

# CITY OF SANTA BARBARA



## REQUEST FOR PROPOSALS RFP No. 4036

Traffic and Engineering Services for the Traffic Management  
Program and General Plan Supplemental Programmatic  
Environmental Impact Report

Issue Date: April 21, 2021

# REQUEST FOR PROPOSAL

The City of Santa Barbara is inviting proposals from qualified traffic planning and traffic engineering firms to provide the City of Santa Barbara with updated traffic modeling projections and analysis for the City's traffic management program and a General Plan Supplemental Program Environmental Impact Report (PEIR).

**Proposers must be registered on the City of Santa Barbara's PlanetBids portal in order to receive addendum notifications and to submit a proposal.** The portal is located at <https://www.planetbids.com/portal/portal.cfm?CompanyID=29959>. If any Addendum issued by the City is not acknowledged online by the Proposer, the PlanetBids System will prevent the Proposer from submitting a proposal. Proposers are responsible for obtaining all addenda from the City's PlanetBids portal.

Proposals will be received until **3:00 P.M., May 12, 2021**. If further information is needed, submit questions through Q&A tab in the PlanetBids Portal or contact Jessica Grant, Supervising Transportation Planner at 805-897-2543. **Please submit questions by 5:00 p.m., May 3, 2021.** Any questions the City feels are pertinent to all interested proposers will be answered to all participating proposers as addenda to this RFP.

It is the responsibility of the proposer to submit their proposal with sufficient time to be received by PlanetBids prior to the receiving date and time. **Late or incomplete proposals will not be accepted.**

Planet Bids Technical Support: In the event of technical difficulties during the uploading process, please contact the Planet Bids, Online system team (M-F, except holidays, from 5 a.m. to 5 p.m., Pacific Time) at 818-992-1771.

## FAIR EMPLOYMENT PRACTICE ACT

Contractor agrees in accordance with Section 1735 and 1777.6 of California Labor Code, and the California Fair Employment Practice Act (Sections 1410-1433) that in the hiring of common or skilled labor for the performance of any work under this contract or any subcontract hereunder, no contractor, material supplier or vendor shall, by reason of age (over 40), ancestry, color, mental or physical disability, sex, gender identity and expression, marital status, medical condition (cancer or genetic characteristics), national origin, race, religious belief, or sexual orientation, discriminate against any person who is qualified and available to perform the work to which such employment relates. The Contractor further agrees to be in compliance with the City of Santa Barbara's Nondiscriminatory Employment Provisions as set forth in Chapter 9 of the Santa Barbara Municipal Code.

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# **I. PROJECT DESCRIPTION/SPECIFICATIONS**

## **A. SCOPE OF WORK**

The City of Santa Barbara is inviting proposals from qualified traffic planning and traffic engineering firms to provide the City of Santa Barbara with traffic modeling projections for the year 2035. The baseline year for the modeling effort will likely be pre-pandemic using Google Analytics or other agreed upon best available technology, such as the most recent intersection and roadway count data conducted in 2015. The traffic modeling effort will be focused on major system roadways as well as turning movement predictions at 52 intersections. The modeling effort must be sophisticated enough to create traffic flow changes due to the forthcoming South Coast 101 HOV Lanes Project that will add HOV lanes in both directions south of the city. In other words, the modeling effort proposed should be able to predict increase arrival traffic flows into Santa Barbara and distribute those flows to predicted destinations.

Once data is collected, a report shall be provided analyzing intersection operations with new count information, describing changes that have occurred since the original 2008 analysis that was prepared for the Plan Santa Barbara General Plan Update in 2011 and the subsequent 2015 traffic management program update including a narrative of current land uses. The report shall also include model validation results, updated 2035 volume forecasts, updated intersection operations for 2030, and a sensitivity analysis of operations with and without the planned US 101 HOV lanes. Finally, the report shall include estimated vehicle miles of travel (VMT) in the City. The chosen consultant will also work with a team updating the 2011 General Plan Program Environmental Report (PEIR) to prepare an updated transportation section in the PEIR and to prepare a VMT Threshold and Guidance Memorandum to be used as part of CEQA environmental review of development projects.

## **SCOPE OF WORK/SERVICES PROVIDED BY CONSULTANT**

### **1. Traffic Count Baseline**

Estimate 2019 (pre-pandemic) using traffic counts using the 2015 count data with appropriate adjustments using Google Analytics or other agreed upon best available technology for:

- 52 intersections during the AM (7:00 – 9:00) and PM (4:00 – 6:00) peak hours
- 35 roadway segment daily counts (48-hour period)

Prepare figures showing the intersection turning movement volumes and tables summarizing the roadway segments counts. Compare the 2019 traffic estimates with the 2015 traffic counts and 2008 traffic counts and provide a table summarizing the changes in traffic volumes.

### **2. Base Year Travel Demand Forecasting Model Update**

The base year model created for Plan Santa Barbara reflected 2008 land use and travel conditions. Update the baseline model to reflect Year 2019 conditions as follows:

- Current Land Uses: Development that has occurred between 2008 and 2018 will be provided by the City of Santa Barbara.
- 2019 Traffic Volumes: Recalibrate the travel demand model to match 2019 travel conditions based on estimated changes to the 2015 count data.

### 3. Future Year Travel Demand Forecasting Model Update

Update the future year Plan Santa Barbara model to reflect the following:

- A new planning horizon to 2035 (the previous planning horizon was 2030)
- Approved General Plan Land Uses: Land use data will be provided by the City by traffic analysis zone (TAZ). Consultant to code the land use information into the model
- Travel demand changes occurring as a result of the completion of the Highway 101 HOV Project

Contrast the forecasts to those produced for the EIR prepared for the South Coast 101 HOV Lanes Project. The EIR indicated that more vehicles would be able to enter the City of Santa Barbara during the AM peak hour with the relief of the northbound Highway 101 bottleneck. Consequently, the widening is expected to increase the number of vehicles on the City's off-ramps and adjacent arterial intersections. Review the detailed AM peak hour traffic forecasts prepared for the EIR and manually adjust the travel demand model forecasts at specific off-ramp locations, if needed.

During the PM peak hour, the additional capacity on Highway 101 may relieve existing bottlenecks at the on-ramps caused by mainline congestion; however, the widening may also create new bottlenecks in the City's roadway network. Similar to the process described above for the morning commute period, review the PM peak hour forecasts prepared as part of the [SBCAG EIR](#). Then compare the SBCAG forecasts with the South Coast 101 HOV Lanes Project in place to the updated City's model and adjust the travel demand forecasts at specific on-ramp locations, if needed.

Prepare the updated Year 2035 traffic forecasts for the study intersections (52) and roadway segments (35) analyzed in the General Plan as noted in Task 1. Figures displaying the AM and PM peak hour intersection forecasts and tables summarizing the daily roadway volumes will be prepared.

### 4. Traffic Operations Analysis

The 52 study intersections shall be analyzed during the AM and PM peak hours under the following scenarios:

- 2019 Conditions
- Future Year 2035 Conditions based on the traffic forecasts developed in Task 3 that reflect the approved General Plan land uses and Highway 101 HOV Project.
- Additional Traffic Scenario: We are interested in modeling closure of the 400 block of State Street (Haley to Gutierrez Streets) and adding two way travel to Gutierrez Street from Chapala to Santa Barbara Streets and Anacapa from Haley to Gutierrez Street. We are looking to understand flow of traffic south of freeway and access to the freeway.

Provide tables showing the level of service (LOS) results for the study intersections under the above scenarios. Highlight any changes in LOS compared to those presented in the Plan Santa Barbara General Plan EIR.

Conduct a sensitivity analysis for up to 10 study intersections to compare the LOS with and without the Highway 101 HOV Project in place during the AM and PM peak hours. The study locations will be selected based on the intersections most impacted by the planned widening. In addition, please run the additional traffic scenario for the closure of the 400 block of State Street and associated two way couplets and without this scenario.

## **5. Vehicle Miles Traveled (VMT)**

In 2011 the City certified a Programmatic Environmental Impact Report (PEIR) for its 2030 General Plan. The City is currently in the process of hiring a CEQA consultant to prepare a Supplemental General Plan Program Environmental Impact Report that will update the environmental analysis from 2011 so that the PEIR can continue to be used to streamline project-specific CEQA reviews. The Supplemental PEIR will also evaluate increased residential development from that originally projected in the 2011 General Plan and a new 2035 Climate Action Plan that is under development. The chosen transportation consultant for this RFP will assist the CEQA consultant on the evaluation of transportation and vehicle miles travelled impacts in the Supplemental PEIR.

The original 2011 PEIR analysis of traffic included some information on VMT but was predominantly focused on level of service and traffic congestion, which is no longer a part of State requirements for CEQA. The chosen consultant will work with the CEQA consultant to update the City's traffic model and develop a VMT screening checklist and threshold for use by the City for projects. The chosen consultant for this RFP will prepare a VMT threshold and guidance memorandum to be used by City Planning Staff and applicants in preparing VMT analyses for environmental documents for projects prepared pursuant to CEQA.

The chosen consultant will also assist the CEQA consultant in preparing the transportation section of the Supplement PEIR that will evaluate transportation and VMT impacts associated with increased residential units in the City. This analysis shall be conducted in accordance with the latest CEQA Guidelines Checklist as changed by SB 743. Due to the housing and jobs imbalance in the City, the impacts of additional residential unit development within multi-residential zoned areas is likely to reduce VMT from that projected in the 2011 PEIR.

Analysis of VMT will also be used by the CEQA consultant to inventory greenhouse gas emissions and in development of a greenhouse gas CEQA threshold for the City. The chosen traffic consultant will work with the CEQA consultant as needed to provide VMT information necessary for this greenhouse gas analysis.

## **6. Documentation**

Document the results of Tasks 1-4 in a report for the City of Santa Barbara. Task 5 will be a separate report. Anticipate three drafts of both reports and two final reports.

## **7. Presentation**

Attend two public meetings to communicate the draft report findings.

## **8. Services to be provided by City**

The services to be provided by the City shall include, but not necessarily be limited to, the following:

1. 2008 Traffic Model Counts and Report
2. 2015 Traffic Model Counts and Report
3. 2008-2018 Land uses that received certificate of occupancy (considered operational)
4. 2015 VMT Estimate

## **B. PROPOSAL REQUIREMENTS**

Firms responding shall submit an electronic copy of the proposal, which shall include the items listed below. Note that clear, organized, and concise proposals prepared by the Program Manager are highly desirable:

1. Describe how the 2019 traffic baseline data will be estimated.
2. Describe the modeling approach and why it fits Santa Barbara's traffic projection needs.
3. Describe how the modeling methodology will account for the freeway improvements and the collapse of peak hour spread over hours to the preferred travel times based on the new freeway capacity.
4. Description of recent traffic counts and analysis completed for other General Plan Updates that are similar in nature to the proposed project.
5. Description of experience evaluating VMT and developing VMT CEQA Thresholds.
6. Client references, which must include addresses and telephone numbers of people to contact for references.
7. Description of Consultant team, including names, classifications and qualifications of key personnel and sub-consultants and an organization chart showing how the team will work together.
8. A statement of the proposed approach to the project scope of work, broken down by tasks and subtasks.
9. A table showing the estimated staff hours for all consultants assigned per task, based on the Consultant's understanding of the project's scope of work.
10. Identification of sub-consultants and their scope of services.
11. A schedule estimating the time frames necessary to complete the proposed scope of services.
12. Respondent shall submit a **separate Cost Proposal thru Planetbids cost file tab**. The Cost Proposal shall include all costs associated with the described work, and an hourly rate schedule for the Consultant and any sub-consultants for each classification of personnel assigned to the project. This fee information will be used as a basis for negotiation with the successful Consultant.

### **C. SELECTION PROCESS AND CRITERIA**

From the proposals received, the City will select two to three of the most qualified firms for interviews. Selection will be based on the following:

1. Project Manager's qualifications and ability to perform the work as outlined above, based on information provided by the Consultant and client references.
2. Consultant's key staff and sub-consultant's qualifications, knowledge of local conditions and ability to perform the work as outlined in the RFP, based on information provided by Consultant.
3. Consultant's responsiveness and availability to City Staff, and the ability of the Consultant's key staff to effectively and efficiently complete a project.
4. The Consultant's understanding of the project as demonstrated by their project approach, the proposal's responsiveness to the RFP and project needs, and their demonstrated ability to meet the City's desired time frame.
5. Based on client references, the Consultant's performance on similar projects.

The City will enter into negotiations with the firm receiving the highest rating following the interviews. If such negotiations are not successful, the City will then enter into negotiations with the firm or firms receiving the next highest rating.

The successful consultant is required to obtain insurance as set forth in Attachment 2 with an insurer or insurers that are satisfactory to the City. Failure to meet the insurance requirements shall result in the Consultant's disqualification. By signing and submitting a proposal, the Consultant is certifying that they have reviewed the City's insurance coverage requirements, and that the said insurance coverages will be obtained and be in force upon execution of a contract with the City. The successful Consultant shall submit a completed Certificate of Insurance with the signed contract.

Failure to respond to the requirements outlined shall result in the proposer's disqualification as non-responsive to this RFP.

The proposer is also required to obtain a business license from the City prior to the execution of the agreement with the City for the consulting services.

### **D. PROPOSAL SUBMITTAL**

1. **Proposers must be registered on the City of Santa Barbara's PlanetBids portal in order to receive addendum notifications and to submit a proposal.** The portal is located at <https://www.planetbids.com/portal/portal.cfm?CompanyID=29959>. If any Addendum issued by the City is not acknowledged online by the Proposer, the PlanetBids System will prevent the Proposer from submitting a proposal. Proposers are responsible for obtaining all addenda from the City's PlanetBids portal.
2. Proposals will be received until **3:00 P.M., May 12, 2021.**
3. **INQUIRIES/CLARIFICATIONS:** If further information is needed, submit questions through Q&A tab in the PlanetBids Portal or contact Jessica Grant, Supervising Transportation Planner at 805-897-2543. **Please submit questions by 5:00 p.m., May 3, 2021.** The City will not be bound by or be responsible for any interpretations or conclusions drawn from this RFP. Any questions the City feels are pertinent to all interested proposers will be answered to all participating proposers as addenda to this RFP.



## II. CONDITIONS GOVERNING THE PROCUREMENT

### A. GENERAL REQUIREMENTS

This procurement will be conducted in accordance with the City of Santa Barbara procurement codes and procedures.

**1. Receiving Time/Late Proposals**

It is the responsibility of the proposer to submit their proposal with sufficient time to be received by PlanetBids prior to the opening date and time. **Late or incomplete proposals will not be accepted.**

**2. Acceptance of Conditions Governing the Procurement**

Offerors must indicate their acceptance of the Conditions Governing the procurement in the letter of transmittal. Submission of a proposal constitutes acceptance of the Evaluation Factors contained in Section V of this RFP.

**3. Incurring Cost**

Any cost incurred by the offeror in preparation, transmittal, presentation of any proposal or material submitted in response to this RFP shall be borne solely by the offeror.

Any cost incurred by the offeror for set up and demonstration or for interviews shall be borne solely by the offeror.

**4. Prime Contractor Responsibility**

Any contract that may result from the RFP shall specify that the prime contractor is solely responsible for fulfillment of the contract with the City. The City will make contract payments only to the prime contractor.

**5. Offeror's Rights to Withdraw Proposal**

Offeror's will be allowed to withdraw their proposals at any time prior to the deadline for receipt of proposals. The offeror must submit a written withdrawal request signed by the offeror's duly authorized representative addressed to the City's Contact.

The approval or denial of withdrawal requests received after the deadline for receipt of the proposals is governed by the applicable procurement regulations.

**6. Proposal Offer Firm**

Responses to this RFP, including proposal prices, will be considered firm for ninety (90) days after the due date for receipt of proposals or sixty (60) days after receipt of a best and final offer if one is requested.

**7. Best and Final Offer**

The City reserves the right to request Best and Final Offers from any or all proposers. This will be the only opportunity to amend or modify proposals based on feedback from the City. Information from competing proposals will not be disclosed.

**8. Disclosure of Proposal Contents**

All proposals submitted in response to this RFP will become the property of the City of Santa Barbara and may be a matter of public record subject to the State of California Public Records Act (California Government Code Section 6250 et seq.).

All proposals will be treated as confidential documents until the selection process has been completed. Once the selection has been made and negotiations completed, all proposals will become a public record. Under the California Public Records Act, any information submitted with a response is a public record subject to disclosure unless a specific exemption applies. The City assumes no responsibility for protecting the confidentiality of materials submitted by vendors as part of their proposals. In the event a vendor desires to keep portions of its proposal confidential, the confidential information so claimed must be identified in writing at the time the

proposal is submitted. The vendor must clearly identify those portions with the word “Confidential” printed on the top right hand corner of the page.

If the City receives a request from a third party for a copy of the vendor’s proposal pursuant to the California Public Records Act or another applicable public disclosure law and the vendor has identified material within the proposal as confidential in accordance with the preceding paragraph, the City will provide the vendor with prompt notice of the request in order to allow the vendor an opportunity to seek a protective order or other appropriate remedy in order to prevent the disclosure of the material identified as confidential. It is the vendor’s responsibility to advise the City of the vendor’s intent to seek a protective order or to advise the City of the vendor’s decision to waive the opportunity to seek a protective order in a timely fashion in order to allow the City an opportunity to comply with any applicable deadlines for disclosure. If a protective order or other remedy is not obtained by the vendor in a timely fashion or the vendor waives the opportunity to seek a protective order, the City may disclose the vendor’s entire proposal in accordance with the California Public Records Act or other applicable law.

The City assumes no responsibility for disclosure or use of unmarked data for any purpose. If the City receives a request from a third party for a copy of the vendor’s proposal pursuant to the California Public Records Act or another applicable public disclosure law and the vendor has not identified any material within the proposal as confidential, the City will treat the entire proposal as a public record subject to disclosure. Ultimately, it is the proposer’s obligation and expense to protect information that the vendor claims is confidential.

**9. No Obligation**

The request in no manner obligates the CITY to the eventual rental, lease, purchase, etc., of any equipment, software, or services offered until a valid written contract is awarded and approved by appropriate authorities.

**10. Termination**

This RFP may be canceled at any time and any and all proposals may be rejected in whole or in part when the City determines such action to be in the best interest of the City of Santa Barbara.

**11. Sufficient Appropriation**

Any contract awarded, for multiple years, as a result of the RFP process may be terminated if sufficient appropriations or authorizations do not exist. Such termination will be effected by sending written notice to the contractor. The City’s decision as to whether sufficient appropriations and authorizations are available will be accepted by the contractor as final.

**12. Governing Law**

This procurement and any Contract with proposer that may result shall be governed by the laws of the State of California.

**13. Oral Changes and Basis for Proposal**

Do not rely upon oral explanations. Changes and addenda will be issued in writing. Only information supplied by the City in writing through the Purchasing Department, the City’s Contact, or in this RFP should be used as the basis for the preparation of proposals.

**14. Contract Terms and Conditions**

The contract between the City and a contractor will follow the format specified by the City and contain the terms and conditions set forth in Attachment 2. However, **the City reserves the right to negotiate with a successful proposer the final provisions or provisions in addition to those contained in this RFP.** The contents of this RFP, as revised and/or supplemented, and the successful proposal will be incorporated into and become part of the contract.

Should a proposer object to any of the City's terms and conditions, as contained in this Section or in Attachment 2, that proposer must propose specific alternative language with the proposal. The City may or may not accept the alternative language. General references to the proposer's terms and conditions or attempts at complete substitutions are not acceptable to the City and may result in disqualification of the proposer.

Proposer must provide a brief discussion of the purpose and impact, if any, of each proposed changes followed by the specific proposed alternate wording.

**15. Proposer's Terms and Conditions**

Proposers must submit with the proposal a complete set of any additional terms and conditions that they expect to have included in a contract negotiated with the City.

**16. Right To Waive Minor Irregularities**

The City reserves the right to waive minor irregularities and the right to waive mandatory requirements provided that all of the otherwise responsive proposals fail to meet the same mandatory requirements and/or doing so does not otherwise materially affect the procurement. This right is at the sole discretion of the City.

**17. Change in Contractor Representatives**

The City reserves the right to require a change in contractor representatives if the assigned representatives are not, in the opinion of the City, meeting its needs adequately.

**18. Right To Publish**

Throughout the duration of this procurement process and contract term, potential proposers, proposers, and contractors must secure from the City written approval prior to the release of any information that pertains to the potential work or activities covered by this procurement or the subsequent contract. Failure to adhere to this requirement may result in disqualification of the proposer or termination of the contract.

**19. Ownership of Proposals**

All documents submitted in response to the RFP shall become the property of the City of Santa Barbara and are subject to public records request.

**20. Contract Award**

Proposal will be evaluated by Committee comprised of City staff and may include outside consultants. The Evaluation Committee will make an award recommendation.

This contract shall be awarded to the proposer or proposers whose proposal received the most points. Proposers will be notified when the award is being made.

**21. Records and Audits**

The CONTRACTOR shall maintain such detailed records as may be necessary to demonstrate its performance of the duties required by this Contract, including the date, time and nature of services rendered. These records shall be maintained for a period of three years from the date of the final payment under this Contract and shall be subject to inspection by CITY. The CITY shall have the right to audit any billings or examine any records maintained pursuant to this Contract both before and after payment. Payment under this Contract shall not foreclose the right of CITY to recover excessive and/or illegal payments.

**22. Enforcement of Contract/Waiver**

A party's failure to require strict performance of any provision of this Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Contract shall be effective unless expressed in writing

and signed by the party alleged to have granted the waiver. A waiver by a party of any of its rights shall not be effective to waive any other rights.

**23. Clarification**

The City may contact the proposer for clarification of their response.

## ATTACHMENT 1 - NON-COLLUSION DECLARATION

This declaration is submitted with a proposal (**City RFP No. 4037**) to the City of Santa Barbara. I declare under penalty of perjury, as follows:

That any statement of fact in such proposal is true, without reservation;

That such proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company association or corporation;

That such proposal is genuine and not collusion or sham;

That I have not, directly or indirectly, by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of the City of Santa Barbara, or any other bidder or proposer or anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of this proposal,

- a. I did not, directly or indirectly, induce or solicit anyone else to submit a false or sham proposal;
- b. I did not, directly or indirectly, collude, conspire, connive or agree with anyone else that I or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw this proposal;
- c. I did not, in any manner, directly or indirectly, seek by agreements, communications, or conference with anyone to raise or fix any overhead, profit, or cost element of this proposal price, or that of anyone else; and
- d. I did not, directly or indirectly, submit the proposal price or any breakdown thereof, or the contents thereof, or divulge information or data relative thereto, to any other corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any individual or group of individuals, except to the City of Santa Barbara (and to persons who are not bidders separately and who have a partnership or other financial interest with me in my business).

I declare under penalty of perjury that the foregoing is true and correct.

---

(Date and Place)

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Signature

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Name of Proposer

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## ATTACHMENT 2 – SAMPLE CONTRACT

SAMPLE

SANTA BARBARA CITY AGREEMENT NO. \_\_\_\_\_

with

**Name of Consultant/Firm for Project Name**

This contract is entered into on \_\_\_\_\_ by and between:

**The City of Santa Barbara**, a Municipal Corporation, referred to herein as the “City,”

and,

**Name of Consultant/Firm**, a \_\_\_\_\_, referred to herein as the “**Consultant**,”

This contract includes the following attached exhibits:

- Exhibit A – scope of services; personnel; rates and schedule of payments; time and schedule of performance;
- Exhibit B – Insurance Requirements;

### 1. CONTRACT ADMINISTRATION

a. The City’s [Insert title of department head] (“Department Head”) is the City’s authorized representative for administration of this contract. The Department Head may delegate administrative responsibilities under this contract. References in this contract to Department Head include references to a person exercising authority delegated by the Department Head.

b. [Name of Project Manager for Consultant] (“Project Manager”) is the Consultant’s representative for administration of this contract. The Project Manager is also the professional responsible to provide the services under this contract except as otherwise expressly stated in Exhibit A. Consultant may not change the Project Manager without the written consent of the Department Head, which consent may be withheld at the discretion of the Department Head. An unauthorized substitution of the Project Manager is a material breach of this contract.

### 2. SCOPE OF CONSULTANT SERVICES

a. Consultant agrees to XXXX as described in scope of services included in the attached Exhibit A.

b. Consultant’s services shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of Consultant’s profession currently practicing under similar conditions and with all applicable federal, state, and local laws relating to this scope of work. Delivery of work by Consultant includes Consultant’s affirmative representation that the work conforms to the requirements of this contract, all applicable federal, state and local laws, and the professional standard of care and skill applicable to the scope of services.

c. Consultant’s responsibilities under this section may not be delegated or assigned. Consultant is responsible to the City for acts, errors, or omissions of Consultant’s subcontractors.

d. Whenever the scope of services requires or permits review, approval, conditional approval or disapproval by the City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this contract and determining whether the Consultant is entitled to payment for work performed, and will not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and will not relieve the Consultant of responsibility for complying with the professional standard of care, or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

e. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents or subcontractors, if any, is an employee of the City by virtue of this contract or performance of any work under this contract. Consultant retains the right to pay and supervise its employees and subcontractors as it sees fit. The City has no right to supervise Consultant's employees or subcontractors. If any issues arise with Consultant's employees or subcontractors as to their performance, the City may contact the Consultant directly so that Consultant may address any issues.

### 3. COMPENSATION

a. This contract provides the exclusive means of payment for services and reimbursement for costs to Consultant. The payment for services includes all expenses incurred in the performance of this contract, including materials, travel, lodging, overhead, and similar costs, unless expense reimbursement is expressly authorized in Exhibit A. The maximum payment to Consultant under this contract, including compensation for services and reimbursement of authorized expenses, will not exceed the sum of \$Error! Reference source not found. unless an amendment to this contract has been approved by the City.

b. Consultant will be paid a fixed lump sum fee for each task according to the lump sum amount stated for that task in the Rates and Payment Schedule, or at the hourly rates specified in the Rate and Payment Schedule for work performed on tasks for which a fixed lump sum fee is not stated. Payments will subject to City approval of completed deliverables associated with each task and upon a determination of the Department Head that the work has been performed in accordance with this contract. Upon completion of all deliverables or other work for a task, Contractor will submit and invoice for that task, including proof of actual reimbursable costs when authorized by the Rates and Payment Schedule, in accordance with the standard billing format issued by the City. Changes in personnel or hourly rates stated in Exhibit A may be made only after written notice to and written approval by the Department Head. Automatic increases to hourly rates are not permitted.

c. Consultant may be reimbursed for actual and necessary costs, without markup, as specified in Exhibit A. Where travel costs are included in Exhibit A, reimbursement will be made for actual travel costs (at fare, rate per mile or lump sum approved), and actual expenses consistent with guidelines approved by the City Finance Director for travel by City employees. Work performed by authorized subcontractors will be billed as reimbursable costs, subject to a mark-up not to exceed ten percent, according the subcontractor's scope of work and payment contained in Exhibit A

d. Consultant will be paid as promptly as City's fiscal procedures will permit upon receipt by the Department Head of itemized invoices. When compensation for a task is based on hourly rates the invoices must state the number of hours work, the person performing the work, the hourly rate for that person, and an itemized list of costs for which reimbursement is sought. If the Department Head has established a standard billing format, then invoices must be submitted in the standard billing format established by the Department Head. Consultant must keep records concerning payment items on a generally recognized accounting basis and maintain the records for three years following the Completion Date. Consultant must make records available for copying, inspection or audit by City employees or independent agents upon reasonable notice during reasonable business hours.

e. Consultant will submit invoices on a monthly basis unless otherwise authorized in writing by the Department Head.

f. If this contract exceeds \$10,000, the performance and payments under it, and the parties to it may be subject to examination and audit by the California State Auditor pursuant to California Government Code § 8546.7 for three years following final payment under the contract.

#### 4. TIME OF BEGINNING AND COMPLETION

a. Consultant will complete all services by \_\_\_\_\_ (“Completion Date”). Each task will be completed according to the Performance Schedule contained in Exhibit A. Time is of the essence in the performance of this contract. Consultant will adhere to the performance schedule shown in Exhibit A.

b. If the performance schedule calls for the services to be performed in phases or discrete increments, Consultant shall not proceed from one phase or increment to the next without written authorization from the Department Head.

c. City may withhold payments if work is not performed in accordance with the performance schedule. Consultant's failure to perform in accordance with the performance schedule, or complete the scope of services within the time specified, due to avoidable delays, may at the City's discretion be considered a material breach of this contract. Consultant shall review the remaining work and schedule of performance at least monthly and shall confirm that completion may be expected within the schedule approved, or in the alternative, give immediate notice when it shall first appear that the approved schedule will not be sufficient, together with an explanation for any projected delays in the schedule. No extension of time to complete any portion of the services called for in the contract will be allowed except upon the written approval of the Department Head.

d. If Consultant is unable to meet the Completion Date or performance schedule due to circumstances beyond Consultant's reasonable control, such as war, riots, natural disaster, epidemic, strikes, lockouts, work slow-down or stoppage, except strikes, lockouts, or work slow-down or stoppage of Consultant's employees or subcontractors, Consultant may request an extension of time. The request must be made within a reasonable time and must state the duration and justification for the delay. The Department Head will not unreasonably withhold consent to a schedule change.

#### 5. CHANGES IN SCOPE OF WORK

No payment for changed or additional work will be made unless the changed or additional work has first been approved in writing by the Department Head and the parties have agreed upon the appropriate adjustment, if any, to the payment schedule and maximum payment amount for the changed or additional work. The Department Head may order changes or additions to the scope of work. Whether a change or addition to the scope of work is proposed by the Consultant or ordered by the Department Head, the parties will negotiate an appropriate adjustment, if any, to the payment schedule and maximum payment for the changed or additional work. An approved change or addition, along with the payment adjustment, if any, will be effective upon execution of a change order signed by the Consultant and the Department Head. Changes in work that increase the amount of payment are subject to approval in accordance with the City's municipal code.

#### 6. OWNERSHIP OF DOCUMENTS

All documents, computer programs, plans, renderings, charts, designs, drafts, surveys and other intellectual property which is originally developed by Consultant pursuant to this contract shall become the property of City upon payment to Consultant for the services performed. Consultant will take such steps as are necessary to perfect or to protect the ownership interest of the City in such property. Consultant may retain copies of said documents for Consultant's file. Consultant agrees that all copyrights which arise from creation of the work pursuant to this contract shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

#### 7. ASSIGNMENT OF CONTRACT

Consultant shall not assign, sublet or transfer any right, privilege or interest in this contract, or any part thereof, without prior written consent of City. Consultant shall not substitute personnel designated in the proposal of Consultant without the written consent of City.



## 8. NOTICES

a. When notice is required by law to be delivered by personal delivery or by mail, notices to either party may be provided by personal delivery or by depositing them in the United States mail, first class postage prepaid, and addressed as identified at the signature page of this contract. A party may change mailing address for all purposes under this contract, by written notice.

b. Reference in this contract to a writing includes paper documents and documents in an electronic format. Writings may be delivered via delivery of an original or duplicate in person or by mail, or in an electronic format, including transmission by electronic mail, secure Internet drop-box, facsimile, or similar other standard interchange format capable of reproduction and storage, as agreed to by the Department Head and Project Manager. This paragraph does not apply to deliverables identified in Exhibit A, such as drawing, plans, maps, photographs, which must be delivered in the manner specified in Exhibit A.

## 9. DEFENSE, INDEMNITY AND HOLD HARMLESS

a. To the fullest extent permitted by law, the Consultant will defend and indemnify the City, and its council, officers, and employees from and against all liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant or Consultant's officers, employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. The Consultant's obligation to indemnify applies unless it is adjudicated that its liability was caused by the active negligence or willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the active negligence or willful misconduct of an indemnified party, the Consultant's indemnification obligation shall be reduced in proportion to the established comparative liability of the indemnified party.

b. The Consultant will defend the City and its council, officers, and employees, immediately upon tender to the Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. The defense obligation includes an obligation to provide independent defense counsel approved by the City if the Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of an indemnified party.

c. The direction, review, acceptance, or approval of the Consultant's work or work product by any indemnified party shall not affect, relieve or reduce the Consultant's indemnification or defense obligations.

d. This Section survives completion of the services or the termination of this contract. The provisions of this Section are not limited by and do not affect the provisions of this contract relating to insurance.

## 10. INSURANCE REQUIREMENTS

a. Consultant will provide insurance as specified in Exhibit B.

b. Consultant will immediately report (as soon as feasible, but not more than 24 hours) to the City's Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this contract. If required by the City's Risk Manager, the report will be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

## 11. TERMINATION

a. The City may terminate or abandon any portion or all of the work by giving ten days written notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered. The City will

pay Consultant for services performed in accordance with this contract before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by the City and Consultant for the portion of work completed in conformance with this contract before the date of termination. In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City will not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

b. Consultant, if Consultant is not in default or breach, may terminate Consultant's obligation to provide further services under this contract upon thirty (30) days' written notice only in the event of a material default by the City, which default has not been cured within thirty days following the written notice to the City of the default.

## 12. RIGHT TO PERFORM SIMILAR SERVICES

Nothing in this contract shall restrict the City from providing the same or similar services through City employees, other contractors, other resources, or by arrangements with other agencies. Consultant may engage in similar activities to the extent that such work does not conflict with the proper performance of services under this contract.

## 13. CONFLICT OF INTERESTS

a. Consultant warrants by execution of this contract that no person or selling agent has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, and that Consultant maintains no agreement, employment, or position which would be in conflict with the duties to be performed for City under this contract. Consultant further agrees that during the term of this contract, Consultant will not obtain, engage in, or undertake any interests, obligations or duty that would be in conflict with, or interfere with, the services or duties to be performed under the provisions of this contract.

b. Consultant will not make or participate in making or in any way attempt to use Consultant's position to influence a governmental decision in which Consultant knows or has reason to know Consultant has a direct or indirect financial interest other than the compensation promised by this contract. Consultant will not have such interest during the term of this contract. Consultant will immediately advise the City if Consultant learns of such a financial interest of Consultant's during the term of this contract. If Consultant's participation in another City project would create an actual or potential conflict of interest, in the opinion of the City, the City may disqualify Consultant from participation in such other project.

## 14. ADMINISTRATION OF EMPLOYMENT

Consultant shall obtain and administer the employment of personnel having the background, training, experience, licenses and registration necessary for the work assigned, including all coordination, the withholding of proper taxes and benefits, the payment of wages, employer's contributions for FICA, and Federal and State unemployment payments, and the review and maintenance of any necessary licenses, certificates, memberships and other qualifications necessary for the services to be provided. Consultant is an independent contractor and shall not be considered an agent or employee of the City for any purpose. Consultant and its employees and agents are not entitled to any of the benefits or privileges that the City provides its employees.

## 15. BUSINESS TAX CERTIFICATE

Not later than 10 days after execution of the contract, Consultant must obtain a business tax certificate from the City at Consultant's expense. Consultant must maintain a business tax certificate as required by the City Finance Director during the term of this contract. Payment under this contract may be withheld for violation of this section.

16. NO WAIVER OF PROVISIONS

No waiver of a breach of any provision of this contract shall be construed to be a continuing waiver of that provision, nor a waiver of any breach of another provision of this contract.

17. APPLICABLE LAWS, PARTIAL INVALIDITY

This contract shall be subject to the Santa Barbara City Charter, and the laws, rules, regulations and ordinances in effect within the City of Santa Barbara, County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within that jurisdiction. If any provision of this contract is determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this contract and such deletion shall in no way affect, impair, or invalidate any other provision of this contract, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

18. NON-DISCRIMINATION ORDINANCE

Consultant shall perform all work pursuant to this contract in compliance with Santa Barbara Municipal Code § 9.126.020, which is an indispensable and integral provision of this contract pursuant to Santa Barbara Municipal Code § 9.126.010.

19. CONSULTANT EMPLOYEES AND SUBCONTRACTORS

a. Consultant will perform the work personally or through Consultant's employees, except as otherwise specifically stated in Exhibit A. If subcontracting of work is permitted, Consultant shall pay subcontractor within ten days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this contract.

b. The City is an intended beneficiary of any work performed by a subcontractor for purposes of establishing a duty of care between the subcontractor and the City.

20. WORKPLACE CONDUCT

Consultant and Consultant's officers, employees, agents and subcontractors, while on City property or interacting with City officers, employees, contractors, or agents, will comply with the City's policies, rules, and regulations governing work place safety, conduct, and behavior, including without limitation policies prohibiting discrimination or sexual harassment. City will provide Consultant a copy of the applicable policies.

21. PROTECTION OF CITY INFORMATION

Consultant will treat all information obtained from the City in the performance of this contract as confidential and proprietary to the City. Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this contract as confidential. Consultant will not use any information obtained as a consequence of the performance of work for any purpose other than fulfillment of Consultant's scope of work. Consultant will not disclose any information prepared for the City, or obtained from the City, or obtained as a consequence of the performance of work, to any person other than the City, or its own employees, agents or subcontractors who have a need for the information for the performance of work under this contract unless such disclosure is specifically authorized in writing by the City. Consultant will immediately advise the City of any request for disclosure of information or of any actual or potential unauthorized disclosure of confidential or personal information. Consultant will identify reasonably foreseeable internal and external risks to the privacy and security of personal information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of the information. Consultant shall regularly assess the sufficiency of any safeguards and information security awareness training

in place to control reasonably foreseeable internal and external risks, and evaluate and adjust those safeguards in light of the assessment. Consultant will promptly comply with any written instructions by the City to provide any public records of the City required to be disclosed by the City pursuant to a request made pursuant to the California Public Records Act. Consultant's obligations under this paragraph shall survive the termination of this contract.

## 22. NONAPPROPRIATIONS OF FUNDS

Notwithstanding any other provision of this contract, in the event that no funds or insufficient funds are appropriated or budgeted by the City, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this contract, then City will notify Consultant of such occurrence and City may terminate or suspend this contract in whole or in part, with or without a prior notice period. Subsequent to termination of this contract under this provision, City shall have no obligation to make payments with regard to the remainder of the term.

## 23. EXECUTION

This contract may be executed in any number of original counterparts. The contract will be effective when all parties have executed the same counterpart, or each party has executed separate counterparts and has delivered a copy of the signature page of the counterpart to the other party. Upon execution by all of the parties, the counterparts shall constitute one and the same contract. Counterparts or signature pages may be delivered via delivery of an original or duplicate in person or by mail, or a duplicate, including scanned copy, in an electronic format, including transmission by electronic mail, secure Internet drop-box, facsimile, or similar other standard interchange format capable of reproduction and storage. The individuals executing this contract represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

## 24. VENUE – CHOICE OF LAWS

This contract and disputes arising out of or relating to it or the parties' relationship are governed by the laws of the State of California. Any action or proceeding arising out of or relating to the contract or the parties' relationship must be brought in a state court situated in the County of Santa Barbara, State of California or a federal court in the district that includes the County of Santa Barbara.

## 25. MUTUAL AGREEMENT

This contract represents the mutual agreement of the City and Consultant. This contract constitutes the entire agreement. The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this contract, and that the decision of whether or not to seek the advice of counsel with respect to this contract is a decision which is the sole responsibility of each of the parties hereto. This contract shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of the contract. Each party hereto declares and represents that in entering this contract it has relied and is relying solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this contract is being made without reliance upon any statement or representation not contained herein of any other party, or any representative, agent, or attorney of any other party.

IN WITNESS WHEREOF, the parties have executed this contract as of the date and year first written above.

CITY OF SANTA BARBARA, a municipal **Name of Consultant/Firm**  
corporation

By: \_\_\_\_\_

**Dept. Head Name  
& Title**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Telephone Number

APPROVED AS TO FORM:

Ariel Pierre Calonne, City Attorney

By: \_\_\_\_\_

**Attorney Name**

Assistant City Attorney

## EXHIBIT A

### **Scope of Services and Personnel**

[Insert detailed scope of services. The description of the scope of work provided by the Consultant in response to an RFP may be used if it adequately describes the services to be provided and the deliverables. This section should also identify the Project Manager and other personnel who will be performing work. The scope of services should be broken up by task. The person or persons performing the task may be stated here or in the Rates and Payment Schedule.]

### **Performance Schedule**

[Include the schedule of performance here. The performance schedule should correlate to the tasks identified in the Scope of Services. The schedule of performance should correlate to the deliverables identified in the scope of services.]

### **Rates and Payments Schedule**

[Insert the fixed fee for each task. Also, if applicable, insert the hourly rate schedule, including a list of all persons who will be providing services and the hourly billing rate for that person. Persons may be listed by name or by job description. If there are reimbursable expenses, they should be identified separately in this section by category. Subcontractors should be listed as reimbursable expenses.]

## EXHIBIT B

### INSURANCE REQUIREMENTS

As part of the consideration of this contract, Consultant agrees to purchase and maintain at its sole cost and expense during the life of this agreement, and for five years thereafter, insurance coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- A. **Commercial General Liability (CGL)**: Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
- B. **Automobile Liability**: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- C. **Workers' Compensation**: In accordance with the provisions of the California Labor Code, Consultant is required to be insured against liability for Workers' Compensation or to undertake self-insurance. Statutory Workers' Compensation and Employers' Liability of at least \$1,000,000 shall cover all Consultant's staff while performing any work incidental to the performance of this agreement.
- D. **Professional Liability**: Professional Liability (Errors and Omission) Insurance appropriate to the Consultant's profession, with limit no less than One Million Dollars (\$1,000,000) per occurrence or claim and Two Million Dollars (\$2,000,000) aggregate to cover all services rendered by the Consultant pursuant to this contract.

If the Consultant maintains higher coverage limits than the amounts shown above, then the City requires and shall be entitled to coverage for the higher coverage limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

#### OTHER INSURANCE PROVISIONS

Each insurance policy shall contain, or be endorsed to contain, the following five (5) provisions:

**I) Additional Insured Status**

The City of Santa Barbara, its officers, employees, and agents, shall be covered as additional insureds on the Commercial General Liability and the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Consultant. Additional Insured coverage shall be provided in the form of an endorsement to the Consultant's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used). A copy of the endorsement evidencing that the City of Santa Barbara has been added as an additional insured on the policy, must be attached to the certificate of insurance.

**2) Subcontractors**

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that the City is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage subcontractors shall provide coverage with a format at least as broad as Insurance Services Office form CG 20 38 04 13.

**3) Notice of Cancellation**

A provision that coverage will not be cancelled or subject to reduction without written notice given to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990.

**4) Primary Coverage**

For any claims related to this contract, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

**5) Waiver of Subrogation**

Consultant hereby agrees to waive rights of subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Consultant, its employees, agents and subcontractors.

**ACCEPTABILITY OF INSURERS**

All insurance coverage shall be placed with insurers that have a current rating from AM Best of no less than A: VII; and are admitted insurance companies in the State of California. All other insurers require prior approval of the City.

**CLAIMS MADE POLICIES**

If the required Professional Liability (Errors and Omissions) policy provides coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.



## **COVERAGE LIMITS SPECIFICATIONS**

Approval of the insurance by City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Consultant may be held responsible for payment of damages resulting from Consultant's services or operation pursuant to this contract, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

If, for any reason, Consultant fails to maintain insurance coverage which is required pursuant to this contract, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this contract and obtain damages from the Consultant resulting from said breach. Alternately, City may purchase such required insurance coverage, and without further notice to Consultant, City may deduct from sums due to Consultant any premium costs advanced by City for such insurance.

## **SELF-INSURED RETENTIONS**

Any self-insured retentions must be declared to and approved by the City. At the option of the City, either: the Consultant shall cause the insurer to reduce or eliminate such self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

## **EVIDENCE OF COVERAGE**

Consultant must provide evidence that it has secured the required insurance coverage before execution of this agreement. A Certificate of Insurance supplied by the City or the appropriate ACORD and Insurance Services Office forms evidencing the above shall be completed by Consultant's insurer or its agent and submitted to the City prior to execution of this contract by the City.

Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.