Council Meeting of
March 23, 2010

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

Members of the Council:

SUBJECT: Fire Department – Approve third amendment to agreement with Charles Abbott Associates, Inc. for industrial and commercial inspection services. Expenditure: $38,000 (new not-to-exceed amount of $195,853)

RECOMMENDATION

Recommendation of the Fire Chief that the City Council approve third amendment to contract services agreement C2008-152 with Charles Abbott Associates, Inc. to provide additional industrial and commercial facility inspection services in the amount of $38,000 and to extend the term of the agreement three months through July 1, 2010. The new not-to-exceed total for the agreement is $195,853.

Funding

Funding is available from the Fire Department NPDES operating budget for FY 2009-10.

BACKGROUND AND ANALYSIS

On July 15, 2008, a Contract Services Agreement C2008-152 (Attachment A) was awarded to Charles Abbott Associates, Inc. in the amount of $87,853 to provide industrial and commercial facility inspection services in general conformance with the Los Angeles Countywide Municipal NPDES Stormwater Permit CAS004001. The services provided in the Agreement are part of the City's Industrial/Commercial Facilities Program.

The first amendment on March 24, 2009 increased the existing agreement by an additional $30,000 for a new not-to-exceed amount of $117,853. This was necessary due to the number of inspections to be completed, on-going follow up inspections, and training required by this program. The contract budget was increased to provide an additional seven month period in order to continue inspections through the remainder of the contract and provide continuous on-the job-training to internal staff.

A second amendment on August 25, 2009 allowed the transfer of this program from Community Development to the Fire Department and the continuation of the commercial industrial inspection program. This amendment provided an extension of the contract until March 1, 2010 for an additional amount of $40,000 and contract total not to exceed $157,853.

This amendment also tasked the NPDES inspector from Charles Abbott Associates Inc. with developing and providing training to internal staff on:

- How to conduct industrial/commercial inspections, including how to identify deficiencies and assess potential impacts to receiving waters

- Identifying types of facilities covered by the General Industrial Storm Water permit coverage or any other applicable NPDES permit

We are proposing to extend the contract with Charles Abbott Associates Inc. until July 1, 2010 to complete NPDES training and transition the program from Charles Abbott Inc. to Fire Prevention staff. This third amendment contains a slight increase in hourly rate charges for Charles Abbott supervisory personnel. The contract will be increased by $38,000; the new not-to-exceed total is $195,853.

Respectfully submitted,

WILLIAM RACOWSCHI
Fire Chief

W. Racowschi

By Ken Carter
Fire Marshal

CONCUR:

W. Racowschi
William Racowschi
Fire Chief

LeRoy J. Jackson
City Manager

Attachments:

A. Third Amendment to Agreement C2008-152
B. Second Amendment to Agreement C2008-152
C. First Amendment to Agreement C2008-152
D. Contract Services Agreement C2008-152

ATTACHMENT A

THIRD AMENDMENT TO AGREEMENT

This Third Amendment to Agreement C2008-152 is made and entered into as of _____, 2010, by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and CHARLES ABBOTT ASSOCIATES, INC., a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement on July 15, 2008, in the contract amount of $87,853, whereby CONTRACTOR agreed to provide industrial and commercial facility inspection services in general conformance with the Los Angeles Countywide Municipal NPDES Stormwater Permit CAS004001. The Scope of Services is attached to the Original Agreement as Exhibit A. CONTRACTOR warranted that all work and services set forth in the Scope of Services would be performed in a competent, professional and satisfactory manner.

B. On March 24, 2009, CITY approved a First Amendment to the Original Agreement to provide additional inspection services and increase the contract amount by $30,000. The not to exceed amount was $117,853.

C. On August 25, 2009, CITY approved a Second Amendment to the Original Agreement to provide additional inspections services, increase the contract amount by $40,000, and to extend the term of the Agreement through February 28, 2010. The not to exceed amount was $157,853.

D. CITY now wishes CONTRACTOR to perform additional services, increase the contract amount by $38,000, and to extend the period of services through July 1, 2010. Contractor would provide the same services but concentrate on training of City of Torrance Fire Department personnel.

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 July 1, 2010."

2. Paragraph 3, entitled COMPENSATION, is amended to read in its entirety as follows:

   "3. **COMPENSATION**

For services rendered pursuant to this Agreement, CONTRACTOR will be paid in accordance with the Compensation Schedule attached as Exhibit B to the Original Agreement and the Proposal attached as Exhibit A-1 to the Third Amendment, provided, however, that in no event will the total amount of money paid the CONTRACTOR exceed the sum of $195,853 ("Agreement Sum"), unless otherwise first approved in writing by the CITY."

3. In all other respects, the Agreement between CITY and CONTRACTOR dated July 15, 2008, and amended March 24, 2009 and August 25, 2009, is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
A Municipal Corporation

By _____
Frank Scotto, Mayor

Charles Abbott Associates, Inc.
a California Corporation

By _____
Kimberly Colbert
Director of Environmental Services

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____
Jocelyn N. Poblete
Legal Counselor

Attachment: Exhibit A-1- Proposal

EXHIBIT A-1

PROPOSAL

CAA

BUILDING & SAFETY/ENGINEERING/ENVIRONMENTAL/FIRE PREVENTION

February 24, 2010

Ken Carter
Assistant Fire Chief
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

RE: PROPOSAL TO PROVIDE AN EXTENSION OF INDUSTRIAL AND COMMERCIAL FACILITY INSPECTION SERVICES TO THE CITY OF TORRANCE

Dear Chief Carter:

Thank you for the opportunity to propose an extension of our Industrial and Commercial Facility Inspection Services to the City of Torrance until July 1, 2010. CAA will continue to assist the City in the performance of the tasks identified below at a total contact amount of $38,000. Additional tasks such as emergency response call-out services will be billed at the standard hourly rate of $80.00 per hour.

CAA will continue to work closely with your staff to address program issues and provide overall program support. We will maintain the City's Industrial and Commercial facilities database by documenting the date of inspection; verifying facility contact information; documenting facility compliance status; indicating if a follow-up inspection is recommended; and including inspection photos and GIS map coordinates.

CAA will continue to provide regular monthly status reports to the City to include: a status memorandum detailing program progress; detailed description of inspection findings; photographs of facilities found to be significantly out of compliance; and facilities receiving Clean Bay Restaurant Certification. CAA will continue to provide on-call NPDES inspection services to the City as needed. We will assist City in the identification and elimination of illicit connections and illegal discharges (IC/IDs). In addition, we will assist the City in providing NPDES training to City staff associated with the NPDES Program.

CAA will complete the initial inspections of the City's industrial and commercial businesses. We anticipate that approximately ninety-five (95) initial facility inspections are required of the remaining facilities, which include grocery stores, and dry cleaning facilities. This also includes facilities which recently obtained new business licenses and are required to be inspected. CAA

CHARLES ABBOTT ASSOCIATES INC.
2601 AIRPORT DRIVE, SUITE 110 TORRANCE, CA 90505
PHONE (310) 257-2000 • FAX (310) 534-8082
WWW.CAAPROFESSIONALS.COM

staff will perform follow-up inspections on facilities that are deemed significantly out of compliance. In addition, CAA staff will begin annual inspections of restaurants, in support of, the Clean Bay Restaurant Certification program. There are approximately four hundred eighty-four (484) restaurants in the City of Torrance, two-thirds of which require annual inspections as part of this program. Additionally, thirty-two (32) facilities in the City are individual NPDES permittees, which will also require an annual inspection.

Please contact me directly at (310) 257-2004 if you have any questions or if there is additional information that we can provide you. The environmental staff and I look forward to working with you on this project.

Sincerely,

CHARLES ABBOTT ASSOCIATES, INC.

Kimberly Colbert

Kimberly Colbert
Director of Environmental Services

STANDARD HOURLY RATE SCHEDULE

Effective July 1, 2009

CLASSIFICATION	HOURLY RATES	CLASSIFICATION	HOURLY RATES
Senior Principal Consultant	182.00	Landscape Director	111.00
Senior Principal Engineer	162.00	Associate Landscape Architect	78.00
Senior Geologist	130.00	Landscape Associate	68.00
Principal Engineer	135.00		
Public Relations Coordinator	114.00	Sr. Plan Check Engineer	95.00
Community Development Director	134.00	Building Plan Check Engineer	88.00
City Engineer	162.00	Sr. Building Plan Checker	79.00
		Building Plan Checker	70.00
Project Supervisor	134.00		
Project Manager	102.00	Principal Planner	123.00
Structural Engineer	102.00	Senior Planner	102.00
Sr. Registered Engineer	100.00	Associate Planner	80.00
Project Engineer	92.00	Planning Technician	64.00
Senior Design Engineer	88.00		
Design Engineer	77.00	Building Official, Certified	99.00
Assistant/Associate Engineer	70.00	Senior Building Inspector	80.00
		Building Inspector/Plan Checker	70.00
Senior Environmental Consultant	138.00	Code Enforcement Officer	68.00
Environmental Engineer/Scientist II	108.00	Permit Specialist	59.00
Environmental Engineer/Scientist I	96.00		
Environmental Specialist	90.00		
Environmental Analyst	80.00		
Environmental Inspector	80.00		
Environmental Associate	72.00		
		Sr. Draftsperson (CADD)	80.00
Senior Traffic Engineer/Manager	139.00	Draftsperson (CADD)	70.00
Transportation Planner	95.00	Computer Technician	56.00
Traffic Engineer Associate	85.00		
		Expert Witness Services	166.00
Senior Construction Observer	80.00	Senior Contract Administrator	102.00
Construction Observer	70.00	Administrative Assistant	57.00
3-Person Survey Crew	230.00	Word Processor	45.00
2-Person Survey Crew	187.00	Clerical	43.00

The above hourly rates include general and administrative overhead and fees and employee payroll burden.

The above hourly rates are subject to an annual adjustment based upon increases adopted by Charles Abbott Associates, Inc. as reflected in the Consumer Price Index (CPI).

SECOND AMENDMENT TO AGREEMENT

This Second Amendment to Agreement C2008-152 is made and entered into as of August 25, 2009, by and between the CITY OF TORRANCE ("CITY"), a municipal Corporation, and Charles Abbott Associates, Inc., a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement on July 15, 2008, in the contract amount of $87,853, whereby CONTRACTOR agreed to provide the services listed in the Scope of Services attached as Exhibit A to the original agreement. CONTRACTOR warranted that all work and services set forth in the Scope of Services would be performed in a competent, professional and satisfactory manner.

B. On March 24, 2009, CITY approved a First Amendment to the Agreement, to provide an additional $30,000 of inspection services.

C. CITY now wishes CONTRACTOR to perform an additional $40,000 of inspection services and to extend the term of the Agreement through February 28, 2010.

C2008-152

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 February 28, 2010."

2. Paragraph 3, entitled COMPENSATION is amended to read in its entirety as follows:

   "3. **COMPENSATION**
   For services rendered pursuant to this Agreement, CONTRACTOR 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 CONTRACTOR exceed the sum of $157,853 ("Agreement Sum"), unless otherwise first approved in writing by the CITY."

ORIGINAL COPY

3. In all other respects, the Agreement dated July 15, 2008, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

CITY OF TORRANCE,
A Municipal Corporation

By _____
Frank Scotto, Mayor

Charles Abbott Associates, Inc.
a California Corporation

By _____
Kimberly Colbert
Director of Environmental Services

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____
Name Patrick D Sullivan
Title Deputy City Attorney

ATTACHMENT C

FIRST AMENDMENT TO AGREEMENT (C2008-152)

This First Amendment to Agreement C2008-152 ("Amendment") is made and entered into as of MARCH 24, 2009, by and between the City of Torrance ("CITY"), a municipal Corporation, and Charles Abbott Associates, Inc., a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY and CONTRACTOR entered into an Agreement as of July 15, 2008, whereby CONTRACTOR agreed to provide industrial and commercial facility inspection services in general conformance with the Los Angeles countywide Municipal NPDES Stormwater Permit CAS004001.

B. The original Agreement is for a one-year term for a not to exceed amount of $87,853.

C. CITY desires and CONTRACTOR agrees to perform additional inspection services listed in the Scope of Services attached as Exhibit A to the original agreement that would require an increase to the original Agreement in the amount of $30,000.

C2008-152

AGREEMENT:

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

   "A. CONTRACTOR' Fee.

   For services rendered pursuant to this Agreement, CONTRACTOR 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 CONTRACTOR exceed the sum of $117,853 ("Agreement Sum"), unless otherwise first approved in writing by the CITY."

2. In all other respects, the Agreement entered into as of July 15, 2008, between CITY and CONTRACTOR is ratified and reaffirmed and is in full force and effect.

ORIGINAL COPY

3. The person(s) executing this Amendment on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Amendment on behalf of the CONTRACTOR; (iii) by so executing this Amendment, the CONTRACTOR is formally bound to the provisions of this Amendment; and (iv) the entering into this Amendment does not violate any provision of any other agreement to which the CONTRACTOR is bound.

CITY OF TORRANCE,
A Municipal Corporation

By _____
Frank Scotto, Mayor

Charles Abbott Associates, Inc.
a California Corporation

By _____
Kimberly Colbert
Director of Environmental Services

ATTEST:

_____
Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By _____
Heather K. Whitham
Deputy City Attorney

CONTRACT SERVICES AGREEMENT

This CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into as of July 15, 2008 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Charles Abbott Associates, Inc., a California Corporation ("CONTRACTOR").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONTRACTOR to provide industrial and commercial facility inspection services in general conformance with the Los Angeles Countywide Municipal NPDES Stormwater Permit CAS004001.

B. CONTRACTOR represents that it is qualified to perform those services.

AGREEMENT:

C2008-152

1. **SERVICES TO BE PERFORMED BY CONTRACTOR**
CONTRACTOR will provide the services listed in the Scope of Services attached as Exhibit A. CONTRACTOR 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 July 31, 2009.

3. **COMPENSATION**

A. CONTRACTOR's Fee.

For services rendered pursuant to this Agreement, CONTRACTOR 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 CONTRACTOR, for services initially contemplated by this Agreement, exceed the sum of $87,853 ("Agreement Sum"), unless otherwise first approved in writing by CITY.

B. Schedule of Payment.

Provided that the CONTRACTOR is not in default under the terms of this Agreement, upon presentation of an invoice, CONTRACTOR will be paid 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 invoice.

ORIGINAL COPY

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, CONTRACTOR 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, CONTRACTOR 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 CONTRACTOR, the CITY may, at the expense of the CONTRACTOR 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 CONTRACTOR under the terms of this Agreement will be retained by the CITY, but the retention will not release the CONTRACTOR and its surety from liability for the default. Under these circumstances, however, the CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR'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 CONTRACTOR 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

CONTRACTOR authorizes CITY to deduct from any amount payable to CONTRACTOR (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 CONTRACTOR's acts or omissions in performing or failing to perform CONTRACTOR'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 CONTRACTOR, 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 CONTRACTOR to insure, indemnify, and protect CITY as elsewhere provided in this Agreement.

7. **CITY REPRESENTATIVE**
Community Development 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 CONTRACTOR.

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

Kimberly Colbert, Director of Environmental Services
Charles Abbott Associates, Inc.

9. **INDEPENDENT CONTRACTOR**
The CONTRACTOR 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 CONTRACTOR or any of the CONTRACTOR's employees, except as otherwise set forth in this Agreement. The CONTRACTOR 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 CONTRACTOR must obtain a City business license prior to the start of work under this Agreement, unless CONTRACTOR is qualified for an exemption.

11. **OTHER LICENSES AND PERMITS**
CONTRACTOR 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, CONTRACTOR warrants that CONTRACTOR (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, CONTRACTOR warrants that CONTRACTOR 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 CONTRACTOR discover any latent or unknown conditions that will materially affect the performance of the services set forth in this Agreement, CONTRACTOR must immediately inform CITY of that fact and may not proceed except at CONTRACTOR's risk until written instructions are received from CITY.

13. CARE OF WORK

CONTRACTOR 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. CONTRACTOR'S ACCOUNTING RECORDS; OTHER PROJECT RECORDS

Records of the CONTRACTOR's time pertaining to the project, and records of accounts between CITY and the CONTRACTOR, will be kept on a generally recognized accounting basis. CONTRACTOR 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. CONTRACTOR will maintain these records for three years after final payment.

15. INDEMNIFICATION

CONTRACTOR 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 CONTRACTOR, its officers, employees, agents, subcontractors or vendors. It is further agreed, CONTRACTOR'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 CONTRACTOR and CITY, as to whether liability arises from the sole negligence of the CITY or its officers, employees, agents, subcontractors or vendors, CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR, in the event of any default or breach by the CITY or for any amount that may become due to CONTRACTOR.

17. INSURANCE

A. CONTRACTOR and its subcontractors 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, $500,000 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. Workers' Compensation with limits as required by the State of California and Employer's Liability with limits of at least $1,000,000.

B. The insurance provided by CONTRACTOR 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. CONTRACTOR must provide certificates of insurance and/or endorsements indicating appropriate coverage, 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

Insurance 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 CONTRACTOR 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 CONTRACTOR 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:

CONTRACTOR	Charles Abbott Associates, Inc. 2601 Airport Drive., Suite 110 Torrance CA 90505 Fax: 310-534-8082
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. <u>PROHIBITION AGAINST ASSIGNMENT AND SUBCONTRACTING</u>

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 CONTRACTOR without the prior written consent of the other.

22. <u>INTEGRATION; AMENDMENT</u>

This Agreement represents the entire understanding of CITY and CONTRACTOR 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

CONTRACTOR 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. CONTRACTOR'S AUTHORITY TO EXECUTE

The persons executing this Agreement on behalf of the CONTRACTOR warrant that (i) the CONTRACTOR is duly organized and existing; (ii) they are duly authorized to execute this Agreement on behalf of the CONTRACTOR; (iii) by so executing this Agreement, the CONTRACTOR 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 CONTRACTOR is bound.

CITY OF TORRANCE
a Municipal Corporation

Frank Scotto, Mayor

ATTEST:

Sue Herbers
City Clerk

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

By:

Charles Abbott Associates, Inc.
A California Corporation

By:
Kimberly Colbert
Director of Environmental Services

Attachments: Exhibit A Scope of Services
Exhibit B Compensation Schedule

Revised: 1/30/01

EXHIBIT A

SCOPE OF SERVICES

SCOPE OF SERVICES

CONSULTANT shall perform NPDES Commercial, Industrial, and Restaurant inspection services for the subject project as described below:

1. Plan and review each workday's inspection locations with City staff. This will include obtaining a current list of industrial/commercial facilities that are subject to inspection, and reviewing the City's Business License database to ensure that all subject facilities have been identified properly before developing the final inspection schedule.

2. Perform MS4 Inspections of Commercial and Industrial facilities to include Restaurants and Automotive Facilities to ensure compliance as required by the National Pollutant Discharge Elimination System (NPDES) permit. This will include follow-up inspections at facilities found to be in violation and administer progressive enforcement as required.

3. Perform inspections of Restaurants and provide copies of the inspection reports to the City Manager's office for restaurants that earn a "Clean Bay certificate.

4. Enter inspection information into an electronic database in the City's computer to include the date of the inspection, verify facility contact information, document facility compliance status, and recommend follow up if needed. City will provide training on data entry procedures.

5. Provide monthly status reports to the City to include copies of all completed inspection reports detailing inspection program results, memorandum detailing program status, and a detailed description of inspection findings and photographs of facilities found to be significantly out of compliance.

6. Assist the City in documenting the results of the Industrial and Commercial facilities Inspection Program in the NPDES Annual Report, and in the reviewing and revision of the City's outreach materials.

7. When the City is given legal authority to implement the Fats, Oils, and Grease (FOG) program, will assist the City in the implementation of the program which will involve additional observations while performing restaurant (and other related

sites) inspections to begin compiling a list of sites that already have grease interceptors/traps.

8. Perform other inspection duties, such as responding to business owner's inquiries on the telephone and in person, assist in miscellaneous work or during emergency situations, and perform related duties as assigned.

CITY will provide the CONSULTANT a desk and phone in a small work area located in the Public Works Department offices. CONSULTANT is responsible to provide all other tools, equipment and materials, including vehicles and cell phones needed for performance of inspection duties.

EXHIBIT B

COMPENSATION SCHEDULE

PROJECT UNDERSTANDING

The City of Torrance wishes to retain the services of an outside consultant to provide Industrial/Commercial inspection services in support of the City of Torrance's Municipal Stormwater NPDES programs. In addition, the City wishes the consultant to maintain the City's Industrial and Commercial Facilities Database and perform other NPDES related activities on an as needed basis.

COST PROPOSAL

Task Description	Budget
1. Program Coordination/Management CAA will meet with City staff within one week of contract award to establish the final project scope and obtain a list of the industrial/commercial businesses that are subject to inspection. We will review the City's Business License Database to ensure that all subject facilities have been identified properly and develop the final inspection schedule. In addition, our staff will review and revise as necessary the City's outreach materials.	$2084
2. Industrial and Commercial Facility Inspections a. Restaurant Facility Inspections – inspection staff will perform approximately 392 food establishment inspections. b. Automotive Facility Inspections – inspection staff will perform approximately 110 inspections of automotive repair facilities and retail gasoline outlets. c. Industrial and Commercial Facility Inspections – inspection staff will perform approximately 141 inspections of industrial and commercial facilities. d. General Industrial Permittees – inspection staff will perform approximately 47 inspections of facilities operating under the State General Industrial Permit.	$57,375
3. Database Management and Reporting a. CAA will maintain the City's Industrial and Commercial facilities database. Our staff will verify that information contained within the database is accurate, updating data as necessary. We will document the date of inspection, verify facility contact information, document facility compliance status, and indicate if a follow-up inspection is recommended. b. CAA will provide regular monthly status reports to the City to include: 1) copies of all completed inspection reports detailing inspection program results; 2) memorandum detailing program status; and 3) detailed description of inspection findings and photographs of facilities found to be significantly out of compliance. c. CAA will assist the City in documenting the results of the Industrial and Commercial Facilities Inspection program in the Annual NPDES Report.	$16,800

4. Optional Task: Follow-up Inspections The number of follow-up inspections is an estimate based on CAA's experience on similar projects; we anticipate that approximately 22% of businesses will be found not to be adequately implementing storm water BMPs (actual number of facilities may vary). Our estimate is based on CAA performing one round of follow-up inspections prior to the end of the FY 2008/2009.	$11,594
Total Excluding Optional Task	**$76,259**
Project Total Including Optional Task	**$87,853**

FEE SCHEDULE

STANDARD HOURLY RATE SCHEDULE
Effective January 1, 2008

CLASSIFICATION	HOURLY RATES	CLASSIFICATION	HOURLY RATES
Senior Principal Consultant	182.00	Landscape Director	111.00
Senior Principal Engineer	162.00	Associate Landscape Architect	78.00
Senior Geologist	130.00	Landscape Associate	68.00
Principal Engineer	135.00		
Public Relations Coordinator	114.00	Sr. Plan Check Engineer	95.00
Community Development Director	134.00	Building Plan Check Engineer	88.00
City Engineer	162.00	Sr. Building Plan Checker	79.00
		Building Plan Checker	70.00
Project Supervisor	134.00		
Project Manager	102.00	Principal Planner	123.00
Structural Engineer	102.00	Senior Planner	102.00
Sr. Registered Engineer	100.00	Associate Planner	80.00
Project Engineer	92.00	Planning Technician	64.00
Senior Design Engineer	88.00		
Design Engineer	77.00	Building Official, Certified	99.00
Assistant/Associate Engineer	70.00	Senior Building Inspector	80.00
		Building Inspector/Plan Checker	70.00
Senior Environmental Consultant	134.00	Code Enforcement Officer	68.00
Environmental Engineer/Scientist II	106.00	Permit Specialist	59.00
Environmental Engineer/Scientist I	92.00		
Environmental Analyst	80.00		
Environmental Associate	70.00		
		Sr. Draftsperson (CADD)	80.00
Senior Traffic Engineer/Manager	139.00	Draftsperson (CADD)	70.00
Transportation Planner	95.00	Computer Technician	56.00
Traffic Engineer Associate	85.00		
		Expert Witness Services	166.00
Senior Construction Observer	80.00	Senior Contract Administrator	102.00
Construction Observer	70.00	Administrative Assistant	57.00
3-Person Survey Crew	230.00	Word Processor	45.00
2-Person Survey Crew	187.00	Clerical	43.00

The above hourly rates include general and administrative overhead and fees and employee payroll burden.

The above hourly rates are subject to an annual adjustment based upon increases adopted by Charles Abbott Associates, Inc. as reflected in the Consumer Price Index (CPI).