

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is dated February 21, 2017 ("Effective Date") and is between the City of Manhattan Beach, a California municipal corporation ("City") and Cambridge Seven Associates, Inc., a Massachusetts corporation ("Contractor"). City and Contractor are sometimes referred to herein as the "Parties", and individually as a "Party".

RECITALS

A. City issued Request for Proposals No. 1105-17 on December 12, 2016, seeking proposals for the provision of aquarium design services.

B. Contractor submitted a proposal dated January 18, 2017 in response to the RFP.

C. City desires to utilize the services of Contractor as an independent contractor to perform aquarium design services as described in **Exhibit A**.

D. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

E. City desires to retain Contractor and Contractor desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

1. Contractor's Services.

A. Scope of Services. Contractor shall perform the services described in the Scope of Services (the "Services"), attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the "City Representative"). For the purposes of this Agreement, the Contractor Representative shall be Peter Sollogub, Associate Principal (the "Contractor Representative"). The Contractor Representative shall directly manage Contractor's Services under this Agreement. Contractor shall not change the Contractor Representative without City's prior written consent.

C. Time for Performance. Contractor shall commence the Services on the Effective Date and shall perform all Services in conformance with the project timeline, set forth in **Exhibit B**.

2. **Term of Agreement.** The term of this Agreement shall be from the Effective Date through December 31, 2018, unless sooner terminated as provided in Section 12 of this Agreement or extended.

3. **Compensation.**

A. Compensation. As full compensation for Contractor's Services provided under this Agreement, City shall pay Contractor the total sum of \$395,000 (the "Maximum Compensation"), as set forth in the Approved Fee Schedule attached hereto as **Exhibit C**.

The City Manager shall have authority to increase the Maximum Compensation by up to 20%; any further increase requires City Council approval.

A. Expenses. City shall only reimburse Contractor for those expenses expressly set forth in **Exhibit C**. In no event shall reimbursable expenses collectively exceed the total sum of \$40,000.

B. Additional Services. City shall not allow any claims for additional Services performed by Contractor, unless the City Council or City Representative, if applicable, and the Contractor Representative authorize the additional Services in writing prior to Contractor's performance of the additional Services or incurrence of additional expenses. Any additional Services or expenses authorized by the City Council or City Representative shall be compensated at the rates set forth in **Exhibit C**, or, if not specified, at a rate mutually agreed to by the Parties. City shall make payment for additional Services and expenses in accordance with Section 4 of this Agreement.

4. **Method of Payment.**

A. Invoices. Contractor shall submit to City an invoice, on a monthly basis for the Services performed pursuant to this Agreement. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Contractor in writing within ten business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the maximum compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Contractor.

C. Audit of Records. Contractor shall make all records, invoices, time cards, cost control sheets and other records maintained by Contractor in connection with this Agreement available during Contractor's regular working hours to City for review and audit by City.

5. **Independent Contractor.** Contractor is, and shall at all times remain as to City, a wholly independent contractor. Contractor shall have no power to incur any debt,

obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

6. Information and Documents.

A. Contractor covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Contractor without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Contractor, its officers, employees, agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Contractor gives City notice of such court order or subpoena.

B. Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Contractor as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Contractor's permission. Contractor may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Contractor. If City modifies the Data or uses them for any other project other than in connection with the project that is the subject of the RFP and this Agreement, without Contractor's consent, City shall to the fullest extent permitted by law, hold harmless and indemnify Contractor against liability for claims arising out of such modification."

D. Contractor's covenants under this Section 6 shall survive the expiration or termination of this Agreement.

7. Conflicts of Interest. Contractor and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Contractor may perform similar Services for other clients, but Contractor and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a clause substantially similar to this Section 7 into any subcontract that Contractor executes in connection with the performance of this Agreement.

8. Indemnification.

A. Indemnity for Design Professional Services. To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and reimbursement of attorney's fees and costs of defense (collectively "Liabilities"), whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to, in whole or in part, the negligence, recklessness or willful misconduct of Contractor, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code Section 2782.8(c)(2).

B. Other Indemnities.

1) Other than in the performance of design professional services, and to the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith (collectively "Claims"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the negligent or willful

acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, except for Liabilities arising from the negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the Parties. In instances where the Indemnitees are shown to be negligent or to have engaged in willful misconduct, and where such negligence or willful misconduct by Indemnitees accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the Parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Claim with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph B.2).

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section 8 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement. If Contractor fails to obtain such indemnities, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Claims in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the Parties.

C. Workers' Compensation Acts not Limiting. Contractor's obligations under this Section 8, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives

its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

D. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions in this Section 8 shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, Claims, tax, assessment, penalty or interest asserted against City.

E. Survival of Terms. The indemnification in this Section 8 shall survive the expiration or termination of this Agreement.

9. Insurance.

A. Minimum Scope and Limits of Insurance. Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Contractor shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section 9.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Contractor has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Contractor shall execute a declaration that it has no employees.

4) Professional Liability Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section 9 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance

Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section 9.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section 9 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

E. Contractor's Waiver of Subrogation. The insurance policies required under this Section 9 shall not prohibit Contractor and Contractor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Section 9 during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section 9 is canceled or reduced in coverage or limits, Contractor shall, within two business days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Contractor does not maintain the policies of insurance required under this Section 9 in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Section 9, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Contractor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section 9. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to

City. Contractor shall maintain current endorsements on file with City's Risk Manager. Contractor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under Section 8 of this Agreement.

K. Subcontractor Insurance Requirements. Contractor shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 9.

10. Mutual Cooperation.

A. City's Cooperation. City shall provide Contractor with all pertinent Data, documents and other requested information as is reasonably available for Contractor's proper performance of the Services required under this Agreement.

B. Contractor's Cooperation. In the event any claim or action is brought against City relating to Contractor's performance of Services rendered under this Agreement, Contractor shall render any reasonable assistance that City requires.

11. Records and Inspections. Contractor shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Contractor at least five calendar days before the termination is to be effective. Contractor may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Contractor shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Contractor, City shall pay Contractor based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall

Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the Services required by this Agreement. Contractor shall have no other claim against City by reason of such termination, including any claim for compensation.

13. Force Majeure. Contractor shall not be liable for any failure to perform its obligations under this Agreement if Contractor presents acceptable evidence, in City's sole judgment, that such failure was due to strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Contractor's reasonable control and not due to any act by Contractor.

14. Default.

A. Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default.

B. If the City Manager or his delegate determines that Contractor is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Contractor with written notice of the default. Contractor shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Contractor fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Contractor's and City's regular business hours, or (c) three business days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City:
Attn: Prem Kumar
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, California 90266
Telephone: (310) 802-5352
Email: pkumar@citymb.info

If to Contractor:
Attn: Peter Sollogub
Cambridge Seven Associates, Inc.

1050 Massachusetts Avenue
Cambridge, MA 02138

With a courtesy copy to:

Quinn M. Barrow, City Attorney

1400 Highland Avenue
Manhattan Beach, CA 90266
Telephone: (310) 802-5061
Email: qbarrow@citymb.info

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Contractor will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Contractor from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section 17 shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section 17, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Contractor of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Contractor for anything done, furnished or relating to Contractor's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra

compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Contractor, its employees, sub-contractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Contractor, its employees, sub-contractors and agents.

21. Corrections. In addition to the above indemnification obligations, Contractor shall correct, at its expense, all errors in the work which may be disclosed during City's review of Contractor's report or plans. Should Contractor fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Contractor. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Contractor under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Contractor by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Contractor's services beyond the current fiscal year, the Agreement shall cover payment for Contractor's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B, and C constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Contractor's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. "Business days" means days Manhattan Beach City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior or federal court with geographic jurisdiction over the City of Manhattan Beach.

30. Attorneys' Fees. In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover actual attorneys' fees, experts' fees, and other costs, in addition to all other relief to which that Party may be entitled.

31. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

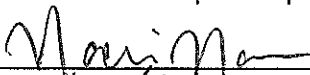
33. Corporate Authority. The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of the Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

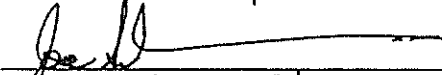
City of Manhattan Beach,
a California municipal corporation

By: 

Name: NADINE NADER
Title: ASST. CITY MANAGER

Contractor:

Cambridge Seven Associates, Inc.,
a Massachusetts incorporation

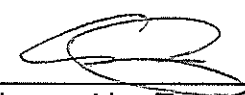
By: 

Name: Jose Silva
Title: COO/CFD

ATTEST:

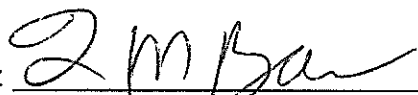
By: _____

Name: _____
Title: _____

By:  3-7-17

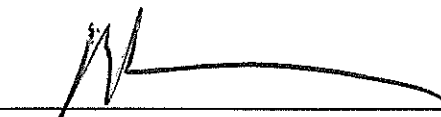
Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

By: 

Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO CONTENT:

By: 

Name: Bruce Moe
Title: Finance Director

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT A

ROUNDHOUSE AQUARIUM PROJECT

PROFESSIONAL SERVICES AGREEMENT - CAMBRIDGE SEVEN ASSOCIATES, INC.

EXHIBIT A

IV. SCOPE OF SERVICES AND DELIVERABLES

Basic design services shall include the following responsibilities at a minimum and any additional responsibilities reasonably necessary and customarily provided by aquarium design and planning professionals. The project is described in three phases below:

General Design Performance Requirements

The aquarium design shall satisfy Harrison Greenberg Foundation's (HGF) vision as described in the project description above. A memorial seal (designed by HGF) shall be installed in the floor at the main entry to the facility, the plans and specifications shall incorporate this provision.

Additionally, the design shall specify appropriate performance, quality and warranty requirements for all aquarium exhibits, equipment and appurtenant proposed improvements. Exhibits and systems shall be designed for extraordinary appearance, durability in a high public visitor volume / teaching environment, efficient and cost effective operation and maintenance, and for an enjoyable and comfortable environment for staff and visitors.

All design submittals shall include:

- 12 sets hardcopy documents, including 11x17 plans and bound reports / supporting data
- 6 sets full size plans
- Electronic files of all required submittal documents, in native program file types and PDF.

Conceptual - Schematic Design (CD/SD) Phase

During the Conceptual-Schematic Design Phase, the selected consultant shall participate in design, budget and schedule reviews of the Conceptual Design documents and related conceptual cost estimate with the Project team. The consultant shall assist with the compilation of estimated conceptual budget and schedule, and validate and accept both, in writing. In each case, the associated consultant(s) shall attend periodic meetings and/or conference calls (up to three (3) meetings / conference or video calls) as requested by the PM during the conceptual design phase of the project. The consultant shall address all of the stakeholder comments on the preliminary conceptual design (Exhibit C to the RFP). Based on the program, and information related to the Project as discussed, presented, or otherwise communicated by the PM, the consultant will prepare and provide the following Concept Design Phase deliverables.

- Preliminary layouts, cost/benefit analysis (including construction and operational cost estimates) and recommendations for the aquarium design. This study should consider the current and recommendations for proposed inventory of aquarium equipment and animals, space utilization, aquarium operational and maintenance needs, and teaching needs (i.e., the need for a large, central open space). Optional layouts and analyses shall include facility with and without concession space.
- Preliminary layouts, cost/benefit analysis (including construction and operational cost estimates) and recommendations for the aquarium temporary facility design. This study should consider the current and recommendations for proposed inventory of aquarium equipment and animals to be

EXHIBIT A - CONTINUED

housed in the proposed temporary facility (both optional locations) and include recommendations for an inventory of animals to be housed at the temporary housing facilities.

- Evaluate mechanical, electrical, and plumbing needs and provide a conceptual narrative of proposed mechanical, electrical, and plumbing systems, and cost/benefit analysis with recommendations for preferred systems (for both the proposed aquarium improvements and temporary facilities).
- Evaluate Tank water supply and discharge options and provide conceptual narrative and cost / benefits analysis with recommendations for preferred options (for both the proposed aquarium improvements and temporary facilities).
- Conceptual - Schematic Floor Plans (First floor and mezzanine)
- Conceptual - Schematic elevations as necessary to depict all proposed interior elevations, from all viewable perspectives
- Conceptual - Schematic Building Sections
- Up to four (4), three dimensional renderings clearly displaying the proposed aquarium features
- Conceptual plans for temporary facilities
- Conceptual - Schematic cost estimates for each option, including temporary facilities
- Structural assessment support: Provide the required information and coordinate with the prime architect's structural engineer to complete a structural assessment confirming the existing pier structure is adequate to support the proposed improvements, code dead and live loads and anticipated construction and maintenance operations dead and live loads, and adapt the aquarium design within the structural constraints of the existing Pier structure.
- Entitlement support: Provide narrative descriptions and separate image files (for use as exhibits in environmental documents) of proposed improvements to support the processing of a Categorical Exemption (CE) and Coastal Development Permit Waiver, as well as other data and information necessary for requisite permits deemed necessary for tank water supply and discharge, etc.

Design Development – Construction Documents (DD/CD) Phase

Based on the accepted schematic design documents, any comments thereto, entitlement conditions identified, and PM's written approval to proceed, Consultant shall prepare design development and construction documents consisting of drawings and other documents including to fix and describe the function, size and character of the entire proposed aquarium, interior and appurtenant improvements including selection of materials, type of structure, mechanical and electrical systems and performance data. In each case, the associated consultant(s) shall attend up to six (6) meetings / conference or video calls as required by the PM during the design development / construction documents phase of the project. The consultant shall participate in technical reviews of the DD-CD documents and cost estimate

EXHIBIT A - CONTINUED

with PM prior to review and approval by the Project Stakeholders at the 50% and 100% (pre-final) completion stages of Design. Final construction documents shall confirm that all stakeholder and plan check comments and entitlement mitigations and requirements have been addressed.

- Develop aquarium and temporary facility design plans, specifications, cost and time estimates consistent with applicable Federal/State/Local code requirements and Stakeholders' needs, for each submittal (50%, 100% pre-final and final construction documents). Submittals shall include the following:
 - Architectural Floor Plans
 - Elevations
 - Building Sections
 - Refined tank, equipment, mechanical, electrical, and plumbing system layouts
 - Structural plans and calculations support: Provide the required information and coordinate with the prime Architect's Structural Engineer to complete structural plans and calculations, if required for interior building improvements and/or proposed aquarium and/or building equipment and systems, including an update of the structural assessment of the pier confirming the existing pier structure is adequate to support the proposed improvements, code dead and live loads and anticipated construction and maintenance operations dead and live loads. Adapt the aquarium design within the structural constraints of the existing Pier structure
 - Mechanical, Electrical, Plumbing plans, elevations
 - Schedules, details, catalog cuts and product data for exhibits for all equipment, exhibits, finishes, materials, furnishings, fixtures, hardware, etc.
 - Calculations, data and exhibits as required to justify and support designs, code and all permit requirements
 - Draft technical specifications and relevant administrative (Division 1) specifications
 - A/E opinion of probable cost (construction, operations and life cycle replacement for major equipment and systems)
 - A/E opinion of probable construction contract time

Construction Documents

Based on approved DD/CD documents, any outstanding comments thereto and on PM's written approval to proceed, the consultant shall prepare of Construction Bid Documents by advancing all Design deliverables for the Project required to obtain contractors' construction bids and building permits, and for use in constructing the Project. Construction Documents shall include, but are not limited to: Building Division submittal, Demolition plans and specifications, General

EXHIBIT A - CONTINUED

and Special Conditions, Entitlement Mitigation Measures Exhibits, Relevant Permit Documents, Standard Plans and Specifications, Warranty, Guarantee and Commissioning Specifications, Complete Construction Drawings including: details, reports, solutions, updated opinions of probable cost and time, and final technical specifications for all disciplines associated with the aquarium design and temporary aquarium facilities. Consultant must coordinate with the Project Architect and PM to process the Construction Documents and Specifications through approving agencies, and incorporate all revisions/corrections as necessary to obtain the required approvals from those agencies. Consultant will review City's front end bid documents, as developed by the PM and advise any apparent conflicts or duplication with specification sections developed by the consultant.

Consultant shall participate in up to six (6) technical review meetings for the DD/CD submittal phase.

Design Release Services

Consultant shall sign/seal Drawings and Specifications as required by Building Division officials, shall assist in resolving issues that may arise during plan check and amend the documents as may be required by the governing authority, and do all things necessary to obtain the building permit.

All sketches, drawings, models, illustrations, specifications, CAD and utility modeling program software, and similar type items, developed by the Consultant and/or Project Sub-Consultant(s) during the course of the Project, including originals, become the property of City, and shall be delivered to City upon completion of services, if requested by City.

Bidding and Construction Period Services

Upon conclusion of the Construction Documentation Phase, the selected consultant shall coordinate with the Project Manager to provide reproducible construction documents.

The selected consultant shall coordinate with the Project Architect and PM to provide services including, but not necessarily limited to, the following:

- Issue Construction Documents and bid forms to PM.
- Attend an internal bid process planning meeting with City, PM, and Stakeholders, and a pre-bid / job walk meeting with PM and prime contractors bidding the contract.
- Assist PM in the preparation addenda to the Construction and Bid Documents related to questions / issues that arise during the bid process.
- Assist the PM and the prime contractors in obtaining approvals, permits, and licenses, make changes and revisions to the Construction Documents as are necessary to obtain any and all approvals, permits or licenses for the Project, and assist the PM and the prime contractors in appealing adverse decisions.

Following receipt of contractor bids, the selected consultant shall assist City/PM in:

EXHIBIT A - CONTINUED

- Reviewing prime contractor bids for correctness and completeness.
 - Participating in the pre-construction meeting(s).
 - Analyzing and evaluating prime contractors' suggested alternatives, substitutions or value engineering proposals submitted by the prime contractors, and give PM written recommendations for changes in the Construction Documents and construction of the Project as a result of such consideration.
-

Construction Phase

The Construction Phase shall commence with the award of the contract or contracts or the portions thereof based on the Construction Documents between the City and any prime contractors for the Project (Construction Contracts). Consultant shall coordinate with Project Architect and PM to provide Design Services During Construction (Architectural Construction Administration Services) of the Construction Contracts. Construction Administration Services shall include, but will not be limited to, the following:

- Represent, advise and consult with the PM and City's Construction Manager (CM) during the administration of the Construction Contract(s).
- Attend up to ten (10) periodic project meetings on-site.
- Periodically visit to the site during the construction phase to become familiar with the progress, acceptability, and quality of the Work and to determine if the work is proceeding in accordance with the Construction Documents. Consultant agrees that its Principal Contact will be present and make as many site visits as requested by PM during the construction and closeout phases of work. The consultant shall provide for observation of the construction work as required by Title 24 California Code of Regulations. The consultant shall review, stamp, and sign in a timely manner all documents requiring approval or for which the consultant is responsible. Notwithstanding anything provided herein to the contrary, consultant shall not have control over, or charge of, and shall not be responsible for construction means, methods, schedules, or delays not caused by consultant, or for safety precautions and programs in connection with the Work.
- Independently inform City of the progress, acceptability, and quality of the work completed and guard the City against defects and deficiencies in the work, and determine, in general, if the work, as it progresses, is in conformance with the Construction Documents.
- Prepare Site Observation Reports within three (3) business days subsequent to a site visit or sooner if such information to be transmitted is of substantial and immediate importance. The consultant shall coordinate with the Project Architect to issue reports to the PM, its CM and prime contractors with copies to the City related to deficiencies, errors, non-adherence to schedules, disagreements with pricing or time requests on change orders when requested by PM, and other items of importance that the consultant observes during construction.

EXHIBIT A - CONTINUED

- Conduct observations throughout construction of the Project to determine the date or dates of Substantial Completion and the date of final completion. Consultant shall coordinate with the Project Architect to provide in writing to PM its observations.
- Coordinate with Architect to report to the City and PM known deviations from the Contract Documents and from the most recent construction schedule submitted by the general contractor, program manager, or construction manager. However, the consultant shall not be responsible for the PM's, its CM's or prime contractors' failure to perform the work in accordance with the requirements of the Contract Documents.
- At all times, consultant will promptly and expeditiously, render interpretations of the Construction Documents and review, critique and comment in writing on all shop drawings, materials, samples, schedules, colors, or other submittals necessary for the proper execution or progress of the work. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the PM, its CM and prime contractors by the Contract Documents, the consultant shall specify appropriate performance and design criteria that such services must satisfy. Shop Drawings and other submittals related to the work designed or certified by the design professional retained by PM, its CM or prime contractors shall bear such professional's written approval when submitted to the consultant. The consultant shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals. When requested by PM, consultant shall render written responses and opinions on all claims, addenda, proposals, disputes and all other matters in question between the PM, its CM, prime contractors, vendors, and others relating to the execution or progress of the work or the interpretation of the Construction Documents in order to maintain the Project schedule and to assist PM in its pursuit of completing PM's negotiations and completion of the Project. The consultant's action shall be taken with such promptness as to cause no delay in the work or in the activities of the City, PM, its CM or prime contractors.
- Assist prime contractors, project manager, or construction manager in the assembling, reviewing and submitting to City of indexed binders (number of copies as required by City) containing originals of all manuals, brochures, and drawings and warranties needed for operation and maintenance of all systems and the work and shall assemble all written guarantees and warranties from the prime contractors, program manager, or construction manager and transmit same to City as required by the Contract Documents.
- Prepare documents to specify to what extent maintenance, warranty and operational information is to be turned over to City and its operator of the facilities.
- Specify and arrange with the prime contractors, program manager, or construction manager for instructional sessions wherein operational and maintenance personnel will be instructed in the use, operation and maintenance of mechanical, electrical and other equipment, and the maintenance and care of special finishes and other operational items, all of which shall have been specified within the Construction Documents.

EXHIBIT A - CONTINUED

- Prepare and distribute to all appropriate persons and entities, any correspondence, bulletins, drawings, supplemental specifications, addenda etc. necessary to clarify or supplement Construction Documents throughout the construction phase.
- Consultant shall answer all requests for information, in writing, generated by the PM, its CM or prime contractors within three (3) business days of receipt of such requests for information.
- When requested by PM, provide written recommendations on all matters in question between PM, its CM or prime contractors relating to the execution and progress of the work or the interpretation of the Contract Documents. The Consultant shall render to the PM an interpretation, which shall be subject to the approval of the City. The Architect's interpretation shall not be issued to the prime contractors or construction manager until it has been reviewed and approved by the PM. The Consultant's interpretation, as approved by the PM, shall be binding only for the prime contractors' or construction manager's obligation to proceed with the work. Consultant shall use its professional efforts to obtain faithful performance of the work by the prime contractors or construction manager. Consultant shall not be the interpreter of the contract executed by City and program manager but will, when requested by PM, submit its opinion to the PM as to any concerned or disputed item related to construction work in the field.
- When requested by PM, the Consultant shall review for approval prime contractors' or construction manager's submitted Change Order proposals for rendering of opinions as to inclusion or omission from the scope of work covered in the Construction Documents and as to the validity of the estimate of costs.
- If requested by the PM, review prime contractors' or construction manager's submission of their Record Drawings, Warranties and Operation and Maintenance Manuals for all systems for approval prior to the issuance of a final Certificate of Payment. In their review, consultant shall advise PM of any apparent unacceptable items, problems and discrepancies between the intent of their work and such Record Drawings. Such review shall not relieve the prime contractors or construction manager of responsibilities for the accuracy or completeness of its work or of the information recorded.
- If requested by PM, consultant shall review and assist the PM with the negotiation, as required, of the prime contractors' or construction manager's Change Order proposals and associated labor and material cost to ensure they are reasonable.
- Consultant shall prepare and submit to the City and PM all selections of color, textures, and finishes for all required items of the Project in ample time for City approval before the time such information is needed by the prime contractors or construction manager.
- The Consultant shall render no extra, compensatory services unless first authorized in writing by the PM.

Post Construction Completion Services

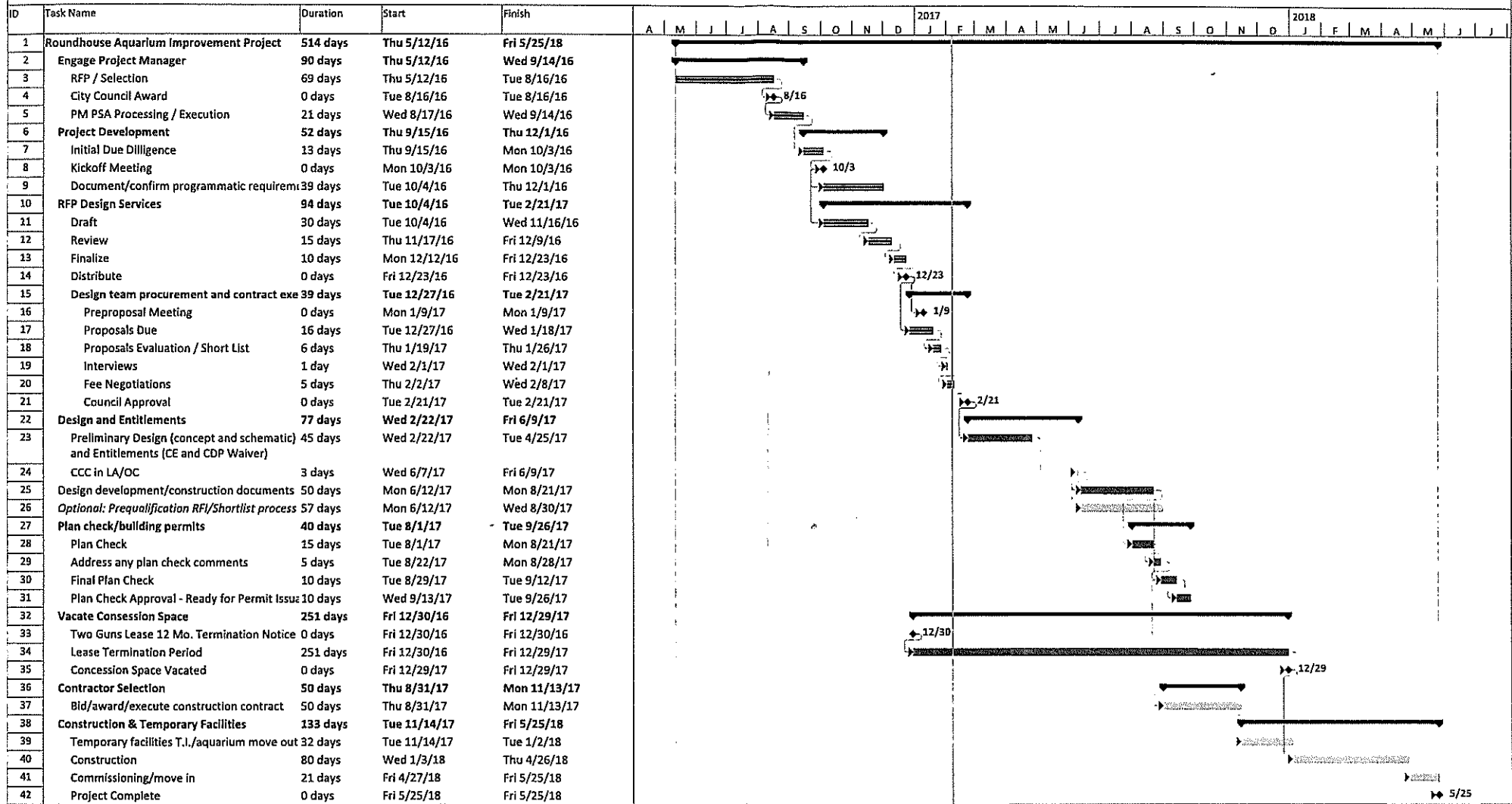
As the construction of the Project progresses and no later than 30 days after the final completion thereof, coordinate with Project Architect to prepare and furnish to PM a set of reproducible Record Drawings and CADD disks showing construction changes in the work, final locations of MEP and other considerations, for which City has a requirement, based on general contractor's or construction manager's Record Drawings, marked up prints, drawings and other data furnished by the prime contractors or construction manager to Architect.

**EXHIBIT B
PROJECT TIMELINE**



EXHIBIT B

ROUNDHOUSE AQUARIUM IMPROVEMENT PROJECT PRELIMINARY PROJECT SCHEDULE



Project: 20160929 MBRH Project
Date: Tue 2/7/17

Task Milestone Summary Project Summary Deadline Critical Progress

EXHIBIT C
APPROVED FEE SCHEDULE

EXHIBIT C**11 Cost Proposal - Revised 10 February 2017**

Cambridge Seven Associates, Inc.'s revised fee proposal is provided with the following assumptions:

- Structural engineering is not covered in the scope of our proposed work beyond supplying the Pier and Roundhouse Building Improvements Team with aquarium loading information in accordance with the RFP.
- That the facility shall remain un air-conditioned and utilize natural ventilation as currently accomplished through open doors and windows. Our fee does not include the addition of new air conditioning systems.
- That construction will be in accordance with the RFP proposed schedule of 12 weeks.
- This fee expires 12/31/17
- Assumes no more than seven (7) two-person trips to Manhattan Beach.
- Subject to C7A's Terms and Conditions attached to this revised cost proposa.

Our fee by phase is as follows:

Conceptual - Schematic Design Fee	\$61,080.00
Design Development - Construction Documents (DD/CD)	\$164,740.00
Bidding and Construction Services	\$123,410.00
Post Construction Completion Phase Services	\$5,770.00
3D Computer Fly-Through	Included Above
<u>Estimated Expenses</u>	<u>\$40,000.00</u>
Total Fee	\$395,000.00

Refer to the Fee Schedule for an itemized fee description by phase for each consultant.

Schedule A

Standard Hourly Billing Rates Effective 1 January 2017

These rates may be adjusted annually in conjunction with normal salary adjustments by Cambridge Seven Associates, Inc.

Professional Category	Hourly Rates:
Principal	\$285
Senior Architect Level II	\$230
Senior Architect Level I	\$175
Architect Level I	\$150
Senior Designer Level II	\$115
Senior Designer Level I	\$105
Designer Level II	\$90
Designer Level I	\$75
Senior Exhibit Designer	\$185
Exhibit Designer Level III	\$145
Exhibit Designer Level II	\$120
Exhibit Designer Level I	\$95
Senior Graphic Designer	\$130
Graphic Designer	\$100
Technical Support	\$80
Court Testimony, waiting in court, and Preparation Time:	\$400

Re: Additional Services--Requests for additional services must be authorized by client in writing before additional services can begin.

AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF MANHATTAN BEACH AND CAMBRIDGE SEVEN
ASSOCIATES

This First Amendment ("Amendment No. 1") to that certain agreement by and between the City of Manhattan Beach, a California municipal corporation ("City") and Cambridge Seven Associates, a Massachusetts corporation ("Contractor") (collectively, the "Parties") is hereby entered into on July 31, 2017 ("Effective Date").

RECITALS

- A. On February 21, 2017, the City and Contractor entered into an agreement for professional services for the Contractor to provide aquarium design services ("Original Agreement");
- B. The Parties now desire to amend the Agreement to enable Contractor to: design, document, review fabrication submittals, provide graphics, and develop final artwork for recognizing the HGF Funding Opportunities

NOW, THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereby amend the Agreement as follows:

Section 1. Contractor shall perform the services described in the fee proposal from Contractor dated Jul 14, 2017, attached hereto as Exhibit A and incorporated herein by reference, to the full satisfaction of the City and Pursuant to a timeline directed by the City Manager.

Section 2.

(a) The "Maximum Compensation" of \$395,000.00 specified in Section 3.A of the Agreement is hereby increased by \$22,790.00, for a new total of \$417,790.00. For the services provided pursuant to this Amendment No. 1, compensation shall be provided in accordance with the fee proposal attached hereto as Exhibit A.

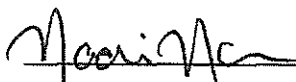
(b) For the services provided pursuant to this Amendment No. 1, City shall only reimburse Contractor for those expenses expressly set forth in Exhibit A.

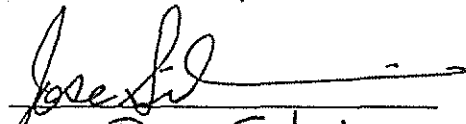
Section 3. Except as specifically amended by this Amendment No. 1, all other provisions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment No. 1 on the day and year first shown above.

CITY OF MANHATTAN BEACH
a California municipal corporation

Cambridge Seven Associates, Inc.
a Massachusetts incorporation

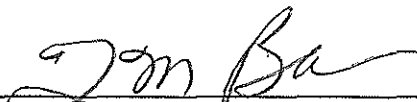
By: 
Name: NADINE NADER
Title: ASST. CITY MGR

By: 
Name: Jose Silveira
Title: COO / CFO

ATTEST:

 10-30-17
Liza Tamura, City Clerk

APPROVED AS TO FORM:


Quinn M. Barrow, City Attorney

APPROVED AS TO CONTENT:


Bruce Moe, Finance Director

Exhibit A

CONTRACTOR compensation is hereby increased an additional amount of \$22,790.00 (as shown in the following letter dated July 14, 2017), from \$395,000.00 to a new total of \$417,790.00.

Exhibit A

1050 Massachusetts Ave.
Cambridge, MA 02138
617 492-7000
www.c7a.com

Stefanie Greenfield
Steven Imrich
Patricia E. Intrieri
Gary C. Johnson
Yongjoo Kim
Peter Kutner
Timothy D. Mansfield
Adam P. Mitchell
Marc Rogers
José Silveira

James C. Puopolo
Penny J. Sander
Douglas Simpson
Peter Sollogub
Joslin Stewart

Architecture
Urban Design
Master Planning
Programming
Interior Design
Graphic Design
Exhibit Design

Dino D'Emilia, PE, QSD
VP, Construction Services
AndersonPenna | Partners in Project Delivery
1225 190th Street, Suite 255
Gardena, Ca 90248

14 July 2017

Revised 13 September 2017

Re: Harrison Greenberg Foundation Roundhouse Aquarium Beautification Project
Additional Service No. 1

Dear Dino:

Cambridge Seven Associates is pleased to submit ASR No. 1 to provide additional professional services to design, document, review fabrication submittals, provide graphics and develop final artwork for recognizing the HGF Funding Opportunities.

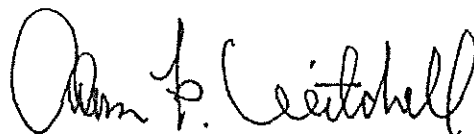
Deliverables shall be developed in accordance with original contract scope of services, for the 100% pre-final, and final construction documents, bidding and construction services.

Cambridge Seven Associates will provide the above services for a fixed fee of \$22,790.00. This ASR is tied to and in no way supersedes our main agreement with the City of Manhattan Beach dated March 7, 2017. If this agreement is not executed by December 31, 2017, it will no longer be valid.

We are excited about the progress of the project to date and look forward to working with you as we conclude construction document phase of our work.

Please do not hesitate to call with any questions or concerns.

Kind regards,



Adam P. Mitchell, AIA LEED AP
Principal
Cambridge Seven Associates, Inc.

Exhibit A

May 26, 2017

MBH ASR No.1 HGF Location of Donor Recognition

Peter Sologub	16	x	285.00	x	1 =	\$4,560	16
Adam Mitchell	6	x	230.00	x	1 =	\$1,380	6
Sharon Clarek	50	x	150.00	x	1 =	\$7,500	50
Kwesi Arthur	8	x	130.00	x	1 =	\$1,040	8
AA	3	x	85.00	x	1 =	\$255	3

\$14,735

Natalie Zaneccchia

\$8,055

Total

\$22,790

AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF MANHATTAN BEACH AND CAMBRIDGE SEVEN ASSOCIATES

This Second Amendment ("Amendment No. 2") to that certain agreement by and between the City of Manhattan Beach, a California municipal corporation ("City") and Cambridge Seven Associates, a Massachusetts corporation ("Contractor") (collectively, the "Parties") is hereby entered into on ~~January 22~~ **March**, 2018 ("Effective Date").

RECITALS

- A. On February 21, 2017, the City and Contractor entered into an agreement for professional services for the Contractor to provide aquarium design services ("Original Agreement");
- B. On July 31, 2017, the City and Contractor entered into Amendment No. 1 to the Original Agreement, providing for certain additional work and increased compensation, as described therein (the Original Agreement, as amended by Amendment No. 1, is referred to herein as the "Agreement");
- C. The Parties now desire to amend the Agreement to authorize Contractor to design Temporary Trailer Wayfinding signs and prepare performance descriptions, issue and review responses to the RFP, and provide design support during construction for the fabrication of the Great White Shark display, as described in **Exhibit A** hereto.

NOW, THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereby amend the Agreement as follows:

Section 1. Contractor shall perform the additional services described in the additional services proposal from Contractor dated November 8, 2017, attached hereto as **Exhibit A** and incorporated herein by reference, to the full satisfaction of the City and pursuant to a timeline directed by the City Representative.

Section 2.

- (a) The "Maximum Compensation" of \$417,790.00 specified in Section 2(a) of Amendment 1 is hereby increased by \$18,000.00, for a new total of \$435,790.00. For the services provided pursuant to this Amendment No. 2, compensation shall be provided in accordance with **Exhibit A**.
- (b) For the services provided pursuant to this Amendment No. 2, City shall only reimburse Contractor for those expenses expressly set forth in **Exhibit A**.

Section 3. Except as specifically amended by this Amendment No. 2, all other provisions of the Agreement shall remain in full force and effect.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment No. ~~X~~ 2
on the day and year first shown above. A

CITY OF MANHATTAN BEACH
a California municipal corporation

By:

[Signature]
Bruce Moe, ~~City Manager~~ City Manager

Cambridge Seven Associates, Inc.
a Massachusetts incorporation

By:

[Signature]
Name: Jose Silveira
Title: COO/CFO

ATTEST:

[Signature] 3-22-18

Liza Tamura, City Clerk

APPROVED AS TO FORM:

[Signature]

Quinn M. Barrow, City Attorney

APPROVED AS TO CONTENT:

[Signature]

Steve Charelian, Acting Finance Director

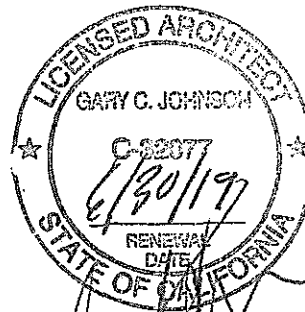


EXHIBIT A

Attached - Cambridge Seven Associates letter dated November 8, 2017

|

|

1050 Massachusetts Ave
Cambridge, MA 02138
617-492-7000
www.c7a.com

Stefania Groszdel
Steven Imich
Paula F. Eblen
Gay C. Johnson
Yongpo Kim
Peta Kuttner
Timothy D. Mansfield
Adam P. Mitchell
Marc Rogers
Joel Silva

James C. Paopolo
Penny J. Saloner
Douglas Simpson
Peter Sologub
Joslin Stewart

Architecture
Urban Design
Master Planning
Programming
Interior Design
Graphic Design
Exhibit Design

8 November 2017

Dino D'Emilia, PE, QSD
VP, Construction Services
AndersonPenna | Partners in Project Delivery
1225 190th Street, Suite 255
Gardena, Ca 90248

RE: HGFRAB Great White Shark Fabrication Added Scope and Temporary Wayfinding Signage Additional Service No. 2

Dino:

Cambridge Seven Associates is pleased to submit ASR No. 2 to provide additional professional services to prepare documents as described below for the fabrication of the Great White Shark display and create Temporary Trailer Wayfinding signs.

Cambridge Seven Associates will provide the services described below for a lump sum fee of \$18,000 for both of these efforts. This ASR is tied to and in no-way supersedes our main agreement with the City of Manhattan Beach dated March 7, 2017. If this agreement is not executed by December 31, 2017, it will no longer be valid.

C7A Scope for the Great White Shark Fabrication

C7A will provide the following services:

1. Prepare performance description documents that describe the requirement to fabricate a portable great white shark sculpture for the Roundhouse Aquarium performance criteria is as described below:
 - Overview
The fabricator shall furnish, deliver and install a movable Great White Shark (Shark) with associated Base. The Shark will be moved daily from inside the adjacent Roundhouse Aquarium building to outside to the pier deck beside it. The environment will be in the sun, salt air, wind, blown sand in the air and other harsh salt water environmental issues. It will be unprotected to public and subject to unsupervised public touching, pulling and possibly climbing. The construction and finish of the Shark must fully resist all issues listed above.
 - Shark

Performance Criteria

2/28/2018

1.00

- 11'-12' long. Full Detail on all sides to depict a Great White Shark with mouth open, rows of teeth an action. Construction of the Shark must use stainless steel interior structural members. The Shark itself can be made of Resin, Fiberglass, Aluminum, Stainless Steel or other materials to address the performance requirements.
 - Base
 - To depict waves with an area for a Plaque to be attached. The base must look like waves and be approximately 3' wide by 6' long. The base need not be continuous and could (desirable) have openings through it to allow more visibility of the Shark. The base must allow for installation of a Plaque to it. The Base must use stainless steel structural members and very heavy duty caster also with stainless steel housing. The Base itself should be made of the same materials as the Shark
 - Finish Shark and Base
 - Option 1: Bronze looking finish treatment
 - Option 2: Realistic looking finish treatment
 - The Fabricator shall specify the finish treatment, including all protective coatings. It is the expectation that the finish treatment shall have a warranty of 5 years.
 - Plaque
 - Option 1: Bronze
 - Option 2: Stainless Steel
 - The Plaque shall be approximately 2' high by 30" wide, 1/2" thick with engraved/etched lettering and possible designed elements. Art work by others. It should be permanently fixed to the Base with concealed hardware.
 - Fabrication Requirements
 - Full specification of all materials and associated warranties.
 - Images from all angles of the design for approval.
 - Mock ups 12"x12" of all finishes for approval.
 - Review meeting(s) at the site of the fabricator of the finished Shark, Base, and Plaque for approval.
 - Shipping and Installation at the site of the Roundhouse Aquarium in Manhattan Beach California on or before May 31, 2018.
2. Identify three (3) fabricators capable of satisfying the performance criteria.
 3. Send the performance criteria to each of the fabricators/artists, review their questions and evaluate their responses.