

Council/Agency Meeting Held: _____	_____ City Clerk's Signature
Deferred/Continued to: _____	
<input type="checkbox"/> Approved <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: 5/21/2007	Department ID Number: BD2007-3

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL

SUBMITTED BY: *Penelope Culbreth Graft*
PENELOPE CULBRETH-GRAFT, CITY ADMINISTRATOR

PREPARED BY: ROSS D. CRANMER, DIRECTOR OF BUILDING & SAFETY *TC*

SUBJECT: AMENDMENT NO. 2 TO SCOTT FAZEKAS & ASSOCIATES, INC. AGREEMENT *7*

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

The Building and Safety Department currently has two vacant inspector positions. Due to the inability to attract full time staff, the department needs to retain contract inspectors through September 30, 2007 to ensure adequate inspection services to our customers

Funding Source:

Funds are available in Building & Safety Department business unit 10055201.51000

Recommended Action:

Motion to:

1. "Approve Amendment No. 2 to the Agreement between the City of Huntington Beach and Scott Fazekas Associates, Inc. and authorize the Mayor and City Clerk to execute the Amendment No. 2."
2. "Approve a Budget Appropriation to transfer \$176,000 from Permanent Salaries (10055201.51000) to Professional Services (10055201.69365)."
3. "Authorize the Director of Building & Safety to expend an additional \$176,000 for Professional Services for inspection services."

Alternative Action(s):

1. "Deny the request and direct staff accordingly."

E-7

Analysis:

The city's attempt to fill five vacant building inspector positions through an extensive recruitment process resulted in the hiring of three inspectors but left two vacant inspector positions. Our experience in assisting other municipalities in their recruitment activities has confirmed the presence of a region-wide problem in recruiting qualified inspection candidates due to continued high construction activity.

Scott Fazekas & Associates, Inc. currently provides contract inspection services to the City. The original agreement for contract inspectors was executed on November 13, 2006 for \$100,000. Amendment No. 1 was approved by Council on January 2, 2007 adding \$136,000 from the approved professional services operating budget to fill vacant positions until the permanent positions were filled. The RCA and Contract Amendment No. 1 assumed that the five positions would be filled by March 2007. As stated above, we were unsuccessful in filling two of the five positions resulting in the need for additional funding for contract inspectors. The recommended action proposes transferring \$176,000 from permanent salaries to professional services and approval of the amended contract to fill the positions with contract inspectors through September 30, 2007. There is no fiscal impact to the city because savings from the vacant full time positions will be utilized for this amendment.

Staff recommends the City Council approve the amendment to the agreement with Scott Fazekas & Associates, Inc. for a not-to-exceed total contract amount of \$412,000 and authorize the Mayor and City Clerk to execute the documents.

Scott Fazekas & Associates, Inc. is well respected in the industry and continues to provide exceptional services for the City of Huntington Beach. Also, Scott Fazekas & Associates, Inc. works exclusively for government agencies avoiding any conflict of interest with private developers.

Strategic Plan Goal:

Provide quality public services with the highest professional standards to meet community expectations and needs, assuring that the city is sufficiently staffed and equipped overall. (Goal No. C-2)

Environmental Status: Not applicable

Attachment(s):

City Clerk's Page Number	No.	Description
3	1.	Amendment No. 2 to Agreement with Scott Fazekas & Associates, Inc. dated May 7, 2007
7	2.	Amendment to Agreement with Scott Fazekas & Associates, Inc. dated January 2, 2007
12	3.	Professional Services Agreement with Scott Fazekas & Associates Inc. dated November 13, 2006

BuildingAdmin/RCA/BD2007-3

E7.3

ATTACHMENT 1

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**AMENDMENT NO 2 TO AGREEMENT
BETWEEN THE CITY OF HUNTINGTON BEACH
AND SCOTT FAZEKAS & ASSOCIATES, INC.**

THIS AMENDMENT NO. 2 is made by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation, hereinafter referred to as "City," and SCOTT FAZEKAS & ASSOCIATES, INC., a California corporation, hereinafter referred to as "Fazekas."

WHEREAS, City and Fazekas are parties to that certain agreement dated November 13, 2006, entitled "Professional Services Agreement Between the City of Huntington Beach and Scott Fazekas & Associates, Inc., for Building Counter and Inspection Services," which agreement shall hereinafter be referred to as the "Original Agreement," and

On January 2, 2007, City Council approved amendment to the Original Agreement to increase fees to be paid to Consultant by \$100,000 for a new total fee of \$236,000.00; and

City and Fazekas now wish to amend the Original Agreement, as previously amended, to increase the fees by \$176,000.00,

NOW, THEREFORE, it is agreed by City and Fazekas as follows:

1. AMENDMENT OF SECTION 3.1 ENTITLED "FEE"

Section 3.1 of the Original Agreement, entitled "FEE," is hereby amended to read as follows:

3.1 Fee. CITY agrees to pay the hourly rates established in Exhibit "A". This rate is based on current FAZEKAS costs and is subject to change when costs change due to factors which are beyond the control of FAZEKAS (such as insurance, payroll tax, etc.). Any adjustments made will be commensurate with increased costs to FAZEKAS, and must be pre-approved in writing by CITY. The total amount of fees paid to FAZEKAS under this Agreement, including all costs and expenses, shall not exceed Four Hundred Twelve Thousand Dollars (\$412,000.00).

2. REAFFIRMATION

Except as specifically modified herein, all other terms and conditions of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their authorized officers on _____, ____.

SCOTT FAZEKAS & ASSOCIATES, INC.
A California corporation

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

By: *Scott R. Fazekas*
Scott R. Fazekas
print name

ITS: (circle one) Chairman President Vice President

Mayor

AND

By: *Scott R. Fazekas*
Scott R. Fazekas
print name

City Clerk

ITS: (circle one) Secretary Chief Financial Officer Asst.
Secretary - Treasurer

INITIATED AND APPROVED:

Van D
Director of Building and Safety

REVIEWED AND APPROVED:

Penelope Cullum
City Administrator

APPROVED AS TO FORM:

George MSA
City Attorney
4.24.07
5707 KC 4/24/07 5/21/07



CITY OF HUNTINGTON BEACH

Professional Service Contracts Purchasing Certification Amendment # 12

Date: May 1, 2007

1. Department: Building and Safety
2. Requested By: Jan Richards
3. Name of Consultant: Scott Fazekas Associates, Inc.
4. Amount of Original/Prior Contract: \$236,000
5. Additional Compensation Requested: \$176,000
6. Reason for Contract Amendment:
Unable to fill permanent inspector positions and need to continue to use contract inspectors.
7. Are sufficient funds available to fund this contract? Yes No
8. Company number and object code where funds are budgeted:

Requested in RCA dated 5/7/07

Transfer From:
10055201.53100

Transfer TO:
10055201.69365

Department Head Signature

RICHARD AMADRIL, Manager
Central Services Division

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ATTACHMENT 2

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1/9/07

R. CRANMER BLDG.

Council/Agency Meeting Held: <u>1/2/2007</u>	<i>Patty Espary</i> City Clerk's Signature
Deferred/Continued to: _____	
<input checked="" type="checkbox"/> Approved <u>7-0</u> <input type="checkbox"/> Conditionally Approved <input type="checkbox"/> Denied	
Council Meeting Date: January 2, 2007	Department ID Number: BD 2007-1

**CITY OF HUNTINGTON BEACH
REQUEST FOR CITY COUNCIL ACTION**

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL

SUBMITTED BY: *Penelope Culbreth Graft*
PENELOPE CULBRETH-GRAFT, CITY ADMINISTRATOR

PREPARED BY: ROSS CRANMER, DIRECTOR OF BUILDING & SAFETY *Ross Cranmer*

SUBJECT: AMENDMENT TO AGREEMENT WITH SCOTT FAZEKAS & ASSOCIATES, INC. FOR INSPECTION SERVICES

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

This is a request to amend an existing Professional Services Contract for inspection services in the amount of \$136,000 with Scott Fazekas Associates, Inc. The amended contract is for a total amount of not-to-exceed \$236,000.

Funding Source:

Funds are available in Building & Safety Department business unit 10055201.69365

Recommended Action:

Motion to:

1. "Approve the Amendment to the Agreement and Authorize the Mayor and City Clerk to execute the Agreement Amendment between the City of Huntington Beach and Scott Fazekas Associates, Inc."
2. "Authorize the Director of Building & Safety to expend an additional \$136,000 for Professional Services for inspection services."

Alternative Action(s):

E7.8

1. "Deny the request and direct staff accordingly."

E-2

REQUEST FOR CITY COUNCIL ACTION

MEETING DATE: January 2, 2007

DEPARTMENT ID NUMBER: BD 2007-1

Analysis:

The Inspection Services Division of the Building & Safety Department performs construction inspections on a wide variety of commercial, industrial, and residential structures. These inspections focus on structural components, life safety elements, energy conservation, handicapped accessibility, and electrical, plumbing and mechanical systems. The purpose of these inspections is to ensure that contractors and owner-builders construct their projects in a manner consistent with the approved construction plans and adopted codes so that the project is safe for all occupants.

We have been utilizing contract inspection services as a result of five (5) permanent building inspector vacancies within the Department. This was anticipated in the budget process thus salaries were reduced and contract services were increased to a total of \$236,000.

The existing \$100,000 purchase order for contract inspection services is nearly depleted. Therefore, we are requesting an amendment to the Scott Fazekas Associates, Inc. contract of an additional \$136,000 to provide these services until the permanent positions are filled. The total contract amount will be not to exceed \$236,000, which is budgeted as stated above.

Environmental Status:

Not applicable

Attachment(s):

City Clerk's Page Number	No.	Description
	1.	Amendment No. 1 to the Scott Fazekas Associates, Inc. Contract
	2.	Agreement to Scott Fazekas Associates, Inc. dated November 13, 2006

**AMENDMENT TO AGREEMENT
BETWEEN THE CITY OF HUNTINGTON BEACH
AND SCOTT FAZEKAS & ASSOCIATES, INC.**

THIS AMENDMENT is made by and between the CITY OF HUNTINGTON BEACH, a California municipal corporation, hereinafter referred to as "City," and SCOTT FAZEKAS & ASSOCIATES, INC., a California corporation, hereinafter referred to as "Fazekas."

WHEREAS, City and Fazekas are parties to that certain agreement dated November 13, 2006, entitled "Professional Services Agreement Between the City of Huntington Beach and Scott Fazekas & Associates, Inc., for Building Counter and Inspection Services," which agreement shall hereinafter be referred to as the "Original Agreement," and

City and Fazekas wish to amend the Original Agreement,

NOW, THEREFORE, it is agreed by City and Fazekas as follows:

1. **AMENDMENT OF SECTION 3.1 ENTITLED "FEE"**

Section 3.1 of the Original Agreement, entitled "FEE," is hereby amended to read as follows:

3.1 Fee. CITY agrees to pay the hourly rates established in Exhibit "A". This rate is based on current FAZEKAS costs and is subject to change when costs change due to factors which are beyond the control of FAZEKAS (such as insurance, payroll tax, etc.). Any adjustments made will be commensurate with increased costs to FAZEKAS, and must be pre-approved in writing by CITY. The total amount of fees paid to FAZEKAS under this Agreement, including all costs and expenses, shall not exceed Two Hundred Thirty-six Thousand Dollars (\$236,000.00).

2. **REAFFIRMATION**

Except as specifically modified herein, all other terms and conditions of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their authorized officers on JANUARY 02, 2007.

SCOTT FAZEKAS & ASSOCIATES, INC.
A California corporation

By: *Scott R. Fazekas*
print name

ITS: (circle one) Chairman/President/Vice President

AND

By: *Scott R. Fazekas*
print name

ITS: (circle one) Secretary/Chief Financial Officer/Asst
Secretary - Treasurer

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

Neil Cooper
Mayor

Joan A. Flynn
City Clerk (1/2/07)

APPROVED AS TO FORM:

Jenny M. [Signature]
City Attorney
1/2/07 DC

INITIATED AND APPROVED:

[Signature]
Director of Building and Safety

REVIEWED AND APPROVED:

[Signature]
City Administrator

E7.12

ATTACHMENT 3

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**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF HUNTINGTON BEACH AND SCOTT
FAZEKAS & ASSOCIATES, INC., FOR BUILDING
COUNTER AND INSPECTION SERVICES**

THIS AGREEMENT ("Agreement") is made and entered into by and between the CITY OF HUNTINGTON BEACH, a municipal corporation of the State of California, hereinafter referred to as "CITY", and SCOTT FAZEKAS & ASSOCIATES, INC., A California corporation, hereinafter referred to as "FAZEKAS".

WHEREAS, FAZEKAS is a California corporation which provides the services of its employees to government agencies for the purpose of discharging the responsibilities of government agencies; and

WHEREAS, economic reasons exist which make it in the best interests of CITY to discharge certain of its responsibilities through the use of FAZEKAS employees;

NOW, THEREFORE, in consideration of the promises, covenants, and warranties hereinafter set forth, the parties hereto mutually agree as follows:

**ARTICLE 1
DEFINITIONS**

All terms used in this Agreement shall have the customary meaning afforded such terms unless the same are used in a technical or business context, in which event such terms shall have the technical and/or special meaning normally afforded such terms within the particular trade, industry, or business to which they relate. The following are the definitions of special terms used herein:

1.1 "Current Payroll" means the Payroll schedule set forth on Exhibit "A", which is attached hereto and incorporated herein by this reference.

1.2 "Employees" means those individual persons who are subject to the terms of this Agreement and whose position is described on Exhibit "B", which is attached hereto and incorporated herein by this reference.

1.3 "Employee Tax Forms" means all forms applicable to the Payroll which are required by the United States, the State, and local governments to be provided by an employer to an employee, including U.S. Department of the Treasury, Internal Revenue Service Form W-2 (Wage and Tax Statement) and Form W-4 (Employee's Withholding Allowable Certificate) and Form 1099 (as and if applicable), as well as comparable and/or counterpart forms prescribed by the State and/or local government in which Employees are performing services pursuant to this Agreement.

1.4 "Employer Tax Forms" means all forms required to fully and properly report the Payroll to the United States, the State and/or local governments, including United States Department of the Treasury, Internal Revenue Service Form 941 (Employer's Quarterly Federal Tax Return for Federal Income Tax Withheld from Wages and for Federal Insurance Contributions Act Taxes), Form 940 (Employer's Annual Federal Unemployment Tax Return), and comparable and/or counterpart forms prescribed by the State and/or local government in which Employees are performing services pursuant to this Agreement.

1.5 "Pay Period" means the interval between payments to Employees.

1.6 "Payroll" means the total payroll applicable to all Employees and includes the aggregate of net compensation to Employees, Federal withholding taxes, State and local (if any) withholding taxes, employer and employee costs pursuant to the Federal Insurance Contributions Act, employer costs pursuant to the Federal Unemployment Tax Act, employer costs for State unemployment taxes (if any), employer costs pursuant to the Voluntary Compensation Plan (if any), and employer listed service fees (as applicable).

ARTICLE 2 IMPLEMENTATION

2.1 **Relationship of Parties.** Effective at the commencement of business on the 1st day of October, 2005, FAZEKAS will provide to CITY those Employees for CITY to select from for counter and inspection service positions in CITY's Building & Safety Department, which positions are described in **Exhibit "B"**, and whose rate of pay are set forth on **Exhibit "A"**, and CITY hereby accepts such Employees on the terms and conditions provided in this Agreement.

2.2 **Term of Agreement.** This Agreement and the rights and obligations of CITY and FAZEKAS shall commence on the effective time and date specified in Paragraph 2.1 and shall continue until September 30, 2009, or as earlier terminated as set forth herein. This Agreement may be terminated by either party with or without cause upon thirty (30) days prior written notice. In the event of termination by CITY, FAZEKAS shall be paid for all services performed prior to the effective date of termination.

2.3 **Specification of Services and Approval of Compensation.** CITY may, by notice to FAZEKAS, accept, modify, reject or terminate with or without cause the services and/or rate of compensation of any and all Employees leased to CITY in accordance with this Agreement. In the event of termination of services and/or rejection of the rate of compensation of any Employee leased to CITY, the lease made by this Agreement shall terminate as to such Employee, effective upon receipt by FAZEKAS of notice thereof. For purposes of business and financial accounting between the parties, this Agreement shall be deemed several as to each Employee and shall be deemed prorated on a daily or other periodic basis necessary to give effect to the manifest intentions of the contracting parties.

2.4 **Employer Duties of FAZEKAS.** FAZEKAS shall (1) pay all wages and other remuneration to its Employees who are subject to this Agreement; (2) notify CITY of the current Payroll prior to each Pay Period; (3) prepare and file all Payroll tax returns and reports; (4) pay

all amounts due and owing pursuant to the payroll tax returns and reports which are prepared and filed; (5) prepare, file, and furnish to Employees applicable Employee Tax Forms; and (6) prepare and file, with a copy to CITY, applicable Employer Tax Forms. In the event of termination of any Employee as provided by Paragraph 2.3, FAZEKAS shall provide placement assistance to that Employee by listing that Employee at no charge to the Employee in FAZEKAS's job listing service.

2.5 Duties of CITY. CITY shall (1) provide the workplace for all Employees subject to this Agreement; (2) maintain the workplace in strict accordance with applicable health and working standards and specifications; (3) comply with all safety engineering and governmental health and safety rules, regulations, directives, orders or similar requirements; (4) provide all required safety equipment; (5) for Employees located in California, take all actions necessary to establish and implement an injury and illness prevention program as required by the Occupational Injury Program Act, also known as Senate Bill 198, and codified at *California Labor Code* §6401.7; (6) post or provide employee notices required by law; and (7) notify FAZEKAS immediately of all Employee illnesses, accidents, injuries, and absences. However, the parties agree that CITY shall provide no salary or benefits to the Employees under this Agreement.

2.6 Workers' Compensation, Health, and Other Benefits. Pursuant to *California Labor Code* Section 1861, FAZEKAS acknowledges awareness of Section 3700 *et seq.* of this Code, which requires every employer to be insured against liability for workers' compensation; FAZEKAS covenants that it will comply with such provisions prior to commencing performance of the work hereunder. FAZEKAS shall maintain workers' compensation and employer's liability insurance in an amount of not less than the State statutory limits. FAZEKAS shall require all subcontractors to provide such workers' compensation and employer's liability insurance for all of the subcontractors' employees. FAZEKAS shall furnish to CITY a certificate of waiver of subrogation under the terms of the workers' compensation and employer's liability insurance and FAZEKAS shall similarly require all subcontractors to waive subrogation. FAZEKAS also shall provide various health and other benefits to Employees under a cafeteria plan which permits each Employee to choose the type of benefits he or she will receive.

2.7 General Liability Insurance. In addition to the workers' compensation insurance and employers' liability and FAZEKAS's covenant to indemnify CITY, FAZEKAS shall obtain and furnish to CITY, a policy of general public liability insurance, including motor vehicle coverage covering the Agreement. The policy shall indemnify FAZEKAS, its officers, agents and employees, while acting within the scope of their duties, against any and all claims arising out of or in connection with the Agreement, and shall provide coverage in not less than the following amount: combined single limit bodily injury and property damage, including products/completed operations liability and blanket contractual liability, of One Million Dollars (\$1,000,000.00) per occurrence. If coverage is provided under a form which includes a designated general aggregate limit, the aggregate limit must be no less than One Million Dollars (\$1,000,000.00) for this Agreement. The policy shall name CITY, its officers, elected or appointed officials, employees, agents, and volunteers as Additional Insureds. Under no circumstances shall the above-mentioned insurance contain a self-insured retention, a "deductible" or any other similar form of limitation on the required coverage in excess of Ten Thousand Dollars (\$10,000).

2.8 Certificates of Insurance. Prior to commencing performance of the work hereunder, FAZEKAS shall furnish to CITY certificates of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverages as required by this Agreement; the certificates shall:

- A. provide the name and policy number of each carrier and policy;
- B. shall state that the policy is currently in force; and
- C. shall promise that such policies shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice.

FAZEKAS shall maintain the foregoing insurance coverages in force until the work under this Agreement is fully completed and accepted by CITY. The requirement for carrying the foregoing insurance coverages shall not derogate from the provisions for indemnification of CITY by FAZEKAS under the Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of all said policies of insurance. FAZEKAS shall pay, in a prompt and timely manner, the premiums on all insurance hereinabove required.

2.9 Disposition of Plans, Estimates and Other Documents. FAZEKAS agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, both field and office notices, calculations, computer code, language, data or programs, maps, memoranda, letters and other documents, shall belong to CITY, and FAZEKAS shall turn over these materials to CITY upon termination of each Employee (as applicable), or upon expiration or termination of this Agreement, whichever shall occur first. These materials may be used by CITY as it sees fit.

ARTICLE 3 COMPENSATION

3.1 Fee. CITY agrees to pay the hourly rates established in Exhibit "A". This rate is based on current FAZEKAS costs and is subject to change when costs change due to factors which are beyond the control of FAZEKAS (such as insurance, payroll tax, etc.). Any adjustments made will be commensurate with increased costs to FAZEKAS, and must be pre-approved in writing by CITY. The total amount of fees paid to FAZEKAS under this Agreement, including all costs and expenses, shall not exceed One Hundred Thousand Dollars (\$100,000.00).

3.2 Payment Address. All payments due FAZEKAS shall be paid to:

Scott Fazekas & Associates, Inc.
9 Corporate Park, Suite 200
Irvine, CA 92606-5132

3.3 Terms of Compensation. Invoices are due within thirty (30) days of receipt. Delinquent payments will be subject to a late payment carrying charge computed at a periodic rate of one

percent (1%) per month, which is an annual percentage rate of twelve percent (12%), which will be applied to any unpaid balance owed commencing thirty (30) days after CITY's receipt of an invoice from FAZEKAS. Additionally, in the event CITY fails to pay any undisputed amounts due FAZEKAS within forty-five (45) days after CITY's receipt of an invoice from FAZEKAS, then CITY agrees that FAZEKAS shall have the right to consider said default a total breach of this Agreement and the duties of FAZEKAS under this Agreement may be terminated by FAZEKAS without liability to FAZEKAS upon ten (10) working days advance written notice.

3.4 Additional Services. CITY may request FAZEKAS to perform additional services not covered by this Agreement, such as recruiting services, and FAZEKAS shall perform such additional services and will be paid for such additional services when they are mutually agreed to and made part of this Agreement by written amendment of the parties.

ARTICLE 4 SUPERVISION OF EMPLOYEES

CITY shall supervise the daily activities of Employees. Employees shall discharge government responsibilities and perform in accordance with the ordinances, resolutions, rules, regulations, and procedures adopted by CITY. FAZEKAS shall have no control over such government responsibilities and such ordinances, resolutions, rules, regulations, and procedures.

ARTICLE 5 INDEMNIFICATION

FAZEKAS shall indemnify, defend, and hold harmless CITY, its officers, elected or appointed officials, employees, agents or volunteers for the purposes of all required payroll deductions and withholdings, legally required workers' compensation insurance, and health benefits of the Employees. However, inasmuch as the CITY shall supervise the daily activities of the Employees, and inasmuch as the Employees will discharge government responsibilities and perform in accordance with the ordinances, resolutions, rules, regulations, and procedures adopted by CITY, (1) FAZEKAS and its Employees shall be entitled to all protection and immunities of government employees, including without limitation, those provided in California Government Code, Title 1, Division 3.6, Claims and Actions against Public Entities and Public Employees; and (2) CITY does release and agree to indemnify, defend and hold harmless the Employees, FAZEKAS, and FAZEKAS's agents, personnel, directors, and officers from any and all actions, claims, damages or injuries to persons or property, penalties, obligations or liabilities arising out of or related to the services performed under this Agreement to the extent they are not covered by FAZEKAS's insurance, except such loss or damage caused by the negligence or willful misconduct of FAZEKAS, or FAZEKAS's agents, personnel, directors or officers, or any of them. Notwithstanding anything to the contrary including CITY's obligations under this Article 5, FAZEKAS acknowledges and agrees that its insurance shall be the sole and primary coverage up to the policy limits, and that City's obligations under this Article 5 shall not be triggered until FAZEKAS's insurance coverage has been exhausted.

ARTICLE 6
GENERAL PROVISIONS

6.1 Representation. A CITY representative shall be designated by CITY and an FAZEKAS representative shall be designated by FAZEKAS as the primary contact person for each party regarding performance of this Agreement. The following are the designated representatives:

Scott Fazekas for FAZEKAS
Ross Cranmer for CITY

6.2 Independent Contractor. FAZEKAS acknowledges and agrees that FAZEKAS and the Employees are, and shall be, acting at all times in the performance of this Agreement as independent contractors herein and not as employees of CITY. FAZEKAS shall secure at its expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for FAZEKAS and all of its officers, agents and employees and all business licenses, if any, in connection with this Agreement and/or the services to be performed hereunder.

The Employees shall not be eligible for benefits pursuant to CITY's membership in the Public Employees' Retirement System ("PERS"). FAZEKAS shall indemnify, defend, and hold harmless CITY, its officers, elected or appointed officials, employees, agents, or volunteers from and against any claim for PERS benefits asserted by the Employees, or asserted by a third party on behalf of the Employees.

6.3 No Assignment or Subcontracting. This Agreement shall not be assignable or subcontracted by either party without the prior written consent of the other party. All CITY approved subcontractors of FAZEKAS must satisfy the insurance requirements set forth herein.

6.4 Audit. CITY shall have the right to audit and inspect FAZEKAS records and accounts covering costs under this Agreement for a period of two (2) years after termination of the Agreement.

6.5 City Employees and Officials. FAZEKAS shall employ no CITY official nor any regular CITY employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of the applicable provisions of the *California Government Code*.

6.6 Notices. Any notice or special instructions required to be given in writing under this Agreement shall be given either by personal delivery to FAZEKAS or to CITY's Director of Building and Safety or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, addressed as follows:

TO CITY:

TO FAZEKAS:

Ross Cranmer, Director
Building & Safety Department
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Scott Fazekas
Scott Fazekas & Associates, Inc.
9 Corporate Park, Suite 200
Irvine, CA 92606-5132

Notwithstanding the foregoing, FAZEKAS agrees that CITY has the ability to terminate any specific Employees of FAZEKAS working pursuant to this Agreement by giving FAZEKAS notice of termination of such Employees by e-mail or facsimile transmission, with a follow-up notice sent via one of the methods set forth in this Paragraph. The effective date of such termination shall be the date such e-mail or facsimile transmission is sent. Each party may change the address and person to be notified by giving the other party notice of such change via one of the methods set forth in this Paragraph.

6.7 Legal Services Subcontracting Prohibited. FAZEKAS and CITY agree that CITY is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. FAZEKAS understands that pursuant to Huntington Beach City Charter Section 309, the City Attorney is the exclusive legal counsel for CITY, and CITY shall not be liable for payment of any legal services expenses incurred by FAZEKAS.

6.8 Titles. The titles used in this Agreement are for general reference only and are not part of the Agreement.

6.9 Interpretation of this Agreement. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

6.10 Duplicate Original. The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

E7.19

6.11 Immigration. FAZEKAS shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the *United States Code* regarding employment verification.

6.12 Attorney's Fees. In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees.

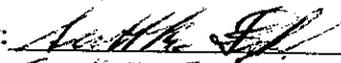
6.13 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of California.

6.14 Extent of Agreement. This Agreement and the attached exhibits represent the entire and integrated Agreement between CITY and FAZEKAS and supersedes all prior negotiations, representations or agreements, either written or oral respecting the subject matter hereof. This Agreement may be modified or amended only by a subsequent written agreement signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on
November 13, 2006.

SCOTT FAZEKAS & ASSOCIATES, INC.,
a California corporation

CITY OF HUNTINGTON BEACH, a
municipal corporation of the State of
California

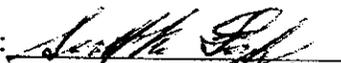
By: 
Scott R. Fazekas
print name

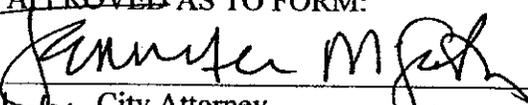

Director of Building & Safety
(pursuant to HBMC §3.03.100)

ITS: (circle one) Chairman President Vice President

AND

APPROVED AS TO FORM:

By: 
Scott R. Fazekas
print name


11/16/06 City Attorney

ITS: (circle one) Secretary Chief Financial Officer/Asst.
Secretary - Treasurer

REVIEWED AND APPROVED: 
11/16/06
City Administrator

EXHIBIT "A"

A. STATEMENT OF WORK: (Narrative of work to be performed)

1. Perform counter services and field inspections of construction projects to ensure that the contractor or homeowner properly follows the approved construction plans and standards in accordance with the adopted building codes.

B. CONSULTANT'S DUTIES AND RESPONSIBILITIES:

1. SFA to maintain daily inspection records and all necessary documents on file and available to the City.

C. CITY'S DUTIES AND RESPONSIBILITIES:

1. City shall provide the workplace for all employees in strict compliance with applicable health and working standards and specifications
2. City shall comply with all safety engineering and governmental health and safety rules, regulations, directives, orders or similar requirements.
3. City shall take all actions necessary to establish and implement an injury and illness prevention program as required by the Occupational Injury Program Act.
4. City shall post or provide employee notices as required by law.
5. City shall notify SFA immediately of all employee illnesses, accidents, injuries, and absences.

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EXHIBIT "B"

Payment Schedule (Hourly Payment)

A. Hourly Rate

CONSULTANT'S fees for providing a Building Inspector shall be based upon the hourly rate of \$40.77 to \$50.12 per hour based on level of experience. Overtime shall be paid at a rate of 1.5 times regular pay.

B. Billing

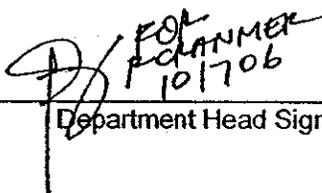
1. All billing shall be done monthly in one-tenth-hour (0.10) increments and matched to an appropriate breakdown of the time that was taken to perform that work and who performed it.
2. CONSULTANT shall submit to CITY an invoice for each monthly payment due. Such invoice shall:
 - A) Reference this Agreement;
 - B) Describe the services performed;
 - C) Show the total amount of the payment due;



CITY OF HUNTINGTON BEACH

Professional Service Contracts Purchasing Certification

1. Date: October 17, 2006
2. Department: Building and Safety
3. Requested by: Jan Richards
4. Name of consultant: Scott Fazekas Associates, Inc.
5. Attach the written statement of the specification, conditions and other requirements for the requested services that was provided to solicited consultants in your answer to 11 of this form.
See Request for proposal for Staffing Inspection Services
6. Amount of the contract: \$100,000
7. Are sufficient funds available to fund this contract?¹ Yes No
8. Is this contract generally described on the list of professional service contracts approved by the City Council?¹ Yes No
9. Company number and object code where funds are budgeted: 10055201
10. Is this contract less than \$50,000? Yes No
11. Does this contract fall within \$50,000 and \$100,000? Yes No
12. Is this contract over \$100,000? Yes No
(Note: Contracts requiring City Council Approval need to be signed by the Mayor and City Clerk. Make sure the appropriate signature page is attached to contract.)
13. Were formal written proposals requested from at least three available qualified consultants?
 Yes No
14. Attach list of consultants from whom proposals were requested (including a contact telephone number).
Attached
15. Attach proposed scope of work.
Attached
16. Attach proposed payment schedule.
Attached


FOR
PC/ANMER
10/17/06

Department Head Signature



RICHARD AMADRIL, Manager
Purchasing/Central Services

1. If the answer to this question is "No," the contract will require approval from the City Council.

ACORD CERTIFICATE LIABILITY INSURANCE

OP ID SA
PAGE-1
DATE (MM/DD/YYYY)
05/22/06

G. S. Levine Insurance Services, Inc.
10505 Sorrento Valley Rd. #200
San Diego CA 92121
Phone: 858-481-8692 Fax: 858-481-7953

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

Scott Fuzek & Associates
17777 Del Paso Drive
Novay CA 92064

INSURERS AFFORDING COVERAGE		NAC#
INSURER A:	St. Paul Fire And Marine Ins.	
INSURER B:	Fidelity and Guaranty Ins. Co.	
INSURER C:		
INSURER D:		
INSURER E:		

COVERAGES

THE 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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE	CLASS	TYPE OF COVERAGE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
						DESCRIPTION	AMOUNT
B	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAMS MADE <input checked="" type="checkbox"/> OCCUR	BR01777291	06/05/06	06/05/07	EACH OCCURRENCE	\$ 1,000,000
		DAMAGE TO RENTED PREMISES (Per occurrence)				\$ 300,000	
		GENERAL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC				MED EXP (Any and per occ)	\$ 10,000
						PERSONAL & ADJ LIABILITY	\$ 1,000,000
						GENERAL AGGREGATE	\$ 2,000,000
						PRODUCTS - COMPOUND AGG	\$ 2,000,000
						Exp Ben.	1,000,000
B		AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> BORROWED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BR01777291	06/05/06	06/05/07	COMBINED SINGLE LIMIT (Per accident)	\$ 1,000,000
		BODILY INJURY (Per person)				\$	
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		BARBERS LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		RECREATIONAL LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAMS MADE				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
A		WORKERS COMPENSATION AND EMPLOYERS LIABILITY ANY PROPRIETARY PARTNER/EXECUTIVE OFFICER/OWNER EXCLUDED? <input type="checkbox"/> YES, INCLUDE UNDER SPECIAL PROVISIONS below <input type="checkbox"/> NO	BR02149598	06/05/06	06/05/07	<input checked="" type="checkbox"/> NO STATE FORTY LIMITS <input type="checkbox"/> FORTY PER	
						E.L. EACH ACCIDENT	\$ 1,000,000
						E.L. DISEASE - EACH EMPLOYEE	\$ 1,000,000
						E.L. DISEASE - POLICY LIMIT	\$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATION / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
 Re: Building Safety Plan Check Services
 City of Huntington Beach, its agents, officers and employees are named as
 Additional Insured per the attached endorsement.
 *10 day notice of cancellation applies for non-payment of premium. xx

CERTIFICATE HOLDER	CANCELLATION
CITY/HON City of Huntington Beach Attn: Mr. Ross Cramer 2000 Main Street Huntington Beach CA 92648	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL REIMBURSE THE DATE _____ 30* DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.
	AUTHORIZED REPRESENTATIVE: <i>Mary Levine</i>

ACORD 25 (2001/08)

© ACORD CORPORATION 1988

APPROVED AS TO FORM:
Jennifer McGrath
 JENNIFER McGRATH, City Attorney
 10/2/06

Policy Number: BK01777291
Owners, Lessees Or Contractors (Form B)
ADDITIONAL INSURED

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.
This endorsement modifies insurance provided under the following:

LIABILITY COVERAGE PART,

SCHEDULE

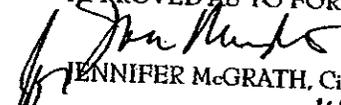
Name of Person or Organization:

City of Huntington Beach, its agents, officers and employees

SECTION II-WHO IS AN INSURED is amended to include
as an insured the person or organization shown in

Schedule, but only with respect to liability arising
out of "your work" for that insured by or for you.

APPROVED AS TO FORM:

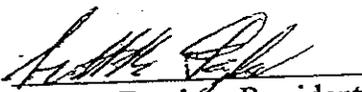

JENNIFER McGRATH, City Attorney
11/21/04

CL/BF 22 40 03 95

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RESOLUTION

A board meeting was held on December 8, 1997 to confirm that SCOTT R. FAZEKAS, President, has signature authority to bind the Corporation of SCOTT FAZEKAS & ASSOCIATES, INC. The status remains the same to date.


Scott R Fazekas, President / 4/12/04
Dated

Corporate Seal:



INSURANCE AND INDEMNIFICATION WAIVER MODIFICATION REQUEST

RECEIVED

OCT 18 2006

City of Huntington Beach
City Attorney's Office

- Requested by: Ross Cranmer
- Date: October 17, 2006
- Name of contractor/permittee: Scott Fazekas Associates, Inc.
- Description of work to be performed: Provide contract inspectors
- Value and length of contract: Three years; Not to exceed \$708,000
- Waiver/modification request: Allow \$10,000 deductible
- Reason for request and why it should be granted: Contract inspectors are needed to augment city inspection staff due to the dramatic peaks in construction activity.
- Identify the risks to the City in approving this waiver/modification: The risk would be the possible exposure of the costs associated with a City employee.

 6 CAPABLE FOR ROSS CRANMER
 Department Head Signature

10/17/2006

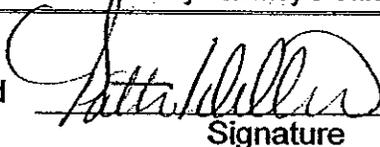
Date:

APPROVALS

Approvals must be obtained in the order listed on this form. Two approvals are required for a request to be granted. Approval from the City Administrator's Office is only required if Risk Management and the City Attorney's Office disagree.

1. Risk Management

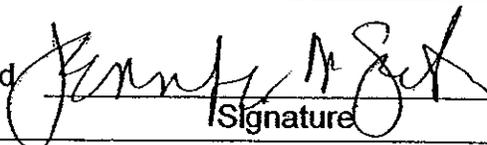
Approved Denied


Signature

10/18/06
Date

2. City Attorney's Office

Approved Denied


Signature

10/23/06
Date

3. City Administrator's Office

Approved Denied

Signature

Date

If approved, the completed waiver/modification request is to be submitted to the City Attorney's Office along with the contract for approval. Once the contract has been approved, this form is to be filed with the Risk Management Division of Administrative Services

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CITY OF HUNTINGTON BEACH
Inter Office Communication
Building and Safety Department

TO: Rick Amadril, Central Services Manager

FROM: Gerald Caraig, Acting Director of Building & Safety

DATE: October 18, 2006

SUBJECT: SELECTION OF VENDOR

101806
FOR CRANMER

Per a meeting with Jennifer McGrath, Ross Cranmer, and yourself, it was agreed that professional services contracts for plan review and inspection services be prepared for \$100,000. It was further agreed that the Building & Safety Department would prepare a RCA for an amendment to the contracts for the full budgeted amount in the next couple of months.

Subsequent to that meeting, Request for Proposals for Plan Review and Inspection Services were mailed to firms in the building industry. The breakdown of their quotations is as follows:

PLAN REVIEW

Scott Fazekas Associates, Inc. 9 Corporate Park, Ste. 200 Irvine, CA 92606 949/475-2901	70% of the building permit fee calculated per Table 3A of the 1991 Administrative Code
CSG Consultants, Inc. 151 Kalmus Drive, Ste. C-200 Costa Mesa, CA 92626 714/444-9595	70% of the building permit fee collected as adopted by City Ordinance
EsGil Corporation 9320 Chesepeake Dr., Ste. 208 San Diego, CA 92123 858/560-1468	45% of the building permit fee calculated per the table identified in proposal as Enclosure 4

INSPECTION SERVICES

Scott Fazekas Associates, Inc.	\$40.77 to \$50.12 per hour
CSG Consultants, Inc.	\$60 per hour
EsGil Corporation	No Response

E7.29

The three firms are competitive in cost, experience and staffing; however to maintain continuity, I would recommend Scott Fazekas Associates, Inc. be awarded the contracts.

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EXHIBIT A

PAYROLL SCHEDULE

Counter Services	\$20.00 - \$25.00 per hour
Inspection Services	\$46.00 - \$65.00 per hour

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EXHIBIT B

DESCRIPTION OF POSITIONS

Counter Services: With close supervision, receives, reviews and processes plans; captures, records and maintains the information necessary to issue and receive payment for building and construction permits; and performs other duties as required within the scope of the classification.

Inspection Services: Under general supervision, inspects installations to ensure compliance with all building and construction regulations; and performs other duties as required within the scope of the classification.

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