



Staff Report

City of Manhattan Beach

TO: Honorable Mayor Powell and Members of the City Council

THROUGH: David N. Carmany, City Manager

FROM: Jim Arndt, Director of Public Works
Steve Finton, City Engineer

DATE: May 1, 2012

SUBJECT: Professional Engineering Services Contract with Community Works Design Group for Design and Public Outreach Services Related to the Strand Pedestrian Access Improvement Project (\$200,885).

RECOMMENDATION:

Staff recommends that City Council Authorize the City Manager to execute a Professional Engineering Services Contract to Community Works Design Group in the amount of \$200,885 for design and public outreach services related to the Strand Pedestrian Access Improvement project.

FISCAL IMPLICATIONS:

Funding for the project was appropriated by City Council as indicated below.

| Table 1 | Budget | | Actual Available |
|---------------------------|----------------------|-------------|--------------------|
| | Year / Appropriation | | |
| Federal Earmark | FY 2009-2010 / | \$1,600,000 | \$1,439,000 |
| Capital Improvement Funds | FY 2008-2009 / | \$320,000 | \$320,000 |
| Total | | \$1,920,000 | \$1,759,000 |

The Strand Pedestrian Access Improvement project was included as an earmark in the federal surface transportation bill in 2005. The bill, entitled the “Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users” (Safetea-Lu) lists the Strand Stairs improvement project as a High Priority Project in the total amount of \$1,600,000. Actual funding available for the project depends on the extent of congressional appropriations over the life of the bill. Ultimately, Congress appropriated funding to High Priority Projects at 89.9% of the original earmark amounts which reduces earmark funding for the project to \$1,439,000. This funding is available on a reimbursement basis and typically a 20% local match is required. In FY 2008-2009, City Council appropriated Capital Improvement Funds (CIP Funds) in the amount of \$320,000 to fund the local match. Under a special accommodation for California, the Federal government in 2011 began allowing California agencies to take credit for the value of toll road construction funded by tolls statewide as a substitute for the required local match. The Metropolitan Transportation Authority (Metro) is managing this program and has approved the use of Toll Credits on the Strand Stairs project. This permits the City to move ahead with the design phase of the project utilizing CIP Funds alone

thereby avoiding complex federal compliance and reporting requirements during the design process. The recommended design and public outreach contract with Community Works Design Group would be funded with CIP Funds only. The remainder of CIP Funds and the entire Federal earmark would be available for construction.

| Table 2 Anticipated Expenditures | |
|---|--------------------|
| Budget | \$1,759,000 |
| Recommended Design and Public Outreach Contract Community Works Design Group | \$200,885 |
| Balance Available for Construction | \$1,558,115 |

BACKGROUND:

A pedestrian walkway (The Strand) owned and maintained by the City and a bike path (Marvin Braude Bike Path) owned and operated by the County of Los Angeles Department of Public Works exists along the City’s entire two-mile coastline. The bike path is situated to the west and is separated from The Strand by a vegetated slope of varying widths and grade. Connecting The Strand and the bike path are thirty-six pedestrian access points. Twenty-seven of these access ways possess stairs of varying designs and condition. In addition to stairs, there are three handicap accessible ramps; two leading from The Strand to the El Porto parking lots at 41st and 43rd Streets and a third leading from the parking lot to the bike path at 42nd Street.

The City identified the need to improve the stairs and requested and secured earmark funding through the Federal surface transportation bill discussed earlier.

DISCUSSION:

Accessibility

An assessment of the stairs was conducted by the City in 2008 which focused on compliance with the Americans with Disabilities Act (ADA). The assessment identified needs at virtually every stairway; however, the findings were generally limited to tread and railing improvements. It did not identify the need for additional stairs or ramps. As there is no specific provision in the ADA addressing beach access by disable persons, staff consulted with the City Attorney’s office for an opinion regarding any requirements for ramping leading from The Strand to the bike path. The attorney opined that there are currently reasonable accommodations for disabled access through existing accessible locations at 42nd Street, 28th Street and the Pier and that additional ramping could be provided but is not required. In spite of the opinion, staff wishes to be proactive and provide additional accessible locations through this project. Staff recommends moving into the design phase with the goal of installing two additional ramps at locations to be determined through the design and public outreach process.

Consultant Selection

In November 2011, staff issued a request for proposals (RFPs) to four firms with local experience with coastal open spaces. Three proposals were received January 2012 from: 1) Community Works Design Group; 2) RRM Institute; and 3) SWA Group. Harris & Associates was invited but did not submit a proposal.

Staff conducted interviews with each firm and ultimately determined that the proposal and team proposed by Community Works Design Group to be the best for the Strand Stairs Accessibility project. Community Works Design Group has provided design services to the City previously to the satisfaction of staff.

Services to be provided under the proposed agreement include:

1. Public outreach including several public meetings
2. Presentation to the Planning Commission (Approval of Coastal Development Permit)
3. Presentation to City Council
4. Topographic survey
5. Geotechnical investigation
6. Preparation of plans, specifications and estimates for improvements to twenty stair ways and two wheel chair ramps
7. Application for permits from County Beaches and Harbors and County Public Works
8. Processing of federal compliance documentation
9. Construction support

Design Alternatives

One of the most significant decisions to be made on this project would be whether the concrete balusters are to be rehabilitated, replaced in kind or removed entirely and replaced with another type of rail. The other significant decision point will be the locations and design of the wheel chair ramps. The goal of the public outreach effort will be to determine what the public prefers. Due to cost and environmental clearance considerations, staff recommends maintaining the stairs in their current locations and configurations.

Public Outreach

The Consultant would conduct two public meetings to determine public design preferences. Public comment would be compiled and a design proposal would be presented to the Planning Commission for consideration of a Coastal Development Permit. The design concept would then be presented for City Council consideration. Additional meetings would be conducted if needed or if directed by City Council. The Consultant has committed to attending as many meetings as needed without additional compensation.

Schedule


It is staff's goal to have completed plans and specifications ready for bidding by Spring 2013.

Attachments:

- 1) Map of Stairs
- 2) Proposed Professional Services Agreement with Community Works Design Group

xc: Henry Mitzner, Controller

City of Manhattan Beach
**Strand Pedestrian
Improvements Project**

 Stairs to be rehabilitated

Ramp locations
To Be Determined



0 250 500 1,000
Feet

May 1, 2012



AGREEMENT

THIS AGREEMENT is made this _____ day of May, 2012 by the CITY OF MANHATTAN BEACH, a municipal corporation, ("CITY"), and T.I. Maloney, Inc., a California corporation dba Community Works Design Group ("CONSULTANT").

RECITALS

The following recitals are a substantive part of this Agreement:

1. City is desirous of obtaining services necessary to perform community relations and design services for the Strand Stairs Rehabilitation and replacement Project;
2. CONSULTANT is qualified by virtue of experience, training, education, and expertise to accomplish these services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term of Agreement.** This Agreement shall terminate upon completion of Scope of Services, unless earlier terminated as provided below.

1.1 **Termination.** CITY and CONSULTANT shall have the right to terminate this Agreement, without cause, by giving fifteen (15) days written notice. Upon receipt of a termination notice, CONSULTANT shall:

- (1) Promptly discontinue all services affected (unless the notice directs otherwise); and
- (2) Promptly deliver all data, reports, estimates, summaries, and such other information and materials as may have been accumulated by CONSULTANT in performing the Agreement to CITY, whether completed or in progress. CONSULTANT shall be entitled to reasonable compensation for the services it performs up to the date of termination.

2. **Services to be Provided.** The services to be provided hereunder shall be ***those set forth in Exhibit "A", Scope of Work***, which is attached hereto and incorporated herein by this reference.

3. **Compensation.** CONSULTANT shall be compensated as follows:

3.1 Amount. Compensation under this Agreement shall not exceed Two Hundred Thousand Eight Hundred and Eighty-five Dollars (\$200,885.00).

3.2 Payment. For work under this Agreement, payment shall be made per monthly invoice. For extra work not a part of this Agreement, written authorization by CITY will be required, **[payment shall be based on hourly rates in Exhibit "B"]**.

3.3 Expenses. CONSULTANT shall not be entitled to any additional compensation for expenses.

4. Professional Standards. CONSULTANT shall maintain or exceed the level of competency presently maintained by other similar practitioners in the State of California, for professional and technical soundness, accuracy and adequacy of all work, advice, and materials furnished under this Agreement.

5. Time of Performance. CONSULTANT shall complete all services required hereunder as and when directed by CITY **[as set forth in Exhibit "C"]**. However, CITY in its sole discretion may extend the time for performance of any service.

6. Employees and Subcontractors. CONSULTANT may, at CONSULTANT'S sole cost and expense, employ such other person(s) as may, in the opinion of CONSULTANT, be needed to comply with the terms of this Agreement, if such person(s) possess(es) the necessary qualifications to perform such services. If such person(s) is/are employed to perform a portion of the scope of work, the engagement of such person(s) shall be subject to the prior approval of the CITY.

7. Insurance Requirements.

7.1 Commencement of Work. CONSULTANT shall not commence work under this Agreement until it has obtained CITY approved insurance. Before beginning work hereunder, during the entire period of this Agreement, for any extensions hereto, and for periods after the end of this Agreement as indicated below, CONSULTANT must have and maintain in place, all of the insurance coverages required in this Section 7. CONSULTANT'S insurance shall comply with all items specified by this Agreement. Any subcontractors shall be subject to all of the requirements of this Section 7 and CONSULTANT shall be responsible to obtain evidence of insurance from each subcontractor and provide it to CITY before the subcontractor commences work.

All insurance policies used to satisfy the requirements imposed hereunder shall be issued by

insurers authorized to do business in the State of California. Insurers shall have a current A.M. Best's rating of not less than A-:VII unless otherwise approved by CITY.

7.2 Coverages, Limits and Policy Requirements.
CONSULTANT shall maintain the types of coverages and limits indicated below:

(1) COMMERCIAL GENERAL LIABILITY INSURANCE - a policy for occurrence coverage, including all coverages provided by and to the extent afforded by Insurance Services Office Form CG 0001 ed. 11/88 or 11/85, with no special limitations affecting CITY. The limit for all coverages under this policy shall be no less than one million dollars (\$1,000,000.00) per occurrence. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 1 (General Liability) must be executed by the applicable insurance underwriters.

(2) COMMERCIAL AUTO LIABILITY INSURANCE - a policy including all coverages provided by and to the extent afforded by Insurance Services Office form CA 0001, ed. 12/93, including Symbol 1 (any auto) with no special limitations affecting the CITY. The limit for bodily injury and property damage liability shall be no less than one million dollars (\$1,000,000) per accident. CITY, its employees, officials and agents, shall be added as additional insureds by endorsement to the policy. The insurer shall agree to provide the City with thirty (30) days prior written notice of any cancellation, non-renewal or material change in coverage. The policy shall contain no provision that would make this policy excess over, contributory

with, or invalidated by the existence of any insurance, self-insurance or other risk financing program maintained by CITY. In the event the policy contains such an "other insurance" clause, the policy shall be modified by endorsement to show that it is primary for any claim arising out of the work performed under this Agreement. The City of Manhattan Beach Insurance Endorsement Form No. 2 (Auto) must be executed by the applicable insurance underwriters.

(3) WORKERS' COMPENSATION INSURANCE - a policy which meets all statutory benefit requirements of the Labor Code, or other applicable law, of the State of California. Employers Liability Insurance with a minimum limit of no less than one million dollars (\$1,000,000) per claim. The policy shall contain, or be endorsed to include, a waiver of subrogation in favor of CITY.

(4) PROFESSIONAL ERRORS & OMISSIONS - a policy with minimum limits of one million dollars (\$1,000,000) per claim and aggregate. This policy shall be issued by an insurance company which is qualified to do business in the State of California and contain a clause that the policy may not be canceled until thirty (30) days written notice of cancellation is mailed to CITY.

7.3 Additional Requirements. The procuring of such required policies of insurance shall not be construed to limit CONSULTANT'S liability hereunder, nor to fulfill the indemnification provisions and requirements of this Agreement. There shall be no recourse against CITY for payment of premiums or other amounts with respect thereto. CITY shall notify CONSULTANT in writing of changes in the insurance requirements. If CONSULTANT does not deposit copies of acceptable insurance policies with CITY incorporating such changes within sixty (60) days of receipt of such notice, CONSULTANT shall be deemed in default hereunder.

Any deductibles or self-insured retentions must be declared to and approved by CITY. Any deductible exceeding an amount acceptable to CITY shall be subject to the following changes:

- (1) either the insurer shall eliminate, or reduce, such deductibles or self-insured

retentions with respect to CITY and its officials, employees and agents (with additional premium, if any, to be paid by CONSULTANT) ; or

- (2) CONSULTANT shall provide satisfactory financial guarantee for payment of losses and related investigations, claim administration, and defense expenses.

7.4 Verification of Compliance. CONSULTANT shall furnish CITY with original endorsements effecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by the insurer to bind coverage on its behalf. All endorsements are to be received and approved by CITY before work commences. Not less than fifteen (15) days prior to the expiration date of any policy of insurance required by this Agreement, CONSULTANT shall deliver to CITY a binder or certificate of insurance with respect to each renewal policy, bearing a notation evidencing payment of the premium therefor, or accompanied by other proof of payment satisfactory to CITY.

8. Non-Liability of Officials and Employees of the CITY. No official or employee of CITY shall be personally liable for any default or liability under this Agreement.

9. Non-Discrimination. CONSULTANT covenants there shall be no discrimination based upon race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

10. Independent Contractor. It is agreed that CONSULTANT shall act and be an independent contractor and not an agent or employee of CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.

11. Compliance with Law. CONSULTANT shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.

12. Ownership of Work Product. All documents or other information created, developed or received by CONSULTANT shall, for purposes of copyright law, be deemed works made for hire for CITY by CONSULTANT as CITY'S employee(s) for hire and shall be the sole property of CITY. CONSULTANT shall provide CITY with copies of these items upon demand and in any event, upon termination or expiration of the term of this Agreement.

13. Conflict of Interest and Reporting. CONSULTANT shall at all times avoid conflict of interest, or appearance of conflict of interest, in performance of this Agreement.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

Date (MM/DD/YR)
9/26/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER

Heffernan Professional Practices Insurance Brokers
License No. 0564249
1855 W. Katella Ave., Ste 255
Orange, CA 92867

CONTACT

NAME:
PHONE (A/C, No. Ext): **714-997-8100** FAX (A/C, No): **714-460-9935**
EMAIL ADDRESS: **sherry@heffins.com**

INSURED

T.J. Maloney, Inc.
DBA: Community Works Design Group
4649 Brockton Ave.
Riverside, CA 92506

*Engineering
Ed Kao*

INSURERS AFFORDING COVERAGE

NAIC #

| | | |
|------------|--|-------|
| INSURER A: | Travelers Property Casualty Co. <i>At XV</i> | 25674 |
| INSURER B: | Travelers Property Casualty <i>At XV</i> | 36170 |
| INSURER C: | Hanover Insurance Co. <i>A XIV</i> | 22292 |
| INSURER D: | | |
| INSURER E: | | |
| INSURER F: | | |

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|--|---|----------|------------------|-------------------------|-------------------------|---|------------------------------|
| A | GENERAL LIABILITY | | | 6804878L355TIL11 | 09/01/11 | 09/01/12 | EACH OCCURRENCE | \$1,000,000 |
| | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY | X | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | \$1,000,000 |
| | CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | | | | MED EXP (Any one person) | \$10,000 |
| GEN'L. AGGREGATE LIMIT APPLIES PER | | | | | | | PERSONAL & ADV INJURY | \$1,000,000 |
| POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC | | | | | | | GENERAL AGGREGATE | \$2,000,000 |
| A | AUTOMOBILE LIABILITY | | | 6804878L355TIL11 | 09/01/11 | 09/01/12 | COMBINED SINGLE LIMIT (Ea accident) | \$ Incl in GL |
| | <input type="checkbox"/> ANY AUTO | | X | | | | BODILY INJURY (Per person) | \$ |
| | <input checked="" type="checkbox"/> HIRED AUTOS | <input checked="" type="checkbox"/> SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) |
| | <input type="checkbox"/> EXCESS LIAB | <input type="checkbox"/> OCCUR | | | | | PROPERTY DAMAGE (Per accident) | \$ |
| | <input type="checkbox"/> RETENTION \$ | <input type="checkbox"/> CLAIMS-MADE | | | | | | \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | X | UB7130Y750 | 09/01/11 | 09/01/12 | E.L. EACH ACCIDENT | \$1,000,000 |
| ANY PROPRIETOR/PARTNER/EXECUTIVE/OFFICER/MEMBER EXCLUDED? (Mandatory in N.H.) | | | | | | | E.L. DISEASE - EA EMPLOYEE | \$1,000,000 |
| If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | | E.L. DISEASE - POLICY LIMIT | \$1,000,000 |
| C | PROFESSIONAL LIABILITY | | | 910 0201 12 09 | 09/01/11 | 09/01/12 | Per Claim Aggregate | \$1,000,000 \$1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Projects on file with the insured including but not limited to Strand Stairs Improvement Project. City of Manhattan Beach its employees, officials and agents are named as additional insured (primary) on General Liability policy per the attached endorsement, including the non-owned and hired auto liability. Waiver of subrogation applies to Workers Compensation policy.

CERTIFICATE HOLDER

City of Manhattan Beach
1400 Highland Ave.
Manhattan Beach, CA 90266

*CO
7/13/12*

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Sherry Young


C. The following is added to Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us in COMMERCIAL GENERAL LIABILITY CONDITIONS (Section IV):**

We waive any rights of recovery we may have against the additional insured shown in the Schedule above because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" on or for the project, or at the location, shown in the Schedule above, performed by you, or on your behalf, under a "contract or agreement requiring insurance" with that additional insured. We waive these rights only where you have agreed to do so as part of the "contract or agreement requiring insurance" with that additional insured entered into by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

D. The following definition is added to **DEFINITIONS (Section V):**

"Contract or agreement requiring insurance" means that part of any contract or agreement under which you are required to include the person or organization shown in the Schedule as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs, and the "personal injury" is caused by an offense committed:

- a. After you have entered into that contract or agreement;
- b. While that part of the contract or agreement is in effect; and
- c. Before the end of the policy period.



Sherry Young
Authorized Representative

14. **Notices**. All notices shall be personally delivered or mailed to the below listed addresses. These addresses shall be used for delivery of service of process.

a. Address of CONSULTANT is as follows:

Community Works Design Group
4649 Brockton Avenue
Riverside, CA 92506

b. Address of CITY is as follows:

City of Manhattan Beach
1400 Highland Ave
Manhattan Beach, CA 90266

(with a copy to):

City Attorney
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266

15. **Consultant's Proposal**. This Agreement shall include CONSULTANT'S proposal or bid which is incorporated herein. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.

16. **Licenses, Permits, and Fees**. CONSULTANT shall obtain a Manhattan Beach Business License, all permits, and licenses as may be required by this Agreement.

17. **Familiarity with Work**. By executing this Agreement, CONSULTANT warrants that:

- (1) it has investigated the work to be performed;
- (2) it has investigated the site of the work and is aware of all conditions there; and
- (3) it understands the difficulties and restrictions of the work under this Agreement. Should CONSULTANT discover any conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY and shall not proceed, except at CONSULTANT'S risk, until written instructions are received from CITY.

18. **Time of Essence**. Time is of the essence in the performance of this Agreement.

19. Limitations Upon Subcontracting and Assignment. Neither this Agreement, or any portion, shall be assigned by CONSULTANT without prior written consent of CITY.

20. Authority to Execute. The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement.

21. Indemnification.

21.1. Indemnity for Design Professional Services. CONSULTANT is considered a "design professional" as that term is defined in Civil Code Section 2782.8. In connection with its design professional services, CONSULTANT shall hold harmless and indemnify CITY, and its elected officials, officers, employees, servants, designated volunteers, and those CITY agents serving as independent Consultants in the role of CITY officials (collectively, "Indemnitees"), with respect to any and all claims, demands, damages, liabilities, losses, costs or expenses, including reimbursement of attorneys' fees and costs of defense (collectively, "Claims" hereinafter), including but not limited to Claims relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to in whole or in part to the negligence, recklessness, or willful misconduct of CONSULTANT or any of its officers, employees, subcontractors, or agents in the performance of its design professional services under this Agreement.

21.2 Other Indemnities. In connection with any and all claims, demands, damages, liabilities, losses, costs or expenses, including attorneys' fees and costs of defense (collectively, "Damages" hereinafter) not covered by Section 21.1, CONSULTANT shall defend, hold harmless and indemnify the Indemnitees with respect to any and all Damages, including but not limited to, Damages relating to death or injury to any person and injury to any property, which arise out of, pertain to, or relate to the acts or omissions of CONSULTANT or any of its officers, employees, subcontractors, or agents in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. With respect such Claims, CONSULTANT shall defend CITY, with counsel of CITY's choice, at CONSULTANT's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against CITY. CONSULTANT shall reimburse CITY for any and all legal expenses and costs actually incurred by each of them in connection therewith or in enforcing the indemnity herein provided. CONSULTANT's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CONSULTANT or CITY. All duties of CONSULTANT under this Section shall survive termination of this Agreement.

22. Modification. This Agreement constitutes the entire agreement between the parties and supersedes any other agreements, oral or written. No promises, other than those

included in this Agreement, shall be valid. This Agreement may be modified only by a written agreement executed by CITY and CONSULTANT.

23. California Law. This Agreement shall be construed in accordance with the laws of the State of California. Any action commenced about this Agreement shall be filed in the appropriate branch of the Los Angeles County Municipal or Superior Court.

24. Interpretation. This Agreement shall be interpreted as though prepared by both parties.

25. Preservation of Agreement. Should any provision of this Agreement be found invalid or unenforceable, the decision shall affect only the provision interpreted, and all remaining provisions shall remain enforceable.

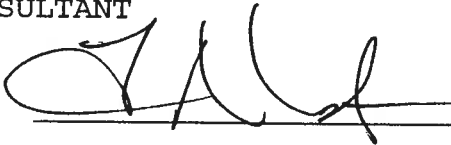
26. Entire Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that representations by any party not embodied herein, and any other agreements, statements, or promises concerning the subject matter of this Agreement, not contained in this Agreement, shall not be valid and binding. Any modification of this Agreement will be effective only if it is in writing signed by the parties. Any issue with respect to the interpretation or construction of this Agreement is to be resolved without resorting to the presumption that ambiguities should be construed against the drafter.

27. Attorneys' Fees. In the event that legal action is necessary to enforce the provisions of the Agreement, or to declare the rights of the parties hereunder, the parties agree that the prevailing party in the legal action shall be entitled to recover attorneys' fees and court costs from the opposing party.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the day and year first shown above.

CONSULTANT

By



CITY OF MANHATTAN BEACH

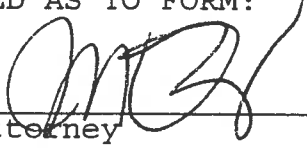
By

David N. Carmany, City Manager


ATTEST:

City Clerk

APPROVED AS TO FORM:



City Attorney



Public Works Approval

EXHIBIT A – SCOPE OF SERVICES

I. BACKGROUND:

The City possesses two miles of coastal frontage consisting entirely of broad sandy beach owned by the State of California and maintained by the County of Los Angeles Department of Beaches and Harbors. Housing exists on the western edge of the City adjacent to the beach. A pedestrian walkway (The Strand) owned and maintained by the City and a bike path (Marvin Braude Bike Path) owned and operated by the County of Los Angeles Department of Public Works exist between the beach and residential properties. The bike path is situated to the west and is separated from The Strand by a vegetated slope of varying widths and grade. Connecting The Strand and the bike path are thirty-six pedestrian access points. twenty-seven of these access ways possess stairs of varying designs and in varying states of degradation.

Each stairway is within the jurisdiction of the City of Manhattan Beach and the County of Los Angeles. Permits will be needed from the following entities:

1. Los Angeles County Department of Beaches and Harbors. (Right of Entry Permit)
2. Los Angeles Department of Building and Safety (Building Permit)
3. Los Angeles County Department of Public Works (Road Permit)
4. City of Manhattan Beach (Right-of-Way Permit)
5. City of Manhattan Beach (Local Coastal Development Permit)

There is significant public interest in the design and construction of the stairway renovations. Significant community involvement will be required to determine the wishes of the public.

II GENERAL PROJECT DESCRIPTION:

The project will rehabilitate or replace 20 stairways and construct up to two ADA ramps leading from the Strand to the Bike Path. City staff has identified seven stairs as requiring replacement and thirteen stairs as requiring rehabilitation as indicated in the Table 1.

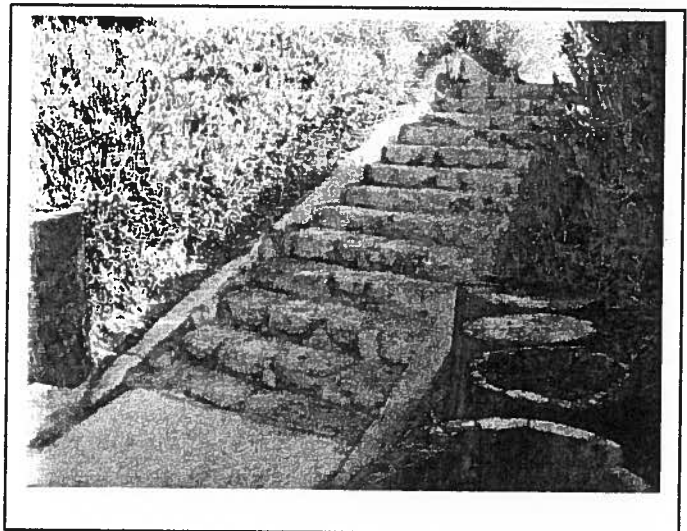
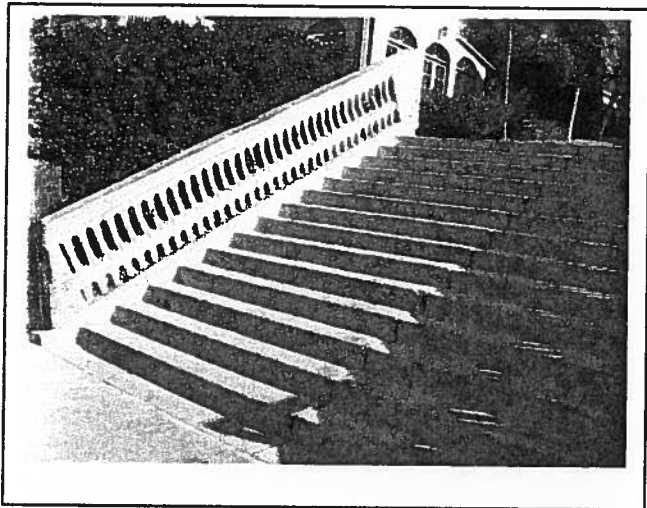


Table 1 – List of Stairs and work to be done

| Access Point # | Location | Work Needed? | Reconstruct (1)* | Rehab/Replace Conc. Baluster (2)* | Rehab Treads (3)* | Rehab Retaining Wall (4)* |
|----------------|----------------------|--------------|------------------|-----------------------------------|-------------------|---------------------------|
| 1 | 1st Street | No | | | | |
| 2 | 2nd Street | No | | | | |
| 3 | 3rd Street | No | | | | |
| 4 | 4th Street | No | | | | |
| 5 | 5th Street | No | | | | |
| 6 | 6th Street | No | | | | |
| 7 | 7th Street | No | | | | |
| 8 | 8th Street | Yes | | X | | |
| 9 | 10th Street | Yes | | | X | |
| 10 | 14th Street | Yes | | X | X | X |
| 11 | 16th Street | Yes | | X | X | X |
| 12 | 17th Street | No | | | | |
| 13 | 18th Street | Yes | | X | X | X |
| 14 | 19th Street | No | | | | |
| 15 | 20th Street | Yes | | X | X | X |
| 16 | 21st Street | Yes | X | | | |
| 17 | Marine Avenue | Yes | | X | X | |
| 18 | 23rd Street | Yes | | | X | |
| 19 | 24th Street | Yes | | X | X | |
| 20 | 25th Street | Yes | X | | | |
| 21 | 26th Street | Yes | | X | X | |
| 22 | 28th Street | No | | | | |
| 23 | 29th Street | Yes | X | | | |
| 24 | 30th Street | Yes | X | | | |

Table 1 – List of Stairs and work to be done

| Access Point # | Location | Work Needed? | Reconstruct (1)* | Rehab/Replace Conc. Baluster (2)* | Rehab Treads (3)* | Rehab Retaining Wall (4)* |
|----------------|------------------|--------------|------------------|-----------------------------------|-------------------|---------------------------|
| 25 | 31st Street | Yes | | X | X | |
| 26 | 32nd Street | Yes | X | | | |
| 27 | 33rd Street | Yes | X | | | |
| 28 | 34th Street | Yes | | X | X | |
| 29 | 35th Street | Yes | X | | | |
| 30 | Rosecrans Avenue | Yes | | X | X | X |
| 31 | 38th Street | No | | | | |
| 32 | 39th Street | No | | | | |
| 33 | 41st Street | No | | | | |
| 34 | 42nd Street | No | | | | |
| 35 | 43rd Street | No | | | | |
| 36 | 44th Street | No | | | | |

- *(1) Seven stairs are significantly deteriorated and/or substandard to the extent that reconstruction is required.
- (2) Eleven stairs have unique concrete balusters that are in various stages of degradation. This project will either rehabilitate the balusters or replace them with another style of balustrade.
- (3) Twelve stairs have varying degrees of stair tread deterioration requiring rehabilitation.
- (4) Five stairs have adjacent retaining walls requiring rehabilitation.

ADA Ramps

The City intends to install up to two ADA switchback ramps as part of this project. The location of the ramps will be determined through the public outreach and design process.

III. SCOPE OF WORK

A. PHASE I - PRELIMINARY DESIGN PHASE (per City RFP Section Phase I)

Probably the most important part of the design process for any design is that of client input.

1. CWDG will review the information received from the City Staff and establish key communication personnel and refine time schedule. We have reviewed the information and scope provided in the project narrative.
2. We will provide base plans of the sites based on the topographic survey provided by Adkan Engineering and coordinated with the City. We will determine any existing and future utilities within the project limits per written request. We will copy the City with all requests and information received. It is assumed that the City will provide a current preliminary title report for the projects if required.
3. Opportunities and constraints will be reviewed and evaluated for the projects. We will provide and review topography/grading, geotechnical, drainage, infrastructure, neighboring uses, pedestrian circulation, etc. All project sites will be walked and photographed and/or video taped. Stronghold Engineering will be reviewing all of the above items with "value engineer" towards constructability and long term maintenance.
4. We will perform geotechnical soils testing for all project areas that require soils testing such as retaining walls and complete restoration of stairs and walkways, etc. and a complete report will be provided. In addition to the soils testing John R. Byerly will review the existing retaining wall failures and review the balusters and stair treads and make recommendations for treatment.
5. We will meet with the City staff regarding maintenance concerns and anticipated use patterns of the projects in order to gain a comprehensive understanding of the day-to-day function of the paths of travel and aesthetics.
6. We will research and discuss utility requirements with appropriate City departments and other providers of public utility service.
7. CWDG and team members as required will attend all Project Development Team meetings as required during this phase of the project. Because City/team communication is so important, our team will be available for as many meetings as desired by the City throughout the life of the project, with no cost to the City for additional meetings!
8. We will prepare the preliminary design schedule, encompassing the entire project parameters as determined through the course of the program assessment stage. The schedule will be prepared utilizing Critical Path Method via Microsoft Project.
9. We will prepare various preliminary design concepts based on our team and City Staff's input. R.O.M cost estimates will be included in this phase.

DELIVERABLES - PROGRAM ASSESSMENT

- PDF copies of all documents
- Regular e-mail progress updates and ongoing coordination documentation
- Preliminary Schedule
- Geotechnical report and evaluations
- Preliminary Concept Designs and Cost Estimates

B. PHASE II - PUBLIC OUTREACH (per City's Public Outreach section)

1. We will continue to meet with the City Staff to receive input regarding the Preliminary Concepts and project enhancements/renovations/restorations.
2. We will coordinate a "Preliminary Design Outreach Meeting" with the community. A general outline of our approach follows: (NOTE: Technical team members such as our ADA Specialist and Geotechnical /Structural Engineer will assist and be available to respond to technical questions which may arise from the community meetings.)

A. Meet with City Staff

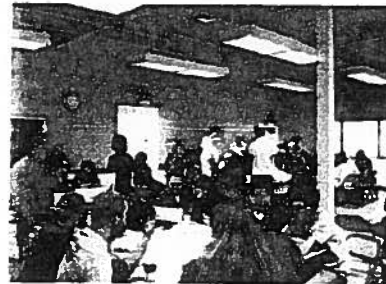
- * Discuss City desires.
- * Discuss "Preliminary Outreach Meeting" process.
- * Schedule meeting with community members.

B. "Preliminary Outreach Meeting" - (1st Visioning/Concept Workshop)

- * Review "Preliminary Outreach Meeting" schedule.
- * Start meeting with refreshments and a photo/video site tour.
- * Discussion of project opportunities/constraints, options, etc.
- * Review design process - educational.
- * Begin outreach process.
 - a. Review various design options (15% submittal).
 - b. Present technical back-up information regarding options.
- * Receive Community Input.
 - a. Note all comments on White Board.
 - b. Discuss various options and designs.
 - c. Respond to technical questions regarding options presented.
 - d. Discuss preferences.



Community Outreach Session 1.....



Community Discussions of options....

- * Schedule Next Community Input meeting
 - a. Select Date and time for next meeting.
 - b. Indicate how additional opportunities will be available for reviews and discussion of options presented (City Web Site).
 - c. Discuss next steps.

3. PUBLIC OUTREACH (Second Community Outreach Meeting)

Based on all of the input from the first Community Outreach meeting, our firm will revise/develop additional Conceptual Plans and cost estimates (30% Submittal) to present back to City Staff, and then the Community at Community Outreach Meeting #2.

We will funnel our synthesis and inventory into the preparation of two or three Conceptual designs for the projects that respond to the communities desires while maintaining the integrity and overall goals of the projects design. We will utilize 3-dimensional graphics in addition to conventional plan views to help ease the understanding of scale and layout for the Community.

A. Develop Preliminary Plans

1. Present revised Preliminary options based on community consensus and development of the "their" preliminary vision.
2. Vote for approval of Preliminary Plan and options. Each participant will have the opportunity to vote with 3 to 5 colored dots. Each participant will be given copies of all preliminary options. They will also be given a colored dot to indicate which plan they prefer (Concept A, Concept B or Concept C, etc). In addition they will get to place their voting dots on what elements they like from each plan. As an example, Concept A might have the ramp located in one location while Concept B might have it located in another. Or Concept B may have the more traditional baluster while Concept C might have a new contemporary version of a baluster or railing. Each participant gets to select not only what Concept they prefer in general, but they also get to select what piece or design they prefer.

C. PLANNING COMMISSION MEETING (For Coastal Development Permit)

From the community's votes of Concepts and alternates above, we will prepare a Final Preliminary Plan and Cost Estimate. We will present the plan to department staff for review and input. The Preliminary Plan shall be presented on black line prints with color. Reduced 11x17 copies will be provided to staff. All presentation materials will become the property of the City.

1. We will fully develop, detail, render and mount on a presentation board the preferred design alternative selected by the Community for the project.

2. We will provide a Preliminary Plan Design booklet which will follow the design process in detail. The design booklet will incorporate the improvements desired and include all technical findings and supporting documentation.
3. We will provide mounted presentation boards and electronic versions of the Preliminary Plan as well.
4. Final construction estimates prepared by ARCOR-Inc, reviewed by Stronghold Engineering for value engineering and then will be presented at this time.
5. We will present the Final Master Plan and Master Plan Report to the Planning Commission for Coastal Development Permit and the full City Council to secure approval of the Design Concept.
6. We will attend all meetings as required during this phase of the project. (No limit)

DELIVERABLES - PRELIMINARY PLANNING

- PDF copies of all documents
- Regular e-mail progress updates and ongoing coordination documentation
- Preliminary Value Engineering/Cost Estimates (updated throughout project)
- Preliminary Design Booklet and report
- 24"x36" mounted color presentation boards and Electronic 3-D files.

D. PHASE III - PERMITS AND APPROVALS (Per City RFP Phase Permits and Approvals)

1. We will work with all City and County Departments to permit the project. All plans will be of sufficient detail to initiate the review and permit/entitlement process. We will provide all documents necessary that may be required for a Right of Entry Permit, Building Permit, Road Permit, Right-of-Way Permit and Local Coastal Development Permit.
2. We shall respond to requested design changes or alterations of the Master Plan as requested by City and County staff or decision making bodies.
3. We will attend and lead all presentations of the project design and process for the entitlement/permit review process. We will attend all Design Review, Planning Commission and City Council meetings as required (No limit)

DELIVERABLES - PRELIMINARY PLANNING

- PDF copies of all documents
- Regular e-mail progress updates and ongoing coordination documentation
- Permit Review Documents to assist City Staff
- Completion of all permits and reports
- 24"x36" mounted color presentation boards

E. DESIGN DEVELOPMENT (per City Phase IV Construction Document Phase)
Upon approval of the Preliminary Plan and associated budget, we will now know exactly what components are to be further designed by our team.

1. We will work with the City Staff to review many of the options and concepts identified in the Final Preliminary Plan and our proposal.
2. Utilizing the topographic base prepared for the site during the Program Assessment phase, a conceptual grading and layout plan will be developed. All existing and proposed grades, drainage systems, finish elevations, pad elevations, ADA walks, easements, etc. will be indicated.
3. The grading and paving plan will reflect all paving, flatwork, drainage devices, utility services, erosion control devices, curbs, gutters and walls etc. The grading plan will be in compliance with NPDES permitting requirements. An erosion control plan will be provided as part of the grading submittal.
4. All furnishings and amenities to be incorporated into the design will be provided to the City to review in a booklet format. We want to assure that all site features comply with the City's current inventory and/or will be acceptable to the City for the long haul as well.
5. All of the design team's plans will be reviewed with the City Staff (all departments required) on a regular basis.
6. Continuous "value engineering" cost estimate updates from Stronghold Engineering will be presented as required.
7. We will attend all meetings as required during this phase of the project (No limit).

DELIVERABLES - DESIGN DEVELOPMENT

- PDF copies of all documents
- Regular e-mail progress updates and ongoing coordination documentation
- Required number of hard copies of each submittal (50% level)
- Spreadsheet identifying sustainable concepts and materials implemented, adherence to Grant parameters, etc.
- Preliminary "Value Engineered"/Cost Estimates (updated throughout project)
- 50% Draft Technical Specifications

F. CONSTRUCTION DOCUMENTS (per City's RFP Construction Document Phase)
Upon receipt of approval of the Design Development portion, we will continue preparation of the Construction Documents. The plans will continue the concepts of low maintenance, vandal resistance, attractive and practical design solutions.

1. **CIVIL ENGINEERING PLANS:** Our team will prepare and process a fine grading plan for construction of finished grading and horizontal control. The plans will be at a scale of 1"=4' and indicate detail finish grading, ADA access to walkway areas,

drainage devices, sidewalks and swales. SWPPP plans will be provided and reviewed with the City as required. For excavation at and over 5' deep, the contractor will be required to provide a shoring plan and apply for a shoring permit from Cal OSHA and the City. All plans will be prepared to meet local, state and federal codes.

2. **CONSTRUCTION DRAWINGS:** Construction Drawings will include site plans and details (will locate by dimensioning all project elements as approved in the Final Preliminary Plan). Plans will identify recommended suppliers and products, with emphasis given to local sources, sustainable concepts, recycled/recyclable materials, and durability of products. We will be working on a continuing basis with Stronghold Engineering throughout the Design Development and Construction Document phase to review construction costs and value engineering recommendations.
3. **SPECIFICATIONS:** Specifications detailing materials and workmanship for all of the above items will be provided as required. In addition to the standard City of Manhattan Beach boilerplate specifications and the latest edition of Greenbook Standards. We will provide and prepare the Special Provisions for all elements of the project.
4. **COST ESTIMATES:** Final estimates of probable costs will be prepared with Stronghold Engineering providing regular value engineering recommendations.
5. **DOCUMENT PROCESSING:** We will submit the documents for City and various agency approvals.
6. **MEETINGS:** We will attend all meetings as required during this phase of the project (No limit).
7. **FINAL DOCUMENTS:** After final approval, 24" x 36" mylars shall be submitted to the City along with a hard copy and an electronic copy of the plans and specifications for bidding purposes. All deliverables as identified in the City's RFP will be provided at a minimum.

DELIVERABLES - CONSTRUCTION DOCUMENTS

- PDF copies of all documents
- Regular e-mail progress updates and ongoing coordination documentation
- Required number of hard copies of each submittal (15, 30% and 90% level)
- Preliminary "Value Engineered" Cost Estimates (updated throughout project)
- QA and QC Plan update report
- 90% Draft Technical Specifications; 100% Final Technical Specifications
- CAD files of all pertinent drawings

G. DOCUMENT PROCESSING: (per City RFP Phase IV - Construction Document Phase)
We will submit the documents for City, County and various agency approvals and permits. We will review documents and make all necessary corrections. We will apply and obtain the Caltrans Authorization to Proceed (E-76) for Construction.

H. BIDDING PHASE (per City RFP Phase V - Construction Phase)

1. When the project goes out for competitive bidding, we will assist the City in the bid process, distributing bid packages and note direction given to contractors, questions asked and follow-up clarifications or addendum items.
2. We will attend the pre-bid meeting and provide written minutes and follow up information as required.
3. We will assist the City in obtaining and evaluating bids as required.

I. CONSTRUCTION PHASE (per City RFP Phase V - Construction Phase)

1. We will coordinate with the City as required throughout the life of the project.
2. This phase will commence with the notice to proceed to the contractor and terminate when final payment is issued by the City.
3. We will attend the pre-construction meeting.
4. As requested, we will provide regular observations during construction for the purpose of establishing acceptability and provide written documentation of official job meetings to those present.
5. We will review job drawings, as-builts, RFI's samples and other submissions of the contractor for conformance with the design of the project and for compliance with the information given in the conformance contract documents.
6. We will assist in the review of change orders and submittals for approval and issuance by the City. We will respond to requests for information from the contractor, issue field bulletins and requests for quotations.
7. We will review as-builts and assist in the reproduction of the as-built information and deliver two (2) sets of CD's of the finalized electronic Record Drawings and Specification prior to the release of the final progress payment. Drawings will be in AutoCAD format and the Specifications will be in Microsoft Word format.

J. **QUALITY ASSURANCE AND QUALITY CONTROL**

To assist in the development of accurate plans, specifications and "buildable" projects, we are pleased to have Bob Fawcett continuing to assist and provide third party review and assistance to our team. Bob joined CWDG six years ago after a very successful career as a Landscape Architect and Park Planner with the City of Los Angeles Department of Recreation and Parks. His "on your side of the fence" approach to projects and depth as well as breadth of projects brings much strength to the team and therefore to the City. Bob has semi-retired from CWDG, but we continue to use his valuable insight and assistance for such important tasks as Quality Control, Irrigation Design, Water Management and Construction Management.

In addition, we will utilize the services of Stronghold Engineering for review of our construction cost estimating as well as review of the plans for "value engineering" opportunities. Stronghold Engineering is a nationally recognized construction firm specializing in a variety of municipal projects. In addition to reviewing our plans and construction cost estimates, Stronghold Engineering also provides another set of independent reviews. They will cross check our plans and cost estimates and any irregularities will be noted and adjusted.

Another important team member for this project is Steve Schraibman with ARCOR Inc. ARCOR are ADA experts and Steve is a licensed architect, a licensed general contractor, a licensed CASp Inspector and a Certified Construction Cost Estimator.

The CWDG Design Team will proceed with the project immediately upon receiving approval from the City. The project will be our primary concern during its course and will be a high priority. We will be able to devote the deserved attention to your project. We are large enough to complete it on schedule, yet small enough that it will not become lost in the shuffle

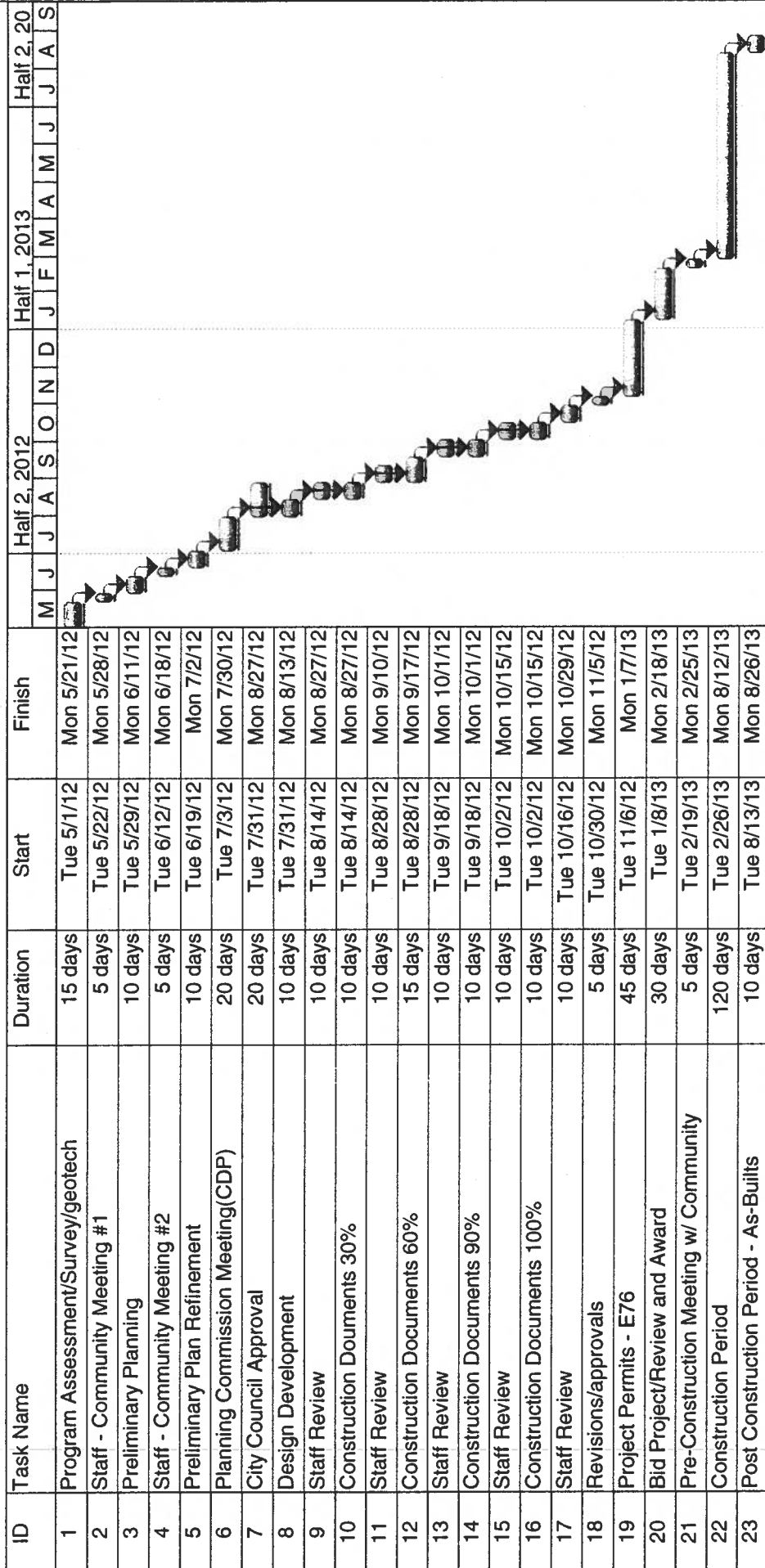
IV. Prevailing Wages

The Consultant shall comply with any and all federal and state prevailing wage requirements.

V. Continuity and Stability

Unless requested by the City for replacement, the Consultant's Project Manager and key team members are required to stay on this project throughout the entire duration of the project from PS & E until the completion of construction.

Exhibit C - Time of Performance Strand Stairs Improvement Project City of Manhattan Beach



Project: Revised Schedule 4-3-12
Date: Tue 4/3/12

| | |
|--|--------------------|
| | Task |
| | Split |
| | Progress |
| | Milestone |
| | Summary |
| | Project Summary |
| | External Tasks |
| | External Milestone |
| | Deadline |