

**DESIGN PROFESSIONAL SERVICES AGREEMENT
WITH RBF CONSULTING FOR
BAYSIDE COVE PUBLIC WALKWAY**

C-5296
THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is made and entered into as of this 21st day of December, 2012 ("Effective Date") by and between the CITY OF NEWPORT BEACH, a California Municipal Corporation ("City"), and RBF Consulting, a California corporation ("Consultant"), whose address is 14725 Alton Parkway, Irvine, CA 92618-2027 and is made with reference to the following:

RECITALS

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of City.
- B. City desires to engage Consultant to provide design services for a pedestrian path connecting the Bayside Cove Walkway floating platform to the Marine Avenue Bridge, Bayside Cove Public Walkway ("Project").
- C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the professional services described in this Agreement.
- D. The principal member of Consultant for purposes of Project shall be Bradley R. Mielke, SE, PE.
- E. City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM

The term of this Agreement shall commence on the Effective Date, and shall terminate on December 31, 2013, unless terminated earlier as set forth herein.

2. SERVICES TO BE PERFORMED

City and Consultant acknowledge that the above Recitals are true and correct and are hereby incorporated by reference into this Agreement. Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit A and incorporated herein by reference ("Services" or "Work"). The City may elect to delete certain services within the Scope of Services at its sole discretion.

3. TIME OF PERFORMANCE

3.1 Time is of the essence in the performance of Services under this Agreement and Consultant shall perform the Services in accordance with the schedule included in Exhibit A. In the absence of a specific schedule, the Services shall be performed to completion in a diligent and timely manner. The failure by Consultant to strictly adhere to the schedule set forth in Exhibit A, if any, or perform the Services in a diligent and timely manner may result in termination of this Agreement by City.

3.1.1 Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the Services to be provided for the Project, each party hereby agrees to provide notice within two (2) days of the occurrence causing the delay to the other party so that all delays can be addressed.

3.2 Consultant shall submit all requests for extensions of time for performance in writing to the Project Administrator (as defined in Section 6 below) not later than ten (10) calendar days after the start of the condition that purportedly causes a delay. The Project Administrator shall review all such requests and may grant reasonable time extensions for unforeseeable delays that are beyond Consultant's control.

3.3 For all time periods not specifically set forth herein, Consultant shall respond in the most expedient and appropriate manner under the circumstances, by fax, hand-delivery or mail.

4. COMPENSATION TO CONSULTANT

4.1 City shall pay Consultant for the Services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Schedule of Billing Rates or Progress Payments Schedule attached hereto as Exhibit B and incorporated herein by reference. Consultant's compensation for all Work performed in accordance with this Agreement, including all reimbursable items and subconsultant fees, shall not exceed **Thirty Five Thousand, Four Hundred Dollars and 00/100 (\$35,400.00)** without prior written authorization from City. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City.

4.2 Consultant shall submit monthly invoices to City describing the Work performed the preceding month. Consultant's bills shall include the name of the person who performed the Work, a brief description of the Services performed and/or the specific task in the Scope of Services to which it relates, the date the Services were performed, the number of hours spent on all Work billed on an hourly basis, and a description of any reimbursable expenditures. City shall pay Consultant no later than thirty (30) days after approval of the monthly invoice by City staff.

4.3 City shall reimburse Consultant only for those costs or expenses specifically identified in Exhibit B to this Agreement, or specifically approved in writing in advance by City.

4.4 Consultant shall not receive any compensation for Extra Work performed without the prior written authorization of City. As used herein, "Extra Work" means any

Work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with the Schedule of Billing Rates as set forth in Exhibit B.

5. PROJECT MANAGER

5.1 Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated Bradley R. Mielke to be its Project Manager. Consultant shall not remove or reassign the Project Manager or any personnel listed in Exhibit A or assign any new or replacement personnel to the Project without the prior written consent of City. City's approval shall not be unreasonably withheld with respect to the removal or assignment of non-key personnel.

5.2 Consultant, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of Services upon written request of City. Consultant warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement.

5.3 If Consultant is performing inspection services for City, the Project Manager and any other assigned staff shall be equipped with a cellular phone to communicate with City staff. The Project Manager's cellular phone number shall be provided to the City.

6. ADMINISTRATION

This Agreement will be administered by the Public Works Department. Fong, Tse, Principal Civil Engineer or his designee, shall be the Project Administrator and shall have the authority to act for City under this Agreement. The Project Administrator or his designee shall represent City in all matters pertaining to the Services to be rendered pursuant to this Agreement.

7. CITY'S RESPONSIBILITIES

7.1 To assist Consultant in the execution of its responsibilities under this Agreement, City agrees to, where applicable:

7.1.1 Provide access to, and upon request of Consultant, one (1) copy of all existing relevant information on file at City. City will provide all such existing relevant information in a timely manner so as not to cause delays in Consultant's Work schedule.

7.1.2 Provide blueprinting and other services through City's reproduction company for bid documents. Consultant will be required to coordinate the required bid documents with City's reproduction company. All other reproduction will be the responsibility of Consultant.

7.1.3 Provide usable life of facilities criteria and information with regards to new facilities or facilities to be rehabilitated.

8. STANDARD OF CARE

8.1 All of the Services shall be performed by Consultant or under Consultant's supervision. Consultant represents that it possesses the professional and technical personnel required to perform the Services required by this Agreement, and that it will perform all Services in a manner commensurate with the highest professional standards. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one (1) or more first-class firms performing similar work under similar circumstances.

8.2 All Services shall be performed by qualified and experienced personnel who are not employed by City. By delivery of completed Work, Consultant certifies that the Work conforms to the requirements of this Agreement; all applicable federal, state and local laws; and the highest professional standard.

8.3 Consultant represents and warrants to City that it has, shall obtain, and shall keep in full force and effect during the term hereof, at its sole cost and expense, all licenses, permits, qualifications, insurance and approvals of whatsoever nature that is legally required of Consultant to practice its profession. Consultant shall maintain a City of Newport Beach business license during the term of this Agreement.

8.4 Consultant shall not be responsible for delay, nor shall Consultant be responsible for damages or be in default or deemed to be in default by reason of strikes, lockouts, accidents, acts of God, or the failure of City to furnish timely information or to approve or disapprove Consultant's Work promptly, or delay or faulty performance by City, contractors, or governmental agencies.

9. HOLD HARMLESS

9.1 To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City, its City Council, boards and commissions, officers, agents, volunteers and employees (collectively, the "Indemnified Parties) from and against any and all claims (including, without limitation, claims for bodily injury, death or damage to property), demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including, without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever (individually, a Claim; collectively, "Claims"), which may arise under this Agreement or in any manner relate (directly or indirectly) to the negligence, recklessness, or willful misconduct of the Consultant or its principals, officers, agents, employees, vendors, suppliers, subconsultants, subcontractors, anyone employed directly or indirectly by any of them or for whose acts they may be liable or any or all of them.

9.2 Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the sole negligence, active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The

policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

10. INDEPENDENT CONTRACTOR

It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the Work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. No civil service status or other right of employment shall accrue to Contractor or its employees. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the Work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance of the Work or to exercise a measure of control over Consultant shall mean only that Consultant shall follow the desires of City with respect to the results of the Services.

11. COOPERATION

Consultant agrees to work closely and cooperate fully with City's designated Project Administrator and any other agencies that may have jurisdiction or interest in the Work to be performed. City agrees to cooperate with the Consultant on the Project.

12. CITY POLICY

Consultant shall discuss and review all matters relating to policy and Project direction with City's Project Administrator in advance of all critical decision points in order to ensure the Project proceeds in a manner consistent with City goals and policies.

13. PROGRESS

Consultant is responsible for keeping the Project Administrator and/or his/her duly authorized designee informed on a regular basis regarding the status and progress of the Project, activities performed and planned, and any meetings that have been scheduled or are desired.

14. INSURANCE

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement or for other periods as specified in this Agreement, policies of insurance of the type, amounts, terms and conditions described in the Insurance Requirements attached hereto as Exhibit C, and incorporated herein by reference.

15. PROHIBITION AGAINST ASSIGNMENTS AND TRANSFERS

Except as specifically authorized under this Agreement, the Services to be provided under this Agreement shall not be assigned, transferred contracted or subcontracted out without the prior written approval of City. Any of the following shall be construed as an assignment: The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant if Consultant is a partnership or joint-venture or syndicate or cotenancy, which shall result in changing the control of Consultant. Control means fifty percent (50%) or more of the voting power, or twenty-five percent (25%) or more of the assets of the corporation, partnership or joint-venture.

16. SUBCONTRACTING

The subcontractors authorized by City, if any, to perform Work on this Project are identified in Exhibit A. Consultant shall be fully responsible to City for all acts and omissions of any subcontractor. Nothing in this Agreement shall create any contractual relationship between City and any subcontractor nor shall it create any obligation on the part of City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. The City is an intended beneficiary of any Work performed by the subcontractor for purposes of establishing a duty of care between the subcontractor and the City. Except as specifically authorized herein, the Services to be provided under this Agreement shall not be otherwise assigned, transferred, contracted or subcontracted out without the prior written approval of City.

17. OWNERSHIP OF DOCUMENTS

17.1 Each and every report, draft, map, record, plan, document and other writing produced (hereinafter "Documents"), prepared or caused to be prepared by Consultant, its officers, employees, agents and subcontractors, in the course of implementing this Agreement, shall become the exclusive property of City, and City shall have the sole right to use such materials in its discretion without further compensation to Consultant or any other party. Consultant shall, at Consultant's expense, provide such Documents to City upon prior written request.

17.2 Documents, including drawings and specifications, prepared by Consultant pursuant to this Agreement are not intended or represented to be suitable for reuse by City or others on any other project. Any use of completed Documents for other projects and any use of incomplete Documents without specific written authorization from Consultant will be at City's sole risk and without liability to Consultant. Further, any and all liability arising out of changes made to Consultant's deliverables under this Agreement by City or persons other than Consultant is waived against Consultant and City assumes full responsibility for such changes unless City has given Consultant prior notice and has received from Consultant written consent for such changes.

17.3 All improvement and/or construction plans shall be prepared with indelible waterproof ink or electrostatically plotted on standard twenty-four inch (24") by thirty-six inch (36") Mylar with a minimum thickness of three (3) mils. Consultant shall provide to City 'As-Built' drawings and a copy of digital Computer Aided Design and Drafting ("CADD") and Tagged Image File Format (.tiff) files of all final sheets within ninety (90) days after finalization of the Project. For more detailed requirements, a copy of the City of Newport Beach Standard Design Requirements is available from the City's Public Works Department.

18. COMPUTER DELIVERABLES

CADD data delivered to City shall include the professional stamp of the engineer or architect in charge of or responsible for the Work. City agrees that Consultant shall not be liable for claims, liabilities or losses arising out of, or connected with (a) the modification or misuse by City, or anyone authorized by City, of CADD data; (b) the decline of accuracy or readability of CADD data due to inappropriate storage conditions or duration; or (c) any use by City, or anyone authorized by City, of CADD data for additions to this Project, for the completion of this Project by others, or for any other Project, excepting only such use as is authorized, in writing, by Consultant. By acceptance of CADD data, City agrees to indemnify Consultant for damages and liability resulting from the modification or misuse of such CADD data. All original drawings shall be submitted to City in the version of AutoCAD used by the City in .dwg file format, on a CD, and should comply with the City's digital submission requirements for improvement plans available from the City's Public Works Department. The City will provide Consultant with City title sheets as AutoCAD file(s) in .dwg file format. All written documents shall be transmitted to City in formats compatible with Microsoft Office and/or viewable with Adobe Acrobat.

19. CONFIDENTIALITY

All Documents, including drafts, preliminary drawings or plans, notes and communications that result from the Services in this Agreement, shall be kept confidential unless City expressly authorizes in writing the release of information.

20. OPINION OF COST

Any opinion of the construction cost prepared by Consultant represents the Consultant's judgment as a design professional and is supplied for the general guidance of City. Since Consultant has no control over the cost of labor and material, or over competitive bidding or market conditions, Consultant does not guarantee the accuracy of such opinions as compared to consultant or contractor bids or actual cost to City.

21. INTELLECTUAL PROPERTY INDEMNITY

The Consultant shall defend and indemnify City, its agents, officers, representatives and employees against any and all liability, including costs, for infringement or alleged infringement of any United States' letters patent, trademark, or copyright, including costs, contained in Consultant's Documents provided under this Agreement.

22. RECORDS

Consultant shall keep records and invoices in connection with the Services to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any Services, expenditures and disbursements charged to City, for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of City to examine, audit and make transcripts or copies of such records and invoices during regular business hours. Consultant shall allow inspection of all Work, data, Documents, proceedings and activities related to the Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

23. WITHHOLDINGS

City may withhold payment to Consultant of any disputed sums until satisfaction of the dispute with respect to such payment. Such withholding shall not be deemed to constitute a failure to pay according to the terms of this Agreement. Consultant shall not discontinue Work as a result of such withholding. Consultant shall have an immediate right to appeal to the City Manager or his/her designee with respect to such disputed sums. Consultant shall be entitled to receive interest on any withheld sums at the rate of return that City earned on its investments during the time period, from the date of withholding of any amounts found to have been improperly withheld.

24. ERRORS AND OMISSIONS

In the event of errors or omissions that are due to the negligence or professional inexperience of Consultant which result in expense to City greater than what would have resulted if there were not errors or omissions in the Work accomplished by Consultant, the additional design, construction and/or restoration expense shall be borne by Consultant. Nothing in this Section is intended to limit City's rights under the law or any other sections of this Agreement.

25. CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS

City reserves the right to employ other Consultants in connection with the Project.

26. CONFLICTS OF INTEREST

26.1 The Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the Work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

26.2 If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless

City for any and all claims for damages resulting from Consultant's violation of this Section.

27. NOTICES

27.1 All notices, demands, requests or approvals, including any change in mailing address, to be given under the terms of this Agreement shall be given in writing, and conclusively shall be deemed served when delivered personally, or on the third business day after the deposit thereof in the United States mail, postage prepaid, first-class mail, addressed as hereinafter provided. All notices, demands, requests or approvals from Consultant to City shall be addressed to City at:

Attn: Fong Tse, Principal Civil Engineer
Public Works Department
City of Newport Beach
3300 Newport Boulevard
PO Box 1768
Newport Beach, CA 92658
Phone: 949-644-3321
Fax: 949-644-3318

27.2 All notices, demands, requests or approvals from City to Consultant shall be addressed to Consultant at:

Attn: Bradley R. Mielke, SE, PE
RBF Consulting
14725 Alton Parkway
Irvine, CA 92618-2027
Phone: 949-472-3505
Fax: 949-472-8373

28. CLAIMS

Unless a shorter time is specified elsewhere in this Agreement, before making its final request for payment under this Agreement, Consultant shall submit to City, in writing, all claims for compensation under or arising out of this Agreement. Consultant's acceptance of the final payment shall constitute a waiver of all claims for compensation under or arising out of this Agreement except those previously made in writing and identified by Consultant in writing as unsettled at the time of its final request for payment. The Consultant and the City expressly agree that in addition to any claims filing requirements set forth in the Agreement, the Consultant shall be required to file any claim the Consultant may have against the City in strict conformance with the Tort Claims Act (Government Code sections 900 *et seq.*).

29. TERMINATION

29.1 In the event that either party fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, that party shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) calendar days, or if more than two (2) calendar days are

reasonably required to cure the default and the defaulting party fails to give adequate assurance of due performance within two (2) calendar days after receipt of written notice of default, specifying the nature of such default and the steps necessary to cure such default, and thereafter diligently take steps to cure the default, the non-defaulting party may terminate the Agreement forthwith by giving to the defaulting party written notice thereof.

29.2 Notwithstanding the above provisions, City shall have the right, at its sole and absolute discretion and without cause, of terminating this Agreement at any time by giving no less than seven (7) calendar days prior written notice to Consultant. In the event of termination under this Section, City shall pay Consultant for Services satisfactorily performed and costs incurred up to the effective date of termination for which Consultant has not been previously paid. On the effective date of termination, Consultant shall deliver to City all reports, Documents and other information developed or accumulated in the performance of this Agreement, whether in draft or final form.

30. STANDARD PROVISIONS

30.1 Compliance with all Laws. Consultant shall at its own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, including federal, state, county or municipal, whether now in force or hereinafter enacted. In addition, all Work prepared by Consultant shall conform to applicable City, county, state and federal laws, rules, regulations and permit requirements and be subject to approval of the Project Administrator and City.

30.2 Waiver. A waiver by either party of any breach, of any term, covenant or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein, whether of the same or a different character.

30.3 Integrated Contract. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions herein.

30.4 Conflicts or Inconsistencies. In the event there are any conflicts or inconsistencies between this Agreement and the Scope of Services or any other attachments attached hereto, the terms of this Agreement shall govern.

30.5 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of the Agreement or any other rule of construction which might otherwise apply.

30.6 Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.

30.7 Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

30.8 Controlling Law and Venue. The laws of the State of California shall govern this Agreement and all matters relating to it and any action brought relating to this Agreement shall be adjudicated in a court of competent jurisdiction in the County of Orange, State of California.

30.9 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, age or any other impermissible basis under law.

30.10 No Attorney's Fees. In the event of any dispute or legal action arising under this Agreement, the prevailing party shall not be entitled to attorney's fees.

30.11 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and all of which together shall constitute one (1) and the same instrument.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the dates written below.

APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE

Date: 12/11/12

By: [Signature]
Aaron C. Harp
City Attorney

*KSA
11/21*

CITY OF NEWPORT BEACH,
A California municipal corporation

Date: 12-31-12

By: [Signature]
David A. Webb
Public Works Director

ATTEST: 12-27-12
Date: 12-27-12

By: [Signature]
Leilani I. Brown
City Clerk

CONSULTANT: RBF Consulting, a
California corporation

Date: 12-11-12

By: [Signature]
BRADLEY R. MIELKE
SENIOR VICE PRESIDENT

Date: _____

By: _____



[END OF SIGNATURES]

- Attachments: Exhibit A – Scope of Services
Exhibit B – Schedule of Billing Rates
Exhibit C – Insurance Requirements

document2

**EXHIBIT A
SCOPE OF SERVICES**

Project Understanding and Scope of Work

Project Understanding

The Project involves a proposed pedestrian connection from the dock area to the northwest corner of the Marine Avenue Bridge sidewalk. The need for the project is to provide a link from the public walkway on the dock directly to the bridge, on public property. Currently the path of travel involves the private property of the Newport Beach Yacht Club.

Exhibit A.1 (attached) provides a location plan of the proposed ramp as well as a view of the existing conditions. Based on our site walk and understanding of the project, a new walkway ramp would be provided from the existing concrete platform near the Newport Beach Yacht Club to a landing on the bridge pier, then switch back to the north and terminate at the bridge sidewalk level with a new opening in the bridge barrier. Refer to Exhibit A.2. The concrete platform is approximately 40 inches below the bridge sidewalk. In order to meet ADA requirements for this change in height, a ramp will be required with a landing located on one of the existing bridge piers. Refer to Exhibit A.3.

Scope of Services

The Scope of Work provided by RBF Consulting (Consultant) generally consists of developing a design concept of the ramp configuration and modifications to the bridge and provide Plans, Specifications, and Estimates for construction of the improvements. Specific tasks associated with the work are provided below:

Task 1 Project Management

This task covers project management services including the requirements for meetings, schedules, progress reports, and administration of Consultant's work.

1.1 Meetings

Consultant shall attend meetings Project Design Team (PDT) including the designated City staff members. Appropriate Consultant staff members will attend the meetings to discuss the initial project objectives, goals, and report on progress of the project. The following PDT meetings are anticipated and included in the Scope of Work:

- Initial Kickoff meeting to discuss the project requirements. A site walk during this meeting is anticipated.
- Two (2) additional meetings to update the project progress to the City staff and others.

Consultant will arrange meetings, provide discussion materials and agendas and develop and distribute meeting notes. In addition, Consultant shall prepare an action item matrix,

document all project decisions and distribute correspondence copies to all PDT members and City staff as appropriate.

Deliverables:

Meeting minutes

Task 2 Conceptual Design

2.1 Data Collection

Consultant shall collect project information made available by the City including existing topographic maps, Right of Way information, as-built drawings, maintenance records, bridge plans and other available materials related to the existing bridge, adjacent roadways, and walkways. We do not anticipate any impact to existing utilities, however RBF will research the existing plans available at the City to verify this assumption.

Deliverables:

Record data

2.2 Survey and Mapping

Project Control - RBF Consulting shall provide horizontal and vertical control for the project site. Unless otherwise directed by the Client, the basis of horizontal control will be North American Datum of 1983 (NAD 83), Zone 6, Epoch 2007, as published by the Orange County Surveyor. Coordinates will be expressed as grid values in terms of the U.S. survey foot.

Unless otherwise directed by the Client, the basis of vertical control will be the North American Vertical Datum of 1988 (NAVD 88) as published by the Orange County Surveyor.

Conventional Field Topographic Survey - Consultant shall provide field surveys that will include obtaining locations, elevations and descriptions of topographic data in the project area: (east-west) from bridge sidewalk to dock and (north-south) from existing Right of Way to dock. Topographic data collection will consist of locating the following items:

- Curb, gutter and sidewalks;
- Pavement areas at concrete platforms including the bridge pier;
- Power poles, streetlights and traffic signals, and major signs;
- Trees and major specimen plants, with trunk diameters greater than 6", including drip lines;
- Above ground piping and structures;
- Existing utilities including valves, pullboxes, meters, and vaults;
- Storm drain and sewer structures and manholes, including rim and inverts;
- Fences and Walls;
- All major surface features that define the shape of the terrain, such as tops and toes of slopes, grade breaks and natural ground;
- Spot elevations at critical locations.

All field topography shall be collected electronically for data processing. Consultant shall data process all topography in AutoCAD 2009 format. Deliverables will include an AutoCAD file compile at a scale of 1"=20' with 1 foot contours and a hard copy plot of the topography.

The finished topographic map shall include the basis of horizontal and vertical control, North arrow, date-of-survey.

Mapping- Consultant will conduct research at the County of Orange to obtain recorded maps pertaining to the rights-of-ways constituting portions of Assessor's Parcel Nos. 050-383-06, 09, and 04. A land net base will be calculated from existing record maps and geo-referenced to the project control network. It assumed the existing and proposed access ramp is within the Harbor District jurisdiction. No investigation of vesting rights to the harbor and peirhead is anticipated.

Deliverables:

Field Survey Notes
Topographic Map

2.3 Walkway Concept General Plan

Consultant shall prepare a general plan indicating the concept walkway layout plan (scale 1" = 20') and typical section considering several issues including:

- Appropriate path of travel and ramp limits;
- Ramp materials and ADD requirements;
- Impacts to adjacent properties, sidewalks, and landscaped areas;
- Modifications to bridge barrier and bridge pier where landing would be located.

Deliverables:

Concept General Plan

Task 3 Plans Specifications and Estimates

3.1 65% Submittal

Upon receipt of the City's written approval of the Concept General Plan, RBF will prepare the 65% plans (unchecked details). All structure design calculations and plans will conform to City requirements and will be submitted for review by the client. The structures will be designed by a California registered civil engineer in accordance with the applicable provisions of the following manuals:

- Caltrans Bridge Design Specifications (LRFD);
- Caltrans Bridge Design Aids.

A set of draft plans (unchecked details) will be prepared in AutoCAD in accordance with the applicable provisions of the following manuals and in conformance with any Client requirements:

- City of Newport Beach Public Works requirements;
- Standard plans for Public Works Construction (Green Book).

Assumed improvement plan sheets include:

1. Title Sheet
2. General Plan
3. Demolition and Removal Plan
4. Foundation Plan
5. Landing Details
6. Walkway/Ramp Details
7. Miscellaneous Details

A complete bound set of design calculations will be prepared and submitted to the City for review.

Deliverables:

Structural Design Calculations
Plans (Unchecked Details)

3.2 Final Submittal PS&E

RBF shall prepare 100% PS&E for review and approval which includes updating plans in response to previous review comments.

Specifications and Bid Documents

RBF shall prepare construction specifications, using the City "boilerplate" for the contract documents and general provisions. Technical specifications using "Green Book Specifications" shall be prepared for construction of each item of work in the Project. It is anticipated that all of the above mentioned plans, (street and bridge), will be bid under one construction bid document.

Cost Estimate

Based on the 65% plan submittal, RBF shall prepare a Quantity and Engineers Opinion of Probable Construction Costs. The estimate will be prepared utilizing the current edition of the Caltrans Contract Cost Data Book and recent bid information from area bids for unit costs. The preliminary cost estimate will include construction items, private property improvements, utility relocations, right-of-way, and water quality measures. Based on the final design plans, RBF will prepare a final opinion of probable construction costs estimate, with each bid item entry matching the corresponding Bid Schedule and Specification. The final cost estimate will be utilized by the City staff for evaluation and comparison of the Contractor's bid results.

After receipt of final approval, an original set of stamped and signed plans and an engineer's estimate will be submitted to the City for its use in developing bid documents and soliciting construction bids.

Deliverables:

Full-size "D" size Mylar set of Plans signed and stamped Final Plans
Specifications
Engineer's Estimate

3.3 Construction Support

RBF's project team will assist the City during construction by responding to Request for Information (RFI) regarding drawings and specifications. A total of 16 hours has been budgeted for this task additional time requested by client will be billed on a time and materials basis.

Task 4 Other Unforeseen Work (Optional Task)

As directed by City, RBF will provide consulting engineering services for this project that may not have been foreseen at the outset of the project. This work will be billed on a time and materials basis at the scheduled rate in Exhibit C, with a maximum of \$4,500.

Exhibit A.1



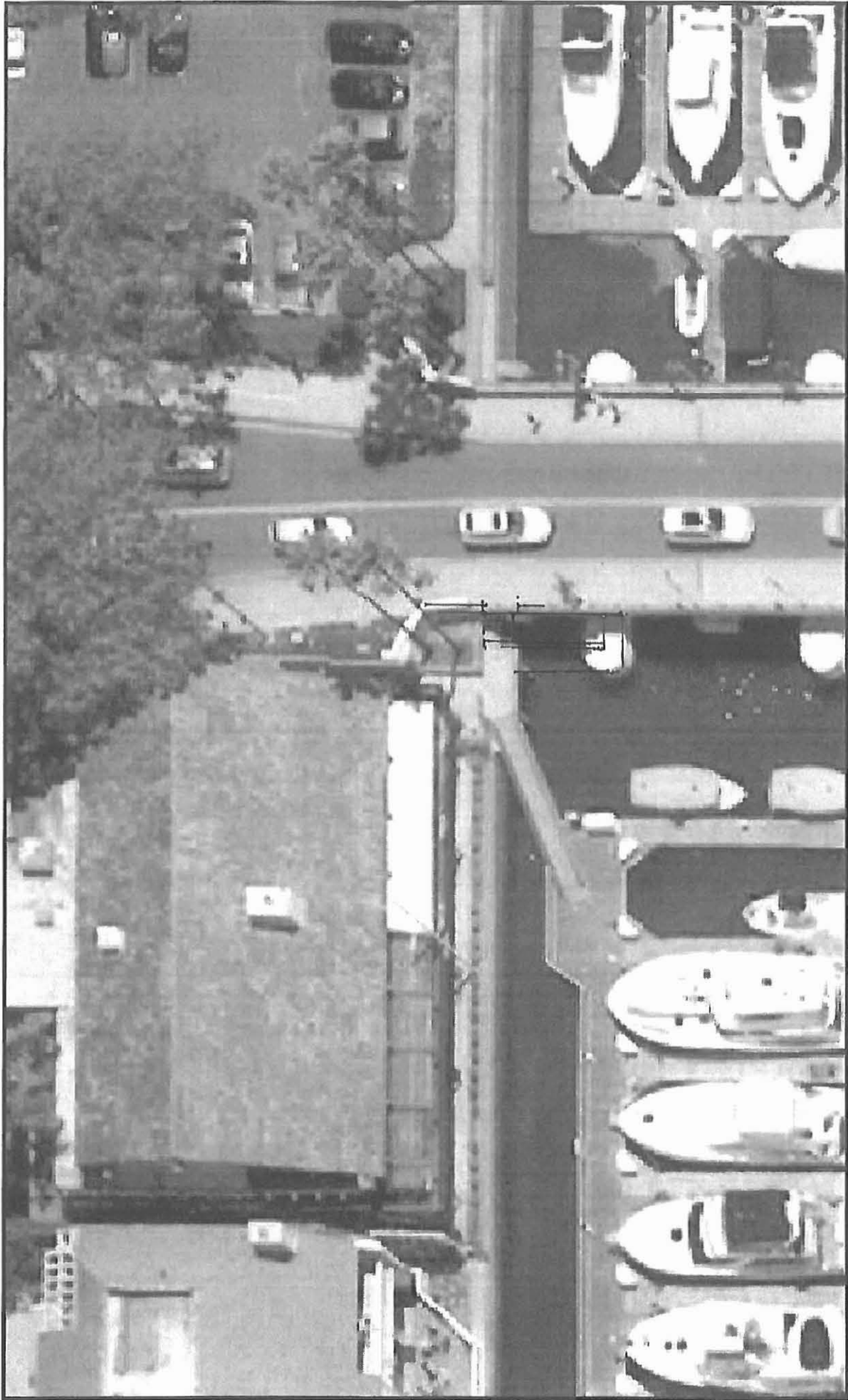
Google earth



Proposal .

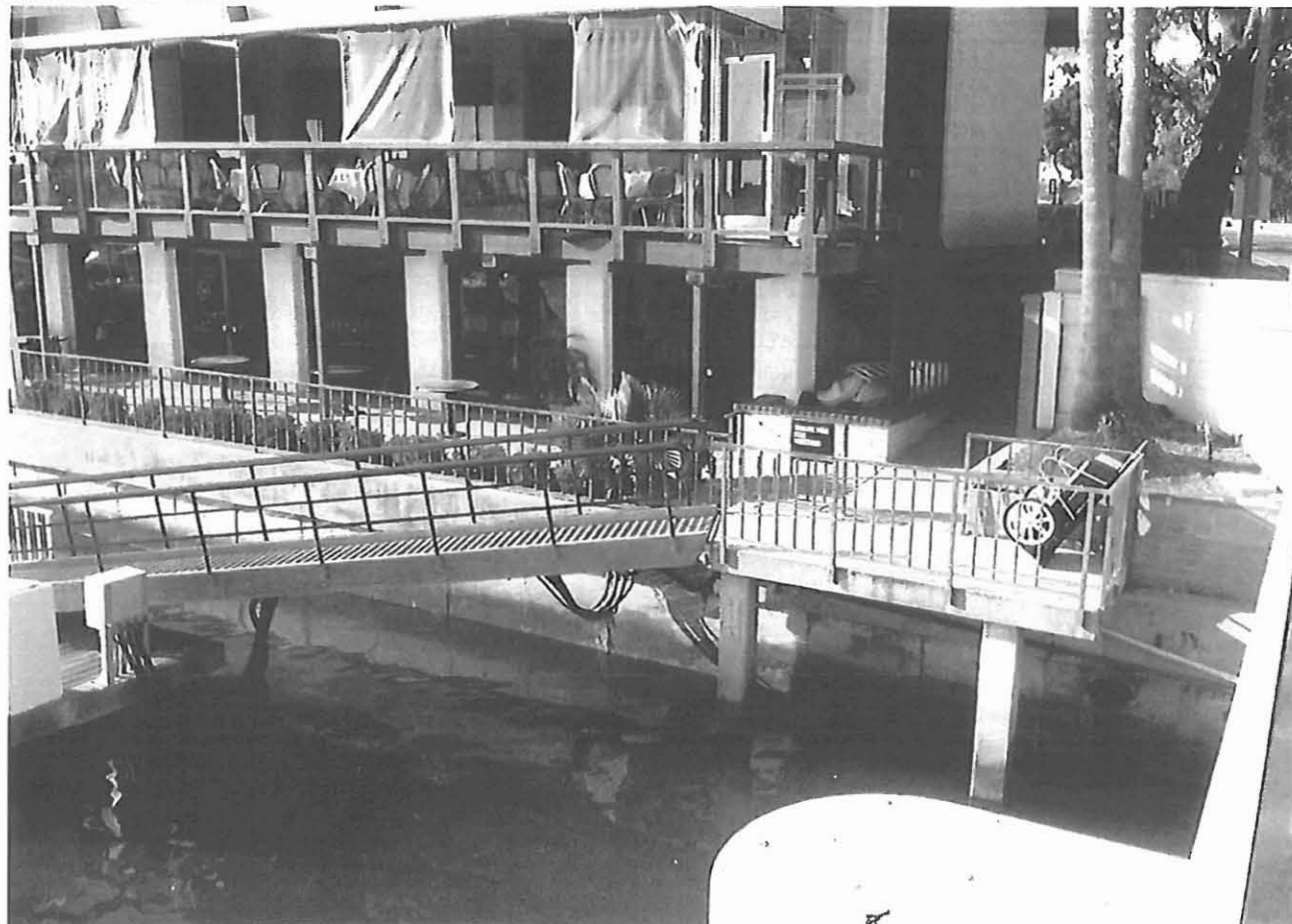
→ Maine Ave Sidewalk
Improvements

Exhibit A.2



Scale: 1" = 201
↑ North

Exhibit A.3



PROPOSED
LANDING
LOCATION.

**EXHIBIT B
SCHEDULE OF BILLING RATES**

Exhibit B Compensation

RBF Consulting (Consultant) will perform the services for City of Newport Beach (Client) outlined in the Scope of Services (Exhibit "A") and will invoice the Client monthly for the percentage of the work completed on a fixed fee basis, plus the direct costs for plotting, printing, reproduction, and other reimbursable costs. Client agrees to compensate Consultant with payments made within 30 days of invoice date.

Task	Description	FEE
Task 1	Project Management	
	Task 1.1 Meetings	\$ 1,800.
Task 2	Conceptual Plan	
	Task 2.1 Data Collection	\$ 2,200.
	Task 2.2 Survey and Mapping	\$ 3,800.
	Task 2.3 Walkway Concept General Plan	\$ 3,200.
Task 3	Plans, Specifications and Estimates	
	Task 3.1 65% Submittal	\$ 10,600.
	Task 3.2 Final Submittal PS&E	\$ 5,200.
	Task 3.3 Construction Support	\$ 2,300.
Task 4	Other Unforeseen Work (Optional Task)	\$ 4,500.
	Subtotal Fee =	\$ 33,600.
	Reimbursable Expenses (Budget) =	\$ 1,800.
	Subtotal Estimated Fee (Tasks 1-3 including Reimbursables) =	\$ 35,400.

Fees for Additional Services requested by the Client and reimbursable expenses, such as plotting, printing and travel expenses, will be billed at the scheduled rates attached (Exhibit "C"). An estimate for reimbursable expenses has been provided for Client budget estimates but may not accurate depending upon Client and Agency needs. When actual expenses reach 80% of the budget, the Consultant will notify the Client to reevaluate this budget.

Hourly Rate

Effective January 2012 through December 2012

<u>OFFICE PERSONNEL</u>	<u>\$/Hr.</u>
Senior Principal	\$245.00
Principal	225.00
Project Director.....	220.00
Program Manager	215.00
Senior Project Manager	200.00
Project Manager	195.00
Structural Engineer	195.00
Technical Manager.....	180.00
Senior Engineer.....	163.00
Senior Planner.....	163.00
Electrical Engineer.....	156.00
Landscape Architect.....	150.00
Senior GIS Analyst	150.00
Project Engineer.....	148.00
Project Planner.....	148.00
Environmental Specialist.....	138.00
Design Engineer/Senior Designer/Mapper	135.00
GIS Analyst	122.00
Designer/Planner	118.00
Project Coordinator	110.00
Graphic Artist.....	97.00
Environmental Analyst/Staff Planner.....	97.00
Design Technician	97.00
Assistant Engineer/Planner.....	93.00
Permit Processor.....	83.00
Engineering Aide/Planning Aide.....	75.00
Office Support/ Clerical.....	63.00
<u>FIELD PERSONNEL</u>	
2-Person Survey Crew	\$245.00
1-Person Survey Crew	165.00
Licensed Surveyor	175.00
Field Supervisor.....	172.00
<u>CONSTRUCTION MANAGEMENT PERSONNEL</u>	
Construction Manager	\$185.00
Resident Engineer/Project Manager.....	154.00
Senior Construction Inspector	123.00
Construction Inspector.....	118.00
Field Office Engineer.....	110.00
Construction Technician	95.00

Note:

Blueprinting, reproduction, messenger service and other direct expenses will be charged as an additional cost plus 15%. A Sub-consultant Management Fee of fifteen-percent (15%) will be added to the direct cost of all sub-consultant services to provide for the cost of administration, sub-consultant consultation and insurance. Vehicle mileage will be charged as an additional cost at \$0.51 per mile.

EXHIBIT C

1. INSURANCE REQUIREMENTS – PROFESSIONAL SERVICES

1.1 Provision of Insurance. Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City. Consultant agrees to provide insurance in accordance with requirements set forth here. If Consultant uses existing coverage to comply and that coverage does not meet these requirements, Consultant agrees to amend, supplement or endorse the existing coverage.

1.2 Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

1.3 Coverage Requirements.

1.3.1 Workers' Compensation Insurance. Consultant shall maintain Workers' Compensation Insurance, statutory limits, and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000) each accident for bodily injury by accident and each employee for bodily injury by disease in accordance with the laws of the State of California, Section 3700 of the Labor Code.

1.3.1.1 Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees and volunteers.

1.3.2 General Liability Insurance. Consultant shall maintain commercial general liability insurance, and if necessary umbrella liability insurance, with coverage at least as broad as provided by Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate. The policy shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract) with no endorsement or modification limiting the scope of coverage for liability assumed under a contract.

1.3.3 Automobile Liability Insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit each accident.

1.3.4 Professional Liability (Errors & Omissions) Insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement.

1.4 Other Insurance Requirements. The policies are to contain, or be endorsed to contain, the following provisions:

1.4.1 Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these requirements to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers from each of its subconsultants.

1.4.2 Additional Insured Status. All liability policies including general liability, excess liability, pollution liability, and automobile liability, but not including professional liability, shall provide or be endorsed to provide that City and its officers, officials, employees, and agents shall be included as insureds under such policies.

1.4.3 Primary and Non Contributory. All liability coverage shall apply on a primary basis and shall not require contribution from any insurance or self-insurance maintained by City.

1.4.4 Notice of Cancellation. All policies shall provide City with thirty (30) days notice of cancellation (except for nonpayment for which ten (10) days notice is required) or nonrenewal of coverage for each required coverage.

1.5 Additional Agreements Between the Parties. The parties hereby agree to the following:

1.5.1 Evidence of Insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation and other endorsements as specified herein for each coverage. Insurance certificates and endorsement must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

1.5.2 City's Right to Revise Requirements. The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving the Consultant sixty (60) days advance written notice of

such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

1.5.3 Enforcement of Agreement Provisions. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

1.5.4 Requirements not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

1.5.5 Self-insured Retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these requirements unless approved by City.

1.5.6 City Remedies for Non Compliance If Consultant or any subconsultant fails to provide and maintain insurance as required herein, then City shall have the right but not the obligation, to purchase such insurance, to terminate this agreement, or to suspend Consultant's right to proceed until proper evidence of insurance is provided. Any amounts paid by City shall, at City's sole option, be deducted from amounts payable to Consultant or reimbursed by Consultant upon demand.

1.5.7 Timely Notice of Claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

1.5.8 Consultant's Insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the Work.

CERTIFICATE OF INSURANCE CHECKLIST

City of Newport Beach

This checklist is comprised of requirements as outlined by the City of Newport Beach. *

Date Received: 7/23/12 Dept./Contact Received From: Terresa Moritz
 Date Completed: 10/17/12 Sent to: Terresa By: Joel
 Company/Person required to have certificate: RBF Consulting
 Type of contract: All Other

I. GENERAL LIABILITY

- EFFECTIVE/EXPIRATION DATE: 6/30/12 to 6/30/13
- A. INSURANCE COMPANY: Liberty Mutual Fire Insurance Company
- B. AM BEST RATING (A- : VII or greater): A XV
- C. ADMITTED Company (Must be California Admitted):
 Is Company admitted in California? Yes No
- D. LIMITS (Must be \$1M or greater): What is limit provided? \$2,000,000 / \$4,000,000
- E. ADDITIONAL INSURED ENDORSEMENT – please attach Yes No
- F. PRODUCTS AND COMPLETED OPERATIONS (Must include): Is it included? (completed Operations status does not apply to Waste Haulers or Recreation) Yes No
- G. ADDITIONAL INSURED FOR PRODUCTS AND COMPLETED OPERATIONS ENDORSEMENT (completed Operations status does not apply to Waste Haulers) Yes No
- H. ADDITIONAL INSURED WORDING TO INCLUDE (The City its officers, officials, employees and volunteers): Is it included? Yes No
- I. PRIMARY & NON-CONTRIBUTORY WORDING (Must be included): Is it included? Yes No
- J. CAUTION! (Confirm that loss or liability of the named insured is not limited solely by their negligence) Does endorsement include "solely by negligence" wording? Yes No
- K. ELECTED SCMAF COVERAGE (RECREATION ONLY): N/A Yes No
- L. NOTICE OF CANCELLATION: N/A Yes No

II. AUTOMOBILE LIABILITY

- EFFECTIVE/EXPIRATION DATE: 6/30/12 to 6/30/13
- A. INSURANCE COMPANY: Liberty Mutual Fire Insurance Company
- B. AM BEST RATING (A- : VII or greater) A XV
- C. ADMITTED COMPANY (Must be California Admitted):
 Is Company admitted in California? Yes No
- D. LIMITS - If Employees (Must be \$1M min. BI & PD and \$500,000 UM, \$2M min for Waste Haulers): What is limits provided? 1,000,000
- E. LIMITS Waiver of Auto Insurance / Proof of coverage (if individual) (What is limits provided?) N/A
- F. PRIMARY & NON-CONTRIBUTORY WORDING (For Waste Haulers only): N/A Yes No
- G. HIRED AND NON-OWNED AUTO ONLY: N/A Yes No
- H. NOTICE OF CANCELLATION: N/A Yes No

III. WORKERS' COMPENSATION

EFFECTIVE/EXPIRATION DATE: 6/30/12 to 6/30/13

A. INSURANCE COMPANY: Liberty Insurance Corporation

B. AM BEST RATING (A- : VII or greater): A XV

C. ADMITTED Company (Must be California Admitted): Yes No

D. WORKERS' COMPENSATION LIMIT: Statutory Yes No

E. EMPLOYERS' LIABILITY LIMIT (Must be \$1M or greater) \$1,000,000

F. WAIVER OF SUBROGATION (To include): Is it included? Yes No

G. SIGNED WORKERS' COMPENSATION EXEMPTION FORM: N/A Yes No

H. NOTICE OF CANCELLATION: N/A Yes No

ADDITIONAL COVERAGE'S THAT MAYBE REQUIRED

IV. PROFESSIONAL LIABILITY

N/A Yes No

V POLLUTION LIABILITY

N/A Yes No

V BUILDERS RISK

N/A Yes No

**HAVE ALL ABOVE REQUIREMENTS BEEN MET?
IF NO, WHICH ITEMS NEED TO BE COMPLETED?**

Yes No

Approved:



11/30/12

Agent of Alliant Insurance Services
Broker of record for the City of Newport Beach

Date

RISK MANAGEMENT APPROVAL REQUIRED (Non-admitted carrier rated less than ____;

Self Insured Retention or Deductible greater than \$_____) N/A Yes No

Reason for Risk Management approval/exception/waiver:

Approved:

Risk Management

Date

* Subject to the terms of the contract.

Business Entity Detail

Data is updated weekly and is current as of Friday, November 09, 2012. It is not a complete or certified record of the entity.

Entity Name:	REF CONSULTING
Entity Number:	C0423965
Date Filed:	11/27/1961
Status:	ACTIVE
Jurisdiction:	CALIFORNIA
Entity Address:	14725 ALTON PARKWAY
Entity City, State, Zip:	IRVINE CA 92618
Agent for Service of Process:	MICHAEL V. VALENZA
Agent Address:	14725 ALTON PARKWAY
Agent City, State, Zip:	IRVINE CA 92618

* Indicates the information is not contained in the California Secretary of State's database.

- If the status of the corporation is "Surrender," the agent for service of process is automatically revoked. Please refer to California Corporations Code [section 2114](#) for information relating to service upon corporations that have surrendered.
- For information on checking or reserving a name, refer to [Name Availability](#).
- For information on ordering certificates, copies of documents and/or status reports or to request a more extensive search, refer to [Information Requests](#).
- For help with searching an entity name, refer to [Search Tips](#).
- For descriptions of the various fields and status types, refer to [Field Descriptions and Status Definitions](#).

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