

PROFESSIONAL SERVICES CONTRACT BETWEEN
THE CITY OF HUNTINGTON BEACH AND
RDG ART STUDIO
FOR
THE DESIGN, FABRICATION AND INSTALLATION OF A PUBLIC ART WORK FOR
CENTRAL PARK

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY," and RDG IA Inc d/b/a RDG ART STUDIO, a CORPORATION hereinafter referred to as "CONSULTANT."

WHEREAS, CITY desires to engage the services of a consultant to design, fabricate and install a public art work in Central Park; and

Pursuant to documentation on file in the office of the City Clerk, the provisions of the Huntington Beach Municipal Code, Chapter 3.03, relating to procurement of professional service contracts have been complied with; and

CONSULTANT has been selected to perform these services,

NOW, THEREFORE, it is agreed by CITY and CONSULTANT as follows:

1. SCOPE OF SERVICES

CONSULTANT shall provide all services as described in **Exhibit "A,"** which is attached hereto and incorporated into this Agreement by this reference. These services shall hereinafter be referred to as the "PROJECT."

CONSULTANT hereby designates Matt Niebuhr as representative of RDG IA Inc d/b/a RDG Planning & Design Art Studio who shall represent it and be its sole contact and agent in all consultations with CITY during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

CITY shall assign a staff coordinator to work directly with CONSULTANT in the performance of this Agreement.

3. TERM; TIME OF PERFORMANCE

The services of CONSULTANT are to commence on December 8, 2020 (the "Commencement Date"). This Agreement shall automatically terminate three (3) years from the Commencement Date, unless extended or sooner terminated as provided herein. The time for performance of the tasks identified in **Exhibit "A"** are generally to be shown in **Exhibit "A."** This schedule may be amended to benefit the PROJECT if mutually agreed to in writing by CITY and CONSULTANT.

In the event the Commencement Date precedes the Effective Date, CONSULTANT shall be bound by all terms and conditions as provided herein.

4. COMPENSATION

In consideration of the performance of the services described herein, CITY agrees to pay CONSULTANT on fixed fee basis at the rates specified in **Exhibit "B,"** which is attached hereto and incorporated by reference into this Agreement, a fee, including all costs and expenses, not to exceed Three Hundred Thousand Dollars (\$300,000.00).

5. EXTRA WORK

In the event CITY requires additional services not included in **Exhibit "A"** or changes in the scope of services described in **Exhibit "A,"** CONSULTANT will undertake such work only after receiving written authorization from CITY. Additional compensation for such extra work shall be allowed only if the prior written approval of CITY is obtained.

6. METHOD OF PAYMENT

CONSULTANT shall be paid pursuant to the terms of **Exhibit "B."**

7. WARRANTIES

A. Warranties of title

CONSULTANT represents and warrants that the Artwork to be created: (a) is solely the result of the Artistic effort of CONSULTANT; (b) is unique and original, except as otherwise disclosed in writing to CITY; (c) is not a duplicate thereof, has not been accepted for sale elsewhere disclosed in writing; (d) does not infringe upon any copyright; and (e) is free and clear of any liens or claims from any source whatsoever. Notwithstanding the preceding, if the Artwork is part of a series it may be used by CONSULTANT in the future, but not the installed piece, which is unique to the Contract.

B. Warranties of Quality and Condition

CONSULTANT represents and warrants that: (a) the execution and fabrication of the Artwork will be performed in a manner consistent with other artists practicing in the same or similar locality under the same or similar conditions; (b) Artwork, as fabricated and installed, will be free of defects in material and workmanship, including any defects or qualities which cause or accelerate deterioration of the Artwork; and (c) reasonable maintenance of the Artwork will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by CONSULTANT to CITY.

The warranties described in this Section shall survive for a period of one (1) year after the final acceptance of the Artwork, with periodic required maintenance, by CITY, according to directions provided by CONSULTANT. CITY shall give written notice to CONSULTANT of any breach of CONSULTANT's warranty within ninety (90) days of the breach during the one (1) year period after final acceptance of the Artwork. CONSULTANT shall, at the request of the

CITY, and at no cost to CITY, reasonably and promptly cure the breach of any such warranty which is repairable by CONSULTANT and which repair is consistent with accepted practices of professional conservation (including, for example, repair by means of restoration, refurbishing or re-creation of part or all of the Artwork.)

8. HOLD HARMLESS

The CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CITY, its officers, directors and employees (collectively, CITY) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the CONSULTANT's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the CONSULTANT is legally liable.

The CITY agrees, to the fullest extent permitted by law, to indemnify and hold harmless the CONSULTANT, its officers, directors, employees and subconsultants (collectively, CONSULTANT) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the CITY's negligent acts in connection with the Project and the acts of its contractors, subcontractors or consultants or anyone for whom the CITY is legally liable.

Neither the CITY nor the CONSULTANT shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

9. PROFESSIONAL LIABILITY INSURANCE

CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention without the express written consent of CITY; however an insurance

policy "deductible" of Ten Thousand Dollars (\$10,000.00) or less is permitted. A claims-made policy shall be acceptable if the policy further provides that:

- A. The policy retroactive date coincides with or precedes the initiation of the scope of work (including subsequent policies purchased as renewals or replacements).
- B. CONSULTANT shall notify CITY of circumstances or incidents that might give rise to future claims.

CONSULTANT will make every effort to maintain similar insurance during the required extended period of coverage following PROJECT completion. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

If CONSULTANT fails or refuses to maintain the insurance required by this section or fails or refuses to furnish the CITY with required proof that insurance has been procured and is in force and paid for, the CITY shall have the right, at the CITY's election, to forthwith terminate this Agreement. Such termination shall not affect Consultant's right to be paid for its time and materials expended prior to notification of termination. CONSULTANT waives the right to receive compensation and agrees to indemnify the CITY for any work performed prior to approval of insurance by the CITY.

10. CERTIFICATE OF INSURANCE

Prior to commencing performance of the work hereunder, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and

- C. shall promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

CONSULTANT shall maintain the foregoing insurance coverage in force until the work under this Agreement is fully completed and accepted by CITY.

The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's defense, hold harmless and indemnification obligations as set forth in this Agreement. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

11. INDEPENDENT CONTRACTOR

CONSULTANT is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of CITY. CONSULTANT shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONSULTANT and its officers, agents and employees and all business licenses, if any, in connection with the PROJECT and/or the services to be performed hereunder.

12. TERMINATION OF AGREEMENT

All work required hereunder shall be performed in a good and workmanlike manner. CITY may terminate CONSULTANT's services hereunder at any time with or without cause, and whether or not the PROJECT is fully complete upon not less than seven days' written notice. Any termination of this Agreement by CITY shall be made in writing, notice of which shall be delivered to CONSULTANT as provided herein. The CITY shall compensate the CONSULTANT for

services provided prior to termination and costs attributable to termination, including the costs attributable to the CONSULTANT's termination of consultant agreements.

If the CITY fails to make payments to the CONSULTANT in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for suspension of performance of services under this agreement. The CONSULTANT shall give seven days' written notice to the CITY before suspending services. In the event of a suspension of services, the CONSULTANT shall have no liability to the CITY for delay or damaged caused the CITY because of such suspension of services. Before resuming services, the CITY shall pay the CONSULTANT all sums due prior to suspension and any expenses incurred in the interruption and resumption of the CONSULTANT's services. The fees for remaining services and the time schedules shall be equitably adjusted.

If the CITY suspends the Project, the CONSULTANT shall be compensated for services performed prior to notice of such suspension. When Project is resumed, the CONSULTANT shall be compensated for expenses incurred in the interruption and resumption of the CONSULTANT's services. The fees for remaining services and the time schedules shall be equitably adjusted.

Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

13. ASSIGNMENT AND DELEGATION

The work hereunder shall not be assigned, delegated or subcontracted by CONSULTANT to any other person or entity without the prior express written consent of CITY. If an assignment, delegation or subcontract is approved, all approved assignees, delegates and

subconsultants must satisfy the insurance requirements as set forth in Sections 10 and 11 hereinabove or the comparable General Liability Insurance.

14. COPYRIGHTS / REPRODUCTION RIGHTS

A. General

CITY shall own and possess the Artwork. CONSULTANT retains all rights under The Copyright Act of 1976, 17 U.S.C. 101 et seq., and other rights in and to the Artwork, except as such rights are limited by this Contract. Because its final form is unique, CONSULTANT shall not make 3-dimensional replication of the final Artwork, nor shall CONSULTANT grant permission to others to do so except with the written permission of CITY. CONSULTANT grants to CITY and its successors an irrevocable license to make 2-dimensional reproductions of the Artwork for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity, and catalogues or other similar publications.

B. Consultant Credit

All reproductions by CITY shall credit CONSULTANT and include a copyright notice substantially in the following form: "© [CONSULTANT's name], installation date, date of publication.

C. Consultant Reproduction Credit

CONSULTANT is hereby granted permission by CITY to reproduce the Artwork in a limited edition, CONSULTANT agrees to include on or in any form of reproduction for the Artwork initiated or authorized by CONSULTANT to credit to CITY.

15. CONSULTANT's RIGHTS

A. General

In all matters pertaining to the Artwork and its maintenance, including but not limited to the provisions in this Contract, the provisions of the Federal Visual Artists' Rights Act of 1990 (VARA) shall apply.

B. Maintenance

CITY recognizes that maintenance of the Artwork on a regular basis is essential to the integrity of the Artwork. CITY shall reasonably assure that the Artwork is properly maintained and protected in accordance with the requirements of this Contract any breach of which shall void CONSULTANT's warranties.

C. Repairs and Restoration

1. CITY shall have the right to determine, after consultation with a professional conservator, when and if repairs and restorations to the Artwork will be made. During CONSULTANT's Warranty period, CONSULTANT shall have the right to approve all repairs and restorations, provided, however, that CONSULTANT shall not unreasonably withhold approval for any repair or restoration of the Artwork. If CONSULTANT unreasonably fails to approve any repair and restoration, CITY shall have the right to make such repair or restoration. To the extent practicable, CONSULTANT, during the lifetime of the Artwork, shall be given the opportunity to make or personally supervise significant repairs and restorations as recommended by a professional fine art conservator and shall be paid a reasonable fee and expenses for any such services provided that CITY and CONSULTANT shall agree in writing, prior to the commencement of significant repairs or restoration, upon CONSULTANT's fee for such services.

2. All repairs and restoration occurring one (1) year after CITY's acceptance of the Artwork will be the responsibility of CITY. Additionally, any repairs or damage due to extenuating circumstances (e.g. tree falling, vandalism, car hits the Artwork, etc.) shall be the responsibility of CITY upon acceptance of Artwork.

3. De-accessioning of Artwork will occur if one or more of the following conditions exist during the life of the Artwork: I) The Artwork is damaged where repair is impractical or costs exceed the value of the Artwork; II) The Artwork has faults that require repeated and excessive maintenance; III) The Artwork endangers public safety; and/or IV) City Council votes to de-accessioning the Artwork in accordance with all laws. The Visual Artists Rights Act (VARA) provisions regarding CITY's notification of CONSULTANT ninety (90) days prior to the removal of the Artwork will be followed. All salvage costs to remove the Artwork from the site shall be the responsibility of CITY. CONSULTANT shall have first right of refusal to accept the Artwork back. If accepted, CONSULTANT must make arrangements at CONSULTANT's sole cost and expense, to remove the Artwork within thirty (30) days of commitment to accept the Artwork.

D. All repairs and restorations shall be made in accordance with accepted practices of professional fine art conversation.

E. This contract shall not be construed to restrict CITY's use or disposition of the property on which or in which CONSULTANT's Artwork is located or adhered. CITY will give one hundred twenty (120) days notice prior to any change in CITY property that will require removal or relocation of CONSULTANT's Artwork. Permission or approval of CONSULTANT is not required in these instances. However, it is understood that removal of the Artwork will be after all other options have been exhausted.

F. CITY is responsible for adherence to the requirements of VARA.

G. The CITY shall not make any alterations to the Artwork without prior consent and approval of the CONSULTANT.

16. CITY EMPLOYEES AND OFFICIALS

CONSULTANT shall employ no CITY official nor any regular CITY employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of the applicable provisions of the California Government Code.

17. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to CONSULTANT's agent (as designated in Section 1 hereinabove) or to CITY as the situation shall warrant, or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below. CITY and CONSULTANT may designate different addresses to which subsequent notices, certificates or other communications will be sent by notifying the other party via personal delivery, a reputable overnight carrier or U. S. certified mail-return receipt requested:

TO CITY:

City of Huntington Beach
ATTN: Ashley Wysocki
2000 Main Street
Huntington Beach, CA 92648
ashley.wysocki@surfcity-hb.org

TO CONSULTANT:

RDG Planning & Design Art Studio
301 Grand Ave
Des Moines, IA 50309-1718
515-284-1675
mniebuhr@rdgusa.com

Notices shall also be sent via email to the parties to avoid any delay in communication.

18. CONSENT

When CITY's consent/approval is required under this Agreement, its consent/approval for one transaction or event shall not be deemed to be a consent/approval to any subsequent occurrence of the same or any other transaction or event.

19. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

20. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

21. INTERPRETATION OF THIS AGREEMENT

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

22. DUPLICATE ORIGINAL

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

23. IMMIGRATION

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

24. LEGAL SERVICES SUBCONTRACTING PROHIBITED

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

25. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the nonprevailing party.

26. SURVIVAL

Terms and conditions of this Agreement, which by their sense and context survive the expiration or termination of this Agreement, shall so survive.

27. GOVERNING LAW

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

28. SIGNATORIES

Each undersigned represents and warrants that its signature hereinbelow has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify the other party fully for any injuries or damages in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

29. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiation, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on that party's behalf, which are not embodied in this Agreement, and that that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Agreement. This Agreement, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Agreement, and supersede all prior understandings and agreements whether oral or in writing between the parties respecting the subject matter hereof.

30. EFFECTIVE DATE

This Agreement shall be effective on the date of its approval by the City Council.

This Agreement shall expire when terminated as provided herein.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers.

CONSULTANT,

RDG IA Inc d/b/a RDG Planning & Design
Art Studio

COMPANY NAME

a Corporation

By: [Signature]
Justin Parris
print name

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

AND

By: [Signature]
Jack D. Patton
print name

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

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

[Signature]
Mayor
John Estanislau
City Clerk 1/11/2008

INITIATED AND APPROVED:

[Signature]
Director of Community Services

REVIEWED AND APPROVED:

[Signature]
City Manager

APPROVED AS TO FORM:

[Signature]
City Attorney

EXHIBIT "A"

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

1. The CITY seeks to commission artwork for a location at the City's historic Huntington Central Park, adjacent to the Central Library (7111 Talbert Ave., Huntington Beach, CA 92648). The project will consist of a major iconic work adjacent to a water fountain and other park amenities. There is potential for multiple installations that may be permanent or temporary. The artwork should: create excitement and interest within the community; celebrate the natural aesthetic of Huntington Central Park; and harmonize with the distinctive architecture of the Central Library.

B. CONSULTANT'S DUTIES AND RESPONSIBILITIES:

1. CONSULTANT shall perform all services and furnish all supplies, materials and equipment as necessary for the fabrication and installation of the Artwork, including but not limited to: shop and as-built drawings, engineering calculations, permits, technical inspections, taxes, insurance, materials, labor, tools equipment, subcontractors, transportation and shipping, and all other items incidental to producing a complete and acceptable Artwork.

2. CONSULTANT will present to the Project Coordination Committee, written requests for any significant changes to the scope, design, color, size, material or texture of the artwork not substantially conforming with approved Artwork design. A significant change is one that affects design, installation, scheduling, site preparation or maintenance of Artwork, or concept of artwork as represented in approved designs.

3. CONSULTANT is responsible to store finished Artwork at CONSULTANT's own expense until the CITY is ready for the Artwork to be installed. Installation shall not be reasonably delayed by the CITY, so that CONSULTANT will not be required to store the Artwork for an unreasonable period.

4. The CONSULTANT will be responsible for the installation of the Artwork as indicated in the construction drawings and specifications.

5. CONSULTANT will review and provide comments on draft text and images of the Artwork and/or the project for the CITY's website and any print materials, such as postcards or brochures.

6. CONSULTANT will provide and install, as part of the Artwork budget, a plaque near the Artwork.

6. CONSULTANT will make every effort to attend dedication events for the Artwork and/or the project.

7. Specific tasks and deliverables related to CONSULTANT duties and responsibilities to be developed and agreed upon by CONSULTANT and CITY.

C. CITY'S DUTIES AND RESPONSIBILITIES:

1. CITY will set and coordinate meetings between CONSULTANT, members of the committee, City Departments, and community groups, as needed to complete this scope of work.

2. CITY will review the designs, drawings, specifications, and if necessary, engineering calculations, submitted by the CONSULTANT to ensure conformance with applicable codes, regulations and other requirements. CITY retains the right, but not the obligation, to conduct any such review, which is intended for the sole purpose of protecting the CITY's interests, only. CONSULTANT acknowledges that CITY's review does not confirm or warrant that conditions are safe or that CONSULTANT'S work complies with regulatory requirements.

3. CITY shall provide a final proof of the Artwork plaque to the CONSULTANT.

4. CITY will make every effort to inform the CONSULTANT of dedication events for the Artwork and/or the project.

5. CITY will coordinate inquiries from the media regarding the Artwork, especially in association with the dedication event.

6. CITY will provide the CONSULTANT with Geotechnical Reports of the site.

7. CITY will provide power to the site.

D. WORK PROGRAM/PROJECT SCHEDULE:

1. The work program/project schedule will be developed and agreed upon by the CONSULTANT and CITY.

E. RFP:



REQUEST FOR PROPOSAL

FOR

PUBLIC ART PROJECT – CALL FOR ARTISTS

Huntington Central Park

EXHIBIT A

Community Services Department
CITY OF HUNTINGTON BEACH

Released on October 19, 2020

City of Huntington Beach

Public Art

Request for Proposal

Release date: October 19, 2020

Project intent

The City of Huntington Beach Community Services Department seeks to commission artwork for a location at the City's historic Huntington Central Park, adjacent to the Central Library (7111 Talbert Ave., Huntington Beach, CA 92648). The project will consist of a major iconic work adjacent to a water fountain and other park amenities. There is potential for multiple installations that may be permanent or temporary.

The artwork should:

- Create excitement and interest within the community
- Celebrate the natural aesthetic of Huntington Central Park
- Harmonize with the distinctive architecture of the Central Library

The artists in-depth knowledge about the community, obtained through research and dialogue with interested community members is integral toward developing the artwork, which could be one or more pieces.

The artwork must be original, artist generated and site specific. It should also be durable, low maintenance, and appropriate to the location. Consideration should be given to the surrounding recreational activity and aesthetic in the area as well as weather and the effects of ocean air.

Works in a variety of media and forms will be considered. Examples of media include, but are not limited to: paint, wood, tiles, metal, photography, etc. A wide variety of forms for the artwork will also be considered, including free standing sculpture, as well as functional elements such as seating and hardscapes.

Budget

The budget for this project is not to exceed \$300,000. It includes all costs associated with the project including, but not limited to: artist's design fee, travel, materials, fabrication costs, documentation, and transportation and installation of the work.

Eligibility

The project is open to professional artists, age 18 and over, regardless of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity, marital status, or physical or mental disability. Artist teams are eligible to apply, including teams of artists from multiple disciplines.

Installation

The location for the Public Art installation has been identified as an area behind the Central Library (7111 Talbert Ave., Huntington Beach, CA 92648) adjacent to a large water fountain. The fountain is currently in disrepair and the City is in the designing stage of restoration. The installation of the public art work(s) will be placed in an area that can enhance the Park, the Library and the water fountain. The artist will be responsible for providing the art piece(s) as well as all necessary footings. All costs for installation, including architectural details, landscape adjustments, accessibility or any other structural elements, must be included within the artist's budget. The artist will be responsible for obtaining all required building permits, however, the City will assist with the application and submittal process. This is a City of Huntington Beach Community Services Department commission. Coordination of necessary meetings with City departments will be

coordinated by City staff. The artist will be required to make at least two presentations to various City departments about conceptual designs and detailed plans.

Please review Exhibit A to view photos and link to drone footage of the proposed geographical area.

Timeline

October 28, 2020 – Deadline for Questions, posted to Planet Bid

November 2, 2020 – Responses to Questions posted to Planet Bid

November 13, 2020 - Deadline for RFP materials, must be received by 5:00pm.

November 16-20, 2020 - Review submissions

Week of December 1, 2020 - Artist Interviews

December 11, 2020 – Final selection of artist

Remaining project timeline to be determined, with a project completion date of June 30, 2021

The City reserves the right to change the project timeline

Application

Artists interested in this project must prepare and submit the following:

- ✚ Letter of Interest: The letter should be no more than one page in length and should explain the artist's interest in the project.
- ✚ Current résumé. If submitting as a team, a current résumé should be submitted for each team member.
- ✚ Fifteen images of the artist's work in jpg format and artists URL if available. Images may be included on a flash drive. Images must be labeled.
- ✚ References: A list of at least three professional references that have an intimate knowledge of the artist's work and working methods. The list must include complete addresses and telephone numbers.
- ✚ SASE for return of materials if submitting hard copies, otherwise electronic applications will be accepted.

- ✚ Other: The artist may include up to three selections of support materials such as reviews, news articles, and other related information such as biographies.
- ✚ Deadline is November 13, 2020 at 5:00pm

Respondents are required to submit one (1) electronic version via PlanetBids OR a paper proposal mailed, delivered by hand or couriered to following address by Friday, November 12, 2020 at 5:00pm:

***City of Huntington Beach
Purchasing Department –
2000 Main Street
Huntington Beach, Ca 92648
Or by e-mail to Jennifer.Anderson@surfcity-hb.org***

History and Background

Formally established in 1974, Huntington Central Park is the largest City-owned park in Orange County covering over 350 acres of land. The peaceful setting is located on open grass fields with extensive tree and flower plantings. The area is used for a variety of activities such as picnics, biking, and strolling along paved paths. There are four playgrounds, a nature center, lakes, equestrian trails and other amenities. The new Senior Center in the Park and the Central Library are located within Huntington Central Park. The Central Library features an open and light filled floor plan, spacious reading decks, a public computer lab and indoor fountains including a spiral ramp water feature. The building was designed by the architectural firm of Richard and Dion Neutra, and completed by Dion Neutra after his father's death. The modernist facility opened in 1975 and was expanded by Huntington Beach architects Anthony and Langford in 1994. The size of the Library is 115,000 square ft.

The proposed site for the new public art piece(s) is behind the Library. The area consists of a grassy hill that overlooks the larger expanse of the park, with potential connectivity points to flat grass patches and pathways. Another adjacent amenity is an area identified as the Secret Garden, replete with a variety of florals, trees, and massive numbers of butterflies.

City of Huntington Beach Public Art

Huntington Beach has an outstanding reputation as a great place to live and a destination for tourism due to the beautiful shoreline, wetlands and wide beaches. It is also a city becoming more urban with increased recreation, resorts, housing, retail industries, and cultural opportunities. It is

hoped each part of the city will become more uniquely defined. In making this identity, the City and developers have also begun to incorporate design and aesthetics into their projects. Pier Plaza, built in 1995, was a cultural watershed for the City. The artist-designed amphitheater and other mural projects were well received and subsequent beach and City revitalization projects have incorporated the work of artists. In 2019, the city established a task force to address the need for a public art masterplan. During the project a survey of the community was conducted that demonstrated a desire on the part of local citizens to have functional art (benches, etc.), interactive art, free standing sculptures, statues and/or monuments in Huntington Central Park. This project seeks to accomplish that objective. On September 21, 2020, the City Council approved the Mayor to authorize the release of a Request for Proposals and the formation of an Ad Hoc Review Committee for the Commissioning of a Public Art Element in Huntington Central Park.

Selection Process

A selection panel will evaluate submissions and select an artist based on a variety of criteria including the required submission materials and the artists' understanding of the scope of the project. Short listed applicants will be interviewed. Emphasis will be placed on applicant's proven ability to undertake projects of this capacity and demonstrated ability to work with government agencies, project designers, and the community, in the creation of an art project.

Additional Information

If you have any questions or need additional information, please contact Jennifer Anderson by email: Jennifer.anderson@surfcity-hb.org.

Exhibit A

Geographical Photos of Proposed Area – 7111 Talbert Ave., Huntington Beach, CA 92648

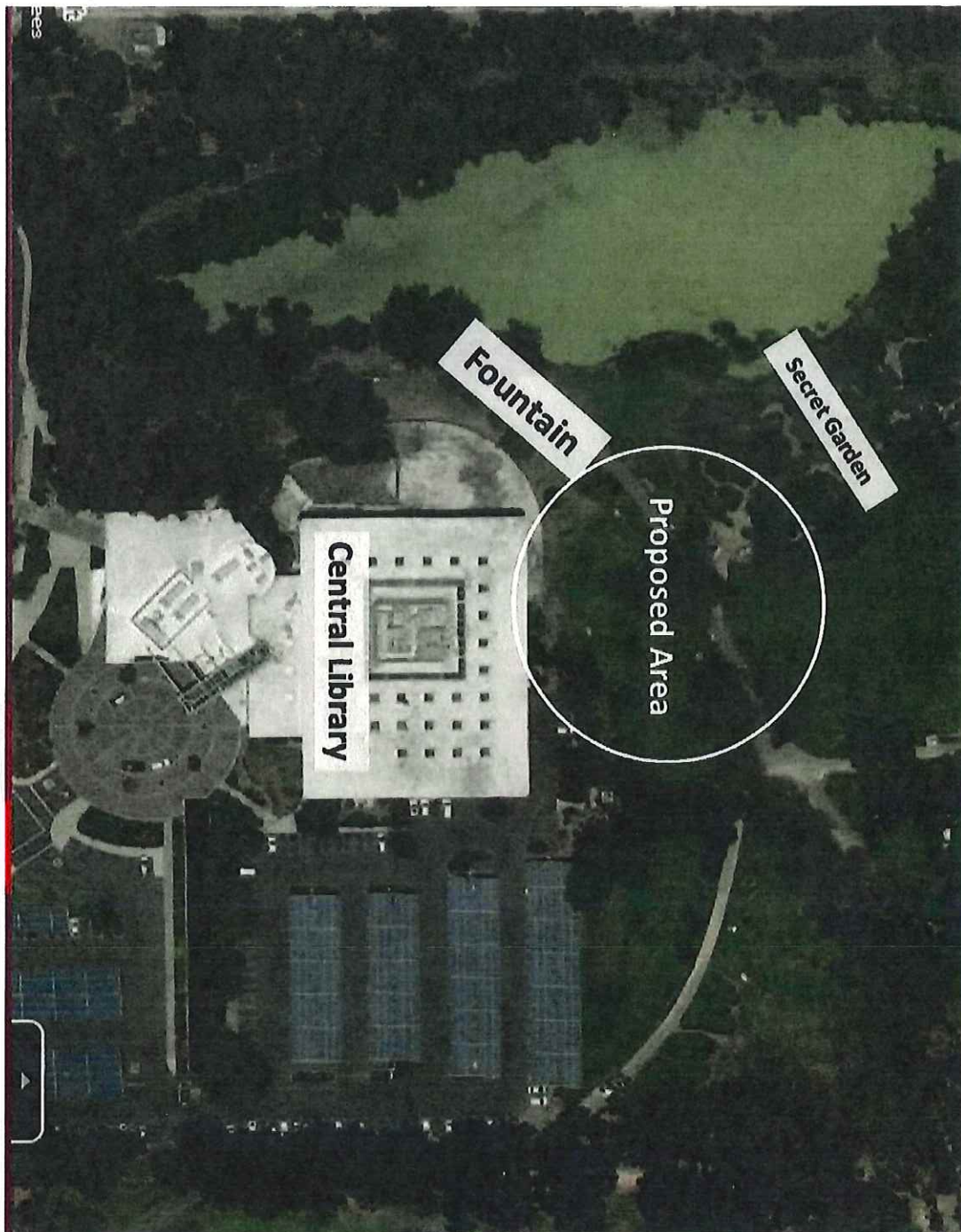


EXHIBIT A



EXHIBIT A



EXHIBIT A

51
8
9



EXHIBIT A



EXHIBIT A



EXHIBIT A

EXHIBIT "B"

Payment Schedule (Fixed Fee Payment)

1. CONSULTANT shall be entitled to progress payments toward the fixed fee set forth herein in accordance with the following progress and payment schedules.
 - a. **Invoice #1 for 10% of total cost** - Payment made upon commencement of concept drawings (after CS Staff review and approval of desired placement, location and context of art piece(s))
 - b. **Invoice #2 for 10% of total cost** - Payment made after delivery of Completed plans/model including material samples (CS and Planning review with appropriate staff review and approval)
 - c. **Invoice #3 for 10% of total cost** - Payment made after Design Review Board (DRB) presentation and approvals
 - d. **Invoice #4 for 25% of total cost** - Payment made after City receives Stamped Engineered plans and specifications with all necessary approvals
 - e. **Invoice #5 for 25% of total cost** - Payment made after fabrication of all pieces are completed, with photo-documentation of progress
 - f. **Invoice #6 for 10% of total cost** - Payment made after City has received all pieces for installation
 - g. **Invoice #7 for 10% of total cost** - Payment made after all elements are installed with all appropriate sign-offs
2. Delivery of work product: A progress report shall be submitted on an mutually agreed upon schedule to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.
3. CONSULTANT shall submit to CITY an invoice for each progress payment due. Such invoice shall:
 - A) Reference this Agreement;
 - B) Describe the services performed;
 - C) Show the total amount of the payment due; and
 - D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement.

Upon submission of any such invoice, if CITY is satisfied that CONSULTANT is making satisfactory progress toward completion of tasks in accordance with this Agreement, CITY shall approve the invoice, in which event payment shall be made within thirty (30) days of receipt of the invoice by CITY. Such approval shall not be unreasonably withheld. If CITY does not approve an invoice, CITY shall notify CONSULTANT in writing within seven (7) days of the reasons for non-approval and the schedule of performance set forth in **Exhibit "A"** may at the option of CITY be suspended until the parties agree that past performance by CONSULTANT is in, or has been brought into compliance, or until this Agreement has expired or is terminated as provided herein.

The CITY shall not withhold amounts from the CONSULTANT's compensation to impose a penalty on the CONSULTANT, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the CONSULTANT agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

4. Any billings for extra work or additional services authorized in advance and in writing by CITY shall be invoiced separately to CITY. Such invoice shall contain all of the information required above, and in addition shall list the hours expended and hourly rate charged for such time. Such invoices shall be approved by CITY if the work performed is in accordance with the extra work or additional services requested, and if CITY is satisfied that the statement of hours worked and costs incurred is accurate. Such approval shall not be unreasonably withheld. Any dispute between the parties concerning payment of such an invoice shall be treated as separate and apart from the ongoing performance of the remainder of this Agreement.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/15/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Holmes Murphy & Assoc - CR 201 First Street SE, Suite 700 Cedar Rapids, IA 52401 INSURED RDG Planning & Design 301 Grand Avenue Des Moines, IA 50309	1-800-300-0325 CONTACT NAME: Paula Dixon PHONE (A/C, No, Ext): 800-527-9049 FAX (A/C, No): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: XL SPECIALTY INS CO INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
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COVERAGES

CERTIFICATE NUMBER: 60881416

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COM/POP AGG \$ \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/> E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability Claims Made		DPR9965390	09/01/20	09/01/21	Per Claim 3,000,000 Annual Aggregate 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

R3004.462.00 - Huntington Beach, CA - Central Park

A 30 day notice of cancellation or non-renewal is included on the policy noted above per policy terms and conditions.

CERTIFICATE HOLDER

CANCELLATION

City of Huntington Beach, CA 2000 Main Street Huntington Beach, CA 92648 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE <i>Paula Dixon</i>
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ACORD 25 (2016/03)
xjustcr
60881416

The ACORD name and logo are registered marks of ACORD



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/15/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
LMC Insurance & Risk Management, Inc.
4200 University Ave., Suite 200
West Des Moines IA 50266-5945

CONTACT NAME: Stacy Ferguson
PHONE (A/C, No, Ext): 515-558-0744 FAX (A/C, No): 515-244-9535
E-MAIL ADDRESS: stacy.ferguson@lmcins.com

INSURED
RDG Planning & Design
301 Grand Ave
Des Moines IA 50309

RDGPLAN-01

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A: Cincinnati Insurance Company	10677
INSURER B: Accident Fund National Ins Company	10166
INSURER C: AXIS Insurance Company	37273
INSURER D:	
INSURER E:	
INSURER F:	

COVERAGES

CERTIFICATE NUMBER: 1116800011

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:	Y	ENP0118475	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	ENP0118475	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> RETENTION \$ 0 <input type="checkbox"/> CLAIMS-MADE		ENP0118475	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	WCV8096800	1/1/2020	1/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
C	Cyber Liability Crime - Employee Theft		P-001-000081201-02 ENP0118475	1/1/2020 1/1/2020	1/1/2021 1/1/2021	Agg. Limit \$1,000,000 Limit Deductible: \$10,000 \$250,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: R3004.462.00 - Huntington Beach, CA - Central Park

City of Huntington Beach, its officers, elected or appointed officials, employees, agents, and volunteers are Additional Insureds - primary and non-contributory - including products and completed operations - automatic status when required in Contract with respects to the General Liability policy per form GA472 (10/01)

City of Huntington Beach, its officers, elected or appointed officials, employees, agents, and volunteers are Additional Insureds when agreed to in a written contract with respects to the Auto Liability policy per form AA288 (01/16)

See Attached...

CERTIFICATE HOLDER

City of Huntington Beach, CA
2000 Main Street
Huntington Beach CA 92648

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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AGENCY CUSTOMER ID: RDGPLAN-01

LOC #: _____



ADDITIONAL REMARKS SCHEDULE

Page 1 of 1

AGENCY LMC Insurance & Risk Management, Inc.		NAMED INSURED RDG Planning & Design 301 Grand Ave Des Moines IA 50309
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Auto Liability policy is primary and non-contributory when assumed under an Insured contract per form AA288 (01/16)

Cancellation Notice - 30 Days with respects to the General Liability, Auto Liability and Umbrella policy per form IA4087 (09/17)

Notice of Cancellation/Non-Renewal: 30 days with respects to the Workers Compensation policy per form WC990651 (01/11)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AUTOMATIC ADDITIONAL INSURED - WHEN REQUIRED IN CONTRACT OR AGREEMENT WITH YOU

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. SECTION II - WHO IS AN INSURED, 2. is amended to include:

e. Any person or organization, hereinafter referred to as ADDITIONAL INSURED:

- (1) Who or which is not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part; and**
- (2) For whom you are required to add as an additional insured on this Coverage Part**

under:

- (1) A written contract or agreement; or**
- (2) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued;**

but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

2. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS is amended to include:

1. Automatic Additional Insured Provision

The written or oral contract or agreement must be currently in effect or become effective during the term of this Coverage Part. The contract or agreement also must be executed prior to the "bodily injury", "property damage" or "personal and advertising injury" to which this endorsement pertains.

2. Conformance to Specific Written Contract or Agreement

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number CG 20 10 or CG 20 37 (where edition specified); or**

- b. Include coverage for completed operations; or**

- c. Include coverage for "your work";**

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs 3., 4.a.(2) and / or 4.b., or any combination thereof, of this endorsement shall be interpreted as providing the limits or coverage required by the terms of the written contract or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number CG 20 10 but does not specify which edition, or specifies an edition that does not exist, Paragraphs 3. and 4.a.(2) of this endorsement shall not apply and Paragraph 4.b. of this endorsement shall apply.

3. SECTION III - LIMITS OF INSURANCE is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

4. The following are added to **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** and **SECTION I - COVERAGES, COVERAGE B. PERSONAL AND ADVERTISING INJURY LIABILITY, 2. Exclusions**:

The insurance provided to the additional insured does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the:
 - (1) Rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
 - (a) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
 - (b) Supervisory, inspection, architectural or engineering activities;
 - (2) Sole negligence or willful misconduct of, or for defects in design furnished by, the additional insured or its "employees".
- b. "Bodily injury" or "property damage" arising out of "your work" included in the "products-completed operations hazard".

- c. "Bodily injury" or "property damage" arising out of "your work" for which a consolidated (wrap-up) insurance program has been provided by the prime contractor / project manager or owner of the construction project in which you are involved.

5. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance** is amended to include:

- a. Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.
- b. Any insurance provided by this endorsement shall be primary to other insurance available to the additional insured except:
 - (1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or
 - (2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.