



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

Agreement For Professional Services Between Client and Consultant

(This is a plain language version of the standard agreement from the California Land Surveyors Association created by Landon Blake on Monday, February 24, 2020.)

Introduction

This agreement is made at 3938 Kimball Lane, Stockton, California and is effective on Monday, February 24, 2020. The agreement is between RH Surveying Inc. (also known as Redefined Horizons), the *Consultant*, and Brightview Tree Company, Inc., the *Client*.

The *Consultant* has an address of 3938 Kimball Lane, Stockton, California. The person at the *Consultant* authorized to sign this contract is Landon Blake.

The *Client* has an address of XXXXXX. The person at the *Client* authorized to sign this contract is XXXXXX.

The land (or real property) for which the Consultant is providing professional services is described in the Subject Parcels/Mapping Limits section of the attached scope-of-services document.

The Project for which the Consultant is providing professional services is known as "XXXXXX".

Agreement Terms

- 1) Consultant will provide professional services for the Project.

The *Consultant* agrees to perform the professional services described in the attached scope-of-services. The *Consultant* will make a reasonable effort to provide the professional services in a timely manner.

- 2) The Client agrees to pay the consultant for the professional services provided for this Project as described in the attached scope-of-services.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

The *Client* will make a reasonable effort to make sure the *Consultant* is paid promptly for the professional services provided on this project.

- 3) The Client agrees to provide the Consultant with all documents they have in their possession related to the Project that are reasonably needed to provide the professional services described in the attached scope-of-services.

(For example: The vesting deed for the subject parcel and a land title report.) The *Consultant* may agree to obtain their own copies of these documents in the attached scope-of-services. If the *Consultant* doesn't specifically state in the scope-of-services that they are obtaining a particular document, it is assumed the *Client* will be providing the document. Unless specifically stated in the scope-of-services, the *Client* is responsible to pay for fees or sign agreements needed to obtain data or documents needed by the *Consultant* to provide the professional services described in the attached scope-of-services. The *Consultant* will make a reasonable effort to alert the client in advance of the fees needed to obtain documents or data for the *Project*.

- 4) The Client agrees that the Consultant owns the work products and other data they create for the Project.

(Examples of work products include survey maps, land descriptions, and exhibits.) The *Consultant* shall have the right to use those work products for other purposes unrelated to the *Project*, without the need for permission for this use from the Client. (For example: The *Consultant* may choose to feature photos of the project site on its web site for marketing purposes or use the survey control established on or near the project site for nearby projects.) The *Client* also agrees that their right to use the work products provided by the *Consultant* as part of this project will cease if the *Client* fails to pay in full the bill for the *Consultant's* professional services. The *Client* agrees that the *Consultant* will not be obligated to complete work products and may remove property corner monuments or control monuments they set if the *Client* fails to pay in full the bill for the *Consultant's* professional services.

- 5) The Client agrees that the professional services and work products provided by the Consultant for this project are for the sole use of the client and for the sole purpose described in the attached Scope-of-Services.

The *Client* acknowledges and understands that survey methods and survey work products are tailored for a specific purpose and may not be suitable for a different purpose. (For example: Aerial topographic mapping from a UAV flight may be suitable for conceptual design, but is not acceptable for final design of hardscape



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

improvements on the same *Project*.) The *Client* agrees to discuss alternative uses of survey work products prepared for the Project and not described in the attached scope-of-services with the *Consultant* in advance. The *Client* also agrees to hold harmless and defend the *Consultant* for any damages or claims of damages resulting from alternative uses of the *Consultant's* work products provided for this project. (For example: An architect hired by the *Client* sues the *Consultant* for use of a topographic survey for design purposes when this use was not described in the attached scope-of-services.)

- 6) The Client agrees to hold harmless and defend the *Consultant* for any damages or claims of damages resulting from changes or unanticipated uses made by anyone besides the Consultant to the Consultant's survey work products or survey data provided for the project without the Consultant's specific written permission.

(For example: A civil engineer hired by the client digitizes contour lines shown on a PDF file of the Consultant's topographic survey and uses that to design a grading plan for the project site without the Consultant's permission. The civil engineer then sues the Consultant for problems with the grading plan they claim was caused by erroneous survey data shown on the PDF.) The changes and unanticipated uses listed above includes extraction and conversion of data. (For example: Extracting building footprints from a PDF topographic map, placing these building footprints on a coordinate system using satellite imagery, and extruding them to model the approximate 3D shape of the buildings.)

- 7) All fees and charges billed to the Client by the Consultant under this agreement will be on a lump-sum or time-and-materials bases as described in the attached scope-of-services.

Invoices will be sent to the client on at least a monthly basis, but may be sent to the client more frequently based on project milestones. (For example: An invoice may be sent when all the field work on a project is completed.) The *Client* agrees to pay invoices to the *Consultant* within in at least 10 days of receipt of the invoice. The *Client* agrees to notify the *Consultant* within 2 working days if they believe there is a mistake or problem with an invoice. The *Consultant* agrees to promptly provide the *Client* with written proof of payment.

- 8) The Client reserves the right to stop providing professional services on the Project and to terminate this agreement if the Consultant fails to meet their obligation under this agreement or to promptly pay its bills.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

(For example: If the *Client* fails to provide the Consultant with access to the project site in a timely manner, the Consultant can terminate this agreement.) The *Consultant* will notify the *Client* in writing that this agreement is being terminated at least 2 working days in advance of the termination. The *Consultant* will also make reasonable efforts to work with the client to take the steps needed to reinstate the agreement during this 2-day period.

- 9) The Client may terminate this agreement with the Consultant if the Consultant fails to provide professional services as described in the attached scope-of-services in a timely and reasonable manner.

The *Client* will notify the *Consultant* terminated at least 2 working days in advance of the termination. The *Client* will also make reasonable efforts to work with the *Consultant* to take the steps needed to reinstate the agreement during this 2-day period. If the *Client* terminates this agreement, they will pay the *Consultant* in full for all professional services rendered up to the date of the termination, even if the *Consultant* has not yet delivered a survey work product to the *Client*.

- 10) The Client acknowledges that the professional services described in the attached scope-of-services are based on the Consultant's current understanding of the site conditions at the project site and on current requirements of government agencies and others for the Project.

The client also acknowledges that because of the complex nature of the *Consultant's* work, it may be necessary to revise the attached scope-of-services, the fee for the professional services provided by the *Consultant*, and the terms of the payment for those services as the *Consultant* works on the Project. The *Consultant* will make reasonable efforts to notify the client in advance when these revisions become necessary. (For example: The *Consultant* is unable to find any property corner monuments marking the client's land during the initial field surveys performed for the *Project*.) The *Consultant* will make a reasonable effort to notify the *Client* in advance when these revisions become necessary and will notify the client of that need in writing.

- 11) The Client recognizes the Consultant has made a reasonable effort to assist it in determining the requirements and fees that apply to the land surveying and land planning aspects of its project, but that because of the complicated nature of the Consultant's work, all of the applicable requirements and fees may not be known until the Consultant makes progress on work for the Project.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

- 12) The Client acknowledges that real estate projects of all types are complex and uncertain, and that to successfully complete the Project, services from other related professions may be required.

(For example: A real property appraisal may need to be obtained from an appraiser.) The *Client* understands that although the *Consultant* may agree to coordinate obtaining these services and to manage these services on behalf of the *Client*, that the *Consultant* is not responsible for the performance of these services provided by others for the *Project*.

- 13) The Client agrees the Consultant is not responsible for delays in providing its professional services or work products for factors beyond its control. (For example: Delays to field work because of bad weather.)
- 14) The Client agrees the Consultant can immediately stop providing professional services under this contract if the Consultant is notified the Client has filed a petition for bankruptcy or is likely to file for bankruptcy in the near future.
- 15) The Client agrees the Consultant has the right to place a lien on real property it owns as part of the Project to ensure payment for the Consultant's professional services provided as part of the Project is made in full.

The client acknowledges this agreement doesn't alter or end the *Consultant's* right to obtain payment for the professional services it has provided as part of the *Project*. The *Client* agrees to provide the *Consultant* with the name and record owner of the real property involved in the *Project* and the name and address of all persons (including lenders) who are entitled to receive a preliminary notice of a lien placed by the *Consultant*.

- 16) The Client agrees to be completely responsible for conditions on the Project site not created by the Consultant and to take reasonable steps to provide the Consultant with a safe work environment during all hours the Consultant is on the Project site to perform field work.
- 17) The Client agrees to hold harmless, defend, and indemnify the Consultant from any and all liability, real or alleged, in connection with the Consultant's provision of services on the Project, except in cases of willful misconduct or sole negligence on the part of the Consultant.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

- 18) The Client agrees that the Consultant's total liability for professional services provided for this Project will not exceed \$50,000 or the Consultant's fees for the professional services, whichever is greater.
- 19) The Consultant will make a reasonable effort to provide reliable work products to the Client according to the generally accepted standards of practice at the time the professionals services for this Project are provided. However, the Consultant makes no warranty, express or implied, about its findings, recommendations or professional advice.
- 20) The Client acknowledges the Consultant's professional services provided for this Project does not include services related in any way to the identification or removal of toxic or hazardous materials.
- 21) The Client and Consultant agree to cooperate with each other in every reasonable way as part of this agreement.
- 22) The Consultant will only advise the Client on interactions with government agencies involved in approval or management of the Project.
- The *Client* understands it is responsible for making final decisions related to government applications, approvals, and permits, and will communicate those decisions to the *Consultant* in writing.
- 23) If any part of this agreement is held by a court to be invalid or unenforceable, the remaining parts of the agreement will still be valid and binding on the Client and the Consultant.
- 24) This agreement shall be governed by and construed in accordance with the laws of the State of California.
- 25) Any disputes arising out of this agreement shall be resolved by binding arbitration and not in a court of law.

The dispute will be settled in accordance with the rules of the American Arbitration Association and judgement will be entered on the award. The arbitrator will award attorney's fees to the prevailing party. If a party after due notice fails to appear at and participate in the proceedings, the arbitrator will make an award based on the evidence presented by the party who does participate.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

- 26) In the event either party starts proceedings to enforce or interpret provisions of this agreement, the proceeding will be brought and adjudicated in San Joaquin County, the Consultant's principal place of business.
- 27) If any proceeding is brought to enforce or interpret provisions of this agreement, the prevailing party shall be entitled to receive from the losing party reasonable attorney's fees, which fees shall be set in the same proceeding, in addition to the other relief to which it may be entitled.
- 28) If the Client makes a claim for harm or damages against the Consultant related to the professional services the Consultant provides on the Project, and the Client doesn't win a favorable decision on the claim from an arbitrator or judge, the Client will pay the reasonable defense costs of the Consultant.
- 29) The agreement shall not assigned by either Client or Consultant without the prior consent of the other.
- 30) This agreement shall be binding on the heirs or successors of the Client and Consultant.
- 31) This is the entire agreement related to the Consultant's providing professional services for this Project. It replaces any previous agreements between the Consultant and Client related to this Project.
- 32) The Consultant carries Professional Liability Insurance in the amount of \$1,000,000 and that insurance will be in place through the term of this agreement.
- 33) By executing this agreement the Client accepts its terms and acknowledges it has received a copy of the agreement and the professional scope-of-services from the Consultant for this Project.



Redefined Horizons
3938 Kimball Lane
Stockton, California 95206

Job # 000-000
Job Name Goes Here
Current Date Goes Here

Signatures

Consultant

RH Surveying Inc.

Landon Blake – President & Senior Land Surveyor

California PLS # 8489

February 24, 2020

Client

Brightview Tree Company, Inc.

John Serviss

February 24, 2020