ITEM NO. 7

STAFF REPORT

CITY OF OCEANSIDE

DATE: January 22, 2014

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department

SUBJECT: **BUDGET APPROPRIATION AND APPROVAL OF PROFESSIONAL SERVICES AGREEMENT FOR THE COLLEGE BOULEVARD WIDENING PROJECT BETWEEN WARING ROAD/BARNARD DRIVE AND OLIVE DRIVE**

SYNOPSIS

Staff recommends that the City Council approve a budget appropriation in the amount of $70,000 from Assigned Funds to the CIP Budget within the Thoroughfare Fee Funds, approve a professional services agreement with RBF Consulting of Carlsbad in the amount of $381,300 for the design and Mitigated Negative Declaration preparation and processing for the widening improvements of College Boulevard between Waring Road/Barnard Drive and Olive Drive; and authorize the City Manager to execute the agreement.

BACKGROUND

This Capital Improvement Project proposes to widen the intersection of College Boulevard at Waring Road/Barnard Drive; widen the existing roadway north of Waring Road/Barnard Drive; and add traffic calming, pedestrian safety, parkway, and median improvements on College Boulevard between Waring Road/Barnard Drive and Olive Drive.

In July 2009 an Initial Study and Alternatives Report was prepared for the College Boulevard corridor by RBF Consulting. The Initial Study has found that a Mitigated Negative Declaration will need to be prepared for the proposed project.

In December 2009 a Project Study Report (PSR) was prepared by RBF Consulting for the College Boulevard Widening. The PSR concluded that the proposed improvements will provide congestion relief, improve safety conditions, and help with large vehicle access.

In August 2013 a request for proposals (RFP) was advertised for the engineering, design, plans, specifications, estimates, bid and construction support, and Mitigated Negative Declaration.

Three firms responded by providing a proposal for the project (Exhibit A). The proposals were evaluated by staff, and RBF Consulting was determined to be most qualified and most cost-effective.

ANALYSIS

RBF was determined to be most qualified for the project based on technical expertise, previous comparable work, and familiarity with the project through their prior involvement with the preparation of the Initial Study and Project Study Report in 2009.

RBF's proposal was comprehensive, provided amplifying information, addressed all the RFP requirements, listed the appropriate staffing with specific expertise for the project, and provided insight into the improvement design solutions for the project.

FISCAL IMPACT

The estimated cost of the design effort is $462,333, including the processing of Mitigated Negative Declaration, contingencies, staff time and administration. The adopted FY 2013-14 CIP budget for the College Boulevard Widening project is $392,333 (901122000561). The Major Thoroughfare Fund (00561) has an assigned balance of $735,384 for widening College Boulevard. An appropriation of $70,000 from the assigned fund balance (00561.3020.0007) would provide sufficient funds to complete the design phase of the project.

CIP Budget	90112200561	$392,333
Assigned Funds	00561.3020.0007	$70,000
Total Project Costs		**$462,333**

INSURANCE REQUIREMENTS

The City's standard insurance requirements will be met.

COMMISSION OR COMMITTEE REPORT

Does not apply.

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 budget appropriation in the amount of $70,000 from Assigned Funds to the CIP Budget within the Thoroughfare Fee Funds, approve a professional services agreement with RBF Consulting of Carlsbad in the amount of $381,300 for the design and Mitigated Negative Declaration preparation and processing for the widening improvements of College Boulevard between Waring Road/Barnard Drive and Olive Drive; and authorize the City Manager to execute the agreement.

PREPARED BY:

Gabor Pakozdi
Associate Engineer

SUBMITTED BY:

Steven R. Jepsen
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

George Buell, Development Services Director

Scott O. Smith, City Engineer

James R. Riley, Financial Services Director

Attachment A – Proposal Results
Attachment B – Professional Services Agreement
Attachment C – Map

Attachment A – Proposal Results

COMPANY	*RATING*	*PROPOSAL AMOUNT*
RBF, Carlsbad	87.4	$381,300
Dokken, San Diego	82.8	$563,498
Masson, Escondido	78.8	$475,631

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: College Boulevard Widening - 901122000561

THIS AGREEMENT, dated _____, 20__ 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."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** The project is more particularly described as follows: Develop a complete set of construction plans, specifications, cost estimates, documents, and reports to support the construction of roadway improvements on College Boulevard between Waring Road and Olive Drive as outlined in the Recommended Alternative of the Project Study Report for College Boulevard. Prepare and process a Mitigated Negative Declaration and associated special and technical studies.

2. **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 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 Engineer. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. 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.

3. **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 this Agreement.

4. **LIABILITY INSURANCE.**

College Boulevard Widening - 901122000561

4.1. 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.

4.2 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 aggregate	$ 2,000,000
Automobile Liability Insurance	$ 1,000,000

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

4.3 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.

4.4 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 additional insured shall be primary insurance and other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

4.5 All insurance companies affording coverage to the CONSULTANT pursuant to this agreement shall be insurance organizations admitted 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.

4.6 CONSULTANT shall provide thirty (30) days written notice to the CITY should any policy required by this Agreement 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.

4.7 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing, at minimum, a Certificate of Insurance and applicable endorsements, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.

4.8 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.

4.9 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.

5. **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 ($1,000,000.00).

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

6. **CONSULTANT'S INDEMNIFICATION OF CITY.** To the greatest extent allowed by law (including, without limitation, California Civil Code section 2782.8), 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, reasonable 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, tortious acts or omissions of the CONSULTANT.

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

7. **OWNERSHIP OF DOCUMENTS.** All 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 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 CONSULTANT's participation in this project.

8. **COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of $381,300. No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Engineer. CONSULTANT shall obtain approval by the City Engineer prior to performing any work that results in incidental expenses to CITY.

9. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing. All work shall be completed in every detail to the satisfaction of the Engineer within 240 calendar days.

10. **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.

11. **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.

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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.

12. **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.

13. **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. 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.

14. **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 set forth below.

RBF Consulting

By: Sr. Vice President
Name/Title

Date: 12/6/13

By: Asst. Sec'y
Name/Title

Date: 12/12/13

95-2247293
Employer ID No.

CITY OF OCEANSIDE

By: _____
City Manager

Date: _____

APPROVED AS TO FORM:

Asst.
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California
County of SAN DIEGO

On 12/6/13 (Date) before me, ANDREA SANDERS (Here Insert Name and Title of the Officer),

personally appeared SCOTT TAYLOR (Name(s) of Signer(s)),

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.

ANDREA SANDERS
Commission # 1947527
Notary Public - California
San Diego County
My Comm. Expires Aug 11, 2015

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.

Signature: Andrea Sanders
Signature of Notary Public

Place Notary Seal Above

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: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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Item #5907

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California
County of SAN DIEGO

On 12-12-13 (Date) before me, ANDREA SANDERS (Here Insert Name and Title of the Officer),
personally appeared RICHARD A. RUBIN (Name(s) of Signer(s)),

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.

ANDREA SANDERS
Commission # 1947527
Notary Public - California
San Diego County
My Comm. Expires Aug 11, 2015

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.

Signature: Andrea Sanders (Signature of Notary Public)

Place Notary Seal Above

OPTIONAL

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Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer — Title(s): _____	☐ Corporate Officer — Title(s): _____
☐ Individual	☐ Individual
☐ Partner — ☐ Limited ☐ General	☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact	☐ Attorney in Fact
☐ Trustee	☐ Trustee
☐ Guardian or Conservator	☐ Guardian or Conservator
☐ Other: _____	☐ Other: _____
Signer Is Representing: _____	Signer Is Representing: _____
RIGHT THUMBPRINT OF SIGNER — Top of thumb here	RIGHT THUMBPRINT OF SIGNER — Top of thumb here

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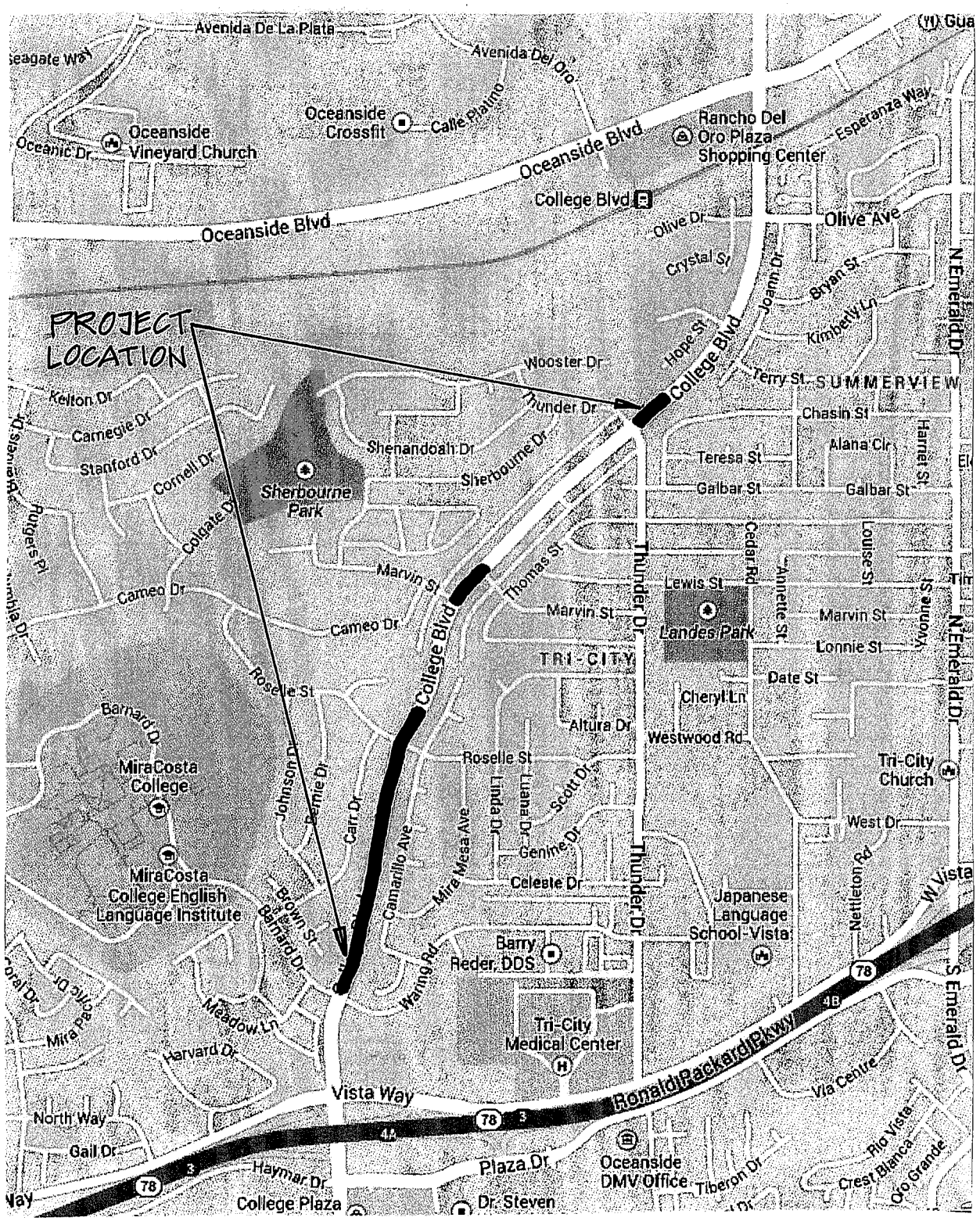
ATTACHMENT C