

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

Members of the Council:

SUBJECT: City Manager – Approve contract amendment to provide economic development consulting services. Expenditure: none

RECOMMENDATION

Recommendation of the City Manager that City Council approve an amendment to the contract with The Fransen Company (C2010-239) to provide economic development services, extending the term from December 15, 2012 to December 15, 2013.

Funding

N/A

BACKGROUND/RECOMMENDATION

The City has been using the services of John Fransen, principal of The Fransen Company (Company), since fall 2009. The Company has provided consulting services to municipalities, real estate developers, retail companies and landowners over a span of 30 years. The institutional knowledge and relationships of the Company has provided the depth and knowledge of the retail industry to assist in the conceptualization and development of comprehensive retail projects. More specifically, the Company's expertise was sought, and has been utilized, for engaging Del Amo Mall ownership in a collaborative planning process to establish the direction, vision and future of Del Amo. The secondary objective is the development of identified key areas of Hawthorne Boulevard to identify potential future land uses and businesses that would most benefit the City.

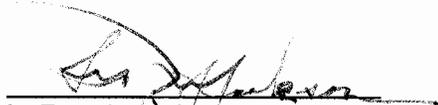
The City desires to continue progressing on both of its objectives; therefore staff is requesting that the contract be extended to December 15, 2013. No additional funding to the contract is requested at this time. Currently \$26,100 remains available for consulting services.

Respectfully submitted,

LeROY J. JACKSON
CITY MANAGER

By Mary K. Giordano
Mary K. Giordano
Assistant City Manager

CONCUR:


LeRoy J. Jackson
City Manager

Attachments: A) Fourth amendment to Consulting Services Agreement
B) Consulting Services Agreement C2010-239

**FOURTH AMENDMENT TO CONSULTING SERVICES AGREEMENT
C2010-239**

This FOURTH AMENDMENT TO CONSULTING SERVICES AGREEMENT C2010-239 (“the Fourth Amendment”) is made and entered into as of December 13, 2012 (the “Effective Date”), by and between the CITY OF TORRANCE, a municipal corporation (“CITY”), and The Fransen Company, a California corporation (“CONSULTANT”).

RECITALS:

- A. Pursuant to Consulting Services Agreement C2010-239, which was made and entered into as of December 8, 2010 (the “Agreement”), CITY retained the services of The Fransen Company, an experienced and qualified CONSULTANT, to work with and assist the City and Del Amo Business District and identified key areas of Hawthorne Boulevard property owners to define project scope for revitalization of targeted area and strategies to achieve.
- B. CITY is satisfied with the services performed by CONSULTANT.
- C. CITY and CONSULTANT have previously entered into a First Amendment to Consulting Services Agreement C2010-239, entered into as of April 30, 2011, which extended the term of the Agreement through July 15, 2011, a Second Amendment to Consulting Services Agreement C2010-239, entered into as of July 16, 2011, which amended the Scope of Services, amended the Compensation Schedule, and extended the term of the Agreement through February 29, 2012, and a Third Amendment to Consulting Services Agreement C2010-239, entered into as of December 13, 2011, which extended the Term of the Agreement and increased the compensation payable.
- D. The parties wish to further extend the term of the Agreement through December 15, 2013, with no changes to scope of work or compensation.

AGREEMENT:

- 1. Paragraph 2 of the Agreement, which is entitled “**TERM**,” is amended to read in its entirety as follows:

“2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through December 15, 2013.”

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

3. In all other respects, the Agreement dated December 8, 2010, and amended as of April 30, 2011, as of July 16, 2011, and as of December 13, 2011, between CITY and CONSULTANT is ratified and reaffirmed and remains in full force and effect.

CITY OF TORRANCE,
a municipal corporation

THE FRANSEN COMPANY
a California corporation

By: _____
Frank Scotto, Mayor

By: _____
John A. Fransen, President

ATTEST:

Sue Herbers, City Clerk

JOHN L. FELLOWS III
City Attorney

By: _____

THIRD AMENDMENT TO CONSULTING SERVICES AGREEMENT
C2010-239

This THIRD AMENDMENT TO CONSULTING SERVICES AGREEMENT C2010-239 (“the Second Amendment”) is made and entered into as of December 13, 2011 (the “Effective Date”), by and between the CITY OF TORRANCE, a municipal corporation (“CITY”), and The Fransen Company, a California corporation (“CONSULTANT”).

RECITALS:

- A. Pursuant to Consulting Services Agreement C2010-239, which was made and entered into as of December 8, 2010 (the “Agreement”), CITY retained the services of The Fransen Company, an experienced and qualified CONSULTANT, to work with and assist the City and Del Amo Business District and identified key areas of Hawthorne Boulevard property owners to define project scope for revitalization of targeted area and strategies to achieve.
- B. CITY is satisfied with the services performed by CONSULTANT.
- C. CITY and CONSULTANT previously entered into a First Amendment to Consulting Services Agreement C2010-239, dated as of April 30, 2011, which extended the term of the Agreement through July 15, 2011.
- D. CITY and CONSULTANT previously entered into a Second Amendment to Consulting Services Agreement C2010-239, dated as of July 16, 2011, which amended the Scope of Services, amended the Compensation Schedule, and extended the term of the Agreement through February 19, 2012.
- E. The parties wish to further amend the contract to add an additional \$60,000 to the contract for an amount not to exceed the sum of \$114,000 and extend the term of the Agreement through December 15, 2012.

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AGREEMENT:

- 1. Paragraph 2 of the Agreement, which is entitled “TERM,” is amended to read in its entirety as follows:

“2. TERM
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through December 15, 2012.”

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OFFICE OF THE CITY MANAGER

- 2. Paragraph 3.A of the Agreement, which is entitled “Consultant’s Fee,” is amended to read in its entirety as follows:

“A. CONSULTANT’s Fee.

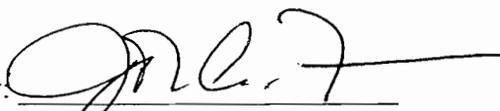
For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Amended Compensation Schedule, provided, however, that in no event will the total amount of money paid the CONSULTANT, for services contemplated by this Agreement, exceed the sum of \$114,000 (“Agreement Sum”), unless otherwise first approved in writing by CITY.”

- 3. The person executing this Agreement on behalf of CONSULTANT warrant that (i) CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of CONSULTANT; (iii) by so executing this Agreement, CONSULTANT is formally bound to the provisions of this Agreement; and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONSULTANT is bound.
- 4. In all other respects, the Agreement dated December 8, 2010, and amended on April 30, 2011, and July 16, 2011, between CITY and CONSULTANT is ratified and reaffirmed and remains in full force and effect.

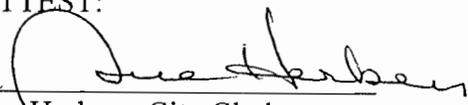
CITY OF TORRANCE,
a municipal corporation

THE FRANSEN COMPANY
a California corporation

By: 
Frank Scotto, Mayor

By: 
John A. Fransen, President

ATTEST:


Sue Herbers, City Clerk

JOHN L. FELLOWS III
City Attorney

By: 

SECOND AMENDMENT TO CONSULTING SERVICES AGREEMENT
C2010-239

OFFICE OF THE
CITY MANAGER

This SECOND AMENDMENT TO CONSULTING SERVICES AGREEMENT C2010-239 ("the Second Amendment") is made and entered into as of July 16, 2011 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and The Fransen Company, a California corporation ("CONSULTANT").

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RECITALS:

- A. Pursuant to Consulting Services Agreement C2010-239, which was made and entered into as of December 8, 2010 (the "Agreement"), CITY retained the services of The Fransen Company, an experienced and qualified CONSULTANT, to work with and assist the City and Del Amo Business District and identified key areas of Hawthorne Boulevard property owners to define project scope for revitalization of targeted area and strategies to achieve.
- B. CITY is satisfied with the services performed by CONSULTANT.
- C. CITY and CONSULTANT previously entered into a First Amendment to Consulting Services Agreement C2010-239, dated as of April 30, 2011, which extended the term of the Agreement through July 15, 2011.
- D. The parties wish to further extend the term of the Agreement through February 29, 2012.

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AGREEMENT:

- 1. Paragraph 1 of the Agreement, which is entitled "Services to be Performed by Consultant," is amended to read in its entirety as follows:

"1. SERVICES TO BE PERFORMED BY CONSULTANT
CONSULTANT will provide the services listed in the Amended Scope of Services attached as Exhibit A. CONSULTANT warrants that all work and services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner."

- 2. Paragraph 2 of the Agreement, which is entitled "Term," is amended to read in its entirety as follows:

"2. TERM
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through February 29, 2012."

- 3. Paragraph 3.A of the Agreement, which is entitled "Consultant's Fee," is amended to read in its entirety as follows:

"A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Amended Compensation Schedule attached as Exhibit B, provided,

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however, that in no event will the total amount of money paid the CONSULTANT, for services contemplated by this Agreement, exceed the sum of \$54,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

4. In all other respects, the Agreement is ratified and reaffirmed and remains in full force and effect.

CITY OF TORRANCE,
a municipal corporation

THE FRANSEN COMPANY,
a California corporation

By: Frank Scotto
Frank Scotto, Mayor

By: John A. Fransen, President
John A. Fransen, President

ATTEST:

Sue Herbers
Sue Herbers, City Clerk

JOHN L. FELLOWS III
City Attorney

By: John L. Fellows III

Attachments: Exhibit A Amended Scope of Services
 Exhibit B Amended Compensation Schedule

EXHIBIT A**AMENDED SCOPE OF SERVICES**

1) Advise the City and interface with the appropriate private sector parties ranging from the mall owner to retailer and adjoining property owners reference: Public sector financial role; major store interface; mall ownership and financial partner interface; monitor and drive strategic issues related to new anchor stores, leading specialty shops, project timetable, architectural approach, and market-appropriate leasing.

Timeframe: December 8, 2010 through February 29, 2012

Estimated hours: 144

Estimated fee: \$41,040, not to exceed \$42,000

2) Work closely with City officials, interface with key property owners, prospective property users, identify best locations, consider economic, market and real estate parameters, and overall assist in facilitate the timely redevelopment of strategic properties.

Timeframe: December 8, 2010 through February 29, 2012

Estimated hours: 40

Estimated fees: \$11,400, not to exceed \$12,000

Summary

Timeframe: 14 months

Estimated hours: 184

Estimated fees: \$54,000

Estimated Administrative support hours for above 5-month period: 15 hours

Estimated fee: \$975

Total estimated for 14-month period: \$53,415; not to exceed \$54,000.

EXHIBIT B**AMENDED COMPENSATION SCHEDULE**

Total fees for the term of the contract will not exceed \$54,000.

Out-of-pocket expenses

Out-of-pocket expenses, including travel, billed at actual cost. No out-of-pocket expense in excess of \$100 will be incurred without the prior approval of the City of Torrance. Invoices will be submitted monthly based upon actual hours at the billing rates below. Progress and billing status reports will be submitted by e-mail semi-monthly.

Billing Rates

John A. Fransen:	\$285/hr.
Ray Klauer:	\$285/hr.
Ron Arslan:	\$220/hr.
Administration:	\$65/hr.

A 1% charge is applied monthly on all past due bills.

FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT
C2010-239

This FIRST AMENDMENT TO CONSULTING SERVICES AGREEMENT C2010-239 ("the First Amendment") is made and entered into as of April 30, 2011 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and The Fransen Company, a California corporation ("CONSULTANT").

RECITALS:

- A. Pursuant to Consulting Services Agreement C2010-239, which was made and entered into as of December 8, 2010 (the "Agreement"), CITY retained the services of The Fransen Company, an experienced and qualified CONSULTANT, to work with and assist the City and Del Amo Business District and identified key areas of Hawthorne Boulevard property owners to define project scope for revitalization of targeted area and strategies to achieve.
- B. CITY is satisfied with the services performed by CONSULTANT.
- B. CITY and CONSULTANT wish to extend the term of the Agreement through July 15, 2011.

AGREEMENT:

1. Paragraph 2 of the Agreement, which is entitled "Term," is amended to read in its entirety as follows:

"2. TERM

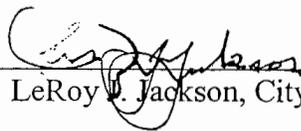
Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through July 15, 2011."

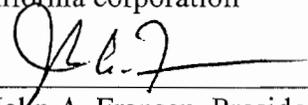
2. In all other respects, the Agreement is ratified and reaffirmed and remains in full force and effect.

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CITY OF TORRANCE,
a Municipal corporation

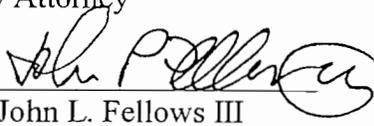
The Fransen Company,
a California corporation

By: 
LeRoy D. Jackson, City Manager

By: 
John A. Fransen, President

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: 
John L. Fellows III

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OFFICE OF THE
CITY MANAGER

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CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of December 8, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and The Fransen Company, a California Corporation ("CONSULTANT").

RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to work with and assist the City and Del Amo Business District and identified key areas of Hawthorne Boulevard property owners to define project scope for revitalization of targeted area and strategies to achieve.
- B. CONSULTANT represents that it is qualified to perform those services.

AGREEMENT:

1. SERVICES TO BE PERFORMED BY CONSULTANT

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

2. TERM

Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect from the Effective Date through April 30, 2011.

3. COMPENSATION

- A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Compensation Schedule attached as Exhibit B, provided, however, that in no event will the total amount of money paid the CONSULTANT, for services initially contemplated by this Agreement, exceed the sum of \$34,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

- B. Schedule of Payment.

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

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CITY CLERK

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4. TERMINATION OF AGREEMENT

A. Termination by CITY for Convenience.

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

B. Termination for Cause.

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

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

C. Termination for Breach of Law.

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

5. **FORCE MAJEURE**

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

6. **RETENTION OF FUNDS**

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

CONSULTANT to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**

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

8. **CONSULTANT REPRESENTATIVE(S)**

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

John Fransen

9. **INDEPENDENT CONTRACTOR**

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

10. **BUSINESS LICENSE**

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

11. **OTHER LICENSES AND PERMITS**

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

12. **FAMILIARITY WITH WORK**

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

13. **CARE OF WORK**

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

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

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

15. **INDEMNIFICATION**

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

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

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

17. **INSURANCE**

- A. CONSULTANT must maintain at its sole expense the following insurance, which will be full coverage not subject to self insurance provisions:
1. Automobile Liability, including owned, non-owned and hired vehicles, with at least the following limits of liability:
 - a. Primary Bodily Injury with limits of at least \$500,000 per person, \$1,000,000 per occurrence; and
 - b. Primary Property Damage of at least \$250,000 per occurrence; or
 - c. Combined single limits of \$1,000,000 per occurrence.
 2. General Liability including coverage for premises, products and completed operations, independent contractors/vendors, personal injury and contractual obligations with combined single limits of coverage of at least \$1,000,000 per occurrence.
 3. Professional liability- INTENTIONALLY DELETED BY RISK MANAGER
 4. Workers' Compensation with limits as required by the State of California and Employers Liability with limits of at least \$1,000,000.
- B. The insurance provided by CONSULTANT will be primary and non-contributory.
- C. CITY ("City of Torrance"), the Redevelopment Agency of the City of Torrance, the City Council and each member thereof, members of boards and commissions, every officer, agent, official, employee and volunteer must be named as additional insured under the automobile and general liability policies.
- D. CONSULTANT must provide certificates of insurance and/or endorsements to the City Clerk of the City of Torrance before the commencement of work.
- E. Each insurance policy required by this Paragraph must contain a provision that no termination, cancellation or change of coverage can be made without thirty days notice to CITY.

18. **SUFFICIENCY OF INSURERS AND SURETIES**

Insurance or bonds required by this Agreement will be satisfactory only if issued by companies admitted to do business in California, rated "B+" or better in the most recent edition of Best's Key Rating Guide, and only if they are of a financial category Class VII or better, unless these requirements are waived by the Risk Manager of CITY ("Risk Manager") due to unique circumstances. In the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or

decreased risk of loss to CITY, the CONSULTANT agrees that the minimum limits of any insurance policies or performance bonds required by this Agreement may be changed accordingly upon receipt of written notice from the Risk Manager; provided that CONSULTANT will have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of CITY within 10 days of receipt of notice from the Risk Manager.

19. **CONFLICT OF INTEREST**

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

20. **NOTICE**

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

Any notice given by fax will be deemed received on the next business day if it is received after 5:00 p.m. (recipient's time) or on a non-business day.

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

CONSULTANT: John Fransen
 The Fransen Company
 4100 Campus Drive, Suite 200
 Newport Beach, CA 92660
 Fax: 949-251-1797

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

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

21. PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING

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

22. INTEGRATION; AMENDMENT

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

23. INTERPRETATION

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

24. SEVERABILITY

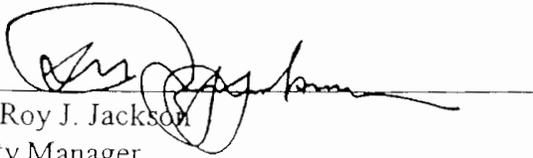
If any part of this Agreement is found to be in conflict with applicable laws, that part will be inoperative, null and void insofar as it is in conflict with any applicable laws, but the remainder of the Agreement will remain in full force and effect.

25. **TIME OF ESSENCE**
Time is of the essence in the performance of this Agreement.
26. **GOVERNING LAW; JURISDICTION**
This Agreement will be administered and interpreted under the laws of the State of California. Jurisdiction of any litigation arising from the Agreement will be in Los Angeles County, California.
27. **COMPLIANCE WITH STATUTES AND REGULATIONS**
CONSULTANT will be knowledgeable of and will comply with all applicable federal, state, county and city statutes, rules, regulations, ordinances and orders.
28. **WAIVER OF BREACH**
No delay or omission in the exercise of any right or remedy by a nondefaulting party on any default will impair the right or remedy or be construed as a waiver. A party's consent or approval of any act by the other party requiring the party's consent or approval will not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and will not be a waiver of any other default concerning the same or any other provision of this Agreement.
29. **ATTORNEY'S FEES**
Except as provided for in Paragraph 15, in any dispute, litigation, arbitration, or other proceeding by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party will be awarded reasonable attorney's fees, together with any costs and expenses, to resolve the dispute and to enforce any judgment.
30. **EXHIBITS**
All exhibits identified in this Agreement are incorporated into the Agreement by this reference.
31. **CONSULTANT'S AUTHORITY TO EXECUTE**
The person(s) executing this Agreement on behalf of the CONSULTANT warrant that (i) the CONSULTANT is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONSULTANT; (iii) by so executing this Agreement, the CONSULTANT is formally bound to the provisions of this Agreement;

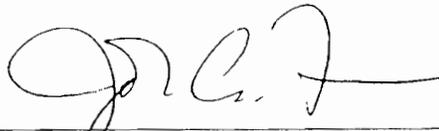
and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the CONSULTANT is bound

CITY OF TORRANCE,
a Municipal Corporation

The Fransen Company
a California Corporation



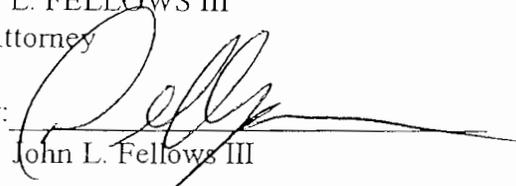
LeRoy J. Jackson
City Manager

By: 

John A. Fransen
President

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: 

John L. Fellows III

Attachments: Exhibit A Scope of Services
 Exhibit B Compensation Schedule

Revised: 10/29/2008

EXHIBIT A**SCOPE OF SERVICES**

1) Advise the City and interface with the appropriate private sector parties ranging from the mall owner to retailer and adjoining property owners reference: Public sector financial role; major store interface; mall ownership and financial partner interface; monitor and drive strategic issues related to new anchor stores, leading specialty shops, project timetable, architectural approach, and market-appropriate leasing.

Timeframe: December 8, 2010 through April 30, 2011

Estimated hours: 72

Estimated fee: \$20,520, not to exceed \$22,000

2) Work closely with City officials, interface with key property owners, prospective property users, identify best locations, consider economic, market and real estate parameters, and overall assist in facilitate the timely redevelopment of strategic properties.

Timeframe: December 8, 2010 through April 30, 2011

Estimated hours: 40

Estimated fees: \$11,400, not to exceed \$12,000

Summary

Timeframe: 5 months

Estimated hours: 112

Estimated fees: \$34,000

Estimated Administrative support hours for above 5-month period: 10 hours

Estimated fee: \$650

Total estimated for 5-month period: \$32,570; not to exceed \$34,000.

EXHIBIT B**COMPENSATION SCHEDULE**

Total fees for the term of the contract will not exceed \$34,000.

Out-of-pocket expenses

Out-of-pocket expenses, including travel, billed at actual cost. No out-of-pocket expense in excess of \$100 will be incurred without the prior approval of the City of Torrance. Invoices will be submitted monthly based upon actual hours at the billing rates below. Progress and billing status reports will be submitted by e-mail semi-monthly.

Billing Rates

John A. Frausen: \$285/hr.
Ray Klauer: \$285/hr.
Ron Arslan: \$220/hr.
Administration: \$65/hr.

A 1% charge is applied monthly on all past due bills.

