

Robert E. Shannon
City Attorney of Long Beach
333 West Ocean Boulevard
Long Beach, California 90802-4664
Telephone (562) 570-2200

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CONTRACT FOR CONSULTING SERVICES
BETWEEN THE CITY OF LONG BEACH AND
GILL V. HICKS AND ASSOCIATES, INC. ^(GVM)
1121 ~~AMBER~~ STREET Embury
PACIFIC PALISADES, CALIFORNIA 90272
(310) 573-4377
FAX NO. (310) 573-4388

29512

THIS CONTRACT is made and entered into, in duplicate, as of the date executed by the Executive Director of the Long Beach Harbor Department ("Executive Director"), by and between the **CITY OF LONG BEACH**, a municipal corporation, acting by and through its Board of Harbor Commissioners ("**City**"), pursuant to authority granted by said Board at its meeting of January 17, 2006; and **GILL V. HICKS AND ASSOCIATES, INC.**, a California corporation ("**Consultant**").

1. This contract is made with reference to the following facts and objectives:

1.1 City has the need for consulting services to facilitate review development of the proposed I-710 freeway improvements.

1.2 Consultant represents that it is qualified to render these services and previously provided these services under contract dated March 22, 2005 (Doc. No. HD-6903).

1.3 City wishes to employ Consultant upon the following terms and conditions to render such services as City shall request. The City's Harbor Department and Public Works Department commit to sharing the cost of this contract and will jointly direct the work.

2. Consultant shall provide, in accordance with

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1 generally accepted professional and technical standards currently
2 in effect, such services within the scope of work as may be
3 requested in writing by City's Director of Harbor Department
4 Planning or Director of Public Works. The anticipated scope of
5 work is set forth in the Consultant's proposal dated
6 December 22, 200~~6~~^{5 AA}, attached hereto as Exhibit "A" and incorporated
7 by this reference.

8 3. The term of this contract shall commence on
9 February 1, 2006, and, subject to the provisions of paragraph 8,
10 shall terminate on January 31, 2007.

11 4. Charges made by Consultant for such services shall
12 be at the rate of \$125.00 per hour.

13 5. Consultant shall submit a separate statement not
14 later than the tenth day of each month for services which have been
15 performed during the immediately preceding month, referring in each
16 of said statements to the charge point for such project previously
17 furnished by the Director of Harbor Department Planning and
18 detailing the services performed and expenses, if any, incurred.

19 All payments to Consultant shall be made by City in due course, not
20 to exceed thirty (30) days, after approval of invoice by the
21 Director of Harbor Department Planning. The Harbor Department will
22 pay invoices in full and, upon presentation of copies of paid
23 invoices, the Department of Public Works will reimburse the Harbor
24 Department for half the total of each invoice.

25 6. The total amount which shall be payable by City to
26 Consultant for Consultant's services during the term of this
27 contract shall not exceed \$75,750 of which amount not more than
28 \$3,750 shall be for reimbursement of reasonable and necessary

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1 travel expenses and other direct costs pursuant to Exhibit "A."

2 7. All designs, sketches, drawings, specifications,
3 data and other information, in whatever form or medium, compiled or
4 prepared by Consultant in performing its services or furnished to
5 Consultant by City shall be the property of City and City shall
6 have the unrestricted right to use or disseminate same without
7 payment of further compensation to Consultant. Copies of
8 Consultant's work product may be retained by Consultant for its own
9 records.

10 8. City shall have the right to terminate this contract
11 at any time upon ten (10) days' written notice to Consultant. If
12 this contract is so terminated prior to the expiration of the term,
13 Consultant shall be paid for those charges which have accrued but
14 not been paid through the effective date of termination.
15 Consultant agrees to accept such amount, plus all amounts
16 previously paid, as full payment and satisfaction of all
17 obligations of City to Consultant.

18 9. Neither City nor any of its employees shall have any
19 control over the conduct of Consultant, or employees of Consultant,
20 except as herein set forth, and Consultant and employees of
21 Consultant shall not, at any time or in any manner, represent that
22 Consultant or employees of Consultant, or any of them, are the
23 officers, agents, or employees of City. It is expressly understood
24 and agreed that Consultant is, and shall at all times remain, as to
25 City a wholly independent contractor, and each party's obligations
26 to the other party are solely such as are set forth in this
27 contract. Consultant shall be free to contract for similar
28 services to be performed for others during this contract.

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1 **10.** Consultant agrees, subject to applicable laws,
2 rules, and regulations, not to discriminate in the performance of
3 this contract against any employee or applicant for employment on
4 the basis of race, color, national origin, religion, sex, sexual
5 orientation, AIDS, HIV status, age, disability, handicap, or
6 Vietnam Era veteran status. Consultant shall ensure that
7 applicants are employed and that employees are treated during
8 employment without regard to any of these bases, including but not
9 limited to employment, upgrading, demotion, transfer, recruitment,
10 recruitment advertising, layoff, termination, rates of pay or other
11 forms of compensation, and selection for training, including
12 apprenticeship. Consultant agrees to post in conspicuous places
13 available to employees and applicants for employment notices to be
14 provided by City setting out the provisions of this
15 nondiscrimination clause. Consultant shall in all solicitations or
16 advertisements for employees state that all qualified applicants
17 will receive consideration for employment without regard to these
18 bases. Compliance with the Americans with Disabilities Act of 1990
19 shall be the sole responsibility of Consultant, and Consultant
20 shall defend and hold the City harmless from any expense or
21 liability arising from Consultant's non-compliance therewith.

22 **11.** Any notices to be given under this contract shall be
23 given in writing. Such notices may be served by personal delivery,
24 facsimile transmission or by first class regular mail, postage
25 prepaid. Any such notice, when served by mail, shall be effective
26 two (2) calendar days after the date of mailing of the same, and
27 when served by facsimile transmission or personal delivery shall be
28 effective upon receipt. For the purposes hereof, the address of

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1 City, and the proper person to receive any such notices on its
2 behalf, is: Executive Director, Long Beach Harbor Department, P.O.
3 Box 570, Long Beach, California 90801, FAX number (562) 901-1733;
4 and the address and FAX number of Consultant as indicated above.

5 **12.** This contract contemplates the personal services of
6 Consultant and its employees, and it is recognized by the parties
7 hereto that a substantial inducement to City for entering into this
8 contract was, and is, the professional reputation and competence of
9 Consultant and its key employee Gill V. Hicks. Neither this
10 contract nor any interest therein may be assigned by Consultant
11 except upon the prior written consent of the Executive Director.
12 Any attempted assignment or delegation without such consent shall
13 be void, and any assignee or delegate shall acquire no right or
14 interest by reason of such attempted assignment or delegation.
15 Furthermore, Consultant shall not subcontract any portion of the
16 performance contemplated and provided for hereunder without the
17 prior written approval of the Director of Harbor Department
18 Planning. Nothing herein shall prevent Consultant from employing
19 or hiring as many employees as Consultant may deem necessary for
20 the proper and efficient execution of this contract.

21 **13.** Consultant covenants that both itself, in its
22 corporate capacity, and its principals presently have no interest
23 and shall not acquire any interest, direct or indirect, which would
24 conflict in any manner or degree with the performance of services
25 required to be performed under this contract.

26 **14.** Consultant shall defend, indemnify, hold, protect
27 and save harmless the City of Long Beach, the Board of Harbor
28 Commissioners, and their officials, commissioners, employees, and

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1 agents ("Indemnified Parties") from and against any and all
2 actions, suits, proceedings, claims, demands, damages, losses,
3 liens, costs, expenses or liabilities, of any kind or nature
4 whatsoever ("Claims") which may be brought, made, filed against,
5 imposed upon or sustained by the Indemnified Parties, or any of
6 them, alleging (a) injury to or death of persons or damage to
7 property, including property owned by or under the care and custody
8 of City, or economic losses and (b) that such injury, death, damage
9 or economic loss arises from or is attributable to or caused by the
10 negligence or willful misconduct of Consultant, its officers,
11 employees, subcontractors or agents, in connection with or
12 pertaining to this contract. City shall notify Consultant of any
13 such Claim, shall tender its defense to Consultant, and assist
14 Consultant, as may be reasonably requested, in such defense. Upon
15 such notification and tender, Consultant shall have independent
16 duties to defend such Claim, and to indemnify the Indemnified
17 Parties. If a court of competent jurisdiction determines that the
18 claims were caused by the active negligence or willful misconduct
19 of the Indemnified Parties, Consultant's duty of indemnity shall be
20 reduced by the percentage of active negligence or willful
21 misconduct the court attributes to the Indemnified Parties.
22 Payment of a Claim shall not be a condition precedent to an
23 indemnified party's right to defense and indemnity.

24 **15.** As a condition precedent to the effectiveness of
25 this contract, and without limiting Consultant's obligations of
26 indemnity set forth above, Consultant, at its cost, shall procure
27 and maintain in full force and effect during the term of this
28 contract, and at such other times as may be required under

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1 "claims-made" insurance if such form of insurance is provided, the
2 following types and levels of insurance:

3 (a) commercial general liability insurance with
4 coverage at least as broad as Insurance Services Office
5 Commercial General Liability Form CG0001, with a per
6 occurrence limit of not less than \$1,000,000 and, if written
7 with an annual aggregate, an aggregate limit of not less than
8 \$2,000,000;

9 (b) automobile liability insurance with coverage at
10 least as broad as Insurance Services Office Form CA0001
11 covering automobile liability code 1 (any auto), with a per
12 accident limit of not less than \$1,000,000;

13 (c) workers' compensation insurance, as required by
14 the State of California, and employer's liability insurance,
15 with a limit of not less than \$1,000,000 per accident for
16 bodily injury and disease, endorsed to waive all rights of
17 subrogation against Indemnified Parties for losses paid
18 arising from the work performed by Consultant pursuant to this
19 contract;

20 (d) professional liability insurance, with a limit
21 of not less than \$1,000,000 per claim.

22 Each such policy shall be from a company or
23 companies with a current A.M. Best's rating of no less than A:VII
24 and authorized to do business in the State of California, or
25 otherwise allowed to place insurance through surplus line brokers
26 under applicable provisions of the California Insurance Code or any
27 federal law. Any deductible or self-insured provision must be
28 approved in writing by Executive Director and shall protect City,

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1 its officials, employees and agents in the same manner and to the
2 same extent as they would have been protected had the insurance not
3 contained such provision. The deductible or self-insured amount
4 shall be shown on any evidence of insurance provided to City, and
5 City reserves the right to limit said amount and to review
6 Consultant's financial statements if the amount exceeds a level
7 acceptable to City.

8 Each such policy shall be endorsed to provide that
9 the policy shall not be cancelled or the coverage reduced until a
10 thirty-day (30) written notice of cancellation has been served upon
11 the Executive Director of the Harbor Department by registered or
12 certified mail except ten (10) days notice shall be sufficient upon
13 cancellation for non-payment of premium.

14 In addition, the policy or policies required under
15 paragraphs (a) and (b) above shall be endorsed to provide as
16 follows:

17 (i) That the Indemnified Parties, while acting
18 within the scope of their authority, shall be additional
19 insureds.

20 (ii) That such insurance is primary and any other
21 insurance, deductible, retention or self-insurance maintained
22 by the Indemnified Parties shall not contribute with such
23 primary insurance.

24 (iii) That in the event of one insured incurring
25 liability to any other insured, the policy shall cover the
26 insured against whom claim is or may be made in the same
27 manner as if separate policies had been issued to each
28 insured, except that the limits of insurance shall not be

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1 increased thereby.

2 (iv) That the coverage provided therein shall apply
3 to the obligations assumed by Consultant under the indemnity
4 provisions of this contract, unless the policy or policies
5 contain a blanket form of contractual liability coverage.

6 (v) That any failure by the named insured to comply
7 with reporting provisions of the policy or policies or
8 breaches or violations of warranties shall not affect coverage
9 provided to the Indemnified Parties.

10 If any of the required insurance is provided on a
11 "claims-made" basis, any "prior acts" coverage or "retroactive
12 date" on such insurance and all subsequent insurance shall be as of
13 the first date of the term of this contract. Upon expiration or
14 termination of coverage of required insurance, Consultant shall
15 procure and submit to City evidence of "tail" coverage or an
16 extended reporting coverage period endorsement for the period of at
17 least three (3) years from the time that all work under this
18 contract is completed.

19 All subcontractors shall be included as additional
20 insureds under Consultant's policies, or Consultant shall cause
21 subcontractors to purchase the appropriate insurance with the
22 appropriate endorsements, in compliance with the terms of this
23 contract, before subcontractor does any work under this contract.

24 Consultant shall deliver either certified copies of
25 the required policies or endorsements on forms approved by the City
26 ("evidence of insurance") to the Executive Director for approval as
27 to sufficiency and to the City Attorney for approval as to form.
28 At least fifteen (15) days prior to the expiration of any such

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1 policy, evidence of insurance showing that such insurance coverage
2 has been renewed or extended shall be filed with the Executive
3 Director. If such coverage is cancelled or reduced, Consultant
4 shall, within ten (10) days after receipt of written notice of such
5 cancellation or reduction of coverage, file with the Executive
6 Director evidence of insurance showing that the required insurance
7 has been reinstated or has been provided through another insurance
8 company or companies. Consultant agrees to suspend and cease all
9 operations hereunder during such period of time as the required
10 insurance coverage is not in effect and evidence of insurance has
11 not been furnished to the City. City shall have the right to
12 withhold any payment due Consultant until Consultant has fully
13 complied with the insurance provisions of this contract.

14 **16.** Consultant shall obtain and maintain any necessary
15 licenses and permits required under Title 3 and Title 5 of the Long
16 Beach Municipal Code. City may withhold any payment to Consultant
17 until Consultant comes into compliance with such licensing and
18 permitting requirements.

19 **17.** In the event of any conflict or ambiguity between
20 this written agreement and any exhibit hereto, the provisions of
21 this agreement shall govern.

22 **18.** If there is any legal proceeding between the parties
23 to enforce or interpret this contract or to protect or establish
24 any rights or remedies hereunder, the prevailing party shall be
25 entitled to its costs and expenses, including reasonable attorneys'
26 fees.

27 **19.** This contract shall not be amended, nor any
28 provision or breach hereof waived, except in writing signed by the

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1 parties which expressly refers to this contract.

2 20. This contract, including all exhibits, constitutes
3 the entire understanding between the parties and supersedes all
4 other agreements, oral or written, with respect to the subject
5 matter herein.

6 GILL V. HICKS & ASSOCIATES, INC.,
7 a California corporation

8 January 25, 2006

By: [Signature]
Name: Gill V. Hicks
Title: President

10 _____, 2006

By: _____
Name: _____
Title: _____

12 CONSULTANT

13 CITY OF LONG BEACH, a municipal
14 corporation, acting by and through
15 its Board of Harbor Commissioners

16 1/26, 2006

By: [Signature]
Richard D. Steinke,
Executive Director
Long Beach Harbor Department

19 CITY OF LONG BEACH, a municipal
20 corporation

21 3.9., 2006

By: [Signature]
Gerald R. Miller,
City Manager

23 The foregoing document is hereby approved as to form.

24 ROBERT E. SHANNON, City Attorney

25 1/25, 2006

By: [Signature]
Dominic Holzhaus,
Principal Deputy

28 DTH:rjr 01/06/06 06-00108

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CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES } ss.

On 1/25/06, before me, STACEY A. REBAZA, NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared GILL V. HICKS
Name(s) of Signer(s)



personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Place Notary Seal Above

Stacey A. Rebaza
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: CONTRACT FOR CONSULTING SERVICES

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT
OF SIGNER
Top of thumb here

Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of LOS ANGELES

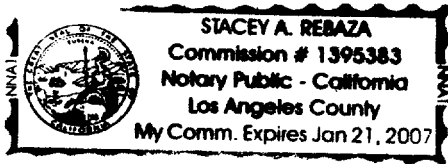
} ss.

On 1/25/06, before me, STACEY A. REBAZA, NOTARY PUBLIC,
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared GILL V. HICKS,
Name(s) of Signer(s)

personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Place Notary Seal Above

Stacey A. Rebaza
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

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Title or Type of Document: CONTRACT FOR CONSULTING SERVICES

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

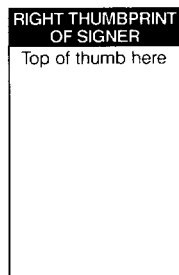
Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____



Signer Is Representing: _____

Signer's Name: _____
 Individual
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Attorney in Fact
 Trustee
 Guardian or Conservator
 Other: _____



Signer Is Representing: _____



Gill V. Hicks and Associates, Inc.

December 22, 2005

Geraldine Knatz, Ph.D.
Managing Director, Development
Port of Long Beach
925 Harbor Plaza
Long Beach, CA 90802

Christine Andersen
Public Works Director
City of Long Beach
333 W. Ocean Boulevard
Long Beach, CA 90802

Dear Geraldine and Christine:

I am pleased to submit this proposal for consulting services from February 1, 2006 through January 31, 2007. The work would involve working with the City and the Port to advance the development of the I-710 freeway improvements. Specific tasks would include:

- Refine the list of emission reduction strategies for the I-710 corridor as required by the LACMTA and assist in obtaining approval of the recommended emission reduction strategy.
- Assist as necessary on developing the scope of work for the EIR/EIS.
- Further develop concepts for Public-Private Partnerships as a means of supplementing the funding for the I-710 project.
- Promote the project through the State Goods Movement Action Plan, the Multi-County Goods Movement Action Plan, and Regional Transportation Plan.

This project is critical to the City's and the Port's future, but it faces many financial, political, environmental, and technical hurdles before construction can begin.

It is proposed that I spend 30% of my time on these tasks. 50% of my time would be spent on other Port-related work and 20% on smaller contractual commitments.

Proposed costs for the I-710 related tasks assume the following hours and hourly rates:

Exhibit "A"

Hours per month	48
Hourly labor rate	\$125
Monthly labor cost	\$6,000
Annual labor cost	\$72,000
Estimated expenses per year	\$3,750
Total contract value	\$75,750

I am grateful for the opportunity to work with you on such an important program.

Sincerely,

Gill V. Hicks
President