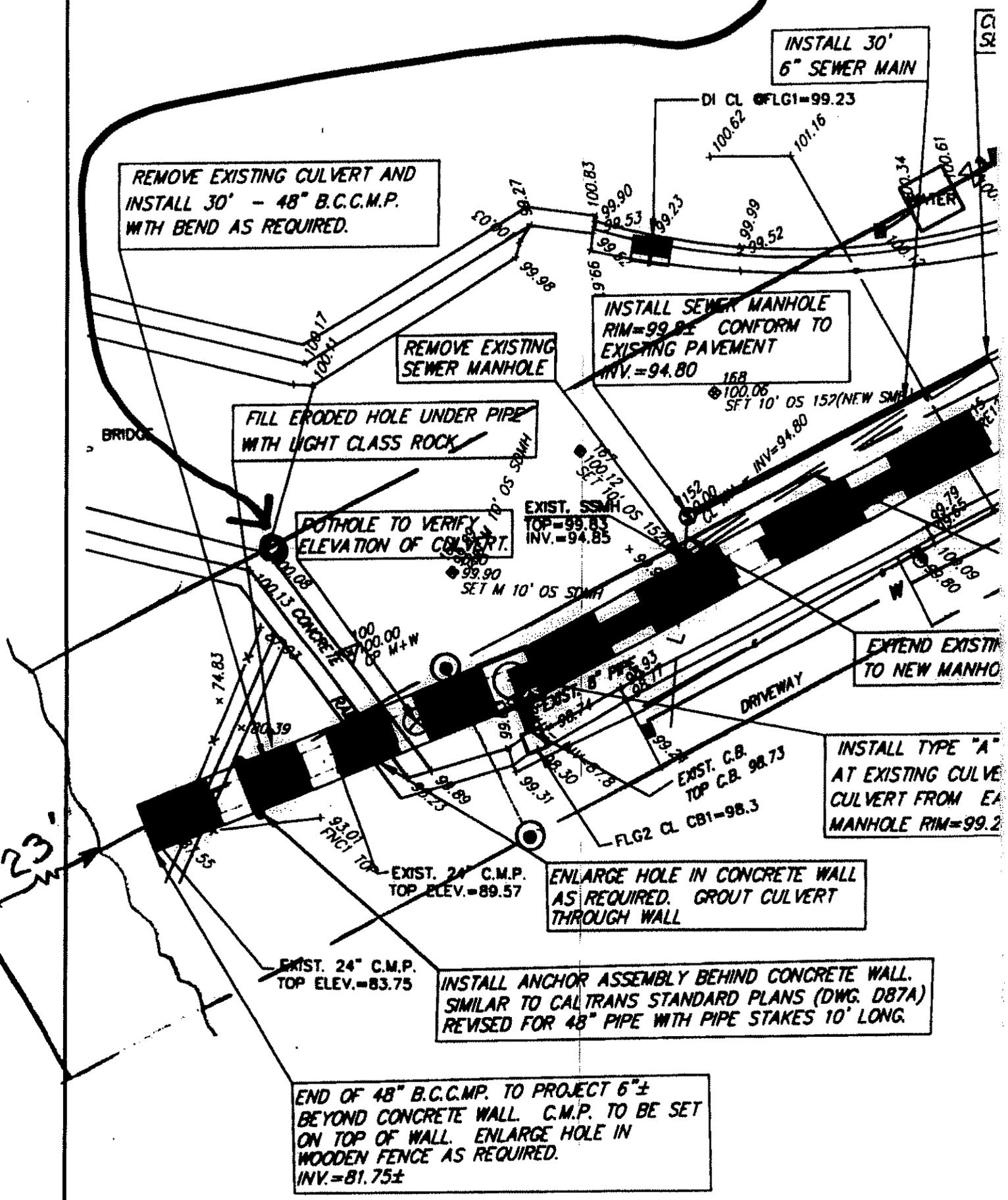
A pre-construction meeting was held at CSW Engineering today, Friday, August 24, 2012, and was attended by those parties named above as well as Al Cornwell of CSW and Al of Wildcat Engineering. The schedule was modified to have the fish work begin on Monday, August 27<sup>th</sup> and the construction on Thursday, August 29<sup>th</sup>. Questions arose at the meeting regarding the request by the contractor to trim a large branch off of a tree in the Town's right-of-way to allow the crane to operate. The contractor contends that he cannot perform the job without the removal of the tree limb.

**ATTACHMENTS**

Tree Photo  
AA Rich Amended Agreement  
Letter from Wildcat Engineering  
Work Schedule from Wildcat Engineering  
Letter from CSW regarding schedule

– Property line map  
– Email from Mackintosh re tree

# RED CONE IN PICTURE PLACED



REMOVE EXISTING CULVERT AND INSTALL 30' - 48" B.C.C.M.P. WITH BEND AS REQUIRED.

INSTALL 30' 6" SEWER MAIN

REMOVE EXISTING SEWER MANHOLE

INSTALL SEWER MANHOLE RIM=99.81 CONFORM TO EXISTING PAVEMENT INV.=94.80

FILL ERODED HOLE UNDER PIPE WITH LIGHT CLASS ROCK

POTHOLE TO VERIFY ELEVATION OF CULVERT.

EXIST. SSMH TOP=99.83 INV.=94.85

EXTEND EXISTING TO NEW MANHOLE

INSTALL TYPE "A" AT EXISTING CULVERT FROM EX MANHOLE RIM=99.2

ENLARGE HOLE IN CONCRETE WALL AS REQUIRED. GROUT CULVERT THROUGH WALL

INSTALL ANCHOR ASSEMBLY BEHIND CONCRETE WALL. SIMILAR TO CALTRANS STANDARD PLANS (DWG. D87A) REVISED FOR 48" PIPE WITH PIPE STAKES 10' LONG.

END OF 48" B.C.C.M.P. TO PROJECT 6"± BEYOND CONCRETE WALL. C.M.P. TO BE SET ON TOP OF WALL. ENLARGE HOLE IN WOODEN FENCE AS REQUIRED. INV.=81.75±

23



150 Woodside Drive  
San Anselmo, CA 94960  
Tel: (415) 485-2937  
Fax: (415) 485-9221  
alice@aarichandassociates.com  
www.aarichandassociates.com

August 22, 2012

Judy Anderson CMC  
Town Clerk/Interim Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

RE: Pastori Storm Drain Outfall-Bank Stabilization/Fish Relocation and Biological and Turbidity Monitoring During Construction Activities-Professional Services Agreement

Dear Judy:

Attached is a Professional Services Agreement (Agreement), including the Scope of Work (Attachment A) and a Fee Schedule (Attachment B). Essentially, this is a time-and-materials Agreement not to exceed the total not-to-exceed amount in Attachment A, invoiced per the Fee Schedule in Attachment B.

If you are in agreement with this Agreement, please sign and return (Fax = 415-485-9221; email= [alice@aarichandassociates.com](mailto:alice@aarichandassociates.com)) it to me.

If you have any questions, or wish to discuss any of this further, please do not hesitate to contact me (office: 485-2937; cell: 999-4052; email: [alice@aarichandassociates.com](mailto:alice@aarichandassociates.com)).

Thank you.

Sincerely,

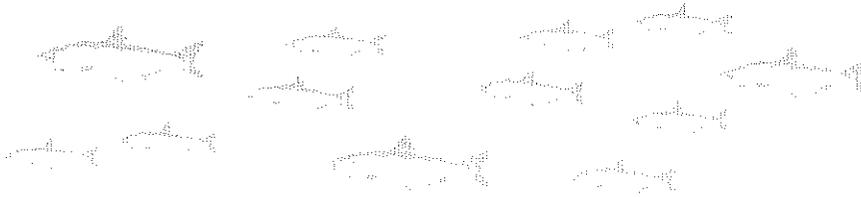
*Alice A. Rich, Ph.D.*

Alice A. Rich, Ph.D.

cc: file (ja082212 contract)

# A.A. RICH AND ASSOCIATES

Alice A. Rich, Ph.D.  
Principal



150 Woodside Drive  
San Anselmo, CA 94960  
Tel: (415) 485-2937  
Fax: (415) 485-9221  
alice@aarichandassociates.com  
www.aarichandassociates.com

August 22, 2012

Judy Anderson, CMC  
Town Clerk/Interim Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

RE: Pastori Storm Drain Outfall-Bank Stabilization/Fish Relocation and Biological and Turbidity Monitoring During Construction Activities-Professional Services Agreement

Dear Judy:

This letter will serve as the Agreement between *A. A. Rich and Associates, Fisheries and Ecological Consultants*, hereinafter "AAR" and the *Town of Fairfax*, hereinafter "Client", with respect to the provision of the services of AAR in connection with the above-referenced project.

The terms of this agreement require that AAR provide services as Fisheries and Ecological Consultants, as described in Attachment A. For the Professional Services, AAR will invoice Client bi-monthly. For the provision of the services, Client will compensate AAR, pursuant to the attached Fee Schedule (Attachment B).

If you are in accordance with this Agreement, please sign this letter and return it to me. If you wish to add or change anything, please do so, initial each change, and either fax (415-485-9221) or email (alice@aarichandassociates.com) the Agreement back to me.

Thank you.

Sincerely,

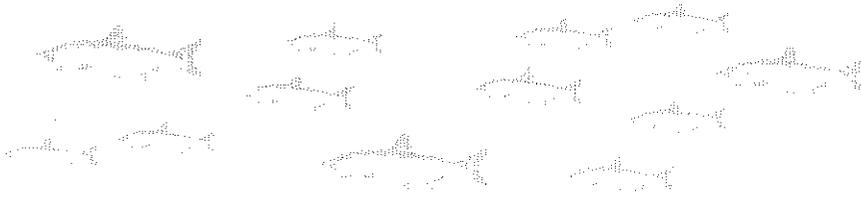
*Alice A. Rich, Ph.D.*

Alice A. Rich, Ph.D.

Agreed

By \_\_\_\_\_ Date \_\_\_\_\_

Judy Anderson CMC  
Town Clerk/Interim Town Manager  
Town of Fairfax, CA 94930



150 Woodside Drive  
San Anselmo, CA 94960  
Tel: (415) 485-2937  
Fax: (415) 485-9221  
alice@aarichandassociates.com  
www.aarichandassociates.com

***ATTACHMENT A***

August 20, 2012

Judy Anderson  
Town Manager  
Town of Fairfax  
142 Bolinas Ave.  
Fairfax, CA 94930

RE: Pastori Storm Drain Outfall-Bank Stabilization/Fish Relocation and Biological and Turbidity Monitoring During Construction Activities-Scope of Work and Cost Estimate-Revised

Dear Judy:

Attached is a revised Scope/Cost Estimate for the Town of Fairfax's Pastori project. I have removed one fisheries biologist from Task 1, per our conversation at the Special Council Meeting this morning.

If I can get a signed contract to begin work by end-of-business today, and if I have assurance that Wildcat Construction can provide the diversion pipe no later than Thursday morning of this week, we could wrap up the fish collection and relocation by no later than Monday, probably in the morning.

As I mentioned at the Special Council Meeting this morning, I will certainly do whatever is in my power to limit costs whenever I can.

Do you want me to send you a Professional Services Agreement, or does the Town of Fairfax have one that they use?

If you have any questions, or wish to discuss any of this further, please do not hesitate to contact me.

Thank you.

Sincerely,

*Alice A. Rich, Ph.D.*

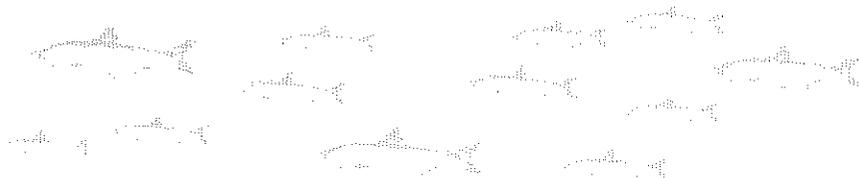
Alice A. Rich, Ph.D.

Encl

cc: file (ja082012 Pastori-Scope and Cost Estimate-Revised)

# A.A. RICH AND ASSOCIATES

---



## **ATTACHMENT A (cont.)**

August 20, 2012

Judy Anderson  
Town Manager  
Town of Fairfax  
142 Bolinas Ave.  
Fairfax, CA 94930

RE: Pastori Storm Drain Outfall-Bank Stabilization/Fish Relocation and Biological and Turbidity Monitoring During Construction Activities-Scope of Work and Cost Estimate

**A. Task 1: Fish Collection and Relocation (including mobilization and demobilization of equipment)**

**Assumptions:**

- (1) Work is anticipated to take 4-5 days to complete and will, thus, begin the week of August 20th and end August 24, 2012 or, at the latest, August 27, depending upon when the diversion pipe is provided by Wildcat Construction.
- (2) Number of hours for field biologists will be 8 hours per day. If there is overtime, that will be on a time-and-a-half basis, per California law.

**Scope of Work:** Prior to any construction activities, fish will be collected and relocated under the supervision of Dr. Alice Rich, per the January 26, 2011 Fish Relocation Plan prepared by Dr. Rich.

**Cost Estimate**

**Labor**

A. Rich (@ \$165/hr) x 12 hours	\$ 1,980
Fisheries Field Supervisor (@ \$85/hr) x 5 days x 8 hours/day	\$ 3,400
Fisheries Biologist (@ \$75/hr) x 5 days x 8 hours/day	<u>\$ 3,000</u>
	<b>\$ 8,380</b>

**Other Direct Costs**

Mileage (@ \$0.555/mi)	\$ 75
Rental	
Electrofischer (@ \$100/day) x 5 days	\$ 500
Block nets (@ \$25/net/day) 6 nets x 5 days	\$ 750
Photocopies (@ \$1.50/sheet for waterproof monitoring sheets)	<u>\$ 10</u>
	<b>\$ 1,335</b>

**Cost for Task 1** **\$ 9,715**

**ATTACHMENT A (cont.)**

J. Anderson-Town of Fairfax Pastori Project-Biological and Turbidity Monitoring Scope of Work and Cost Estimate-Revised  
August 20, 2012  
Page 2

**B. Task 2: Biological Monitoring During Construction Activities**

- Assumptions:**
- (1) Construction company would be a company such as Maggiora Ghilotti.<sup>1</sup>
  - (1) Construction time would be (August 27-October 15, 2012), per G. McDaniel's 7/23/12 email. If the work extends beyond October 15th, that time will be billed, per the attached Fee Schedule.
  - (2) Work would be from Monday-Saturday each week.
  - (3) There will be 43 working days at 8 hours per day for the Biological Monitor/Biologist.
  - (4) Overtime is not part of this cost estimate. If there is overtime, that will be on a time-and-a-half basis, per California law.

**Scope of Work:** A qualified Biological Monitor/Biologist will be on-site throughout the construction activities, per DFG's and NOAA Fisheries requirements. In addition to monitoring construction activities to make sure that no activity will result in damage to the creek (e.g., silt, debris, equipment, etc.) or the steelhead in the creek, the Biological Monitor will check daily for stranded or trapped aquatic life (specifically, steelhead/rainbow juveniles). If any listed, rare, or special status species are detected during the construction activities, those species will be reported to both DFG and NOAA Fisheries within five working days of sightings.

**Cost Estimate**

**Labor**

A. Rich (@ \$165/hr) x 24 hours	\$ 3,960
Biological Monitor (@ \$85/hr) x 43 days x 8 hours/day	<u>\$ 29,240</u>
	<b>\$ 33,200</b>

**Other Direct Costs**

Mileage (@ \$0.555/mi)	\$ 100
Photocopies (@ \$1.50/sheet for waterproof monitoring sheets)	<u>\$ 270</u>
	<b>\$ 370</b>

<b>Cost for Task 2</b>	<b>\$ 33,570</b>
------------------------	------------------

---

<sup>1</sup> In other words, requires a lot of time by the biological monitors making certain that they are protective of the creek and its inhabitants



**ATTACHMENT A (cont.)**

J. Anderson-Town of Fairfax Pastori Project-Biological and Turbidity Monitoring Scope of Work and Cost Estimate-Revised  
 August 20, 2012  
 Page 3

**C. Task 3: Turbidity Monitoring**

**Task 3a: During the initial startup phase of bypassing water around the project site, turbidity shall be measured once every 15 minutes<sup>2</sup>**

**Labor**

A. Rich (@ \$165/hr) x 8 hours	\$ 1,320
Aquatic Biologist/Water Quality (@ \$85/hr) 60 hrs	\$ 5,100
	<u>\$ 6,420</u>

**Other Direct Costs**

Mileage (@ \$0.555/mi)	\$ 25
Rental Turbidity Instrument <sup>3</sup> (@ \$25/day) x 7 days	\$ 175
Photocopies (@ \$1.50/sheet for waterproof sheets)	\$ 50
	<u>\$ 250</u>

**Cost for Task 3a** \$ 6,670

**Task 3b: Turbidity at the three monitor locations measured daily**

**Labor**

A. Rich (@ \$165/hr) x 10 hours	\$ 1,650
Biological Monitor (@ \$85/hr) x 43 days x 1 hour/day	\$ no charge
	<u>\$ 1,650</u>

**Other Direct Costs**

Rental Turbidity Instrument (@ \$25/day) X 43 days	\$ 1,075
Photocopies (@ \$1.50/sheet for waterproof sheets)	\$ 100
	<u>\$ 1,175</u>

**Cost for Task 3b** \$ 2,825

**Task 3c: Monthly Report to RWQCB**

**Labor**

A. Rich (@ \$165/hr) x 20 hours	\$ 3,300
---------------------------------	----------

**Cost for Task 3c** \$ 3,300

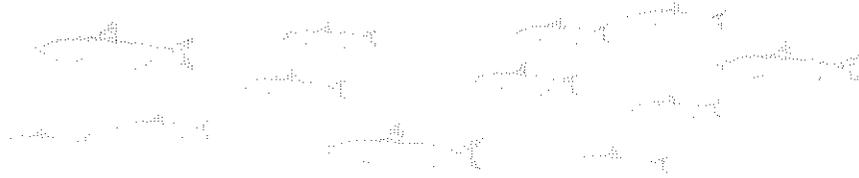
**Total Estimated Cost for Task 3** \$12,795

<sup>2</sup> Assumes 7 days of monitoring every 15 minutes for eight hours per day.

<sup>3</sup> HACH 2100Q-01 Portable Turbidimeter (meets EPA method 180.1 and ISO 7027)

# A.A. RICH AND ASSOCIATES

---



## ATTACHMENT A (cont.)

J. Anderson-Town of Fairfax Pastori Project-Biological and Turbidity Monitoring Scope of Work and Cost Estimate-Revised  
August 20, 2012  
Page 4

**D. Task 4: Follow-Up Report to NOAA Fisheries and the Department of Fish and Game**

**Assumptions:** One in-house (i.e., Town of Fairfax) draft and one copy of final report (electronic copies)

**Scope of Work:** A report of the fish collection and relocation activities will be submitted to the California Department of Fish and Game and NOAA Fisheries within 30 days after relocation activities have been completed.

**Cost Estimate:**

*Labor*

A. Rich (@ \$165/hr) x 12 hours	\$ 1,980
Graphics (@\$100/hr) x 4 hours	<u>\$ 400</u>
	<b>\$ 2,380</b>

*Cost for Task 4* **\$ 2,380**

**E. Task 5: Communications (emails, phone, letter) with Relevant Parties (agencies, Town, CSW Stuber-Stroeh)**

**Scope of Work:** Ongoing communication by Dr. Rich throughout the project

**Cost Estimate:**

*Labor*

A. Rich (@ \$165/hr) x 12 hours	<u>\$ 1,980</u>
---------------------------------	-----------------

*Cost for Task 4* **\$ 1,980**

---

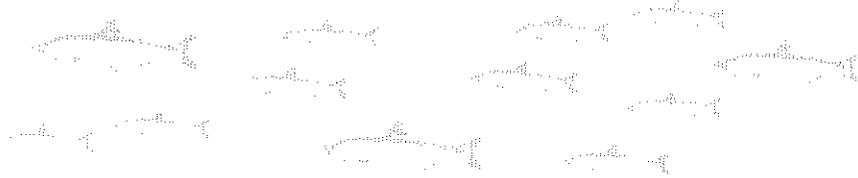
**Total Estimated Cost**

<b>Task 1</b>	<b>\$ 9,715</b>
<b>Task 2</b>	<b>\$ 33,570</b>
<b>Task 3</b>	<b>\$ 12,795</b>
<b>Task 4</b>	<b>\$ 2,380</b>
<b>Task 5</b>	<b><u>\$ 1,980</u></b>
	<b>\$ 60,440</b>

**Total Estimated Cost** **\$ 60,440**

# A.A. RICH AND ASSOCIATES

---



## ATTACHMENT B

J. Anderson-Town of Fairfax Pastori Project-Biological and Turbidity Monitoring Scope of Work and Cost Estimate-Revised  
August 20, 2012  
Page 5

### Fee Schedule

#### Personnel

Hourly fees by personnel classification are as follows:

##### Labor

A. Rich	
General Rate	\$ 165.00
Expert Witness Preparation and Testimony	\$ 350.00
Project Staff	
Supervisor Fisheries Biologist	\$ 85.00
Fisheries Biologist	\$ 75.00
Biological Monitor	\$ 85.00
Administrative Assistant	\$ 65.00
Graphics Illustrator	\$ 100.00

#### Other Direct Costs

Photocopies	
Black and White	\$ 00.10/copy
Color and Water Proof Data Sheets	\$ 1.50/copy
Fax	\$ 1.50/page
Mileage	\$ 00.555/mi
Per Diem (per person)	\$ 150/day/person
Equipment Rental (list provided for each project)	

#### **Purchased Services**

A charge of 15% is applied to **Other Direct Costs**. These **Other Direct Costs** include, but are not limited to, photocopies, mileage, rented or leased equipment, per diem, and expendable supplies.

#### **Terms and Conditions**

Invoices are submitted bi-monthly for all services rendered during the previous two weeks, and are payable net 15 days. If an invoice is not paid within 20 days, no further services will be provided until receipt of payment for the late invoice.



August 24, 2012

Re: Pastori Storm Drain Outfall

Dear Mark,

Per our meeting today, we must commence work on August 29<sup>th</sup> in order to meet the October 15<sup>th</sup> completion date. Prior to our starting the wildlife relocation must be complete to the point of our being able to pump out the pool. Should we be unable to commence on schedule it is unlikely that the schedule can be met.

Very Truly Yours

A handwritten signature in black ink, appearing to be "Al Kaplan", written over a horizontal line. The signature is stylized and somewhat cursive.

Al Kaplan

Wildcat Engineering 450 Lakeville St Ste-A Petaluma, CA 94952  
 (707) 762-5500 ph (707) 763-3167 fax

Project: Pastori Storm Drain Outfall

Owner: Town of Fairfax Contact: Judy Anderson (415)458-2343 Date Submitted: 08/24/2012

Start Date	8/27	8/28	8/29	8/30	8/31	9/3	9/4	9/5	9/6	9/7	9/10	9/11	9/12	9/13	9/14	9/17	9/18	9/19	9/20	9/21
working day count-->	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20

Mobilization	X				L															
Pump pool		X			A															
Diversion			X		B	X														
Clear & Grubb					O	X	X	X												
Grade					R			X	X	X										
Perma Jack					D		X	X	X											
Footings					A								X	X	X	X				
Place Fabric					Y												X	X		
Place Root Wad																				
Place Rip Rap																				
Grout																				
Clean up																				
Remove Diversion																				

Wildcat Engineering 450 Lakeville St Ste-A Petaluma, CA 94952  
 (707) 762-5500 ph (707) 763-3167 fax

Date: August 24, 2012  
File: 4.1086.14

Ms. Judy Anderson  
Interim Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930

**RE: PASTORI STORM DRAIN OUTFALL SCHEDULE**

Dear Judy:

This morning a pre-construction meeting was held at the CSW|ST2 office in Novato. Attendees were: Chad Aanenson and Al Kaplan with Wildcat Engineering, Mark Lockably with the Town of Fairfax, Alice Rich with A.A. Rich and Associates, plus Al Cornwell and I with CSW|ST2.

According to the latest schedule prepared on July 23, 2012, fish collection/relocation and the installation of the water diversion system was to occur this week. Since Wildcat Engineering did not have a signed contract, construction has yet to begin. The signed contract was delivered to Wildcat Engineering during the meeting. The fish collection/relocation and the installation of the water diversion system were re-scheduled to begin on Monday, August 27, 2012, and to be completed by Friday, August 31, 2012.

During the meeting, Alice Rich received an email indicating that A.A. Rich and Associates may not have a signed contract to allow the fish relocation to begin on Monday, August 27. We are concerned that if the fish relocation does not begin on Monday, August 27, the contractor may not be able to complete the work by the Agencies' deadline of October 15, 2012.

Sincerely,

CSW/STUBER-STROEH ENGINEERING GROUP, INC.



Georgia McDaniel, M.C.P.  
R.L.A. #3833

GKM:kab

## Judy Anderson

---

**From:** Marin Town and Country Club [mailto:~~georgiamcdaniel@townoffairfax.org~~]  
**Sent:** Friday, August 24, 2012 6:08 PM  
**To:** Judy Anderson  
**Cc:** Wendy M Orear; ~~georgiamcdaniel@townoffairfax.org~~  
**Subject:** RE: Another delay...

Dear Judy:

I met with Mark Lockaby. I told Mark that Wildcat could remove my metal sign posts if they replace them afterwards, as they found them.

Mark also asked about cutting the Maple tree on the Orear/MT&CC property line. Before any trimming and/or cutting might be considered; the contractors must meet with Wendy and me, so we can clearly illustrate what can and cannot be cut. We do not want a Bonsiaed hacked tree where there used to be a beautiful canopy. Does the Town have a tree cutting policy that might be applicable?

I understand that you are in the process of procuring for me additional named insured policies for the general liability and workers comp from the general and sub-contractors.

As a matter of policy I would encourage the Town of Fairfax to require this for the Town and all stakeholders.

Thank you for keeping me apprised.

Michael Mackintosh

---

**From:** Judy Anderson [mailto:[janderson@townoffairfax.org](mailto:janderson@townoffairfax.org)]  
**Sent:** Friday, August 24, 2012 3:51 PM  
**To:** Alice A Rich, Ph.D  
**Cc:** Georgia McDaniel; Marin Town and Country Club; Wendy Orear  
**Subject:** Another delay...

The Town Council has scheduled another special meeting. Please see the attached agenda. Please do not start until Tuesday after the results of this meeting. Thank you.

These are the attachments from the packet for this meeting. I am still working on the staff report and may not have it until tomorrow morning.

Judy Anderson, CMC  
Town Clerk/Interim Town Manager  
Town of Fairfax  
142 Bolinas Road  
Fairfax, CA 94930  
415: 458-2343