

Council Meeting of
August 18, 2009

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

Members of the Council:

SUBJECT: Public Works – Approve Amendment to Consulting Services Agreement C2006-149 for the FY2009-11 Citywide Sidewalk Ramping/Grinding, I-101 Program. Expenditure: \$90,000

RECOMMENDATION

Recommendation of the Public Works Director that City Council:

1. Approve a budget transfer of General funds in the amount of \$80,000 from the Torrance Boulevard Rehabilitation, T-43/44 to the FY2009-11 Citywide Sidewalk Ramping/Grinding, I-101 program; and
2. Approve a Third Amendment to Consulting Services Agreement C2006-149 with Project Partners that extends the term until August 31, 2010 and increases the amount from \$252,000 to \$342,000 (a \$90,000 increase) for construction inspection services for the FY2009-11 Citywide Sidewalk Ramping/Grinding, I-101 program.

Funding

\$80,000 is available from the recommended budget transfer from the Torrance Boulevard Rehabilitation, T-43/44 and \$10,000 is available from the FY2009-11 Citywide Sidewalk Ramping/Grinding, I-101.

BACKGROUND

The FY2009-11 Citywide Sidewalk Ramping/Grinding Program is a multi-year program included in the City's adopted Capital Budget as project I-101 ("I-101 Program"). The I-101 Program is a continuation of the recently completed Citywide Sidewalk Ramping/Grinding Program, I-55 ("I-55 Program") that began in FY1999-2000. The purpose of the I-55 Program, and now the I-101 Program, is to systematically remove displacements in City sidewalks for a temporary period until other capital improvement projects can provide permanent repairs (removal and replacement).

Also on this evening's Agenda is another Item that is recommending approval of an Amendment to the City's Public Works Agreement (C2006-148) with Hardy and Harper, Inc. for sidewalk ramping/grinding services for the I-101 Program. This is a "companion" item to that recommendation and this item addresses funding and construction inspection services for the I-101 Program.

ANALYSIS

Budget Transfer

The adopted budget for the I-101 Program was initially proposed in 2007 for an amount of \$370,000. Based on previous yearly expenditures for project management, construction inspection and construction, staff estimates the minimum funding needed for each fiscal year is \$450,000. The funds provide for staff time, construction inspection services and a construction crew for a 12-month period. When the funding is less than the minimum amount of \$450,000, either: 1) all work would terminate earlier in the 12-month period and could not resume until the next fiscal year (July 1); or 2) there would be insufficient funding to cover staff time and construction inspection services. Staff estimates that the current FY2009-10 budget of \$370,000 would cover all work for only 8 to 9 months of the fiscal year. Another \$80,000 is needed to cover all work for the remaining 3 to 4 months of the fiscal year.

Construction of the Torrance Boulevard Rehabilitation, T-43/44 ("T-43/44 Project") is 95% complete. It is expected that the remaining work will be completed without a need for additional funding. However, if any change orders are required, they can be funded from the 5% contingency, of which there is a remaining balance of approximately \$293,713. Additionally, the T-43/44 Project also has a General fund account and it has an available fund balance of approximately \$161,000. It is expected that no funding from this General fund account will be needed to complete the T-43/44 Project. Accordingly, \$80,000 can be transferred to the I-101 Program. Therefore, the Public Works Director recommends the budget transfer of \$80,000 from the T-43/44 Project to the I-101 Program to provide for an entire 12-month period of work.

Consulting Services Agreement – Project Partners

On July 18, 2006, Council awarded Consulting Services Agreement C2006-149 to Project Partners for an amount of \$80,000 and authorized a 5% contingency for an amount of \$4,000 to perform construction inspection services for the I-55 Program. The Agreement also has a provision to allow up to four (4) extensions (extend the term and/or increase the amount), each for a new term of 12 months. The First Amendment was approved by Council on August 14, 2007 for an increase in the amount of \$82,000, thereby increasing the Agreement amount to \$162,000 and extended the term until August 31, 2008. The Second Amendment was approved by Council on August 12, 2008 for an increase in the amount of \$90,000, thereby increasing the Agreement amount to \$252,000 and extended the term until August 31, 2009.

Project Partners has successfully performed construction inspection services during the term of the Agreement. These services include: meeting with residents; marking areas to be ramped/grinded; inspecting the contractor's work; post-work inspection; and review of contractor invoices. They are familiar with the work and the goals and objectives of the I-101 Program. Additionally, their rate of \$54/hour for the construction inspector is highly cost effective for the type of services provided and Project Partners has agreed to continue their services for FY2009-10 with no increase to their billing rate. It is desired to have them continue their services for another 12-month term. Therefore, the Public Works Director recommends approval of the Third Amendment to Consulting Services Agreement C2006-

149 with Project Partners to extend the term until August 31, 2010 and increase the amount from \$252,000 to \$342,000 (a \$90,000 increase) so they may continue inspection of the ramping and grinding work.

It should be noted that prior to recommending approval of this Third Amendment, staff solicited proposals and hourly rates from three other qualified firms that perform similar construction inspection services. Two firms responded. The minimum proposed rate by the two other firms for similar services is \$80/hour and the maximum rate is \$119/hour. Project Partner's rate of \$54/hour helps the City achieve a minimum cost savings of \$26/hour. This translates to a total minimum savings of \$43,333 over a 12-month period, based on 1,667 hours (\$90,000 divided by \$54/hour) of work. Furthermore, since the total available budget for construction inspection services is only \$90,000, Project Partners will provide a total of 1,667 hours of service during the 12-month period as compared to only 1,125 hours of service that could be provided at the rate of \$80. The difference between the hours of service is 542 hours or 13.5 weeks or approximately 3 months.

Funding Summary

If the budget transfer and Third Amendment are approved, there will be sufficient funding in the I-101 Program for staff time and construction inspection services of the ramping and grinding work throughout all of FY2009-10.

In FY2009-10, the I-101 Program will be funded by the budget transfer of \$80,000 from the T-43/44 Project and its appropriation of Gas Tax funds in the amount of \$370,000, a total of \$450,000. The funding will be spent as follows: \$30,000 for staff time; \$90,000 for construction inspection services; and \$330,000 for ramping/grinding construction services.

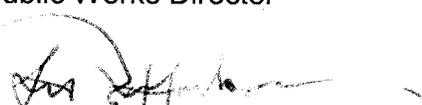
Respectfully submitted,

ROBERT J. BESTE
Public Works Director

CONCUR:


Robert J. Beste
Public Works Director


By: Craig Bilezerian
Engineering Manager


LeRoy J. Jackson
City Manager

Attachments:

- A. Third Amendment to Consulting Services Agreement (C2006-149)
- B. Consulting Services Agreement (C2006-149) with Project Partners
- C. First Amendment to Consulting Services Agreement (C2006-149)
- D. Second Amendment to Consulting Services Agreement (C2006-149)

THIRD AMENDMENT TO AGREEMENT (C2006-149)

This Third Amendment to Agreement C2006-149 is made and entered into as of _____, 2009, by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and Project Partners, a California corporation ("CONSULTANT").

RECITALS:

- A. CITY and CONSULTANT entered into an Agreement as of July 18, 2006, whereby CONSULTANT agreed to provide public works inspection services for the Citywide Sidewalk Ramping and Grinding Project.
- B. CITY and CONSULTANT entered into a First Amendment to the Agreement on August 14, 2007.
- C. CITY and CONSULTANT entered into a Second Amendment to the Agreement on August 12, 2008.
- D. CITY wishes to continue these services and extend the Agreement in accordance with Section 2 "TERM" of the original agreement. CONSULTANT has agreed to continue performing these services in accordance with the Scope of Services/Fee Proposal dated July 11, 2008 attached as Exhibit D to the Second Amendment. The additional work will cost an additional \$90,000.
- E. CITY wishes to increase the Agreement sum from \$252,000 to \$342,000, an increase of \$90,000, to complete the additional services.
- F. CITY wishes to extend the Agreement term from the Effective Date through August 31, 2010 to allow adequate time to complete the additional services.

AGREEMENT:

1. Paragraph 2, 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 August 31, 2010. If mutually agreed, this Agreement may be extended 1 time, for up to 12 months. Unit costs shall be adjusted according to the change in the Construction Cost Index (CCI) for the County of Los Angeles area, as published by the Engineering News Record, McGraw-Hill Construction. The period used to establish the change in the CCI shall be from the Effective Date of the previous year's Agreement to the Effective Date of the current year's project."

2. Paragraph 3, subparagraph A, entitled "CONSULTANT's Fee," is amended to read in its entirety as follows:

"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 and Scope of Services/Fee Proposal attached as Exhibits C and D, 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 \$342,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

3. In all other respects, the Agreement entered into as of July 18, 2006 and the amendments dated August 14, 2007 and August 12, 2008 between CITY and CONSULTANT are ratified and reaffirmed and are in full force and effect.

CITY OF TORRANCE,
A Municipal Corporation

Project Partners
a California Corporation

By _____
Frank Scotto, Mayor

By _____
Kimo Look
President

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____
Tatia Y. Strader
Deputy City Attorney
Attachment: Exhibit E

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of July 18, 2006 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Project Partners, a California corporation ("CONSULTANT").

RECITALS:

- A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to provide public works inspection services for the Citywide Sidewalk Ramping and Grinding Project.
- 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 September 18, 2007. Unless earlier terminated in accordance with Paragraph 4 below, this Agreement will continue in full force and effect until September 18, 2007. If mutually agreed, this Agreement may be extended 4 times, for up to 12 months at a time. Unit costs shall be adjusted according to the change in the Construction Cost Index (CCI) for the County of Los Angeles area, as published by the Engineering News Record, McGraw-Hill Construction. The period used to establish the change in the CCI shall be from the Effective Date of the previous year's Agreement to the Effective Date of the current year's project.

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 \$80,000.00 ("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

C2006-149

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.

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**

Robert J. Beste, Public Works Director, 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:

Kimo Look, President

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 City Council, each member thereof, present and future, its officers, agents and employees 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 insurance with limits of at least \$1,000,000 per occurrence.
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, 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: Project Partners
 Kimo Look, President
 18301 Von Karman Avenue, Suite 340
 Irvine, CA 92612
 Fax: (949) 852-9322

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.

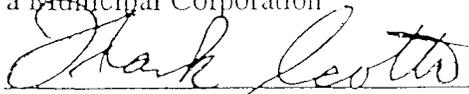
30. **EXHIBITS**

All exhibits identified in this Agreement are incorporated into the Agreement by this reference.

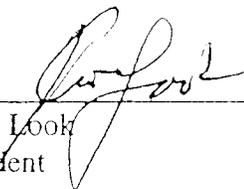
31. CONSULTANT'S AUTHORITY TO EXECUTE

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


FRANK SCOTTO, City Mayor

Project Partners
a California Corporation

By: 
Kimo Look
President

ATTEST:


Sue Herbers
City Clerk

APPROVED AS TO FORM:
JOHN L. FELLOWS III
City Attorney

By: 

Attachments: Exhibit A Scope of Services
 Exhibit B Compensation Schedule
Revised: 1/30/01

FIRST AMENDMENT TO AGREEMENT (C2006-149)

This First Amendment to Agreement C2006-149 is made and entered into as of August 14, 2007, by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and Project Partners, a California corporation ("CONSULTANT").

RECITALS:

- A. CITY and CONSULTANT entered into an Agreement as of July 18, 2006, whereby CONSULTANT agreed to provide public works inspection services for the Citywide Sidewalk Ramping and Grinding Project.
- B. CITY wishes to continue these services and extend the Agreement in accordance with Section 2 TERM of the original agreement. CONSULTANT has submitted its proposal and estimate in accordance with the Scope of Services/Fee Proposal dated July 24, 2007 attached as Exhibit C. The additional work will cost an additional \$82,000.
- C. CITY wishes to increase the Agreement sum from \$80,000, to \$162,000, an increase of \$82,000, to complete the additional services.
- D. CITY wishes to extend the Agreement term from the Effective Date through August 31, 2008 to allow adequate time to complete the additional services.

C 2 0 0 6 - 1 4 9

AGREEMENT:

1. Paragraph 2, 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 August 31, 2008. If mutually agreed, this Agreement may be extended 3 times, for up to 12 months at a time. Unit costs shall be adjusted according to the change in the Construction Cost Index (CCI) for the County of Los Angeles area, as published by the Engineering News Record, McGraw-Hill Construction. The period used to establish the change in the CCI shall be from the Effective Date of the previous year's Agreement to the Effective Date of the current year's project."

ORIGINAL

- 2. Paragraph 3, subparagraph A, entitled "CONSULTANT's Fee," is amended to read in its entirety as follows:

"3. **COMPENSATION**

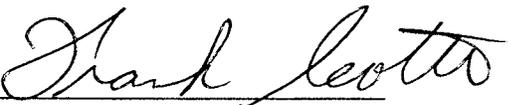
A. **CONSULTANT'S Fee.**

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Compensation Schedule attached as Exhibit B and Scope of Services/Fee Proposal attached as Exhibit C, 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 \$162,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

- 3. In all other respects, the Agreement entered into as of July 18, 2006 between CITY and CONSULTANT is ratified and reaffirmed and is in full force and effect.

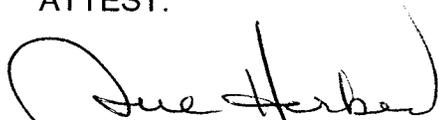
CITY OF TORRANCE,
A Municipal Corporation

Project Partners
a California Corporation

By 
Frank Scotto, Mayor

By 
Kimo Look
President

ATTEST:


Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By 
(Name)
Deputy City Attorney

EXHIBIT C

Scope of services/Fee Proposal



Partners in Building Engineering Careers and Teams

July 24, 2007

Henry Completo
Project Manager
City of Torrance
20500 Madrona Boulevard
Torrance, CA 90503

Re: Billing Rate increase for Project Partners Inspection Services

Dear Henry:

This letter is to notify you of our proposed billing rate increase for our Inspection Services that would coincide with the renewal of our contract for sidewalk inspection. Our new billing rate is \$52.53 per hour which reflects a 3% increase over last year's rate. Project Partners bases its annual increases on the ENR Construction Cost Index for Los Angeles area. We estimate to provide required inspection services (for about 260 days) our estimated billing would be approximately \$82, 000.

We have worked very hard throughout the year to maintain our efficient operations and are pleased in having been successful at keeping our rates low.

If you have any questions or need further clarification, please do not hesitate to give me a call at any time.

Sincerely,

Kimo Look

Kimo Look, P.E.
Project Partners

ENR CONSTRUCTION COST INDEX LOS ANGELES AREA

| YEAR | MONTH | CCI |
|------|-----------|---------|
| 2006 | June | 8546.72 |
| | July | 8563.22 |
| | August | 8570.22 |
| | September | 8572.47 |
| | October | 8868.32 |
| | November | 8893.07 |
| | December | 8878.97 |
| 2007 | January | 8871.09 |
| | February | 8870.59 |
| | March | 8873.09 |
| | April | 8874.82 |
| | May | 8888.82 |
| | June | 8854.77 |
| | July | 8861.27 |

Calculate Price Ratio:

$$\frac{\text{Price index in July 2007}}{\text{Price index in July 2006}} = \frac{8861.27}{8563.22} = 1.03$$

$$\begin{aligned} \text{Percentage price increase} &= (\text{price ratio} - 1) \times 100\% \\ &= (1.03 - 1) \times 100\% = 3\% \end{aligned}$$

SECOND AMENDMENT TO AGREEMENT (C2006-149)

This Second Amendment to Agreement C2006-149 is made and entered into as of AUGUST 12, 2008, by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and Project Partners, a California corporation ("CONSULTANT").

RECITALS:

- A. CITY and CONSULTANT entered into an Agreement as of July 18, 2006, whereby CONSULTANT agreed to provide public works inspection services for the Citywide Sidewalk Ramping and Grinding Project.
- B. CITY and CONSULTANT amended the Agreement on August 14, 2007.
- C. CITY wishes to continue these services and extend the Agreement in accordance with Section 2 TERM of the original agreement. CONSULTANT has submitted its proposal and estimate in accordance with the Scope of Services/Fee Proposal dated July 11, 2008 attached as Exhibit D. The additional work will cost an additional \$90,000.
- D. CITY wishes to increase the Agreement sum from \$162,000 to \$252,000, an increase of \$90,000, to complete the additional services.
- E. CITY wishes to extend the Agreement term from the Effective Date through August 31, 2009 to allow adequate time to complete the additional services.

C2006-149

AGREEMENT:

1. Paragraph 2, 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 August 31, 2009. If mutually agreed, this Agreement may be extended 2 times, for up to 12 months at a time. Unit costs shall be adjusted according to the change in the Construction Cost Index (CCI) for the County of Los Angeles area, as published by the Engineering News Record, McGraw-Hill Construction. The period used to establish the change in the CCI shall be from the Effective Date of the previous year's Agreement to the Effective Date of the current year's project."

**ORIGINAL
COPY**

- 2. Paragraph 3, subparagraph A, entitled "CONSULTANT's Fee," is amended to read in its entirety as follows:

"3. **COMPENSATION**

A. **CONSULTANT'S Fee.**

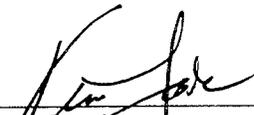
For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Compensation Schedule attached as Exhibit B and Scope of Services/Fee Proposal attached as Exhibits C and D, provided, however, that in no event will the total amount of money paid the CONSULTANT, for services contemplated by this Agreement, exceed the sum of \$252,000 ("Agreement Sum"), unless otherwise first approved in writing by CITY."

- 3. In all other respects, the Agreement entered into as of July 18, 2006 between CITY and CONSULTANT as amended is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
A Municipal Corporation

By 
Frank Scotto, Mayor

Project Partners
a California Corporation

By 
Kim Look
President

ATTEST:


Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By 

Attachment: Exhibit D



**Project
Partners**

Partners in Building Engineering Careers and Teams

July 11, 2008

Henry Completo
Senior Construction Engineer
City of Torrance
20500 Madrona Boulevard
Torrance, CA 90509-2970

SUBJECT: Proposal for Inspection Services For Sidewalk Ramping And Grinding Project

Dear Mr. Completo:

Project Partners is pleased to submit this proposal and is excited about the opportunity to continue to provide the City of Torrance (City) with excellent inspection and support staff services.

SCOPE OF WORK - Project Partner's inspector will perform all inspection services needed in the Sidewalk Ramping And Grinding Project. This service includes, but is not limited to the daily inspection of the contractor's sidewalk repair areas, review of contractor's data sheets, and documentation and input of inspection data into city computer database. Also, to remove the current backlog of data updating of sidewalk repair information, Project Partners will also providing an as-needed part time support staff. The support staff person time allocation will not to exceed 200 hours unless otherwise authorized by the City.

PROPOSED STAFF - Project Partners is proposing Mr. Kamyar Amjadi as our lead inspector. Mr. Amjadi has been assisting the City in sidewalk inspection for the past 2 years. Mr. Amjadi will be assisted by an as-needed support staff person to provide part-time data input and update functions.

HOURLY BILLING RATES AND FEES - Project Partners billing rates for the proposed inspectors shown below. These rates reflect a 3.8% increase over last years rates, the approximate CPI.

| Classification | Hourly Billing Rate for 2008 |
|-------------------------------------|------------------------------|
| Inspector I | \$54.53 |
| Support Staff - data input / update | \$45.00 |

Our billing rates include expenses: vehicle mileage and cell phone.

Again I would like to thank you for considering our services and should you have any questions or desire additional information, please do not hesitate to call at any time. We look forward to working with you and your staff.

Sincerely,

Kimo Look, P.E.
Project Partners