



# CITY OF COSTA MESA

CALIFORNIA 92628-1200

P.O. BOX 1200

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FROM THE OFFICE OF THE CITY CLERK

November 7, 2013

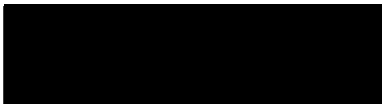
Pro Forma Advisors, LLC  
Attn: Gene P. Krekorian  
722 First Street, Suite F  
Hermosa Beach, CA 90254

Dear Gene:

RE: Agreement for Performance Auditing Services

Enclosed, for your records, is a fully executed copy of the agreement between the City of Costa Mesa and Pro Forma Advisors, LLC, for Auditing Services.

Sincerely,



Brenda Green  
City Clerk

Enclosure (1)

ATTACHMENT 1

**PROFESSIONAL SERVICES AGREEMENT  
FOR PERFORMANCE AUDITING SERVICES**

THIS AGREEMENT is made and entered into this 1st day of September, 2013 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and PRO FORMA ADVISORS, LLC, a Limited Liability Company ("Consultant").

**WITNESSETH:**

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to perform auditing services of the Costa Mesa Country Club as more fully described in Consultant's Proposal attached as Exhibit "A"; and

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and

C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and

D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

**1.0. SERVICES PROVIDED BY CONSULTANT**

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant's Proposal, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City of Costa Mesa, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the department. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Clerk or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

## 2.0. COMPENSATION AND BILLING

2.1. Compensation. As compensation for the provision of services outlined in Exhibit

"A" and in accordance with this agreement, Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated by reference. Consultant's total compensation shall not exceed Thirty Four Thousand Eight Hundred and Twenty Dollars (\$34,820.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City supervisor for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoice is created. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

### 3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "C," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

### 4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of One (1) year ending on September 1, 2014, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. At the end of the term period,

Consultant and City may mutually agree, in writing, to renew the contract for up to four (4) term periods of one (1) year each.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

## 5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

## 6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The Chief Executive Officer of the City or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Pro Forma Advisors, LLC  
722 First Street, Suite F  
Hermosa Beach, CA 90254  
Tel: 310-616-5079  
Fax: 888-696-9716  
Attn: Gene P. Krekorian

IF TO CITY:

City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626  
Tel: 714-754-5636  
Fax: 714-754-5156  
Attn: Robert Knapp

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or



authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, 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 are required, in connection with the services to be performed hereunder. Consultant shall 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. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,  
A municipal corporation

[Redacted]  
\_\_\_\_\_  
CEO for the City of Costa Mesa

Date: 10/22/13

[Redacted]  
\_\_\_\_\_  
Department Director

Date: 10/22/13

CONSULTANT

[Redacted]  
\_\_\_\_\_  
Signature

Date: 9/25/2013

GENE P. KREKORIAN, PRINCIPAL  
\_\_\_\_\_  
Name and Title

[Redacted]  
\_\_\_\_\_  
Social Security or Taxpayer ID Number

ATTEST:

[Redacted]  
\_\_\_\_\_  
City Clerk and ex officio Clerk  
of the City of Costa Mesa



[Redacted]  
\_\_\_\_\_  
Mayor for the City of  
Costa Mesa

APPROVED AS TO FORM:

[Redacted Signature]

City Attorney

Date: 10/29/13

APPROVED AS TO INSURANCE:

[Redacted Signature]

Risk Management

Date: 10/28/13

APPROVED AS TO CONTENT:

[Redacted Signature]

Project Manager

Date: 10/22/13



**Pro Forma**  
Advisors LLC

Proposal for:

**Professional Consultant Services  
Costa Mesa Country Club  
Performance Review  
Costa Mesa, California**

Prepared for: City of Costa Mesa, Recreation Services Department

Prepared by: Pro Forma Advisors LLC

May 22, 2013

PFAID: 10-466



## Pro Forma Advisors LLC

the State of California for public sector clients, and has represented over 70 California public agencies on golf issues.

Mr. Casey O'Callaghan has nearly 20 years golf design experience, with the preponderance of this experience in Southern California. In particular, Casey O'Callaghan Golf Design's courses are designed to ensure reduced irrigated grass areas on the golf course, collect golf course runoff and direct it toward bio-filters so that natural water courses are not contaminated, and to maximize native habitats surrounding the golf course. Located in Orange County, Mr. O'Callaghan also has extensive experience with golf courses in Southern California.

It is important to note that Pro Forma Advisors LLC is comprised of former principals from Economics Research Associates (ERA), formerly the largest U.S. independent commercial recreation economic consulting firm which was acquired and integrated into AECOM in 2008 (AECOM disbanded the ERA brand and golf practice). As such, the qualifications, sample work products and other background information relates to the experience of these principals, much of which was gained with ERA.

We believe we are exceptionally well qualified to conduct this assignment.

- Through the qualifications and experience of its principals, Pro Forma Advisors is the most experienced golf course economic consulting firm in the western U.S. with golf analysts in Los Angeles and New York.
- Pro Forma Advisors is extremely familiar with the California and, in particular, the Southern California, golf market. Presently, Pro Forma Advisors is conducting a similar analysis for the Orange County Flood Control District (Green River Golf Course).
- Within the past two years, Pro Forma Advisors' principals have completed a number of very similar assignments for California municipalities including Ventura, Santa Barbara, City of Los Angeles, San Francisco Public Golf Alliance, County of Los Angeles, Vallejo, and Hesperia.
- Pro Forma Advisors and Casey O'Callaghan Golf Design are prepared to commit their most experienced staff to this assignment. Gene Krekorian, formerly a Senior Vice President and now a Principal at Pro Forma Advisors, has over 35 years golf course economic and market analysis experience. Mr. O'Callaghan has over 20 years experience in golf design and capital improvement analysis.
- Mr. Krekorian is familiar with Costa Mesa Country Club, having performed a comprehensive operational audit of the golf club for the City of Costa Mesa in 1992 when the City elected to convert from a hybrid operation (golf concessionaire with City maintenance) to a full facility lease.
- Pro Forma Advisors is headquartered in the Los Angeles area, providing easy and frequent access to the subject site and contact with City of Costa Mesa representatives. Casey O'Callaghan Golf Design is headquartered in Newport Beach, California.
- Pro Forma Advisors' principals have represented over 70 California public agencies on golf related issues, and fully understand the public sector environment.



<b>I. Understanding of the Assignment</b>	<b>5</b>
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## Pro Forma Advisors LLC

The team which can best serve the needs of the City of Costa Mesa in assessing the relevant issues and providing unbiased and realistic recommendations for the City will possess a number of qualities, which we are extremely confident that the team of Pro Forma Advisors and Casey O'Callaghan Golf Course Design offer:

- The principals of both firms are involved with the day-to-day Southern California golf industry.
- Principals of Pro Forma Advisors and Casey O'Callaghan Golf Course Design have extensive experience with providing very similar services to those required for this assignment. The two firms have worked together successfully on a number of similar assignments.
- The experience of the primary individuals assigned to the project--Gene Krekorian and Casey O'Callaghan--is critically important. Mr. Krekorian has over 35 years direct experience in evaluating Southern California golf issues. He served as the City of Costa Mesa's golf course consultant in 1992 when the City converted its operation to a facility lease. Mr. O'Callaghan has over 20 years experience, with a focus on Southern California municipal and daily fee courses.
- Pro Forma Advisors is headquartered in the Los Angeles area, providing easy and frequent access to the subject site and contact with City representatives. Mr. O'Callaghan is headquartered in Newport Beach.
- Pro Forma Advisors' principals have represented over 70 California public agencies on golf related issues, and fully understand the public sector environment.
- Pro Forma Advisors has ready access to other disciplines located in California, such as irrigation specialists, environmentalists, golf course construction contractors, golf course professional management companies and others, which can provide additional input as needed.
- Lastly, and perhaps most importantly, the team of Pro Forma Advisors and Casey O'Callaghan Golf Course Design is committed to providing the most efficient and effective services to the City of Costa Mesa. The combination of the skills, experience and dedication of the individuals assigned to this high profile assignment will ensure the needs of the City are fully satisfied.



# Pro Forma Advisors LLC

7. City of Santa Barbara (Santa Barbara Muni, Twin Lakes)
8. City of Oxnard (River Ridge Golf Club)
9. City of Costa Mesa (Mesa Verde, Los Lagos)
10. City of Mountain View (Shoreline Golf Links)
11. City of Modesto (Modesto Muni, Dryden Park, Creekside)
12. City of Santa Cruz (Delaveaga)
13. City of Anaheim (Dad Miller, Anaheim Hills)
14. City of Reno/County of Washoe (Rosewood Lakes, Washoe, Sierra Sage, Wildcreek, Northgate)
15. City of Ontario (Whispering Lakes)
16. City of Ventura (Buenaventura, Olivas Park)
17. City of Indian Wells (Golf Resort at Indian Wells)
18. City of Oceanside (Oceanside Municipal)
19. City of Chula Vista (Chula Vista Municipal)
20. City of Vallejo (Blue Rock Springs)
21. County of San Mateo (Sharp Park)
22. San Francisco PUC (Crystal Springs)
23. City of Kent, Washington (Riverbend)
24. City of Portland (Heron Lakes)
25. City of Seattle (Jefferson Park, Jackson Park, West Seattle)

As previously noted, Pro Forma Advisors' principals has represented over 70 California public agencies regarding golf issues. Exhibit 1 summarizes many of the public agencies represented.



# Pro Forma Advisors LLC

Within the past three years, the following are representative assignments conducted in the State of California by Pro Forma Advisors which are similar in scope to the proposed Costa Mesa Performance Audit.

**Project:** Santa Barbara Golf Club

**Client:** City of Santa Barbara

**Description:** Performance audit of the City's municipal golf course to evaluate historical and current operations of the golf course, gain a full understanding of the golf market environment, establish a capital improvements program, and to identify and assess various golf course management options for the course.

**Contact:** Ms. Nancy Rapp, Director of Parks and Recreation

**Telephone #:** 805.564.5418

**Year Completed:** 2013

**Contract Amount:** \$15,000.00

**Project:** Marshall Canyon and Links at Victoria

**Client:** County of Los Angeles

**Description:** Analysis of two struggling golf courses within the County's 13-course golf system. The assignment, conducted by Pro Forma Advisors and Casey O'Callaghan Golf Course Design, focused on the cost-benefit of golf course and support facility capital improvements, and looked at the potential financial performance under various capital improvement program scenarios.

**Contact:** Mr. Jorge Badel, Golf Manager, Parks and Recreation

**Telephone #:** 626.821.4649

**Year Completed:** 2013

**Contract Amount:** \$25,000.00

**Project:** Green River Golf Course

**Client:** Orange County Flood Control District

**Description:** Full analysis of redevelopment options for the 36-hole Green River Golf Course, which is being significantly impacted by Prado Dam/Santa Ana River flood control improvements. The analysis is looking at number of supportable holes, capital improvements, golf course positioning and a range of other issues

**Contact:** Ms. Merrie Weinstock, Project Manager

**Telephone #:** 714.834.5779

**Year Completed:** 2013 (ongoing)

**Contract Amount:** \$50,000.00



### **III. Scope of Services**

The scope of services is segmented into nine basic tasks. As part of the initial task included in the scope of services, we recommend an orientation workshop. This workshop will allow initial inspection of the site, meeting key stakeholders, and understanding clearly the City objectives and major issues, sensitivities and constraints. The work scope can be refined and amended, if necessary, and the overall study strategy reviewed or adjusted accordingly.

#### **Task 1: Orientation/Stakeholder Interviews**

- Meet with representatives of the City of Costa Mesa in order to gain a full understanding of the objectives, limitations, and options with respect to golf operations at Costa Mesa Country Club
- Review the key issues relevant to the study and refine the work program as appropriate
- Obtain and review all planning and background materials pertaining to the course, including historical operating performance, capital improvement plans, lease/concession agreements, water use agreements, planning documents and the like
- Inspect the existing golf course and interview the golf operations manager, food and beverage manager and course superintendent
- As appropriate, conduct discussions and/or interviews with representatives of constituent stakeholder groups (e.g. City Chief Executive Officer, Costa Mesa City Council Members, Parks and Recreation Management, Mesa Verde Partners representatives, SCGA representatives, men's and women's golf club representatives, and staff representatives)

#### **Task 2: Current Facility Conditions**

- Document the existing infrastructure and the two 18-hole golf course features:
  - Irrigation system
  - Drainage
  - Greens
  - Greens surrounds
  - Tees
  - Bunkers
  - Fairways and roughs
  - Landscape and trees
- Assess the current course layout and condition of existing improvements
- Evaluate support facilities (clubhouse, maintenance facility, practice range, cart storage, other), with particular emphasis on the clubhouse
- Assess current maintenance level and staffing
- Analyze current lease agreement in-place and any other contracts or agreements
- Document the irrigation system in terms of irrigated turf areas, source of water, consumption, and cost
- Review near-, mid- and long-term capital improvement needs



- Seasonal passes and other frequent player or loyalty programs
  - Tee time/reservation policies and tee sheet management
  - Tournament/outing policies
  - Golf course marketing program (media, promotional events, website)
  - Staffing levels, organizational structure and compensation structure
  - Golf operations procedures and reporting, including POS and other financial control systems
  - Maintenance practices and procedures
  - Food and beverage and banquet operations
  - Hiring and training procedures
  - Volunteer programs
- Evaluate the potential benefits, if any, of repositioning the golf complex in the market

#### **Task 6: Capital Improvements/Clubhouse Analysis**

- Identify long-term capital improvement requirements for the golf courses, and prioritize the improvements
- Evaluate the conditions and capital improvement needs of the clubhouse, including the potential to construct a new clubhouse
- Identify long-term capital needs for other support facilities including the driving range, cart storage, entry, and maintenance facility
- Estimate the costs, expressed in 2013 dollars, of the improvements
- Prepare a capital improvements schedule
- Specify potential funding mechanisms for major capital improvements
- Establish appropriate capital improvement funding procedures and levels

#### **Task 7: Golfer Survey**

- Conduct a representative survey of golfers at Costa Mesa Country Club. The survey would establish a profile of users of the facility, provide feedback in terms of golf course and support facility conditions, illustrate areas of capital improvement needs, assess customer service, provide input on existing policies and procedures, and provide other similar information
- There are several options in conducting a golfer survey including a mail-out questionnaire, on-site golfer intercept surveys, telephone, and e-mail surveys. Each of these have advantages and disadvantages. The appropriate survey instrument and survey medium will be established which best meets the needs of the City, and will depend on the resources available (e.g. existing e-mail data base), statistical accuracy goals, and budget
- Interview Men's and Women's Club representatives

#### **Task 8: Financial Projections**

- Prepare 5-year baseline financial projections reflecting projected play levels and revenue enhancement for the two 18-hole golf courses



#### IV. Staffing

The staff assigned to this project are Gene P. Krekorian from Pro Forma Advisors and Casey O'Callaghan from Casey O'Callaghan Golf Design.

Staff	Firm	Principal Responsibilities
Gene P. Krekorian	Pro Forma Advisors	Performance Review, Conditions Assessment, Market Assessment, Stakeholder Interviews, Golfer Survey, Revenue Enhancement, Financial Analysis, Operating Models,
Casey O'Callaghan	Casey O'Callaghan Golf Design	Conditions Assessment, Capital Improvements, Maintenance Practices

#### **Gene P. Krekorian, Principal, Pro Forma Advisors LLC**

Mr. Krekorian's role will be to serve as project manager, and will be directly involved with all aspects of this study. Mr. Krekorian has been involved with all of the projects noted in the "experience and qualifications" section of this proposal, and conducted the Operational Audit of Costa Mesa Country Club in 1992.

Highlights of his qualifications are outlined below:

- ✓ Principal Pro Forma Advisors LLC
- ✓ Over 35 years golf course consulting experience
- ✓ Major role in over 100 golf assignments over the past five years
- ✓ Represented over 70 West Coast public agencies regarding golf issues
- ✓ Served as golf consultant for City of Costa Mesa in 1992 when City converted CMCC from a hybrid agreement to a facility lease with Mesa Verde Partners
- ✓ Authored a series of articles on the golf industry, a principal contributor to ULI's "Golf Course Development and Real Estate," and participated in numerous golf industry conferences
- ✓ Extensive knowledge and work experience in California
- ✓ California Certified General Real Estate Appraiser, specializing in golf course appraisal
- ✓ Currently conducting a similar analysis for the Orange County Flood Control District (Green River Golf Course in Corona)

A professional resume is attached.



Mr. Krekorian received a B.A. degree in Mathematics and Economics from Pomona College and a M.S. degree in Business Economics from the University of California at Los Angeles. Mr. Krekorian is a Certified General Real Estate Appraiser as licensed by the State of California.

**Casey O'Callaghan, Principal, Casey O'Callaghan Golf Course Design, Inc.**

Casey O'Callaghan is the founder and President of Casey O'Callaghan Golf Course Design, Inc., a full service golf course design firm located in Newport Beach, California. With over 20 years design and consulting experience, Mr. O'Callaghan focuses solely on new and renovated golf course planning and construction, and provides comprehensive golf course design services that include preliminary golf course routing studies, preliminary construction cost estimates, construction document production, bid package preparation, specifications, contractor selection process, and construction observation.

Mr. O'Callaghan has designed and constructed over thirty golf courses since 1993. He has done extensive work on golf course renovation projects in Orange, Riverside, and San Bernardino Counties. The firm designed Arroyo Trabuco Golf Club in Mission Viejo, California, Indian Canyons Golf Resort in Palm Springs, California and Hidden Valley Golf Club in Norco, California. The firm has completed renovation work on Big Canyon Country Club, Santa Ana Country Club, Mesa Verde Country Club, Monarch Beach Golf Course, San Juan Hills Golf Course, SeaCliff Country Club, El Rancho Verde Golf Course, Paradise Knolls Golf Course, Jurupa Hills Golf Course, Whispering Lakes Golf Course, Quail Ranch Golf Course, and San Dimas Canyon Golf Course.

Casey O'Callaghan has worked closely with the U.S. Army Corps of Engineers on many of their golf course projects. Arroyo Trabuco Golf Club in Mission Viejo, California is constructed along Trabuco Creek in the flood plain. The firm worked closely with the Army Corps of Engineers and the project team to ensure that the golf course could accommodate additional flooding in non play areas to reduce potential down stream flows.



**City of Hesperia--Hesperia Golf & Country Club**

Pro Forma Advisors is completing an assignment for the City of Hesperia regarding potential options for the golf course, performance enhancement, and operating options for the City, which recently acquired the golf course to preserve the course and for the attendant water rights. The Council has elected to retain the 18-hole course, with routing modifications to conserve water, and to work with the independent Hesperia Recreation and Parks District to manage the course for the City.

Reference: Ms. Kim Summers  
Assistant to the City Manager  
City of Hesperia  
City Manager's Office  
9700 Seventh Avenue  
Hesperia, CA 92345  
Tel: 760.947.1006

**City of Mountain View--Shoreline Golf Course**

Pro Forma Advisors currently is assisting the City of Mountain View in evaluating operating options for the City's Shoreline Golf Links. Operating options have been identified and evaluated in terms of economic and non-economic factors, and Pro Forma Advisors has assisted the City in the process of selecting an outside professional management group if the City elects to change its current operating structure.

Reference: Mr. David Muela/Rochelle Kiner  
Community Services Director  
City of Mountain View  
Department of Community Services  
500 Castro Street  
Mountain View, CA 94039  
Tel: 650.903.6331

**City of Ventura – Links at Olivas Park**

In late 2008, Gene Krekorian (then employed with Economics Research Associates) conducted a comprehensive review of the City of Ventura golf course system, consisting of the Links at Olivas Park and Buenaventura Golf Course. The analysis included a review of performance, golf market conditions, capital improvement requirements, and operating options. The City, with assistance of the consultant, selected a new operator for the golf courses.

Reference: Mr. Eric Burton, Community Services Supervisor  
City of Ventura  
Project Manager  
501 Poli Street  
Ventura, California 93002  
805.658.4738





**Pro Forma**  
Advisors LLC

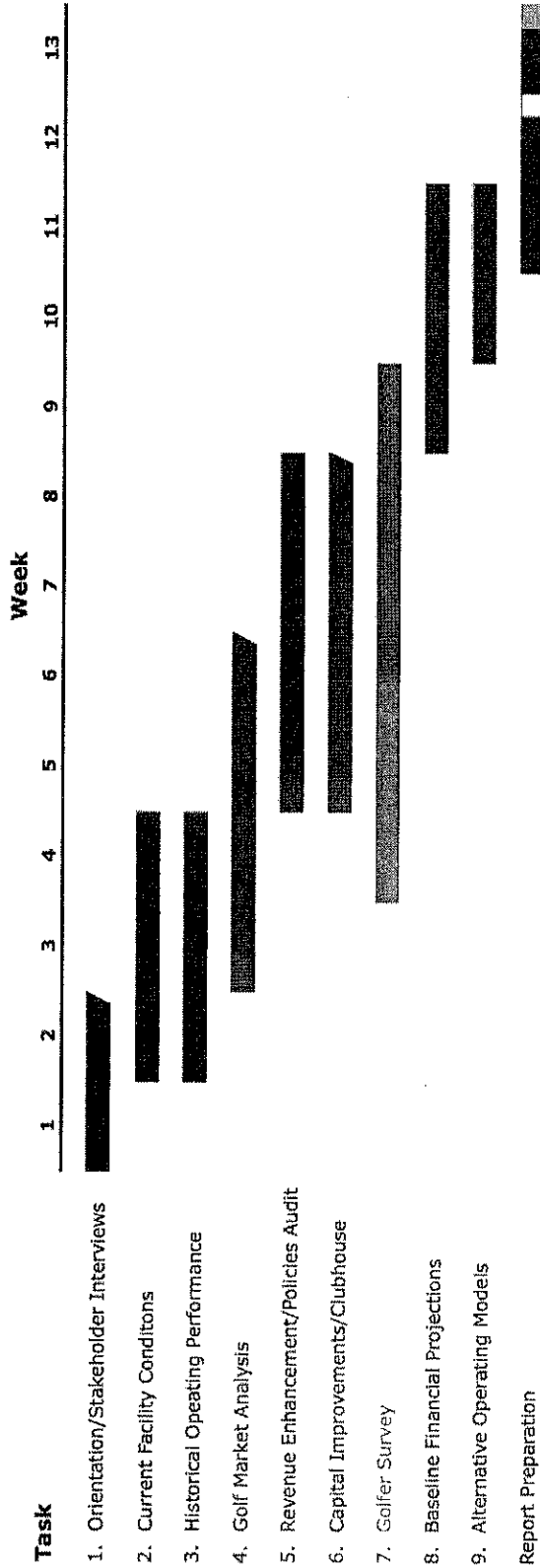
**City of Manteca--Manteca Golf Course**

In 2009, Mr. Krekorian (then employed with Economics Research Associates) represented the City of Manteca in evaluating the performance of the golf course, capital improvement needs, future golf market conditions, and operating options for the City's golf course.

Reference: Ms. Karen McLaughlin, Assistant City Manager  
City of Manteca  
1001 W. Center Street  
Manteca, California 95337  
209.456.8050



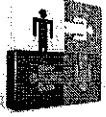
**Exhibit 2: Costa Mesa Country Club Schedule / Milestones**



Workshop/Meeting  
Draft Report  
Final Report

# ATTACHMENT 2

Section A - Fee Proposal By Work Item		Professional Hours		Professional Fees
Task	Task	Knox/Jan	O'Callahan	
<b>Professional Fees</b>				
1	Orientation/Stakeholder Interviews	12	4	\$2,640
2	Current Facility Conditions	8	24	5,280
3	Historical Operating Performance	16	---	2,640
4	Golf Market Analysis	20	---	3,300
5	Revenue Enhancement/Policies Audit	12	---	1,980
6	Capital Improvements/Clubhouse Analysis	16	16	5,280
7	Golfer Survey	28	---	4,620
8	Baseline Financial Projections	8	---	1,320
9	Alternative Operating Models	8	---	1,320
	Meetings/Workshops	12	4	2,640
	Report Preparation	16	4	3,300
	<b>SubTotal Professional Fees</b>	<b>156</b>	<b>52</b>	<b>\$34,320</b>
	<b>Reimbursable Travel Expenses-</b>			<b>500</b>
	<b>Total</b>			<b>\$34,820</b>



**Pro Forma**  
Advisors LLC

May 22, 2013

Mr. Robert Knapp  
Recreation Manager  
Recreation Services Department  
City of Costa Mesa  
77 Fair Drive  
Costa Mesa, CA 92626

Re: Costa Mesa Country Club Performance Audit--Fee Proposal

Dear Mr. Knapp:

The proposed work scope will require approximately 10-12 weeks to complete from authorization to proceed, with delivery of a draft report. A final report will be issued within one week of the receipt of comments from City representatives.

Pro Forma Advisors LLC proposes to conduct the assignment on a time and expenses basis, with a maximum not-to-exceed budget of \$34,820. The maximum budget is based on the proposed professional time outlined by task shown in Exhibit A. Mr. Krekorian and Mr. O'Callaghan each have an hourly billing rate of \$165 per hour.

Staff	Title	Firm	Hourly Rate
Gene P. Krekorian	Principal	Pro Forma Advisors	\$165
Casey O'Callaghan	President	Casey O'Callaghan Golf Design	165

Respectfully submitted,

Gene P. Krekorian  
Principal



# Pro Forma Advisors LLC

<b>Exhibit A: Fee Proposal By Work Task</b>				
<b>Task #</b>	<b>Task</b>	<b>Professional Hours</b>		<b>Professional Fees</b>
		<b>Krekorian</b>	<b>O'Callaghan</b>	
	<b>Professional Fees</b>			
1	Orientation/Stakeholder Interviews	12	4	\$2,640
2	Current Facility Conditions	8	24	5,280
3	Historical Operating Performance	16	---	2,640
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5	Revenue Enhancement/Policies Audit	12	---	1,980
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	<b>Reimbursable Travel Expenses-</b>			<b>500</b>
	<b>Total</b>			<b>\$34,820</b>



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
10/28/2013

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 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).

<b>PRODUCER</b>  	BIN Insurance Holdings, LLC 1301 Central Expy. South, Suite 115 Allen, TX 75013	<b>CONTACT NAME:</b> PHONE (A/C No. Ext): (800) 668-7020 FAX (A/C No): (877) 826-9067 E-MAIL ADDRESS: PRODUCER CUSTOMER ID #:																				
	<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A: The Hartford</td> <td></td> <td>30104</td> </tr> <tr> <td>INSURER B: ACE</td> <td></td> <td>22667</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A: The Hartford		30104	INSURER B: ACE		22667	INSURER C:			INSURER D:			INSURER E:			INSURER F:	
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INSURER E:																						
INSURER F:																						
<b>INSURED</b>  Pro Forma Advisors LLC 722 18th St Ste F Hermosa Beach, CA 90254																						

**COVERAGES      CERTIFICATE NUMBER:      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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <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 type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC			46SBMVE2409	9/15/2013	9/15/2014	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			46SBMVE2409	9/15/2013	9/15/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 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 DEDUCTIBLE 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 N/A				WC STATUTORY LIMITS OTHER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
B	Professional Liability (Errors and Omissions)			G21158093 004	9/15/2013	9/15/2014	Occurrence / Aggregate \$3,000,000 / \$3,000,000

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

<b>CERTIFICATE HOLDER</b>  City of Costa Mesa 77 Fair Drive Costa Mesa, CA 92626	<b>CANCELLATION</b>  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
--	--



Select Customer Insurance Center  
3600 WISEMAN BLVD.

SAN ANTONIO TX 78251  
Policyholder, please call us at: (866) 467-8730  
Agent, please call us at: (800) 447-7649

**INSURANCE ENDORSEMENT  
ATTACHED**

**\*\*\* PLEASE REVIEW THE CHANGE \*\*\***

Enclosed is an endorsement for your business insurance policy. Please review it at your convenience. If you have questions or need to make further changes:

Policyholder, please call us at: (866) 467-8730

Agent, please call us at: (800) 447-7649 between 7 A.M. and 7 P.M. CENTRAL TIME.

The premium billing will be mailed to you separately. You can expect to receive it soon.

Thank you for allowing us to service your business needs.

**BIN INSURANCE HOLDINGS LLC/PHS**

**THE HARTFORD SELECT CUSTOMER INSURANCE CENTER**



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **POLICY CHANGE**

This endorsement changes the policy effective on the Inception Date of the policy unless another date is indicated below:

**Policy Number:** 46 SBM VE2409 DX

**Named Insured and Mailing Address;** PRO FORMA ADVISORS LLC

722 1ST ST STE F  
HERMOSA BEACH CA 90254

**Policy Change Effective Date:** 09/15/13

**Effective hour is the same as stated in the  
Declarations Page of the Policy.**

**Policy Change Number:** 003

**Agent Name:** BIN INSURANCE HOLDINGS LLC/PHS

**Code:** 505500

### **POLICY CHANGES:**

SENTINEL INSURANCE COMPANY, LIMITED

ANY CHANGES IN YOUR PREMIUM WILL BE REFLECTED IN YOUR NEXT BILLING STATEMENT. IF YOU ARE ENROLLED IN REPETITIVE EFT DRAWS FROM YOUR BANK ACCOUNT, CHANGES IN PREMIUM WILL CHANGE FUTURE DRAW AMOUNTS.

THIS IS NOT A BILL.

NO PREMIUM DUE AS OF POLICY CHANGE EFFECTIVE DATE

FORM NUMBERS OF ENDORSEMENTS REVISED AT ENDORSEMENT ISSUE:

IH12001185 ADDITIONAL INSURED - PERSON-ORGANIZATION

PRO RATA FACTOR: 1.000

THIS ENDORSEMENT DOES NOT CHANGE THE POLICY EXCEPT AS SHOWN.

**Form SS 12 11 04 05 T**

**Process Date:** 08/19/13

**Page** 001

**Policy Effective Date:** 09/15/13

**Policy Expiration Date:** 09/15/14





**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

ADDITIONAL INSURED - PERSON-ORGANIZATION

CITY OF GARDEN GROVE IT'S OFFICERS, OFFICIALS, EMPLOYEES, AGENTS AND VOLUNTEERS.

11222 ACACIA PARKWAY  
GARDEN GROVE, CA 92840

THE CITY OF MOUNTAIN VIEW, IT'S OFFICERS, EMPLOYEES, AND VOLUNTEERS

201 S RENGSTORFF AVE  
MOUNTAIN VIEW, CA 94040

CITY OF GOLETA  
130 CREMONA DR STE B

GOLETA CA 93117

CITY OF VALLEJO  
555 SANTA CLARA ST  
VALLEJO, CA 94590

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG)

818 W SEVENTH ST 12TH FL  
LOS ANGELES, CA 90017-3435

ORANGE COUNTY PUBLIC WORKS

300 N FLOWER ST  
SANTA ANA, CA 92703

CITY OF LYNNWOOD

PO BOX 5008  
LYNNWOOD, WA 98046

HERITAGE FIELDS EL TORO, LLC

CONTRACT ADMINISTRATOR/INSURANCE COORDINATOR  
25 ENTERPRISE, SUITE 400  
ALISO VIEJO, CA 92656-2712

THE CITY OF COSTA MESA

77 FAIR DRIVE  
COSTA MESA, CA 92626

POLICY NUMBER: 46 SBM VE2409



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

ADDITIONAL INSURED - PERSON-ORGANIZATION

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

**BACKGROUND**

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

**PURPOSE**

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

**POLICY**

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
  - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

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- b. Establishing a Drug-Free Awareness Program to inform employees about:
  - 1. The dangers of drug abuse in the workplace;
  - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
  - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
  - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
  - 1. Abide by the terms of the statement; and
  - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

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- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
    - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
    - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
    - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
  3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

## DECLARATION OF EXEMPTION FROM WORKER'S COMPENSATION

I certify that in the performance of the work under this agreement/for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: 8/20/2013

Signature:



GENE P. KREKORIAN  
(Print Name)

PRINCIPAL  
Title

PRO FORMA ADVISORS LLC  
Name of Business or Company

**WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATION, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEY'S FEES.**