November 06, 2006

Honorable Mayor and Members of
The Hermosa Beach City Council

Regular Meeting of
November 14, 2006

PROJECT NO. CIP 05-119 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. (JMC^2) to provide design and engineering services for CIP No. 05-119 in the amount of $38,400;
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 as needed to the agreement within the project budget amount.

Background

On October 2, 2006 Staff received a fully executed Agreement from Caltrans, Division of Local Assistance, authorizing the City to proceed with engineering of Project No. CIP 05-119 Street Improvements - 21st Street: Ardmore Ave to Prospect Ave; Hermosa Avenue: 26th Street to 35th Street; and Longfellow Avenue: Manhattan Ave to Ingleside Ave. This agreement was approved and adopted by Resolution 06-6491 by Council at the meeting of September 12, 2006.

Proposals were requested to provide plans and specifications from the following firms:

John M. Cruikshank Consultants, Inc.	**San Pedro, CA**	**$38,400**
MBF Consulting, Inc.	**Mission Viejo, CA**	**$49,984**
Priority Engineering/CBM Consulting, Inc.	**Torrance, CA**	**$55,000**

All three firms are all well qualified and have provided excellent services in the past. Cruickshank, MBF, and CBM are currently under contract with the City and are near completion of their scope of services. All three continue to provide excellent services. Based on the proposals received, Staff recommends John M. Cruikshank Consultants, Inc. (JMC^2) as the most cost effective choice for design services.

Analysis:

JMC^2 will create base plans using topographic surveys and street layout plans from the City and will field verify and document existing street conditions. JMC^2 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. Work includes Hermosa Avenue, Longfellow Avenue, and 21st Street.

JMC^2's proposal can be found in Exhibit A of the attached Draft Professional Services Agreement.

Fiscal Impact:

Design costs for this CIP have been approved using STP-L (Surface Transportation Program – Local) funding. Upon completion of design, staff will seek Caltrans approval for STP-L construction funds.

Attachments:
1. Project Location Map
2. Professional Services Agreement

Respectfully submitted,

Frank Senteno, P.E.
Associate Engineer

Concur:

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

Noted for Fiscal Impact:

Viki Copeland
Finance Director

Concur:

Stephen R. Burrell
City Manager

CIP 05-119 Street Improvements

1) **Hermosa Avenue** from 26th Street to 35th Street
2) **Longfellow Avenue** from Manhattan Avenue to Ingleside Drive

City Limits

Project Boundary

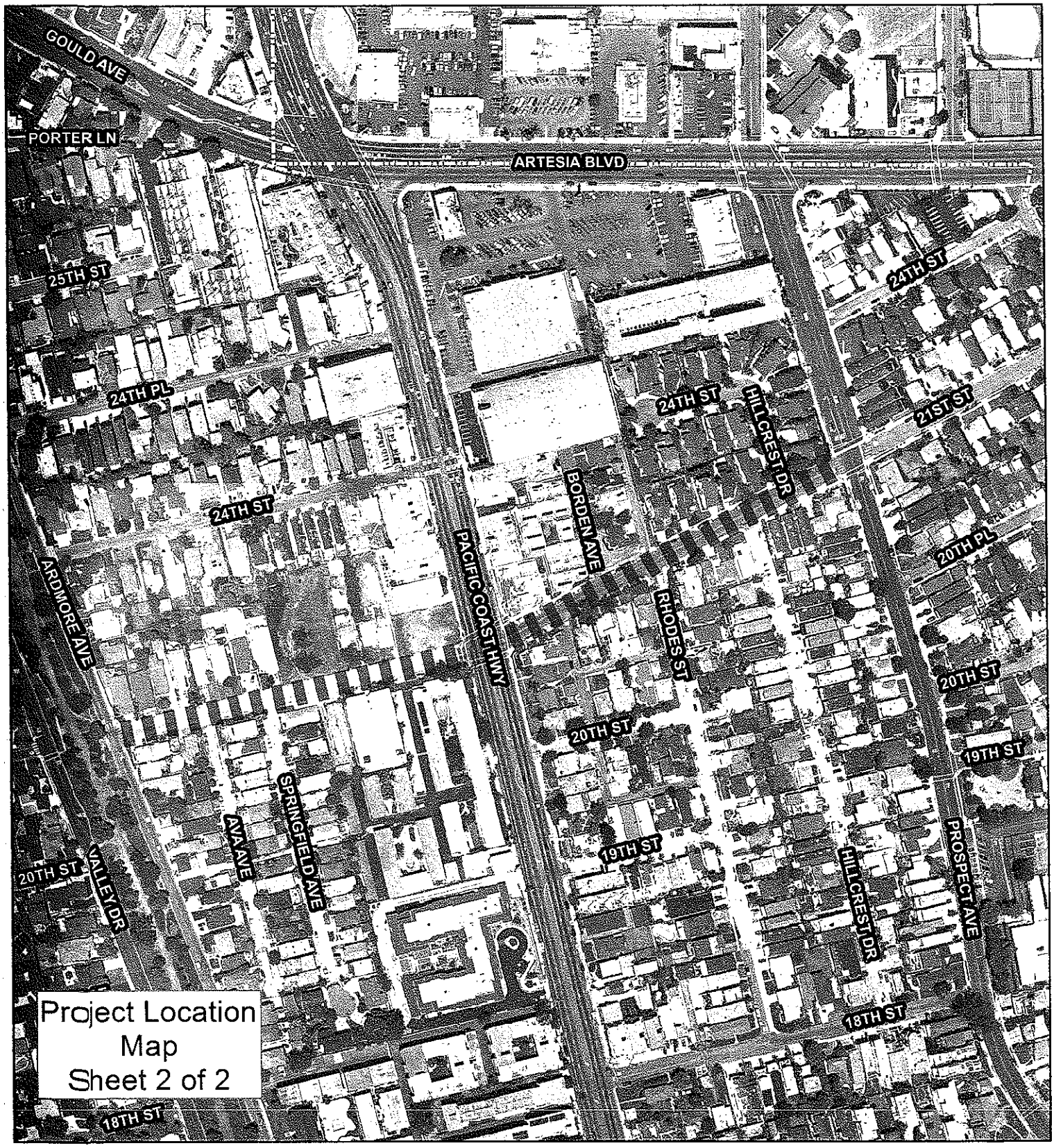
N

Feet

0 125 250 500 750 1,000

Dept. of Public Works GIS
Chris Hardenbrook
August 2006

ATTACHMENT 1



CIP 05-119 Street Improvements

3) **21st Street** from Ardmore Avenue to Prospect Avenue

City Limits

Project Boundary

N

0 125 250 500 750 1,000 Feet

Dept. of Public Works GIS
Chris Hardenbrook
August 2006

PSA No. 06.016

PROFESSIONAL SERVICES AGREEMENT

FOR

PROJECT NO. CIP 05-119 STREET IMPROVEMENTS

THIS AGREEMENT, made and entered into this 14th day of November, 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 $38,400. 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

MAYOR:

_____
Mayor, City of Hermosa Beach

ATTEST:

_____
Elaine Doerfling, City Clerk

APPROVED AS TO FORM:

_____
City Attorney

CONSULTANT

_____
John M. Cruikshank Consultants, Inc.

JMC²
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

November 7, 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 - CIP 05-119 Hermosa Avenue, Longfellow Avenue, and 21st 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 October 3, 2006 meeting. Based on this meeting, it is understood that the client is resurfacing three (3) streets in the City of Hermosa Beach (City). 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 Surveying
- Street Improvement Plans

References:

- *Project meeting notes from October 3, 2006.*
- *CIP 05-119 Street Improvement documents*

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, 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, plan processing, 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 Surveying FEE: $16,400.00

DENN Engineers will provide surveying for the three City streets including Hermosa Avenue, Longfellow Avenue, and 21st Street as indicated on the CIP 05-119 Street Improvement documents. Work includes providing striping layouts for the parking spaces, cross walks, and lane markings.

Street Improvement Plans FEE: $22,000.00

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 as required. 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. Area of work includes Hermosa Avenue, Longfellow Avenue, and 21st Street as indicated on the CIP 05-119 Street Improvement documents. Work also includes design of the Atlantis drainage system in Hermosa Avenue, project specifications per City format, and a final cost estimate for the proposed improvements.

TOTAL FEES: $38,400.00 (including reimbursable expenses per Exhibit 2)

TIME AND FEES

JMC² approximates the first submittal of the proposed tasks described above to take twelve-(12) weeks 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 thirty eight thousand four hundred dollars ($38,400.00). This fee does not include reimbursable expenses, any applicable governmental fees, any sales or use tax, or other services requested by you or governmental

agencies. 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, PE (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 cased 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

Classification	Hourly Rate
Clerical/Junior CAD Technician	$ 55.00
Accountant/Bookkeeper	$ 65.00
Graphics Designer/CAD Technician	$ 75.00
CAD Director/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

Reimbursable Expenses	
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

EXHIBIT B