



City of Huntington Beach

File #: 23-636

MEETING DATE: 7/20/2023

Subject:
Legislative Advocacy RFP Update

Statement of Issue:

Following an extensive Request for Proposals (RFP) process, staff has identified two consultants, Van Scoyoc & Associates and Mercury Public Affairs to provide Federal and State legislative advocacy services, respectively. Staff seeks additional input from the Intergovernmental Relations Committee, prior to placing both contracts on the August 1, 2023 City Council agenda for further consideration.

Financial Impact:

Sufficient funds are budgeted in the FY23-24 Operating Budget under business unit 10030101.69365. Funds for future years will be included in their respective years' budgets.

Recommended Action:

Based on the RFP process as defined by the City's purchasing policies and the panel's rankings staff proposes to recommend to the City Council to approve a 2-year professional services agreement for Federal legislative advocacy services with Van Scoyoc & Associates and another 2-year professional services agreement for State legislative advocacy services with Mercury Public Affairs. Provide feedback to staff and recommend next steps such as interviews or negotiations with the recommended firms.

Alternative Action:

Do not approve the recommended action and direct staff accordingly. Alternate actions include conducting interviews with all firms, proceed with negotiations, or re-issue the State Legislative Advocacy RFP given that only one proposal was received.

Analysis

The City of Huntington Beach issued an RFP on May 8, 2023 from well-qualified firms to provide both Federal and State legislative advocacy services in support of the City Council's policies and priorities. Firms were asked to submit proposals for either or both the Federal and State legislative advocacy services.

The RFP asked firms to detail their qualifications and their proposed approach to the scope of work, which includes: work with the City to establish legislative priorities (i.e., develop a Legislative Policy Platform), advocate on the City's behalf to federal and state legislative bodies and agencies, conduct legislative research and analysis, support the City in Washington, D.C. and/or Sacramento, and support the City's financial outlook by developing a plan supplemented through federal or state appropriations and grant funding.

The RFP specified that responses must include:

1. Cover Letter
2. Firm Qualifications
3. Understanding of and Proposed Approach to the RFP Scope of Work
4. References
5. Pricing Proposal

Additionally, the RFP identified specific criteria that would be used in the evaluation process:

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1. Qualifications and experience of the individuals assigned to the contract
2. Qualifications and experience of the responding firm
3. Experience and track record conducting similar work for similar cities
4. Understanding and approach to the proposed scope of work in Huntington Beach
5. Proposed Fees

The RFP closed on June 13, 2023, and the City received four proposals. Proposals were independently evaluated by a panel of three staff members using the specific criteria listed in the RFP. A weighted scale up to 1500 points was allocated across six criteria in compliance with the RFP. Each panelist independently reviewed and scored the proposals per the City's purchasing procurement policies, and the ranking is as follows:

Proposers	Scope of Work	Compliance with RFP	References	Qualifications & Experience of the Proposer	Experience Conducting Similar Work for Similar Cities	Understanding and Approach to Scope	Cost Proposal	Total Points
Van Scoyoc & Assoc.	Federal	140	75	362.5	145	337.5	350	1,410.00
Thorn Run	Federal	135	70	362.5	145	337.5	300	1,350.00
Mercury	Federal & State	135	57.5	325	125	356.25	250	1,248.75
Stapleton & Assoc.	Federal	65	10	175	55	212.5	250	767.50

Based on the RFP process as defined by the City's purchasing policies and the panel's rankings, staff proposes to recommend to the City Council to approve a 2-year professional services agreement for Federal legislative advocacy services with Van Scoyoc & Associations and another 2-year professional services agreement for State legislative advocacy services with Mercury. Each agreement has an option to exercise one additional year.

Sufficient funds to cover the cost of each agreement is budgeted in the FY2023-24 Operating Budget under business unit 10030101.69365.

Attachment(s):

1. Request for Proposals - Federal & State Legislative Advocacy Services (RFP No. 23-0613)

RFP NO: 23-0613

REQUEST FOR PROPOSALS

FEDERAL & STATE LEGISLATIVE ADVOCACY SERVICES

KEY RFP DATES

RELEASE OF RFP: MONDAY, MAY 8, 2023

WRITTEN QUESTIONS: TUESDAY, MAY 30, 2023 4:00PM

RESPONSES TO QUESTIONS: MONDAY, JUNE 5, 2023

PROPOSALS DUE: MONDAY, JUNE 13, 2023 4:00PM

INTERVIEWS: WEEK OF JUNE 26, 2023 IF NEEDED

APPROVAL OF CONTRACT: JULY 2023

INTRODUCTION

The City of Huntington Beach (hereinafter referred to as the “City”) is requesting proposals to establish a contract for Federal Legislative Advocacy Services, with work to commence on or about July 1, 2023 and be completed on June 30, 2024. The City reserves the right to extend the contract for up to two (2) additional one (1) year periods.

City reserves the right to issue additional solicitation(s) during term of agreement if services with niche experience/expertise are needed for special projects.

BACKGROUND

Huntington Beach is located along the Southern California coast in Orange County, 35 miles south of Los Angeles and 90 miles north of San Diego. The City is best known today for its 8.5 miles of uninterrupted beaches, excellent year-round weather, and a surf culture that draws 4 million visitors annually. Beyond the shoreline, Huntington Beach is a full-service charter city guided by a Council-Manager form of government, with a seven-member City Council made up of the Mayor and six City Council members elected at large. The City Council is the legislative body responsible for the overall policies and direction of the City. Appointed by the City Council, the City Manager implements City Council policy and laws, provides overall guidance to operating departments, and is responsible for administering all City programs to ensure service delivery in an efficient, cost-effective, and quality manner. The City is the 23rd largest city in California, serving as home to a residential population of 199,778.

SCOPE OF WORK OVERVIEW

The City of Huntington Beach seeks qualifications from well-qualified firms to provide both Federal and State legislative advocacy services, in support of the City Council’s policies and priorities.

Firms may submit qualifications for either or both Federal and State legislative advocacy services. The services may be awarded separately. Break out proposed fees for both services and provide a cost of services if awarded both contracts.

To build an effective partnership with the selected firm, this RFP assesses each firm’s qualifications and approach to the proposed scope of work below.

After reviewing the responses received, the City will identify the best consultant(s) to serve our needs moving ahead.

The following includes a general scope of the work to be pursued by the selected consultant:

Consultant shall perform the services as set forth below.

1. Legislative Priorities

- a) Work with the City Council, the City Manager, and other designated City staff to discuss goals, objectives, opportunities, and priorities.
- b) Provide strategic advice regarding the development of legislative positions and priorities.

- c) Raise, discuss and assess any affirmative legislative action that may benefit the City, as needed. In consultation with City staff, determine appropriate positions on relevant legislation and recommend proactive legislative action, as appropriate.
 - d) Participate in preparing the legislative policy platform, including identifying potential policy issues and upcoming legislative proposals, as needed.
- 2. Advocate on the City's Behalf
 - a) Testify at the direction of, and on behalf of the City, at hearings before legislative and regulatory committees.
 - b) Identify opportunities for City officials to participate in the legislative process and make recommendations. Those opportunities include, but are not limited to, communication to members of the U.S. Congress and State Congress, providing testimony at legislative hearings, and communication with federal and state agencies.
 - c) Work with legislators for bill authorization and follow appropriations as they concern the City.
- 3. Legislative Research and Analysis
 - a) Review proposed, introduced and amended federal/state legislation, and proposed and adopted federal/state administrative rules and regulations, to identify and report on matters potentially affecting the City.
 - b) At the direction of and on behalf of the City, undertake advocacy, policy analysis and strategy development on federal/state legislative matters of interest to and/or affecting the City.
 - c) Present federal/state legislative issues to the City Council for policy direction as needed.
 - d) Monitor Federal/State agency rulemaking and notify the City of potential impacts.
- 4. Communication
 - a) Regularly communicate with the City, attend monthly briefing calls with City staff monthly briefings with the Mayor at the Intergovernmental Relations Committee. Provide weekly and monthly reports on status of legislation and other related updates, and other reports as needed. Consultant shall direct all communication for the duration of the contract with the Contract Manager.
 - b) Provide regular updates on the political landscape in the State and nation's Capital to help provide context, and identify opportunities and potential issues. At a minimum, provide monthly reports of activities pursued or accomplished on behalf of the City.
 - c) Provide updates on proposed, introduced, and amended federal legislation, and proposed and adopted federal administrative rules and regulations, to identify and report on matters that potentially affect the City's legislative priorities.
 - d) Identify potential future legislative issues or opportunities that may interest the City, and help position the City to benefit from new laws, regulations, policies, programs, and/or funding opportunities.
 - e) Prepare position letters, draft legislative language and talking points on legislative, budgetary, and regulatory issues as necessary.
 - f) Raise, discuss and assess any affirmative legislative action that may benefit the City, as needed.
 - g) In consultation with City staff, determine appropriate positions on relevant legislation and recommend proactive legislative action, as appropriate.

5. Capitol Asset

- a) Support a positive relationship with the President of the United States, members of US Congress, federal agencies, and State of California lawmakers and agencies.
- b) Assist in establishing relations between councilmembers and City staff and legislative persons, including chairs and consultants of key committees and other important policymakers.
- c) Coordinate meetings for City officials and staff with members of Congress and their staff, the executive branch, Federal/State agencies and other key stakeholders.
- d) Representation in the Capitol and a voice for the City.

6. Financial Outlook

- a) Develop a strategic federal/state funding plan, coordinating with City staff and departments to develop a proactive and comprehensive strategy that serves the City's priorities. The plan shall identify City projects, outline and prioritize multiple funding options/opportunities for each project, and evaluate the cost/benefit ratio for each opportunity.
- b) Monitor and report on the federal/state budget and work to secure funding when appropriate on projects beneficial to City's interests.

7. Grants

- a) Support City grant activity, including identifying, researching, and monitoring funding opportunities, facilitating communication with Federal/State agencies, and advocating for support of the application from legislators and key stakeholders.
- b) Anticipate Grant announcements
- c) Develop and implement appropriate strategies for coordinating the City's federal/state lobbying activities/affairs program with its Federal/State affairs program.
- d) Provide meeting opportunities for City staff to discuss potential grant/funding opportunities and guide them through the application process.
- e) Work with the City to identify and evaluate potential funding categories with annual budget or appropriation bills, and specific funding on grant opportunities.
- f) Provide grant writing and follow through monitoring of grant conditions and requirements.

8. Collaboration

- a) Coordinate and cooperate with other municipalities, organizations and firms having similar legislative objectives as the City. Develop strategies with City staff to identify, organize, utilize, and coordinate City priorities with its associates and other broad coalition-based memberships.
- b) Coordinate with other local government officials and stakeholders to advocate for common goals.

9. FPPC Filings

- a) Prepare and file all applicable Fair Political Practices Commission lobbying documents and reports within all applicable deadlines, per the provisions of the Political Reform Act of 1974 as amended. Provide the City notification of any changes or modifications that may be present.

10. Ethics and Conflicts of Interest:

- a) Contractor shall conduct business in such a manner as to foster public confidence in the integrity of City programming and activities.
- b) Contractor shall not solicit, demand, accept or agree to accept from any other person a gratuity or benefit in connection with the Agreement.
- c) Under the Levine Act, Section 84308 of the Government Code, a party to a proceeding before the City involving a license, permit, or other entitlement for use is required to disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent to any elected or appointed officer of the City.

CONTENT OF RESPONSES

Responses submitted to the City should include the following components:

1. **Cover Letter**

- a. A cover letter signed by the individual authorized to represent / negotiate on behalf of the responding firm, limit 2 pages.

2. **Firm Qualifications**

- a. An overview of qualifications for the firm, which should include the type of organization, size, professional registration, and affiliations of the company.
- b. Resumes and backgrounds of the principal staff who will be working directly and regularly on this initiative with the City as well as their roles. Clearly identify the project lead who will be responsible for the day-to-day management of the contract.
- c. Provide a minimum of three (3) references of which the proposer has performed services of similar scope, within the last the last three years demonstrating experience relevant to this request and that are related to government advocacy (cities preferred). Provide the contact person's name, title, address, phone number, and email address. Provide a list of current clients.
- d. Project Manager Reference (1) In addition to the firm's references, provide a minimum of one (1) reference for a project with similar scope of services within the most recent five (5) years prior to date of proposal submittal.
- e. Describe the Consultant's established strategic relationships with stakeholders, if any, that the Consultant would partner with to achieve outcomes that support the City's legislative and policy positions.
- f. Explain what you would do in a situation where two or more of your clients have conflicting views and/or positions on a matter in which you've been asked to advocate on behalf of the City.
- g. Describe your process for identifying grants and to complete a grant application.
- h. Provide any suggested modifications to the Scope of Work listed above.

3. Understanding of and Proposed Approach to the RFP Scope of Work:

- a. Describe the recommended approach to the City's legislative advocacy needs, as outlined the Scope of Work RFP.

4. References

Provide a minimum of three (3) references for work similar to this scope of services that proposer has provided within the last three (3) years. Include a detailed description of the services, the agency or firm names, contact names, phone numbers, email addresses, and dates of services performed.

5. Pricing Proposal

Provide a fee schedule/pricing information for the services as set forth in ATTACHMENT I, which must include:

- Hourly rates for each category of employee
- Monthly retainer not-to-exceed amount
- Annual not-to-exceed amount (Monthly retainer not-to-exceed amount x 12)

The City shall not provide reimbursement for business or travel-related expenses; therefore, such costs must be absorbed in the hourly rate or lump sum fee structure.

Pricing shall remain firm for the entire agreement term. Thereafter, any proposed pricing adjustment for follow-on renewal periods shall be submitted to the City Representative in writing at least ninety (90) days prior to the new Agreement term.

TENTATIVE PROJECT SCHEDULE

This RFP will be governed by the following schedule (all date's subject to change). While the City will attempt to apply the necessary resources to maintain this schedule, the following dates are tentative and the City reserves the right to modify this schedule as needed to accommodate the successful completion of this RFP process.

Project schedule subject to change.

Release of RFP:	Monday, May 8, 2023
Deadline for Written Questions:	Tuesday, May 30, 2023 4:00pm
Responses to Questions Posted on Web:	Monday, June 5, 2023
Proposals are Due:	Monday, June 13, 2023 4:00pm
Interviews:	Week of June 26, 2023 if needed
Anticipated Approval of Contract:	July 2023

SUBMITTAL GUIDELINES

Respondents are required to submit the following:

Complete written proposals must be submitted electronically in PDF file format via the PlanetBids.com website no later than **4:00 p.m. (P.S.T) on Monday, June 13, 2023**. Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted.

QUESTIONS, ANSWERS, AND ADDENDA TO RFP

Prior to the RFP submission deadline, questions may arise regarding the specifications and procedural or administrative matters. All questions pertaining to this RFP shall be submitted using the City of Huntington Beach PlanetBids portal, using the "Q&A" tab within this solicitation. Questions will be accepted no later than the date published on the project schedule. If further clarification is required, proposers shall only contact the RFP Administrator; **Proposers shall not contact any other City staff or elected officials with questions.** Answers will be published to PlanetBids by the date published on the project schedule. Changes to the RFP itself shall only be made by the City via formal written addenda. Addenda will be published and distributed through the Portal. All addenda shall become a part of the RFP document requiring acknowledgment by the proposer.

It is the sole responsibility of the Proposer to ensure that they have received the entire Request for Proposal, including any and all questions, answers and addenda by visiting the City of Huntington Beach PlanetBids portal.

Questions about this RFP must be directed in writing through the PlanetBids Q&A tab no later than **4:00 p.m. PST) on May 30, 2023** for response.

It is important to note that the City reserves the right to reject any and all responses. The City will not be liable for, nor pay for any costs incurred by responding firms relating to the preparation of the response. An explicit provision of this RFP is that any oral communication is not binding on the City's RFP response process or selection criteria.

SELECTION OF FIRM

RFP Evaluation Process

The City will coordinate a review and evaluation of all responses received by the City in response to this RFP. As part of the assessment process, the City will place particular emphasis on the qualifications / experience of the individuals assigned to the project; directly relevant qualifications / experience of the firm; the ability for the firm to undertake the management of the RFP scope of work; and each firm's understanding and proposed approach to the project. The following specific criteria will be used in the evaluation process:

1. Qualifications and experience of the individuals assigned to the contract
2. Qualifications and experience of the responding firm
3. Experience and track record conducting similar work for similar cities
4. Understanding and approach to the proposed scope of work in Huntington Beach
5. Proposed Fees

The City may also contact and review the proposer's references; contact any bidder to clarify any response; contact any current users of a bidder's services; solicit information from any available source concerning any aspect of a Proposal; and seek and review any other information deemed pertinent to the review process. The City shall not be obligated to accept the lowest-priced Proposal(s), but shall make an award in the best interests of the City.

After written Proposals have been reviewed, discussions with prospective firms may or may not be required. If scheduled, the oral interview will be a question/answer format for the purpose of clarifying the intent of any portions of the Proposals. The individual from your firm that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview.

A Notification of Intent to Award may be sent to the vendor selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City may negotiate a contract with the next highest scoring vendor or withdraw the RFP.

TERMS AND CONDITIONS

The following terms and conditions apply to this RFP:

1. All responses shall become the property of the City.
2. Due care and diligence has been exercised in the preparation of this RFP and all information contained herein is believed to be substantially correct. However, the responsibility for determining the full extent of the services rests solely with those making responses. Neither the City nor its representatives shall be responsible for any error or omission in this response, nor for the failure on the part of the respondents to determine the full extent of their exposures.
3. The City reserves the right to select firms from the responses received; to waive any or all informalities and / or irregularities; to re-advertise with either an identical or revised scope, or to cancel any requirement in its entirety; or to reject any or all responses received.
4. A response to this RFP does not constitute a formal bid, therefore, the City retains the right to contact any / all proposing firms after submittal in order to obtain supplemental information and/or clarification in either oral or written form. Furthermore, an explicit provision of this RFP is that any oral communication made is not binding on the City's response process.
5. Insurance Requirements Acknowledgement:
Proposer must acknowledge that, upon awarding of the contract, they/their organization will be able to provide insurance documents as required by City of Huntington Beach Resolution 2008-63 (see Appendix B).
6. The City will not be liable for, nor pay for any costs incurred by responding firms relating to the preparation of any response for this RFP.
7. City may disqualify a Proposer if:
 - a) References fail to substantiate Proposer's description of services and deliverables provided; or
 - b) References fail to support that Proposer has a continuing pattern of providing capable, productive, and skilled personnel; or
 - c) City is unable to reach the point of contact with reasonable effort. It is the Proposer's responsibility to inform the point of contact(s) of normal City working hours.
 - d) Proposer(s) contacts any other City staff or elected officials with questions or comments related to this RFQ, or any other regard.

Please carefully review the Sample Agreement (Appendix A) and Insurance Requirements (Appendix B) before responding to the Request for Qualifications enclosed herein. The terms of the agreement, including insurance requirements have been mandated by City Council, and can be modified only if extraordinary circumstances exist. Your response to the Request for Qualifications must indicate if you are unwilling or unable to execute the agreement as drafted as well as providing the insurance requirements. The City will consider this in determining responsiveness to the Request for Qualifications.

APPENDIX A

PROFESSIONAL SERVICES CONTRACT BETWEEN
THE CITY OF HUNTINGTON BEACH AND

FOR

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY," and _____, a _____ hereinafter referred to as "CONSULTANT."

WHEREAS, CITY desires to engage the services of a consultant to _____; and

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

CONSULTANT has been selected to perform these services,

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

1. SCOPE OF SERVICES

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

CONSULTANT hereby designates _____ who shall represent it and be its sole contact and agent in all consultations with CITY during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

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

3. TERM; TIME OF PERFORMANCE

Time is of the essence of this Agreement. The services of CONSULTANT are to commence on _____, 20____ (the "Commencement Date"). This Agreement

shall automatically terminate three (3) years from the Commencement Date, unless extended or sooner terminated as provided herein. All tasks specified in **Exhibit "A"** shall be completed no later than from the Commencement Date. The time for performance of the tasks identified in **Exhibit "A"** are generally to be shown in **Exhibit "A."** This schedule may be amended to benefit the PROJECT if mutually agreed to in writing by CITY and CONSULTANT.

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

4. COMPENSATION

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

5. EXTRA WORK

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

6. METHOD OF PAYMENT

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

7. DISPOSITION OF PLANS, ESTIMATES AND OTHER DOCUMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, both field and office notices, calculations, computer code, language, data or programs, maps, memoranda, letters and other documents, shall belong to CITY, and CONSULTANT shall turn these materials over to CITY upon expiration or

termination of this Agreement or upon PROJECT completion, whichever shall occur first. These materials may be used by CITY as it sees fit.

8. HOLD HARMLESS

A. CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of CITY. CONSULTANT will conduct all defense at its sole cost and expense and CITY shall approve selection of CONSULTANT's counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by CONSULTANT.

B. To the extent that CONSULTANT performs "Design Professional Services" within the meaning of Civil Code Section 2782.8, then the following Hold Harmless provision applies in place of subsection A above:

"CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY and its officers, elected or appointed officials, employees, agents and volunteers, from and against any and all claims, damages, losses, expenses, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) to the extent that the claims against CONSULTANT arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. In no event shall the cost to defend charged

to CONSULTANT exceed CONSULTANT's proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more other defendants to the claims and/or litigation is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, CONSULTANT shall meet and confer with CITY and other defendants regarding unpaid defense costs. The duty to indemnify, including the duty and the cost to defend, is limited as provided in California Civil Code Section 2782.8.

C. Regardless of whether subparagraph A or B applies, CITY shall be reimbursed by CONSULTANT for all costs and attorney's fees incurred by CITY in enforcing this obligation. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONSULTANT.

9. PROFESSIONAL LIABILITY INSURANCE

CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention without the express written consent of CITY; however an insurance policy "deductible" of Ten Thousand Dollars (\$10,000.00) or less is permitted. A claims-made policy shall be acceptable if the policy further provides that:

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

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

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

10. CERTIFICATE OF INSURANCE

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

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and
- C. shall promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

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

The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

11. INDEPENDENT CONTRACTOR

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

12. TERMINATION OF AGREEMENT

All work required hereunder shall be performed in a good and workmanlike manner. CITY may terminate CONSULTANT's services hereunder at any time with or without cause, and whether or not the PROJECT is fully complete. Any termination of this Agreement by CITY shall be made in writing, notice of which shall be delivered to CONSULTANT as provided herein. In the event of termination, all finished and unfinished documents, exhibits, report, and evidence shall, at the option of CITY, become its property and shall be promptly delivered to it by CONSULTANT.

13. ASSIGNMENT AND DELEGATION

This Agreement is a personal service contract and the work hereunder shall not be assigned, delegated or subcontracted by CONSULTANT to any other person or entity without the prior express written consent of CITY. If an assignment, delegation or subcontract is approved, all

approved assignees, delegates and subconsultants must satisfy the insurance requirements as set forth in Sections 9 and 10 hereinabove.

14. COPYRIGHTS/PATENTS

CITY shall own all rights to any patent or copyright on any work, item or material produced as a result of this Agreement.

15. CITY EMPLOYEES AND OFFICIALS

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

16. NOTICES

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

TO CITY:

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

TO CONSULTANT:

17. CONSENT

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

18. MODIFICATION

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

19. SECTION HEADINGS

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

20. INTERPRETATION OF THIS AGREEMENT

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

the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

21. DUPLICATE ORIGINAL

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

22. IMMIGRATION

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

23. LEGAL SERVICES SUBCONTRACTING PROHIBITED

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

24. ATTORNEY'S FEES

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

25. SURVIVAL

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

26. GOVERNING LAW

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

27. SIGNATORIES

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

28. ENTIRETY

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

29. EFFECTIVE DATE

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

This Agreement shall expire when terminated as provided herein.

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

CONSULTANT,

COMPANY NAME

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

By: _____

print name

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

AND

By: _____

print name

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

Mayor

City Clerk

INITIATED AND APPROVED:

REVIEWED AND APPROVED:

City Manager

APPROVED AS TO FORM:

City Attorney

EXHIBIT "A"

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

- B. CONSULTANT'S DUTIES AND RESPONSIBILITIES:

- C. CITY'S DUTIES AND RESPONSIBILITIES:

- D. WORK PROGRAM/PROJECT SCHEDULE:

EXHIBIT "B"

Payment Schedule (Hourly Payment)

A. Hourly Rate

CONSULTANT'S fees for such services shall be based upon the following hourly rate and cost schedule:

B. Travel Charges for time during travel are not reimbursable.

C. Billing

1. All billing shall be done monthly in fifteen (15) minute increments and matched to an appropriate breakdown of the time that was taken to perform that work and who performed it.
2. Each month's bill should include a total to date. That total should provide, at a glance, the total fees and costs incurred to date for the project.
3. A copy of memoranda, letters, reports, calculations and other documentation prepared by CONSULTANT may be required to be submitted to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.
4. CONSULTANT shall submit to CITY an invoice for each monthly payment due. Such invoice shall:
 - A) Reference this Agreement;
 - B) Describe the services performed;
 - C) Show the total amount of the payment due;
 - D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement; and
 - E) For all payments include an estimate of the percentage of work completed.

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

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

EXHIBIT "B"

Payment Schedule (Fixed Fee Payment)

1. CONSULTANT shall be entitled to monthly progress payments toward the fixed fee set forth herein in accordance with the following progress and payment schedules.

2. Delivery of work product: A copy of every memorandum, letter, report, calculation and other documentation prepared by CONSULTANT shall be submitted to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.

3. CONSULTANT shall submit to CITY an invoice for each monthly progress payment due. Such invoice shall:

- A) Reference this Agreement;
- B) Describe the services performed;
- C) Show the total amount of the payment due;
- D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement; and
- E) For all payments include an estimate of the percentage of work completed.

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

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

PROFESSIONAL SERVICES CONTRACT BETWEEN
THE CITY OF HUNTINGTON BEACH AND

FOR

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APPENDIX B

CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Vendor Type	Minimum Insurance Requirements					
	Automobile Liability	General Liability	Professional Liability	Property Insurance	Workers' Comp	Additional Insured Endorsements
<i>Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII. See Exhibits A1 - 4 for sample forms. Email: Justin.Wessels@surfcity-hb.org or Heather.Campbell@surfcity-hb.org Phone: 714-374-5378 or 714-536-5210. Fax: 714-536-5212.</i>						
<i>Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.</i>						
Contractors: Any persons or entities who contract with the City and/or provide services to the City which are readily available and efficiently procured by competitive bidding.	Minimum of \$1,000,000 per occurrence for bodily injury, personal injury and property damages. Allows up to \$1,000 deductible.(See Note 1 below.)	Combined single limit bodily injury and property damage. Minimum of \$1,000,000 per occurrence. Allows up to \$5,000 deductible. (Additional Insured Endorsement is always required with General Liability Ins.)			As required by the State of California, with Statutory Limits and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. (See Note 2 below.)	Include the policy number and Additional Insured Endorsement Requirement statement below. (See Note 3 below.)
Permittees: Any persons or entities who make application to the City for any use of or encroachment upon any public street, waterway, pier, or City property.						
Vendors: Any persons or entities who transfers property or goods to the City which may or may not involve delivery and/or installation.						
Note 1 - Automobile Liability: The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers must be named as certificate holder and as additional insured by separate attached endorsement. Permittees who do not use vehicles or equipment in connection with the permit shall not be required to provide auto insurance. To be exempt from this requirement, permittees must execute a declaration such as Exhibit 1 attached.						
Note 2 - Workers' Compensation Exemption: If entity has no employees, a signed Declaration of Non-Employee Status form is required.						
Note 3 - Additional Insured Endorsement Requirements: The City, its officers, elected or appointed officials, employees, agents, and volunteers are to be covered as additional insureds by separate attached endorsement(s) as respects liability arising out of action performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor, or automobiles owned, leased or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City.						

CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

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<p><i>Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.</i></p>						
<p>Design Professionals: Professional service contractors who contract with the City and/or provide architectural and/or engineering services to the City.</p>			Minimum of \$1,000,000 per occurrence and in the aggregate. Allows up to \$10,000 deductible.			
<p>Professional Services: Services that involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience or services which are not readily or efficiently procured by competitive bidding pursuant to HB Muni Code 3.02. Services includes but are not limited to those services provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants.</p>						
<p>Claims made policies are acceptable if the policy further provides that:</p> <ol style="list-style-type: none"> 1) The policy retroactive date coincides with or precedes the professional services contractor's start of work (including subsequent policies purchased as renewals or replacements). 2) The professional services contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds. 3) If insurance is terminated for any reason, professional services contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this agreement or permit. 4) The reporting of circumstances or incidents that might give rise to future claims. 						

CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Vendor Type	Minimum Insurance Requirements					
	Automobile Liability	General Liability	Professional Liability	Property Insurance	Workers' Comp	Additional Insured Endorsements
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<p>Licensees/Lessees: Any persons or entities who contract with the City for the use of public property.</p>		<p>Combined single limit bodily injury and property damage. Minimum of \$1,000,000 per occurrence. Allows up to \$5,000 deductible.</p> <p><i>(Additional Insurance Endorsement is always required with General Liability Ins.)</i></p>		<p>Full replacement cost with no coinsurance penalty provision.</p>	<p>As required by the State of California, with Statutory Limits and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. <i>(See Note 1 below.)</i></p>	<p>Include the policy number and Additional Insured Endorsement Requirement statement below. <i>(See Note 2.)</i></p>
<p>Note 1 - Workers' Compensation Exemption: If entity has no employees, a signed Declaration of Non-Employee Status form is required.</p>						
<p>Note 2 - Additional Insured Endorsement Requirements: The City, its officers, elected or appointed officials, employees, agents, and volunteers are to be covered as additional insureds by separate attached endorsement(s) as respects liability arising out of action performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor, or automobiles owned, leased or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City.</p>						

CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII.

Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.

Vendor Type	Minimum Insurance Requirements
	Professional Liability
Design Professionals: Professional service contractors who contract with the City and/or provide architectural and/or engineering services to the City.	Minimum of \$1,000,000 per occurrence and in the aggregate. Allows up to \$10,000 deductible.
Professional Services: Services that involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience or services which are not readily or efficiently procured by competitive bidding pursuant to HB Muni Code 3.02. Services includes but is not limited to those services provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants.	
<u>Claims made policies are acceptable if the policy further provides that:</u> 1) The policy retroactive date coincides with or precedes the professional services contractor’s start of work (including subsequent policies purchased as renewals or replacements). 2) The professional services contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds. 3) If insurance is terminated for any reason, professional services contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this agreement or permit. 4) The reporting of circumstances or incidents that might give rise to future claims.	