

February 7, 2006

Honorable Mayor and Members of
The Hermosa Beach City Council

Regular Meeting of
February 14, 2006

**PROJECT NO. CIP 02-104 BAY VIEW DRIVE UNDERGROUNDING STREET
IMPROVEMENTS – AWARD PROFESSIONAL SERVICES AGREEMENT
FOR DESIGN & ENGINEERING**

Recommendation:

It is recommended that the City Council:

1. Award Professional Services Agreement to John M. Cruikshank Consultants, Inc. (JMC²) to provide design and engineering services for CIP No. 02-104 in the amount of \$15,000;
2. Authorize the Mayor to execute and the City Clerk to attest the attached Professional Services Agreement subject to approval by the City Attorney; and
3. Authorize the Director of Public Works to make changes to the agreement up to \$1,500.

Background:

Project No. CIP 02-104 Bay View Undergrounding Street Improvements is budgeted in this fiscal year for design and construction. In October 2003, Staff requested Statements of Qualifications (SOQ) from the attached list of consultants with fixed fees valid for 36 months (Attachment 2). These SOQ's were evaluated by Staff to determine service specialties such as engineering design, construction management, inspection, geotechnical engineering, testing, and surveying. In an effort to save time and money associated with engaging design consultants for street improvement projects, Staff has selected JMC² from the list of consultants.

Staff has negotiated with JMC² for a design fee of \$15,000 for Project No. CIP 02-104 Bay View Undergrounding Street Improvements.

Analysis:

Following the removal of all poles, overhead wiring, and the installation of new street lighting the City's contribution to the district will be the improvement of the streets within the district boundary.

JMC² will create base plans using topographic surveys and street layout plans from the City and will field verify and document existing street conditions. JMC² will prepare street improvement plans for the re-surfacing along with replacement and/or addition of limited quantities of curb and gutter, swales, and cross gutters to City Department of Public Works standards.

JMC²'s proposal can be found in Exhibit A of the attached Professional Services Agreement.

Fiscal Impact:

Funding is available in the project budget; therefore, there is no fiscal impact at this time.

- Attachments:
1. Project Location Map
 2. List of Consultants
 3. Professional Services Agreement

Respectfully submitted,

Concur:



Frank J. Senteno, P.E.
Associate Engineer



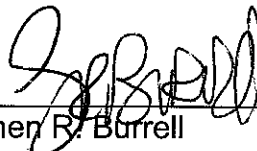
Richard D. Morgan, P.E.
Director of Public Works/City Engineer

Noted for Fiscal Impact:

Concur:



Viki Copeland
Finance Director



Stephen R. Burrell
City Manager



Legend

 PROJECT LOCATION

BAY VIEW UTILITY UNDERGROUNDING DISTRICT

LIST OF CONSULTANTS

AAE Inc.

790 East Colorado Blvd., Suite 150
Pasadena, CA 91101
Tel (626) 657-6000

Associated Soils Engineering, Inc

3320 Airport Way
Long Beach, CA 90806
Tel (562) 426-7990

Berryman & Henigar

2001 East First Street
Santa Ana, CA 92705-4020
Tel (714) 568-7300

CBM Consulting, Inc.

17601 South Denver Avenue
Gardena, CA 90248
Tel (310) 329-0102

Concept Marine Associates

6700 East Pacific Coast Highway, Suite 201
Long Beach, CA 90803
Tel (562) 594-6974

DMR Team

6133 Bristol Parkway, Suite 270
Culver City, CA 90230
Tel (310) 338-3440

DGA Consultants, Inc.

2130 E. 4th Street, Suite 100
Santa Ana, CA 92705
Tel (714) 568-0200

David Momeni, PhD.

3121 Colorado Avenue, Unit C
Santa Monica, CA 90404
Tel (310) 828-8080

Harris & Associates

811 West 7th Street, Suite 310
Los Angeles, CA 90017-3408
Tel (213) 629-9565

Hy-Com & Associates, Inc.

3723 Birch St, Suite 19
Newport Beach, CA 92651
Tel (949) 474-7344

JMC2

2341 West 205th Street, Suite 103
Torrance, CA 90501
Tel (310) 320-8852

Kleinfelder, Inc.

1370 Valley Vista, Suite 150
Diamond Bar, CA 91765
Tel (909) 396-0335

MTC Engineering Inc.

5924 Temple City Blvd
Temple City, CA 91780
Tel (626) 287-6416

Quantum Consulting, Inc

2720 Sepulveda Blvd, Suite 100
Torrance, CA 90505
Tel (310) 891-3994

Parsons

Dupont Center
2201 Dupont Drive, Suite 200
Irvine, CA 92612
Tel (949) 263-932

PROFESSIONAL SERVICES AGREEMENT

FOR

**PROJECT NO. CIP 02-104 BAY VIEW DRIVE
UNDERGROUNDING STREET IMPROVEMENTS**

THIS AGREEMENT, made and entered into this 14th day of February, 2006 at Hermosa Beach, County of Los Angeles, State of California, by and between the CITY OF HERMOSA BEACH, through its duly elected, qualified and acting MAYOR, hereinafter called the CITY, and John M. Cruikshank Consultants, Inc. hereinafter called the CONSULTANT.

WITNESSETH: That the CONSULTANT for and in consideration of the covenants, conditions, agreements, and stipulations of the CITY herein expressed, does hereby agree to furnish to the CITY professional services and materials, as follows:

ARTICLE I - Scope of Work

CONSULTANT shall perform all work necessary to complete in a manner satisfactory to CITY the services set forth in the plans and specifications or the scope of work attached as Exhibit A.

ARTICLE II - Costs

The CITY agrees to pay CONSULTANT for all the work or any part of the work performed under this Agreement at the rates and in the manner established in the attached Fee Schedule, Exhibit B.

Total expenditure made under this contract shall not exceed the sum of \$15,000. This fee includes all expenses, consisting of all incidental blueprinting, photography, travel, and miscellaneous costs, estimated to be accrued during the life of the contract. It also includes any escalation or inflation factors anticipated. No increase in fees will be allowed during the life of the contract.

Any increase in contract amount or scope shall be by express written amendment approved by the CITY and CONSULTANT.

The CONSULTANT will be reimbursed for costs incurred in the performance hereof as are allowable under the provisions of Part 1-14 of the Federal Procurement Regulations.

ARTICLE III - Method of Payment

CONSULTANT shall be reimbursed monthly in arrears based upon the hourly services provided. CONSULTANT shall submit invoices in triplicate and addressed to

the CITY, c/o the Finance Department, 1315 Valley Drive, Hermosa Beach, CA 90254-3884.

ARTICLE IV - Subcontracting

CONSULTANT shall not be permitted to subcontract any portion of this contract without the express written consent of the CITY.

ARTICLE V - Completion Date

CONSULTANT shall commence work under this agreement upon execution of this agreement and shall complete the work according to the schedule submitted as part of Exhibit "A", however, the CITY's Director of Public Works may extend the completion date as required by the scope of this contract. Any contract time extension shall require the express written consent of the Director of Public Works.

ARTICLE VI - Accounting Records

CONSULTANT must maintain accounting records and other evidence pertaining to costs incurred which records and documents shall be kept available at the CONSULTANT's California office during the contract period and thereafter for three years from the date of final payment of Federal funds hereunder.

ARTICLE VII - Ownership of Data

All data, maps, photographs, and other material collected or prepared under the contract shall become the property of the CITY.

ARTICLE VIII - Termination

This contract may be terminated at any time for breach and the CITY may terminate unilaterally and without cause upon seven (7) days written notice to the CONSULTANT. All work satisfactorily performed pursuant to the contract and prior to the date of termination may be claimed for reimbursement.

ARTICLE IX - Assignability

CONSULTANT shall not assign or transfer interest in this contract without the prior written consent of the CITY.

ARTICLE X - Amendment

It is mutually understood and agreed that no alteration or variation of the terms of this contract, or any subcontract requiring the approval of the CITY, shall be valid

unless made in writing, signed by the parties hereto, and approved by all necessary parties.

ARTICLE XI - Non-Solicitation Clause

The CONSULTANT warrants that he or she has not employed or retained any company or persons, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty, the CITY shall have the right to annul this contract without liability, or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

ARTICLE XII - Equal Opportunity Assurance

During the performance of this contract, the CONSULTANT agrees as follows:

A. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, sex, creed, color or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, sex, creed, color or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

B. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, sex, creed, color or national origin.

C. The CONSULTANT will permit access to their books, records and accounts by the applicant agency, the State, the Federal Highway Administration and/or the National Highway Traffic Safety Administration for purposes of investigation to ascertain compliance with this nondiscrimination clause.

D. In the event of the CONSULTANT's noncompliance with the nondiscrimination clauses of this contract, this contract may be canceled, terminated or suspended in whole or in part.

ARTICLE XIII - Clean Air Act

During the performance of this Contract, the CONSULTANT agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as amended.

ARTICLE XIV - Indemnity

CONSULTANT agrees to indemnify the CITY, its officers, employees and agents against, and will hold and save each of them harmless from, any and all actions, claims, damages to persons or property, penalties, obligations or liabilities that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of the negligent acts or intentional tortious acts, errors or omissions of CONSULTANT, its agents, employees, subcontractors, or invitees, provided for herein. CONSULTANT will defend any action or actions filed in connection with any of said claims, damages, penalties, obligations or liabilities and will pay all costs and expenses, including attorneys' fees incurred in connection herewith. CONSULTANT will promptly pay any judgment rendered against CITY, its officers, agents or employees for any such claims, damages, penalties, obligations or liabilities. In the event CITY, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against CONSULTANT for such damages or other claims arising out of or in connection with the sole negligence of CONSULTANT hereunder, CONSULTANT agrees to pay CITY, its officers, agents, or employees, any and all costs and expenses incurred by CITY, its officers, agents or employees in such action or proceeding, including but not limited to reasonable attorney's fees.

ARTICLE XV - Insurance

A. Without limiting CONSULTANT'S obligations arising under ARTICLE XIV - Indemnity , CONSULTANT shall not begin work under this Agreement until it obtains policies of insurance required under this section. The insurance shall cover CONSULTANT, its agents, representatives and employees in connection with the performance of work under this Agreement, and shall be maintained throughout the term of this Agreement. Insurance coverage shall be as follows:

i. Automobile Liability Insurance with minimum coverages of \$500,000 for property damage, \$500,000 for injury to one person/single occurrence, and \$500,000 for injury to more than one person/single occurrence.

ii. Public Liability and Property Damage Insurance, insuring CITY its elected and appointed officers, agents, and employees from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from CONSULTANT'S actions under this Agreement, whether or not done by CONSULTANT or anyone directly or indirectly employed by CONSULTANT. Such insurance shall have a combined single limit of not less than \$1,000,000.

iii. Worker's Compensation Insurance for all CONSULTANT'S employees to the extent required by the State of California.

B. Deductibility Limits for policies referred to in subparagraphs A (i) (ii) and (iii) shall not exceed \$5,000 per occurrence.

C. Additional Insured. City, its elected and appointed officers, agents, and employees shall be named as additional insureds on policies referred to in subparagraphs A (i) and (ii).

D. Primary Insurance. The insurance required in paragraphs A (i) (ii) and (iv) shall be primary and not excess coverage.

E. Evidence of Insurance. Consultant shall furnish CITY, prior to the execution of this Agreement, satisfactory evidence of the insurance required, issued by an insurer authorized to do business in California, and an endorsement to each such policy of insurance evidencing that each carrier is required to give CITY at least 30 days prior written notice of the cancellation of any policy during the effective period of the Agreement. All required insurance policies are subject to approval of the City Attorney. Failure on the part of CONSULTANT to procure or maintain said insurance in full force and effect shall constitute a material breach of this Agreement or procure or renew such insurance, and pay any premiums therefor at CONSULTANT'S expense.

ARTICLE XVI - Enforcement of Agreement

In the event that legal action is commenced to enforce or declare the rights created under this Agreement, the prevailing party shall be entitled to an award of costs and reasonable attorney's fees in the amount to be determined by the court.

ARTICLE XVII - Conflicts of Interest

No member of the governing body of the CITY and no other officer, employee, or agent of the CITY who exercises any functions or responsibilities in connection with the planning and carrying out of the program, shall have any personal financial interest, direct or indirect, in this Agreement; and the CONSULTANT further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

ARTICLE XVIII - Independent CONSULTANT

The CONSULTANT is and shall at all times remain as to the CITY a wholly independent consultant. Neither the CITY nor any of its agents shall have control over the conduct of the CONSULTANT or any of the CONSULTANT's employees, except as herein set forth. The CONSULTANT shall 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 the CITY.

ARTICLE XIX - Entire Agreement of the Parties

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of CONSULTANT by CITY and contains all the covenants and agreements between the parties with respect such employment in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement or amendment hereto shall be effective unless executed in writing and signed by both CITY and CONSULTANT.

ARTICLE XX - Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California, and all applicable federal statutes and regulations as amended.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first above written.

CITY OF HERMOSA BEACH

CONSULTANT

MAYOR:

Mayor, City of Hermosa Beach

John M. Cruikshank Consultants, Inc.

ATTEST:

Elaine Doerfling, City Clerk

APPROVED AS TO FORM:

City Attorney



John M. Cruikshank Consultants, Inc. 411 N. Harbor Blvd., Ste 201
Engineering & Management Consultants San Pedro, CA 90731
(310) 241-6550 phone
(310) 320-8871 fax

February 8, 2006

City of Hermosa Beach

Attn: Frank J. Senteno
1315 Valley Drive
Hermosa Beach, CA 90254
F: 310.937.5015
P: 310.318.0238

Re: Proposal for Civil Engineering Services for the Street Improvements Project -
02-104 Bay View Drive Undergrounding Street Improvements, Hermosa Beach, California 90254

John M. Cruikshank Consultants, Inc. (JMC²) is pleased to be providing **City of Hermosa Beach** (client) with civil engineering services for the subject project. JMC² looks forward to providing you with timely, professional, and cost-effective services for this critical project. The following proposal contains our scope of services and fee.

PROJECT UNDERSTANDING

JMC²'s project understanding is based on our November 10th site meeting and review of your Capital Improvement Project Request. Based on this information, it is understood that the client is resurfacing three (3) streets in their City. Work includes street overlays and a concrete swale on the west side of Palm Drive. JMC² will work as part of the client's team to assist with civil engineering services. This project will require the following civil engineering tasks pursuant to City standards:

- Street Improvement Plans

References:

- ❖ *City of Hermosa Beach Capital Improvement Project Request, "02-104 Bay View Drive Undergrounding Street Improvements" received November 10, 2005 from the City of Hermosa Beach.*

Assumptions/conditions:

1. The streets are not within a flood plain.

2. Client shall provide JMC² with a topographic surveys and/or street layout plans in electronic and/or hard copy format.
3. Prices quoted below are for street improvements for the specific areas noted on the reference above. Any modifications may require additional fees as outlined in the attached fee schedule.
4. Work does not include a hydrology/hydraulics report, demolition plans, on site grading and drainage plans, utility plans, retaining wall plans, tentative or final tract mapping, sewer and/or storm water pump designs, standard urban storm water mitigation plan (SUSMP), storm water pollution prevention plan (SWPPP), erosion control plans, sub-drain connections, street lighting plans, traffic plans, signing and striping plans, construction administration services, or any other civil engineering services.

PROJECT APPROACH

JMC² will provide the necessary personnel, equipment, and materials to perform civil engineering analysis and design services. The above listed plans and tasks will be prepared and submitted along with civil engineering consultation during the progress of our services.

The following general scope of work and associated fee is proposed in order to fulfill the objectives of our services.

Street Improvement Plans

FEE: \$15,000.00

JMC² will create base plans using the topographic surveys and street layout plans from the City and will field verify and document existing street conditions. JMC² will prepare street improvement plans for the resurfacing along with replacement and/or addition of limited quantities of curb and gutter, swales, and cross gutters to City Department of Public Works standards. JMC² assumes the tops of curb (TC), flow line (FL) and back of walks (BW) shall not be modified by this project.

TOTAL FEES: \$15,000.00 (including reimbursable expenses per Exhibit 2)

TIME AND FEES

JMC² approximates the proposed tasks described above to take five-(5) week's time from the client's Notice to Proceed. The time schedule estimated does not include considerations of factors beyond JMC²'s control.

Our fee for the scope of work described in this proposal is a lump sum fee of fifteen thousand dollars (\$15,000.00) including reimbursable expenses. Fee does not include any applicable governmental fees or any sales or use tax. Professional fees shall be billed monthly as they are incurred. Invoices shall be considered due and payable thirty-(30) days upon representation.

All zoning information, proof of ownership, and project communications will be provided to JMC².

Please indicate that you have read this proposal, as well as Exhibits 1 & 2, by signing this letter where indicated below, as well as by initialing the Exhibits. By doing so, you indicate that you fully accept the scope of work as well as all sections of the Exhibits.

John M. Cruikshank Consultants, Inc. (JMC²) looks forward to providing **City of Hermosa Beach** with the civil engineering services required. Should you have any questions regarding this proposal, please feel free to contact us.

Regards,
John M. Cruikshank Consultants, Inc.

John M. Cruikshank, RCE (C50792)
President & CEO

Attachments: Exhibit 1 – Conditions & Exhibit 2 - Fee Schedule

| | |
|------------------------|-------|
| Signature: | _____ |
| Name *: | _____ |
| Company: | _____ |
| Date: | _____ |
| * Please type or print | |

Exhibit 1

CONDITIONS**Limitation of Liability (LOL)**

Client agrees to limit the liability of JMC², its principals and employees, to client and to all contractors and subcontractors on the project, for any claim or action arising in tort or contract, to the sum of \$50,000 or consultant's fee, whichever is greater. However, if consultant's fee exceeds \$250,000, liability to client and to all contractors and subcontractors shall not exceed \$250,000.

Permit of Entry

On private property, the client will provide for right-of-entry for JMC² and any other personnel and equipment necessary to complete the work. On public right-of-ways, JMC² will obtain necessary permits for right-of-entry permits. On private property, the client agrees to indemnify and hold JMC² harmless from any damages so caused by the performance of any work on the property unless caused by the gross negligence or willful misconduct of JMC² or its personnel.

Indemnification

JMC² shall indemnify, defend and hold Client harmless from any and all claims, liabilities, and causes of action to or death or any person or for damage to or destruction of tangible property resulting from the sole negligent acts of JMC².

Client shall indemnify, defend and hold JMC² harmless from any and all claims, liabilities, and cause of action for injury to or for any damage to or destruction tangible property resulting from the negligent acts or omissions of any contractors, subcontractors, or consultants retained by or under the direction and control of the client.

Invoices

JMC² will submit invoices as stated in the proposal, or periodically. A final invoice will be submitted at the submittal of the final plans. Invoice terms are NET 30 days. A service charge of 1.5% per month will be added to all accounts after 30 days.

Insurance

JMC² represents and warrants that it shall maintain in force during that period services are under this Agreement are provided, Workers Compensation Insurance as required by Law and Comprehensive General Liability insurance with aggregate limits of \$1,000,000. Costs of special insurance, if available, requested by the client, including, but not limited to, an increase in policy limits and naming of additional insured parties on policies of JMC² will be charged at cost plus 15%. Evidence of the existence of the above-named insurance, on forms acceptable to the insurer, will be provided to Client upon request in writing.

Standard of Care

Services rendered by JMC² under this agreement will be performed in a manner similar with the level and care exercised by members of the same profession performing the same services at the same time and under the same working conditions.

Underground Utilities

Client is aware that subsurface and surface conditions may vary from those encountered where JMC² performs their investigations and that conclusions are based solely upon the data obtained by JMC². JMC² will not be responsible for interpretations by others from the data obtained. All data obtained during the investigation are subject to confirmation during construction.

Client warrants that all information, plans, location of underground utilities, studies, or other materials supplied by the Client to JMC² for use in completing JMC²'s services are accurate, complete, and sufficient for use by JMC².

Disputes

In the event a dispute arises relating to the performance of the services provided under this Agreement, and should that dispute result in litigation, it is agreed the prevailing party will be entitled to recover all costs incurred in connection with such dispute, including time consistent with the rate in the prevailing party's Fee Schedule in effect at the time.

Oral Contracts

All contracts or agreements shall be in writing. There shall be no oral agreements or contracts. In the event any agreement or contract is in dispute, this contract shall supersede any other oral contract or agreement.

Exhibit 2

JMC² FEE SCHEDULE

Effective January 2006

| <u>Classification</u> | <u>Hourly Rate</u> |
|--|--------------------|
| Clerical | \$ 55.00 |
| Accountant/Bookkeeper | \$ 65.00 |
| Graphics Designer/CAD Technician | \$ 75.00 |
| Designer/Design Engineer | \$ 95.00 |
| Estimator/Inspector/Surveying (one person) | \$ 95.00 |
| Specification Writer | \$ 110.00 |
| Project Engineer/Architect | \$ 130.00 |
| Project/Construction Manager | \$ 145.00 |
| Principal/Project Director | \$ 155.00 |
| <u>Reimbursable Expenses</u> | |
| In-house large format copy service | \$2.50/print |
| In-house black and white plots | \$20/plot |
| In-house color plots | \$40/plot |
| Copies: | \$ 0.10/page |
| Delivery and overnight mail services | Cost + 15% |
| Outside printing/media services | Cost + 15% |
| Travel: Air Fare, Car Rental, Meals, Lodging | Cost + 15% |
| Company Vehicle | \$0.48/mile |
| Long Distance Telephone Calls | Cost + 15% |
| FAX | \$0.50/page |