Council Meeting
October 26, 2010

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

Members of the Council:

SUBJECT: General Services- Approve consulting agreements for various HVAC replacements

Expenditure: $65,000

RECOMMENDATION

Recommendation of the General Services Director that the City Council approve consulting agreements totaling $ 54,000 plus $11,000 in additional engineering services and contingency with Bartef Yoosephiance & Associates for mechanical engineering services East Annex Chiller Replacement (FEAP #610), Cable Building AC Replacement (FEAP #180) and Energy Projects (FEAP #751).

FUNDING- Funding is available in the FEAP180-Cable Building AC Replacement, FEAP 610-East Annex Chiller and FEAP 751-Energy Projects.

BACKGROUND

In July 2010, your honorable body approved a consolidated energy savings program which included the following projects. Design for several of these projects has previously been awarded under the City Managers approval authority.

These projects are to be funded by either American Recovery and Reinvestment Act of 2009 (ARRA), Public Law 111-5, Energy Efficiency and Conservation Block Grant (EECBG) Program or internal City funds.

EECBG Projects
City Services - HVAC Upgrade & Controls (under design)
City Hall Parking Lot LED Lighting Project (under design)
Street Security Lighting Replacements (under design)

City Funded Projects
Illuminated Street Sign Replacements with Reflective Signs (under design)
Building and Park Lighting Upgrades & Controls (under design)
Cable Building HVAC Upgrade (under consideration by this item)
East Annex Chiller Replacement (under consideration by this item)
One for One HVAC Replacements (under consideration by this item)
Irrigation Controls Upgrade
Renewable Energy - Pool Solar Water Heating
Low Flow Plumbing Fixtures

ANAYLSIS

For the 3 projects under consideration by this council item, (Cable Building HVAC Upgrade, East Annex Chiller Replacement and One for One HVAC Replacements), staff obtained proposals from three engineering firms: Bartef Yoosephiance & Associates, Inc., Montross & Associates, Inc. and Gotama Building Engineers.

After review of proposals, Bartef Yoosephiance & Associates, Inc. was determined as best qualified based on previous experience on City projects. They have a history of low change order rates and timeliness in accomplishing required work. Bartef Yoosephiance & Associates, Inc. has performed well for the City of Torrance on similar HVAC projects in the past. Their proposal also contained the lowest fee of the three design firms.

Therefore, it is the recommendation of the General Services Director that the City Council award consulting agreements totaling $65,000 including contingency to Bartef Yoosephiance & Associates, Inc. for the mechanical engineering design for the East Annex Chiller Replacement (FEAP 610), Cable Building AC Replacement (FEAP 180) and Energy Projects (FEAP #751). Design for the remaining projects within the consolidated energy savings program will be brought forward shortly.

Respectfully submitted,

SHERYL BALLEW
General Services Director

By Jon Landis
Facility Services Manager

CONCUR:

Sheryl Ballew
General Services Director

LeRoy J. Jackson
City Manager

Attachment A: Bartef Yoosephiance & Associates Contract- East Annex Chiller Replacement
B: Bartef Yoosephiance & Associates Contract- Cable Bldg. AC Unit Replacement
C: Bartef Yoosephiance & Associates Contract- One for One HVAC Replacements

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of September 20, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Bartef Yoosephiance & Associates, Inc., a California Corporation ("CONSULTANT").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to mechanical engineering services for the replacement of the East Annex chiller and condenser unit.

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 December 31, 2011.

3. COMPENSATION

A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Proposal 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 $10,000 ("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 Proposal. 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

Hrand Ibranossian 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:

Bartef Yoosephiance
Principal

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, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, including, without limitation those arising from the breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss. 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 to the extent of CONSULTANT's contributing negligence, recklessness, or willful misconduct 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. 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 concurrent 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's share of responsibility. CONSULTANT will be entitled in the event of a determination of CITY's responsibility to reimbursement of defense cots including but not limited to attorney's fees, expert fees and costs of litigation reflecting the CITY's proportionate share of such expenses.

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 ("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:	Bartef Yoosephiance & Associates, Inc. 3734 Gleneagles Drive Tarzana, CA 91356 Fax: 818-345-8615
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, Mayor

ATTEST:

_____
Sue Herbers
City Clerk

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

By:_____

Bartef Yoosephiance & Associates, Inc.
a California Corporation

By:_____
Bartef Yoosephiance
Principal

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Proposal

Revised: 10/29/2008

EXHIBIT A

SCOPE OF SERVICES

Type Information

EXHIBIT B

PROPOSAL

Type Information

Attachment B

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of September 22, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Bartef Yoosephiance & Associates, Inc., a California Corporation ("CONSULTANT").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to mechanical engineering services for the Stanley Remelmeyer Cable Building AC Unit Replacement .

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 December 31, 2011.

3. COMPENSATION

A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Proposal 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 $18,000 ("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 Proposal. 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.

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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.

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Bartef Yoosephiance
Principal

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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.

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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, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, including, without limitation those arising from the breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss. 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 to the extent of CONSULTANT's contributing negligence, recklessness, or willful misconduct 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. 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 concurrent 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's share of responsibility. CONSULTANT will be entitled in the event of a determination of CITY's responsibility to reimbursement of defense cots including but not limited to attorney's fees, expert fees and costs of litigation reflecting the CITY's proportionate share of such expenses.

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 ("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:	Bartef Yoosephiance & Associates, Inc. 3734 Gleneagles Drive Tarzana, CA 91356 Fax: 818-345-8615
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, Mayor

ATTEST:

_____
Sue Herbers
City Clerk

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

By:_____

Bartef Yoosephiance & Associates, Inc.
a California Corporation

By:_____
Bartef Yoosephiance
Principal

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Proposal

Revised: 10/29/2008

EXHIBIT A

SCOPE OF SERVICES

Type Information

City of Torrance

Design Requirements Information

Design Development- Basic Requirements

1. Consultant to provide a complete set of plans and specifications for construction, renovation, alteration, replacement or repair.
2. Retain additional design A/E firms as necessary (Structural, EE, ME etc.) as part of fixed fee.
3. Provide 5 sets of drawings and specifications for review by General Services 100% (pre-plan check)
4. Provide 2 full sets for reproduction after plan check approval and corrections and modifications are made. (1-CD PDF format and 1 bond)
5. Provide working drawings – record copy on CD-ROM – AutoCAD format.
6. Provide specifications in CSI format (16 section) submitted in MS Word (disk/CD or electronically).
7. Provide a separate specifications (book)
8. Specifications must include section 1 – General Requirements.
9. Submit completed design drawings directly to the Community Development Department (Building Department) for plan check. 2 full sets, separated by architectural, structural, civil, mechanical, and electrical.
10. Track progress during the plan check process.
11. Provide copies of all plan check or other comments provided by Community Development Department during the project.

Bidding Period

1. Attend Project Pre-bid Conference/Job Walk
2. Review and prepare response to bidder's RFI within 5 working days.
3. Review and prepare response to design or code change proposals within 5 working days.

Construction Administration

12. Attend bi-weekly progress meetings at job site during construction.
13. Review and approve submittals with 7 calendar days.
14. Review and prepare response to contractor RFIs within 2 working days.
15. Review and prepare response to design or code change proposals within 5 working days.
16. Provide cost estimates for design or code change proposals within 5 working days.
17. Attend and provide input on the final inspection.
18. Review and provide comments on the final punch-list.

Other

1. The City prefers design proposals based on a **fixed fee**.
2. A City Business License is required.
3. The contract will use City's standard contract format. We do not use the AIA design contract formats.
4. General Services normally does not coordinate the plan check review process for the A/E during plan check. There are no waivers given by the Building Department because it is a City project.
5. City does not pay for the following expenses
    - Telephone calls
    - Mileage
    - Transportation
6. Printing and duplication costs should be included as part of the fixed fee proposal.

Exclusions

1. Survey/Soils work to be contracted separately by the City on an as needed basis.

A typical construction project design schedule

- **1st scope meeting** (layout, equipment, hardware)
  14 days to single line
- **2nd scope meeting (finalize any modifications – and materials/equipment to be used)**
  35 days to architectural
  35 days to mech/elec/plumb/structural (concurrently)
  35 days to complete specifications and plans (concurrently) – submit for General Services review
- **100% Review by City – General Services (approximately 2-3 weeks)**
  14 days to final
- **Submit to Plan Check**
  7 days to resubmit corrections to plan check
- **Plan check approval**
  7 days to provide final drawings and specifications for bidding

EXHIBIT B

COMPENSATION SCHEDULE

Type Information

BYA Bartef Yoosephiance & Associates, Inc.
Consulting Mechanical Engineers
3734 Gleneagles Dr
Tarzana, CA. 91356
Tel. (818) 345-8614
Fax.(818) 345-8615

July 7, 2010

Mr. Hrand Ibranossian
Department of General Services
City of Torrance,
3031 Torrance Blvd.
Torrance, CA 90503

Regarding: City of Torrance Television Facility
HVAC system modifications

Dear Mr. Ibranossian:

We are pleased to submit this proposal for consulting mechanical engineering services for the above named projects.

PROJECT DESCRIPTION

The project consists of engineering and specification for HVAC systems modification for existing Television Facility, located in City of Torrance, California

A. SCOPE OF WORK

1. Site survey to assess existing conditions.

2. Construction document for replacement of existing HVAC units in existing Television Facility building with new high efficiency packaged gas electric air conditioning units, complete with new galvanized steel roof and transition curbs and miscellaneous ductwork modification inside the building to alleviate hot spots within various zones.

3. Construction document for addition of new split system heat pump units to serve ground floor control and second floor conference rooms, complete with air distribution system and equipment layout.

4. Specification manual.

5. California energy commission Title-24 compliance calculations

6. Up to two (2) coordination meetings with the Client representative.

7. Plan check corrections.

8. Necessary calculations for and filing with utility companies for available rebate.

9. Reply to contractors legitimate RFI's

10. Shop drawing and submittal review.

11. One pre construction job walk.

12. Up to Four (4) construction meetings.

13. One final walk through to provide punch list

B. WORK NOT INCLUDED

1. Electrical system engineering.

2. Structural system engineering

3. Value engineering design

C. EXTRA SERVICES

1. Client's requested changes, which are inconsistent with previously approved or completed design. All minor revisions or adjustments are part of the basic Scope of Work.

2. Items not included in Paragraph A, Scope of Work.

3. Compensation for extra services shall be reimbursed on a base hourly rate of $95.00 per hour.

D. COMPENSATION

1. Our fee for services as outlined will be a lump sum $18,000.00 due and payable on monthly progress billings.

E. REIMBURSABLES

1. Reproduction costs of drawings and documents, including AutoCAD plotting other than for in house use.

2. Plan check fees.

We are looking forward to this opportunity of working with you. Please indicate your acceptance of this contract by sending us a work order number to proceed.

Very truly yours,
BARTEF YOOSEPHIANCE AND ASSOCIATES, INC.

Bartef Yoosephiance, PE
Principal.

CONSULTING SERVICES AGREEMENT

This CONSULTING SERVICES AGREEMENT ("Agreement") is made and entered into as of September 20, 2010 (the "Effective Date"), by and between the CITY OF TORRANCE, a municipal corporation ("CITY"), and Bartef Yoosephiance & Associates, Inc., a California Corporation ("CONSULTANT").

RECITALS:

A. CITY wishes to retain the services of an experienced and qualified CONSULTANT to mechanical engineering services for the HVAC modifications at sixteen different City owned buildings.

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 December 31, 2012.

3. COMPENSATION

A. CONSULTANT's Fee.

For services rendered pursuant to this Agreement, CONSULTANT will be paid in accordance with the Proposal 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 $26,000 ("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 Proposal. 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

Hrand Ibranossian 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:

Bartef Yoosephiance
Principal

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, arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, including, without limitation those arising from the breach of contract, bodily injury, death, personal injury, property damage, loss of use, or property loss. 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 to the extent of CONSULTANT's contributing negligence, recklessness, or willful misconduct 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. 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 concurrent 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's share of responsibility. CONSULTANT will be entitled in the event of a determination of CITY's responsibility to reimbursement of defense cots including but not limited to attorney's fees, expert fees and costs of litigation reflecting the CITY's proportionate share of such expenses.

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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 ("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:	Bartef Yoosephiance & Associates, Inc. 3734 Gleneagles Drive Tarzana, CA 91356 Fax: 818-345-8615
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, Mayor

ATTEST:

_____
Sue Herbers
City Clerk

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

By:_____

Bartef Yoosephiance & Associates, Inc.
a California Corporation

By:_____
Bartef Yoosephiance
Principal

Attachments:	Exhibit A	Scope of Services
	Exhibit B	Proposal

Revised: 10/29/2008

EXHIBIT A

SCOPE OF SERVICES

Type Information

City of Torrance

Design Requirements Information

Design Development- Basic Requirements

1. Consultant to provide a complete set of plans and specifications for construction, renovation, alteration, replacement or repair.
2. Retain additional design A/E firms as necessary (Structural, EE, ME etc.) as part of fixed fee.
3. Provide 5 sets of drawings and specifications for review by General Services 100% (pre-plan check)
4. Provide 2 full sets for reproduction after plan check approval and corrections and modifications are made. (1-CD PDF format and 1 bond)
5. Provide working drawings – record copy on CD-ROM – AutoCAD format.
6. Provide specifications in CSI format (16 section) submitted in MS Word (disk/CD or electronically).
7. Provide a separate specifications (book)
8. Specifications must include section 1 – General Requirements.
9. Submit completed design drawings directly to the Community Development Department (Building Department) for plan check. 2 full sets, separated by architectural, structural, civil, mechanical, and electrical.
10. Track progress during the plan check process.
11. Provide copies of all plan check or other comments provided by Community Development Department during the project.

Bidding Period

1. Attend Project Pre-bid Conference/Job Walk
2. Review and prepare response to bidder's RFI within 5 working days.
3. Review and prepare response to design or code change proposals within 5 working days.

Construction Administration

12. Attend bi-weekly progress meetings at job site during construction.
13. Review and approve submittals with 7 calendar days.
14. Review and prepare response to contractor RFIs within 2 working days.
15. Review and prepare response to design or code change proposals within 5 working days.
16. Provide cost estimates for design or code change proposals within 5 working days.
17. Attend and provide input on the final inspection.
18. Review and provide comments on the final punch-list.

Other

1. The City prefers design proposals based on a **fixed fee**.
2. A City Business License is required.
3. The contract will use City's standard contract format. We do not use the AIA design contract formats.
4. General Services normally does not coordinate the plan check review process for the A/E during plan check. There are no waivers given by the Building Department because it is a City project.
5. City does not pay for the following expenses
    - Telephone calls
    - Mileage
    - Transportation
6. Printing and duplication costs should be included as part of the fixed fee proposal.

Exclusions

1. Survey/Soils work to be contracted separately by the City on an as needed basis.

A typical construction project design schedule

- **1st scope meeting** (layout, equipment, hardware)
  14 days to single line
- **2nd scope meeting (finalize any modifications – and materials/equipment to be used)**
  35 days to architectural
  35 days to mech/elec/plumb/structural (concurrently)
  35 days to complete specifications and plans (concurrently) – submit for General Services review
- **100% Review by City – General Services (approximately 2-3 weeks)**
  14 days to final
- **Submit to Plan Check**
  7 days to resubmit corrections to plan check
- **Plan check approval**
  7 days to provide final drawings and specifications for bidding

EXHIBIT B

PROPOSAL

Type Information

BYA Bartef Yoosephiance & Associates, Inc.
Consulting Mechanical Engineers
3734 Gleneagles Dr.
Tarzana, CA. 91356
Tel. (818) 345-8614
Fax.(818) 345-8615

August 27, 2010

Mr. Hrand Ibranossian
Department of General Services
City of Torrance,
3031 Torrance Blvd.
Torrance, CA 90503

Regarding: City of Torrance Miscellaneous Buildings HVAC Modification

Dear Mr. Ibranossian:

We are pleased to submit this proposal for consulting mechanical engineering services for the above named project.

PROJECT DESCRIPTION

The project consists of engineering and specification for HVAC system modification for existing buildings as outlined in Paragraph A, Scope of Work below, located in City of Torrance, California.

A. SCOPE OF WORK

1. Site survey to assess existing conditions.

2. Construction document for replacement of existing HVAC units in following existing buildings:

a.	General Aviation Center,	(4 A/C Units)
b.	East Annex Fire Prevention	(A/C No. 2)
c.	Fire Station No.6	(A/C No. 3
d.	East Annex Building & Safety	(AHU No.2)
e.	City Hall A/C Computer Room	(Add new Libert Unit)
f.	Fire Station No. 3	(East side A/C Unit)
g.	Fire Station No. 2	(Main A/C Unit)
h.	Fire Station No. 1	(Split System A/C unit) (2 Packaged A/C units)
i	El Retiro Library	(Split System A/C unit)
j	1339 Post Ave.	(Packaged A/C Unit)
k.	Historical museum	(2 Packaged A/C Units)
l.	West Annex	(Evaporative Condenser)
m.	City Yard Service Building	(7 Heating Packages)

n.	Greenwood Center	(7 gas Furnaces)
o.	Cultural Arts Center	(Make up Air Unit)
p.	Benstead Plunge	(2 Dom. and Heating Boilers)

3. California energy commission Title-24 compliance calculations

4. One coordination meetings with the Client representative.

5. Plan check corrections.

6. Reply to contractors legitimate RFI's

7. Shop drawing and submittal review.

8. Up to (3) pre construction job walk.

9. Up to four (4) construction meetings.

11. Up to (3) final walk through to provide punch list

10. Necessary calculations for and filing to obtain available rebate from the utility companies.

13. Structural and electrical engineering system design on (as required basis)

B. WORK NOT INCLUDED

1. Value engineering design

C. DELIVERABLES

1. Five sets of completed construction documents for plan check submittal and bidding.

D. EXTRA SERVICES

1. Client's requested changes, which are inconsistent with previously approved or completed design. All minor revisions or adjustments are part of the basic Scope of Work.

2. Items not included in Paragraph A, Scope of Work.

3. Compensation for extra services shall be reimbursed on a base hourly rate of $95.00 per hour.

4. Structural and Electrical design and engineering will be provided on as needed basis at not to exceed fee of $5,000.00

E. COMPENSATION

1. Our fee for services as outlined will be a lump sum of $26,000.00 based on the following breakdown.

a.	West Annex HVAC Modification	$ 2,500.00
b.	City Hall Computer Room A/C Addition	$ 5,500.00
c.	Miscellaneous Buildings' HVAC Modification	$18,000.00

2. The fees as outlined will be due and payable on monthly progress billings.

F. REIMBURSABLES

1. Reproduction costs of drawings and documents, including AutoCAD plotting in excess of quantity outlined in paragraph C "Deliverables"

2. Messenger fees.

G. INSURANCE

1. Bartef Yoosephiance & Associates, Inc. shall maintain insurance for protection against claims arising out of the performance of professional services caused by the negligent acts, errors, or omissions for a period of three year following the substantial completion of the project.
2. To the fullest extent permitted by law, the Client agrees to limit the Bartef Yoosephiance & Associates, Inc. professional liability for all damages arising from the professional acts, errors and omissions, such that the total aggregate liability to all parties involved shall not exceed One million dollars. This limitation shall apply regardless of the cause of action or legal theory pled or asserted.

3. Bartef Yoosephiance & Associates, Inc. shall maintain Commercial General Liability and Business Auto Liability Insurance in the amount of $1,000,000 each for period covering the duration of his services on this project.

We are looking forward to this opportunity of working with you. Please indicate your acceptance of this contract by sending us a work order number to proceed.

Very truly yours,
BARTEF YOOSEPHIANCE AND ASSOCIATES, INC.

Bartef Yoosephiance, PE
Principal.