



DATE: September 9, 2009

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **PROFESSIONAL SERVICES AGREEMENT FOR DEVELOPMENT OF A CITYWIDE NEIGHBORHOOD TRAFFIC-CALMING PROGRAM**

SYNOPSIS

Staff recommends that the City Council approve a professional services agreement with RBF Consulting of Carlsbad, in the amount of \$49,940 for the development of a Citywide Neighborhood Traffic-Calming Program; and authorize the City Manager to execute the agreement.

BACKGROUND

Currently, the City of Oceanside uses the Oceanside Neighborhood Traffic Calming Campaign to evaluate and install traffic-calming measures and devices in the City. This document was prepared by the Transportation Engineering Section on January 19, 2005, and was updated on March 26, 2008. The current program is outdated in terms of its policies as well as the measures and devices listed in the traffic-calming tool box. The current program is also non-uniform in terms of its procedures and warrants. As a result, the Transportation Engineering Section drafted a request for proposals to update and expand on its current Traffic Calming Campaign.

Requests for proposals were sent to three engineering and environmental consultants with an April 2, 2009, submittal deadline. Proposals were received from all three consultant teams. Staff reviewed the proposals and interviewed the consultant teams. RBF Consulting was selected by staff as the best consultant team to conduct the engineering services for the project, based upon their previous work in this area, overall related experience and their reasonable cost proposal.

RBF Consulting has various contract awards within the Development Services Department, with a cumulative amount exceeding \$50,000 for a year. As a result of this, per the City of Oceanside's Procurement of Goods and Services Directive, City Council approval is required for the professional services agreement for the development of a Citywide neighborhood traffic-calming program.

ANALYSIS

RBF Consulting will review existing City goals and policies and develop new traffic-calming goals, policies and guidelines, a traffic-calming implementation process, toolbox and associated design guidelines. The project will supplement and/or revise the existing goals and policies described in the Oceanside Neighborhood Traffic Calming Campaign. The project will establish a process with specific steps for evaluating neighborhood streets for traffic-calming measures as well as develop traffic-calming warrants for various traffic-calming measures. A traffic-calming toolbox will be developed which will have various tools, usage guide, advantages and disadvantages of each tool, and other relevant information. RBF will also establish design guidelines for new developments. A task force will be generated for the purposes of this project and will be composed of City staff members and citizens from neighborhood community organizations.

Once RBF Consulting has developed a traffic-calming program and corresponding toolbox the team will work with the City to conduct a test run of the process. At the completion of the test run RBF Consulting will make refinements to the program based on input and data collected. The project is anticipated to be completed in March of 2010 and will be presented to City Council at that time for review and approval.

FISCAL IMPACT

The available balance in the FY 2009-2010 Capital Improvement Streets Program (902523100212) for Neighborhood Traffic Improvements is \$277,298.58. The total cost for the preparation of the Citywide Neighborhood Traffic Calming Program is anticipated to be \$49,940; therefore, there are sufficient funds available for this agreement.

A professional services agreement was awarded to RBF Consulting on May 30, 2009, which was signed by all involved parties. In addition, a purchase order in the amount of \$49,940 was issued on August 4, 2009.

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

The Transportation Commission was informed of the City's intention to hire a consultant to update the existing Oceanside Neighborhood Traffic Calming Campaign at the June 16, 2009, meeting.

CITY ATTORNEY'S ANALYSIS

The referenced documents have been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

Staff recommends that the City Council approve a professional services agreement with RBF Consulting of Carlsbad, in the amount of \$49,940 for the development of a Citywide Neighborhood Traffic-Calming Program; and authorize the City Manager to execute the agreement.

PREPARED BY:



Darra Woods
Assistant Engineer

SUBMITTED BY:



Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager
George Buell, Development Services Director
David DiPierro, City Traffic Engineer
Scott O. Smith, City Engineer
Teri Ferro, Financial Services Director











Attachment:

- RBF Scope of Work
- RBF Fee Proposal
- Professional Services Agreement



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WORK PROGRAM

Task 0.0 Project Management

The RBF Team will be responsible for organizing and conducting all project team meetings. This includes the preparation of all meeting agendas, meeting minutes and maintenance of a decision log for the project.

The RBF Project Manager will be responsible for maintaining regular communication with the City of Oceanside project team to ensure timely submittals of all documentation and coordination on all issues.

The RBF Project Manager will coordinate a project kick-off meeting that will be used to introduce the key members of the RBF team to the established Project Task Force Members. Following the kick-off meeting, the project manager will be responsible for coordinating monthly meetings with the established project task force. The task force will be responsible for providing input and guidance in the development of the project goals, policies and guidelines.

Task 1.0 Goals, Policies and Guidelines

RBF Consulting will review the existing Oceanside Neighborhood Traffic Calming Campaign document. Working together with City staff, RBF Consulting will determine which parts of the existing program have been successfully implemented and where challenges may exist. RBF will work with engineering and emergency services to determine if elements of the existing program have created issues or conflicts between departments regarding existing city policies and/or design standards. As necessary, the RBF Team will review documents and propose solutions to any potential conflicts.

From this review process, the RBF Team will work with the Project Task Force in developing new policies, goals and guidelines. Key members of City staff and community organizations will comprise the task force. Each member will bring unique concerns as the traffic calming program evolves.

Task 2.0 Project Process and Implementation



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As with any grass-roots based program, the process must be straightforward and easy for the average citizen to understand. If the process is too complicated or filled with overly technical terms, citizen will become frustrated or discouraged by the process, which will lead to frustration on those tasked with implementing the program.

The RBF Team has worked with a number of agencies with adopted Neighborhood Traffic Calming Programs. As part of the development of the Traffic Calming Program, RBF will educate the Project Task Force on the programs currently being implemented in surrounding communities. The RBF Team will interview City staff tasked with implementing those programs to determine what has been successful and what has been challenging for them. Information determined by our team will be discussed with the Project Task Force at a monthly meeting.

All effective traffic calming programs have the basic key steps:

- **Plan initiation:** How the citizen makes a request for traffic calming; Evaluation process for determine if traffic calming is a feasible option
- **Plan Development:** Process by which a study area is determined; determination of alternatives; decision making process and selection of traffic calming measures
- **Plan Support:** Circulation of petition within study area to demonstrate support
- **Plan Implementation:** Moving the traffic calming concept from plan to reality

There are many ways in which this process can evolve from community committee based plan development to workshop driven community planning. The RBF Team will work with the Project Task Force to determine the best approach for City of Oceanside and its residents. This will be accomplished through a series of meetings with the Task Force:

Meeting 1: Discuss existing program challenges and effectiveness; RBF presents results of agency survey; Task Force discusses goals of the process and desired outcomes;



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Meeting 2: RBF presents a modified program based on input from Task Force; Task Force provides comments/recommendations to modify program

Meeting 3: RBF presents recommended program to Task Force and collects final comments.

Meeting 4: Task Force discusses implementation plan for improvements including steps needed to process project through the various committees, commissions and City Council. Possible sources for funding for projects and maintenance issues should be discussed at this time.

RBF will be available to meet with the Task Force as often as necessary to develop this program. However, we recognize that staff time is valuable and we aim to make best use of your time. Therefore, the modified program and recommended program will be presented in writing to the Task Force in advance of the meetings to provide the team ample time to review the process before the meetings.

Task 3.0

Design Principles

Identification of Design Features

The RBF Team will prepare and present to the Project Task Forces a comprehensive list of possible traffic calming features from neighborhood traffic circles to speed lumps to raised crosswalks. Many of these features may be currently included in your existing program.

For each potential traffic calming feature, the Task Force will be asked to consider:

- Is this feasible in our City
- Where would it be placed
- What type of maintenance is required
- What is the cost

For each potential traffic calming measure presented, the RBF Team will present to the Project Task Force basic design principles such as vertical deflection, horizontal deflection, diversion impacts, speed impacts and awareness quotient.



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The key to an effective traffic calming program is including as many features as possible into the City's tool box. This will provide both the City and the community flexibility in selecting the tool that is right for each situation. The traffic calming program should not under any circumstances include design elements that would not be supported by engineering or emergency services.

In many cities, overcoming emergency services response time issues is one of the biggest hurdles in developing a traffic calming program. The RBF Team will work closely with emergency services and engineering to determine features that will minimize impacts to emergency services while still addressing the need to calm traffic on local roads. Traffic calming measures may be rated based on whether the feature is acceptable along an emergency services route.

Illustrative Design of Traffic Calming Elements

For each selected traffic calming tool, the RBF Team will provide a plan and profile view to illustrate the design criteria. The plan and profile view will provide recommended minimum and maximum dimensions for each device. This will be particularly important for traffic calming devices that include a vertical change in elevation of the roadway (speed cushions, raised crosswalks, etc)

Task 4.0 Traffic Calming Toolbox

The development of the toolbox is the transition from the technical design features evaluated in Task 3.0 to the user-friendly description of traffic calming options.

In this task, the RBF Team will summarize all the features approved by the Task Force in Task 3.0. For each traffic calming measure in the tool box, the RBF Team will provide:

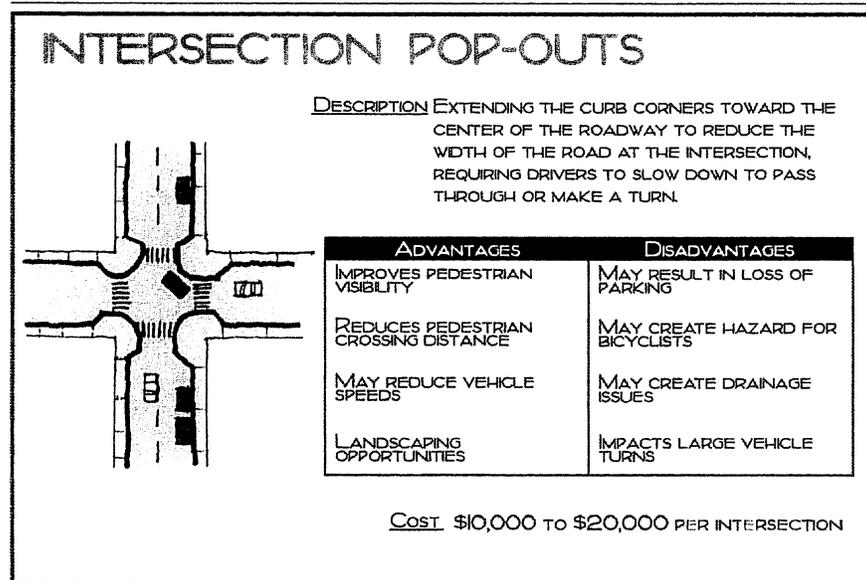
- A description of the traffic calming tool
- Advantages and disadvantages
- Appropriate application of tool
- Approximate cost

An example of how these tools could be summarized in the tool box is provided below.



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To simplify the process for residents, all the potential traffic calming features will be summarized into a single table or "user's guide."

In addition, RBF Consulting will prepare a tri-fold informational brochure that the city can provide to residents that summarizes the traffic calming program and process. RBF Consulting will provide the City up to 20 copies of the brochure and an electronic copy for posting on the City's website.

Task 5.0

Design Guidelines for New Developments

Based on our understanding of development procedures in the City of Oceanside, RBF Consulting will prepare design guidelines for the application of traffic calming tools for future residential neighborhoods within the City. Such developments will include raw land development as well as redevelopment or infill projects. The guidelines will focus on



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establishing locations where traffic calming features would be appropriately places to proactively reduce the potential for cut through or high speed traffic in residential neighborhoods. Criteria such as connectivity between neighborhoods or adjoining development, roadway widths, density and topography will be considered in the establishment of the new development guidelines.



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Task 6.0 Test Program

Following the development of the traffic calming program and toolbox, the RBF Team will work with the City in conducting a test run of the process. City of Oceanside will identify the project study area and collect the necessary data for the evaluation. The RBF Team will meet with the community and prepare the necessary presentation materials to work through the phases of the traffic calming program.

Based on the results of the test program, the RBF Team will work with the City to make refinements to the traffic calming program. The results of the test program will be integrated into the report to the City Council and the final report for the program.

Task 7.0 Presentations

The RBF Team will work with the City of Oceanside staff to develop presentations that will be made to key City committees and commissions. Presentations will be made by RBF Consulting to Public Safety Committee, Traffic Safety Commission, Planning Commission and City Council.

Task 8.0 Documentation

The RBF Team will compile the recommended program, design guidelines, toolbox and users guide into a comprehensive document that summarizes the Neighborhood Traffic Calming Program. The document, when finalized, will be provided to City of Oceanside in electronic format. One (1) unbound and one (1) bound copy of the document will be provided to City staff as part of the final document submittal.

**CITY OF OCEANSIDE
NEIGHBORHOOD TRAFFIC CALMING PROGRAM**

Fee Proposal
RBF Consulting
Updated: April 2, 2009

Task	Project Manager		Sr. Project Planner		Project Planner		Project Engineer		Graphic/WP		TOTAL
	Hours	Budget	Hours	Budget	Hours	Budget	Hours	Budget	Hours	Budget	
0.0 Project Management											
Project Coordination	12	\$2,040	4	\$600		\$0	4	\$600		\$0	\$3,240
1.0 Goals, Policies, Guidelines											
Review Documents	4	\$680	2	\$300	2	\$210		\$0		\$0	\$1,190
Establish Goals, Policies, Guidelines	6	\$1,020	20	\$3,000		\$0		\$0		\$0	\$4,020
2.0 Project Process & Implementation											
Interview Agencies	2	\$340		\$0	8	\$840		\$0		\$0	\$1,180
Meetings with Task Force (4) + Preparat	16	\$2,720	36	\$5,400	8	\$840	4	\$600		\$0	\$9,560
Summary of Project Process	8	\$1,360	12	\$1,800		\$0		\$0	10	\$650	\$3,810
3.0 Design Principles											
Selection of Traffic Calming Feature	4	\$680		\$0		\$0	28	\$4,200		\$0	\$4,880
Illustrative Design	2	\$340		\$0		\$0	24	\$3,600		\$0	\$3,940
4.0 Traffic Calming Tool Box											
Benefits/challenges	2	\$340		\$0	16	\$1,680	6	\$900		\$0	\$2,920
Graphic/Illustrations		\$0		\$0	4	\$420		\$0	16	\$1,040	\$1,460
Cost Estimates		\$0		\$0		\$0	6	\$900		\$0	\$900
5.0 Design Guidelines for New Developments											
Establish Criteria	2	\$340	8	\$1,200	8	\$840	2	\$300		\$0	\$2,680
Documentation	8	\$1,360		\$0		\$0		\$0	12	\$780	\$2,140
6.0 Test Program											
Prepare & Conduct Meetings	8	\$1,360		\$0	8	\$840		\$0		\$0	\$2,200
Refinements to Program	4	\$680		\$0		\$0		\$0	4	\$260	\$940
7.0 Presentations											
Presentation Preparation	4	\$680		\$0		\$0		\$0	4	\$260	\$940
Attendance at Meeting	8	\$1,360		\$0		\$0		\$0		\$0	\$1,360
8.0 Documentation											
Documentation	6	\$1,020		\$0		\$0		\$0	24	\$1,560	\$2,580
TOTAL	80	\$13,600	82	\$12,300	46	\$4,830	74	\$11,100	62	\$4,030	\$49,940

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CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT, dated May 30th, 2009, for identification purposes, is made and entered into by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and RBF Consulting, hereinafter designated as "CONSULTANT".

RECITALS

- A. CITY desires to obtain professional engineering services from an independent contractor for the above named project.
- B. CONSULTANT has submitted a proposal to provide engineering services for the CITY in accordance with the terms set forth in this Agreement.
- C. CITY desires to contract with CONSULTANT as an independent contractor and CONSULTANT desires to provide services to CITY as an independent contractor.
- D. CONSULTANT has demonstrated its competence and professional qualifications necessary for the satisfactory performance of the services designated herein by virtue of its experience, training, education and expertise.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1.0 **SCOPE OF WORK.** The project is more particularly described as follows: RBF Consulting shall develop a Citywide neighborhood traffic calming program per the attached Scope of Work set forth in Exhibit A.
- 1.1 **PROFESSIONAL SERVICES PROVIDED BY CONSULTANT.** The professional services to be performed by CONSULTANT shall consist of but not be limited to the following:
 - 1.1.1 Work closely with the City Traffic Engineer and Project Manager in performing work in accordance with this Agreement in order to receive clarification as to the result which the CITY expects to be accomplished by CONSULTANT. The City Traffic Engineer and Project Manager, under the authority of the City Manager, shall be the CITY'S authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement. The

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Project Manager may delegate authority in connection with this Agreement to the City Traffic Engineer's designees. For the purposes of directing the CONSULTANT'S performance in accordance with this Agreement, the City Traffic Engineer delegates authority to John Amberson, Project Manager.

- 1.1.2 In compliance with Government Code section 7550, the CONSULTANT shall (if applicable) include a separate section in the proposal prepared pursuant to this Agreement, which contains a list of all the subcontractors and dollar amounts of all contracts and subcontracts required for the preparation of work described in this Agreement.
- 1.1.3 Visit and carefully examine the location of the project as often as necessary to become acquainted with all conditions which are visible or could reasonably be discovered, and which might have an impact upon the construction of the project.
- 1.1.4 Design, prepare and submit to the City Traffic Engineer and Project Manager, neighborhood traffic calming program and specifications for the implementation of the traffic calming program as described in the Scope of Work, and in the time and manner set forth in this Agreement.
- 1.1.5 Prepare and submit to the City Traffic Engineer and Project Manager, concurrently with the Citywide neighborhood traffic calming program, the following:
 - a. A written Citywide traffic calming goals, policies and guidelines.
 - b. A written Citywide traffic calming program and implementation process.
 - c. A written and illustrative traffic calming feature/s and design details.
 - d. A written "user-friendly" description of each traffic calming feature listed in the traffic calming "Tool Box".
 - e. A written guideline for implementation of traffic calming features for new developments.
 - f. A test program shall be implemented for one neighborhood location by the CONSULTANT and the CITY.
- 1.1.6 Upon completion of the Citywide traffic calming program, prepare, and present the final program to City Committees and Commissions.

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1.1.7 Provide office and presentation assistance to the City during the Test Program and presentation to City Commissions and Committees upon request by City Traffic Engineer and Project Manager to include the services listed below:

- a. Prepare needed reports and presentation.
- b. Attend meetings with the City Traffic Engineer or his designees.

1.2 **SERVICES PROVIDED BY CITY.** The CITY shall perform the following services:

1.2.1 Provide access to all public improvement plans and records and furnish one copy of drawings and reports requested.

1.2.2 Obtain all necessary permits from other regulatory agencies and other Departments. CONSULTANT shall participate in the completion of such forms but CITY will submit these and pay for any applicable fees.

1.2.3 Provide all legal advertising mailings and postings required.

1.2.4 Provide overall project management.

2.0 TIMING REQUIREMENTS

2.1 Time is of the essence in the performance of work under this Agreement and the following timing requirements shall be strictly adhered to unless otherwise modified in writing as set forth in Section 2.6. Failure by CONSULTANT to strictly adhere to these timing requirements may result in termination of this Agreement by the CITY and the assessment of damages against the CONSULTANT for delays.

2.2 Phase I. CONSULTANT shall prepare and deliver traffic calming Goals, Policies and Guidelines the Project Manager within 60 calendar days of the execution of this Agreement. No work shall be performed by CONSULTANT beyond the Phase I stage until the Project Manager has given written approval of the draft traffic calming Goals, Policies and Guidelines and authorization to perform Phase II.

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- 2.3 Phase II. CONSULTANT shall prepare and deliver a draft traffic calming program to the Project Manager within 120 calendar days of the execution of this Agreement. No work shall be performed by CONSULTANT beyond the Phase II stage until the City Traffic Engineer has given authorization to perform Phase III.
- 2.4 Phase III. CONSULTANT shall prepare and conduct the Test Program with the Project Manager and staff within 50 calendar days of the City Traffic Engineer's written authorization to perform Phase III.
- 2.5 Phase IV. CONSULTANT shall prepare and deliver the presentation materials for City Commissions and Committees to the Project Manager within 60 calendar days of the Project Manager's written request.
- 2.6 CONSULTANT shall submit all requests for extensions of time for performance in writing to the Project Manager no later than ten (10) calendar days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. The City Traffic Engineer and Project Manger shall review all such requests and may grant reasonable time extensions for unforeseeable delays which are beyond CONSULTANT'S control.
- 2.7 For all time periods not specifically set forth herein, the CONSULTANT shall respond in the most expedient and appropriate manner under the circumstances, by telephone, fax, hand delivery or mail.
- 3.0 **DESIGN CRITERIA AND STANDARDS.** All work shall be performed in accordance with applicable CITY, state and federal codes and criteria. In the performance of its professional services, CONSULTANT shall use the degree of care and skill ordinarily exercised by consultants under similar conditions.
- 4.0 **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Traffic Engineer. The CONSULTANT shall not be authorized to communicate directly with, nor in any way direct the actions of, any bidder or the construction contractor for this project without the prior written authorization by the City Traffic Engineer. CONSULTANT shall be solely responsible for the performance of any of its employees, agents or subcontractors under this agreement.

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CONSULTANT shall report to the CITY any and all employees, agents and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.

- 5.0 **CITY BUSINESS LICENSE.** Prior to the commencement of any work under this agreement, the CONSULTANT shall obtain and present a copy of an Oceanside City Business License to the Project Manager.
- 6.0 **WORKERS' COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply with such provisions and provide certification of such compliance as a part of these Award Documents. The certification shall be in accordance with Subsections 7.3 through 7.8 of this Agreement.

7.0 **LIABILITY INSURANCE.**

7.1 CONSULTANT shall, throughout the duration of this Agreement, maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including, but not limited to, premises and automobile.

7.2.1 CONSULTANT shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance
(bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
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*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

- 7.2.2 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify the CITY'S Project Manager promptly of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.
- 7.3 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this Agreement. Insurance coverage provided to the CITY as an additional insured shall be primary insurance and other insurance maintained by the CITY, its officers, agents and employees shall be excess only and not contributing with insurance provided pursuant to this Section.
- 7.4 All insurance companies affording coverage to the CONSULTANT pursuant to this Agreement shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 7.5 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 7.6 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 7.7 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.

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7.8 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.

8.0 **PROFESSIONAL ERRORS AND OMISSIONS INSURANCE.** Throughout the duration of this agreement and four (4) years thereafter, the CONSULTANT shall maintain professional errors and omissions insurance for work performed in connection with this Agreement in the minimum amount of One Million dollars (\$1,000,000).

CONSULTANT shall provide evidence of compliance with these insurance requirements by providing a Certificate of Insurance.

9.0 **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of CONSULTANT'S work, including the negligent acts, errors or omissions or wrongful acts or conduct of the CONSULTANT, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or employees founded upon, resulting or arising from the conduct, tortuous acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

10.0 **ERRORS AND OMISSIONS.** In the event that the City Traffic Engineer determines that the CONSULTANT'S negligence, misconduct, errors or omissions in the performance of work under this Agreement has resulted in expense to CITY greater than would have resulted if there were no such negligence, errors or omissions in the plans or contract specifications, CONSULTANT shall reimburse CITY for the additional expenses incurred by the CITY, including engineering, construction and/or restoration expense. Nothing herein is intended to limit CITY'S rights under Sections 7, 8 or 9.

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- 11.0 **NO CONFLICT OF INTEREST.** The CONSULTANT shall not be financially interested in any other CITY contract for this project. For the limited purposes of interpreting this section, the CONSULTANT shall be deemed a “City officer or employee”, and this Section shall be interpreted in accordance with Government Code section 1090. In the event that the CONSULTANT becomes financially interested in any other CITY contract for this project, that other contract shall be void. The CONSULTANT shall indemnify and hold harmless the CITY, under Section 9 above, for any claims for damages resulting from the CONSULTANT’S violation of this Section.
- 12.0 **OWNERSHIP OF DOCUMENTS.** All programs, plans and specifications, including details, computations and other documents, prepared or provided by the CONSULTANT under this Agreement shall be the property of the CITY. The CITY agrees to hold the CONSULTANT free and harmless from any claim arising from any use, other than the purpose intended, of the program, plans and specifications and all preliminary sketches, schematics, preliminary plans, architectural perspective renderings, working drawings, including details, computation and other documents, prepared or provided by the CONSULTANT. CONSULTANT may retain a copy of all material produced under this Agreement for the purpose of documenting their participation in this project.
- 13.0 **COMPENSATION.**
- 13.1 For work performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT in accordance with the schedule of billing rates set forth in Exhibit “B”, attached hereto and incorporated herein by reference. No rate changes shall be made during the term of this Agreement without prior written approval of the City Traffic Engineer. CONSULTANT’S compensation for all work performed in accordance with this Agreement shall not exceed the total contract price of \$49,940.
- No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Traffic Engineer. CONSULTANT shall obtain approval by the City Traffic Engineer prior to performing any work which results in incidental expenses to CITY as set forth in Section 13.2.2.
- 13.2 CONSULTANT shall maintain accounting records including the following information:
- 13.2.1 Names and titles of employees or agents, types of work performed and times and dates of all work performed in connection with this Agreement which is billed on

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an hourly basis.

- 13.2.2 All incidental expenses including reproductions, computer printing, postage, mileage and subsistence.
- 13.3 CONSULTANT'S accounting records shall be made available to the Project Manager for verification of billings, within a reasonable time of the Project Manager's request for inspection.
- 13.4 CONSULTANT shall submit monthly invoices to CITY. CITY shall make partial payments to CONSULTANT not to exceed the total contract price within thirty (30) days of receipt of invoice, subject to the approval of the City engineer, and based upon the following partial payment schedule:
- 13.4.1 Prior to submittal of the 40% preliminary citywide traffic calming program, partial payments shall not exceed \$20,000.
- 13.4.2 Prior to CITY approval of the draft citywide traffic calming program, partial payments shall not exceed \$47,000.
- 13.4.3 Final payment shall be made to CONSULTANT upon CONSULTANT's preparation of final submittal of the citywide traffic calming program to the satisfaction of the City Traffic Engineer.
- 14.0 **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing thirty (30) days written notice to the other party.
- If any portion of the work is terminated or abandoned by the CITY, then the CITY shall pay CONSULTANT for any work completed up to and including the date of termination or abandonment of this Agreement, in accordance with Section 13. The CITY shall be required to compensate CONSULTANT only for work performed in accordance with the Agreement up to and including the date of termination.
- 15.0 **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

Development of Citywide Neighborhood Traffic Calming Program-212.755231

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

- 16.0 **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations or agreements.
- 17.0 **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.

- 18.0 **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an Agreement in writing, signed by the parties hereto.
- 19.0 **DISPUTE RESOLUTION.**
- a. Any controversy or claim arising out of or relating to this Agreement, or concerning the breach or interpretation thereof, shall be first submitted to mediation, the cost of which shall be borne equally by the parties.
 - b. No suit shall be brought on this contract unless all statutory claims filing requirements have been met.
20. **NOTICES.** All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

Development of Citywide Neighborhood Traffic Calming Program-212.755231

TO CITY:

City of Oceanside
City Traffic Engineer
300 North Coast Highway
Oceanside, CA 92054

TO CONSULTANT:

RBF Consulting
Dawn Wilson, P.E.
5050 Avenida Encinas, Suite 260
Carlsbad, CA 92008-4386

Either party may change its address by notice to the other party as provided herein.

Communications shall be deemed to have been given and received on the first to occur:

- a. Actual receipt at the offices of the party to whom the communication is to be sent, as designated above, or
- b. Three (3) working days following the deposit in the United States mail of registered or certified mail, postage prepaid, return receipt requested, addressed to the offices of the party to whom the communication is to be sent, as designated above.

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21.0 **SIGNATURES**. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

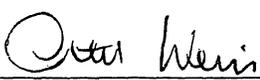
IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures on the dates indicated below:

RBF Consulting

By: 
Scott Taylor, Senior Vice President

Date: 5/21/09

CITY OF OCEANSIDE

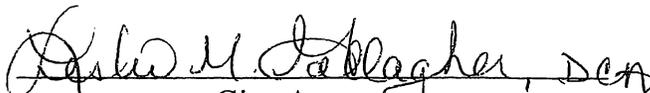
By: 
Peter Weiss, City Manager

Date: 6-23-09

By: 
Gary Warkenton, Vice President

Date: 5/27/09

APPROVED AS TO FORM:


City Attorney

95-2247293
Employer ID No.

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Orange

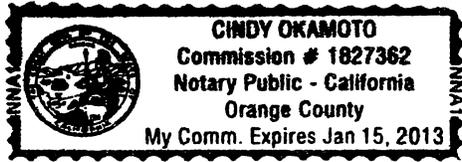
On June 22, 2009 before me, Cindy Okamoto, Notary Public

personally appeared Scott Taylor and Gary Workentin

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature

Cindy Okamoto
Signature of Notary Public

OPTIONAL

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

Description of Attached Document

Title or Type of Document: City of Oceanside, Professional Services Agreement

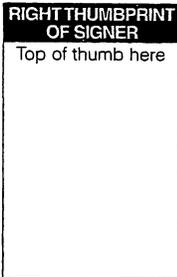
Document Date: May 30, 2009 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

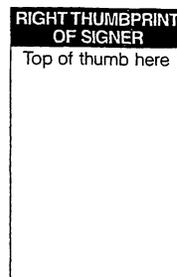
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

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



Signer Is Representing: _____