

CITY OF SEASIDE

CONSTRUCTION MANAGEMENT SERVICES DAVID CUTINO PARK PHASE I IMPROVEMENTS

Proposal Due August 31, 2018

The City of Seaside (“CITY”) issues this Request for Proposal (RFP) to request proposals from qualified firms to provide professional services related to the management and administration of the construction phase of the Cutino Park Phase 1 Improvement Project (“PROJECT”). The construction management services shall consist of the activities necessary to administer the construction contract for the PROJECT. The PROJECT is local funding. The selected firm (“CM CONSULTANT”) will be responsible for ensuring that the construction of the PROJECT is administered in accordance with the construction contract documents and applicable local and state requirements.

I. BACKGROUND

The CITY has prepared final plans and specifications for construction of the PROJECT to renovate David Cutino Park. This project includes new synthetic turf field, new skate park, concrete walkways & stairs, new drainage, new fencing & netting, dugouts, bleachers, and water facet, accessible entry and signs, new electrical and irrigation.

The final plans, specifications and estimate (“PS&E”), along with the Caltrans 2015 Standard Plans and 2015 Standard Specifications as referenced in the PS&E, comprise the primary elements of the construction contract documents (“CONTRACT DOCUMENTS”) to be executed with the construction contractor. The PS&E can be obtained online at www.ebidboard.com, or in person at the City of Seaside City Hall. The Caltrans 2015 Standard Plans and Specifications can be obtained online through the Caltrans website at www.dot.ca.gov.

The estimate for the cost of the construction contract is approximately \$4 million.

II. SCOPE OF WORK

The CM Consultant will serve as the City’s full time construction representative. The scope of services shall include services related to the following aspects of the Project:

Task 1 – Construction Management & Inspection Service

The selected consultant shall be responsible to provide complete construction management, inspection, quality assurance, technical and administrative services for the management and administration of the construction contract, as well as oversight of all activities taken by outside entities in connection with the project. In addition to a construction manager, the consultant shall provide a qualified individual to serve as Resident Engineer (RE). The RE shall be a professional engineer registered in the State of California, shall have served as RE for a construction contract based on Caltrans standard specifications and special provisions within the last five (5) years. Experience with construction of municipal parks is desired. The selected consultant shall be responsible for but not limited to the following:

1. Providing inspection services during contractor working hours which may include some work during night and weekend hours. Consultant shall be responsible for compiling and organizing the information and documentation required to be kept on file.
2. Assisting the City with negotiations and decisions related to changes to the construction contract, e.g. contract change orders, and to methods to reduce the potential cost and impacts of the construction.
3. Provide weekly updates to the City regarding the ongoing and upcoming activities that impact, or may impact, the use of the project area by the public, nearby property owners, and tenants of properties in the vicinity of the project.
4. Creating and maintaining documents and logs of activities related to the construction of the project in accordance with generally accepted practices for the administration of the construction contracts.
5. Ensure that the materials incorporated into the construction of the project conform to the applicable provisions of the construction contract documents and to the City of Seaside's Quality Assurance Program ("QAP"). Consultant shall arrange for an accredited laboratory and qualified personnel to perform the oversight, testing and reviews required to ensure that the materials incorporated into the construction of the project conform to the construction contract documents and the City's QAP as applicable. The CM Consultant team shall include qualified personnel to perform inspection and review of welding activities associated with the project. The City's QAP is provided in Attachment A.
6. Perform the necessary construction survey staking for the construction of the project and the placement, and required recording, of survey monuments as indicated in the construction contract documents and required to maintain existing recorded monuments.
7. Provide a qualified, and appropriately registered, individual, or individuals, to act as Survey Resident Engineer responsible for the construction survey staking, survey monument installation and recording activities required for the project.
8. Maintain a set of full-sized construction contract plans and special provisions to markup and provide to City as a complete set of As-Built plans and special provision redlined markups once construction activities have ended. The complete set of As-Built plans and special provision markups shall be legible and suitable for the City to provide the markups to the City's designer for developing electronic versions of the As-Built plans and special provisions.

Task 2 – Closeout of the Construction Contract

The CM CONSULTANT shall be responsible for the various activities and documentation required to close out the construction contract.

III. FORM AND CONTENT OF PROPOSAL

Proposals should clearly state respondent's qualifications and approach to providing the required services. In reviewing the proposals, the City of Seaside will consider the quality of the proposal to be reflective of the potential quality of the work the Consultant is able to perform. The ability of the Consultant to clearly and concisely convey information will be considered in the review process. Consultants are encouraged not to submit lengthy and overly wordy proposals.

The proposal must be concise (maximum 15 pages) and include, at a minimum, the following:

- A. A brief description of the consultant's firm, including the year the firm was established, type of organization (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject consulting services. The proposal to provide services should remain valid for at least 90 days from the proposal due date.
- B. A statement confirming that the consultant and any sub consultants have obtained and reviewed the PS&E and are familiar with the 2015 Caltrans Standard Plans and Specifications to the extent applicable to the project.
- C. A description of the proposed approach to provide the requested services and associated deliverables, including a timeline showing the timing of the services and associated deliverables.
- D. A summary of the level of effort proposed to provide the requested services in accordance with the timeline included in the proposal. The level of effort should be expressed in hours segregated by labor classification, and by task breakdown as indicated by the tasks shown on the timeline. The proposed number of hours for the individuals for design, construction management, Resident Engineer, Survey Resident Engineer, Inspectors, and Material Testing should be presented for each individual.
- E. A summary of the qualifications and experience of each proposed team's experience working for public entities professionally engaged in construction management projects with experience in the public sector for a minimum of five (5) years.
- F. A list of references of relevant clients, including a contact person with their current telephone number and email address.

For each proposal submitted in accordance with this RFP, the consultant shall also provide a cost proposal in a separate PDF file, or separate sealed envelope (for hardcopy submittals) clearly marked as, "Cost Proposal," with a reference to the corresponding proposal so the cost proposal can be matched to the proposal. For PDF submittals of the cost proposal, the file name should include, "Cost Proposal," and the file should be protected from opening by use of a password selected by the proposer. The password for a cost proposal in PDF format shall only be provided to the City upon request by the City following the review of the proposals and notification that the proposer has been identified as the top-ranked. The cost proposal should correlate to the proposed approach to providing the services, the level of effort summary by classification and task, and the timeline submitted in the proposal.

IV. QUESTIONS AND ADDENDA

Please direct any questions regarding this RFP, including any request for the City of Seaside to issue a formal written clarification or correction of a discrepancy or an omission in this RFP, **via email** to Ms. Leslie Llantero at lllantero@ci.seaside.ca.us by the due date specified in the RFP Schedule. Emails with questions related to this RFP should include, “**Question Regarding CM Services for Cutino Park,**” in the subject line so they can be readily identified as a question related to this RFP.

Any request for a formal written clarification or correction of a discrepancy or an omission in this RFP must be received by the City of Seaside by the due date for written (email) questions specified in the RFP Schedule. Any City of Seaside response to such a request will be made in the form of an addendum to this RFP and will be posted on the City’s website; www.ci.seaside.ca.us per the schedule below. All addenda shall become part of this RFP.

V. SUBMITTAL OF PROPOSALS

Please submit either one (1) electronic copy in PDF format of your Proposal and separate Cost Proposal (with password protection) via email to LLlantero@ci.seaside.ca.us; or two (2) copies in print of your Proposal (only one copy of Cost Proposal required) at the City of Seaside’s offices not later than 4:00 p.m. Pacific Time on Friday, August 31, 2018, addressed as follows:

Attn: Leslie Llantero, Assistant Engineer
Proposal for Construction Management Services – David Cutino Park Phase I Improvements
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955
(831) 899-6825

Proposals and Cost Proposals received by the City of Seaside after this deadline will not be accepted and will not be accepted if submitted by FAX. Emailed submissions cannot contain zipped files or file attachments larger than 5 Mbytes. It is incumbent upon the proposer to ensure that email transmissions are received at the email address listed above.

All material submitted in accordance with this RFP becomes property of the City of Seaside and will not be returned.

VI. EVALUATION PROCESS

City staff will review each proposal for completeness and content. Each proposal will be evaluated based upon the relevant qualifications and experience of the consultant. Staff may conduct interviews if necessary. References will also be verified. The proposal review will focus upon the following criteria:

1. *Organization*: Does the firm offer the breadth and quality of services required for the types of services listed in the Scope of Work?

2. *Staff*: Do the qualifications of key personnel to be assigned to the anticipated projects coincide with tasks listed in the Scope of Work? Do assigned personnel have requisite education, experience, and professional qualifications?
3. *Experience*: Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein?
4. *Professional Standing*: Are the firm’s references from past clients and associates favorable? Are deliverables submitted on time and within budget?
5. *Proposal*: Organization, presentation, and content of proposal. Conformance to the specified proposal format.
6. *Responsiveness*. Ability to perform services in the City of Seaside at a fair and reasonable cost. Ability to respond to request for service in a timely manner.

Proposals will be ranked on the basis of qualifications. The City of Seaside may conduct interviews with some or all of the firms who submit proposals, or it may complete its evaluation based on the proposals alone. If interviews are conducted, firms selected for interview will be contacted at that time to arrange the date and time for their interview.

VII. SELECTION PROCESS

Based on staff recommendation, City Council will consider approval of consultant. The term of the agreement is for one year and may be extended in one year increments for up to three additional years. It may be determined that no proposal exhibits adequate qualifications. Therefore, consultant may or may not be called upon by the City of Seaside to provide services.

VIII. SCHEDULE

The anticipated schedule for award of this project is as follows:

Release of RFP	August 3, 2018
Last Day To Submit RFI’s	August 17, 2018
Response to RFI posted	August 24, 2018
Receipt of Proposals	August 31, 2018 at 4 PM
Interview Consultant(s), if necessary	TBD (if needed)
Consultant Selection	October 4, 2018

IX. ACCEPTANCE OR REJECTION OF PROPOSAL

The City of Seaside reserves the right to accept or reject any and all proposals. The City of Seaside also reserves the right to waive any informality or irregularity in any Proposals. Additionally, the City of Seaside may, for any reason, decide not to award an agreement as a result of this RFP or cancel the RFP process. The City of Seaside shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by the submission of the proposal. The City of Seaside reserves the right to negotiate project deliverables and associated costs.

X. GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFP process, the City of Seaside will select a Consultant with which to enter into negotiations for the assignments described. The selected Consultant shall enter into contract negotiations with the City of Seaside in substantial conformity with the selected proposal and the form of the Consultant Agreement, which is contained in Attachment B.

XI. INSURANCE REQUIREMENTS

The selected Consultant, at Consultant's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain all of the insurance requirements outlined in the Consultant Agreement (Attachment B).

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Seaside as to form and content. The selected Consultant agrees to provide the City of Seaside with a copy of said policies, certificates and/or endorsements.

The selected Consultant shall satisfy these insurance requirements prior to approval of the Agreement. Please address any issues with respect to insurance requirements in your response to the corresponding question in the RFP.

XII. EXAMINATION OF PROPOSED MATERIAL

The submission of a proposal shall be deemed a representation and certification by the Consultant that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that they have read and understood the RFP. No request for modification of the statement shall be considered after its submission on grounds that the Consultant was not fully informed as to any facts or condition.

XIII. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFP become the exclusive property of The City of Seaside. All proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the

Consultant as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary.” The City of Seaside shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary” or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary” shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Seaside may not be in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret,” or “Proprietary,” the City of Seaside will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

XIV. DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

- A. Evidence of collusion, directly or indirectly, by Consultants in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the selection staff;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City of Seaside;
- D. Evidence of incorrect information submitted as part of the proposal;
- E. Evidence of Consultant’s inability to successfully complete the responsibilities and obligations of the proposal; and
- F. Consultant’s default under any agreement, which results in termination of the Agreement.

XV. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City of Seaside.

XVI. PROHIBITION OF GIFTS

The City of Seaside officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City of Seaside, or proposing to do business with the City of Seaside. The offering of any illegal gift shall be grounds to disqualify a Consultant. To avoid even the appearance of impropriety, Consultants

should not offer any gifts or souvenirs, even of minimal value, to the City of Seaside officers or employees. The Consultant shall be subject to the City of Seaside's prohibition.

XVII. NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful Consultant shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of the City of Seaside contracts.

XVIII. ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to this RFP process:

- A. It is anticipated that the award of the Agreement resulting from the RFP shall include terms and conditions similar to those referenced in the City of Seaside's Standard Consultant Agreement (Attachment B). Exceptions proposed by the Consultant, if any, to the terms and conditions included in the City of Seaside's Standard Consultant Agreement should be included in the proposal. The City of Seaside reserves the right to consider any proposal exceptions during its evaluation of the acceptability of a proposal.
- B. This RFP does not commit the City of Seaside to pay any costs incurred in the submission of the proposal or in making any necessary studies or analysis in preparation of submission of the proposal.
- C. The City of Seaside reserves the right without limitation to:
 - 1. Enter into an agreement with another Consultant in the event that the originally selected Consultant defaults or fails to execute an agreement with the City of Seaside;
 - 2. Modify and re-issue the RFP;
 - 3. Take action regarding the RFP as may be deemed to be in the best interest of the City of Seaside.
- D. The City of Seaside reserves the right to verify any information provided during the RFP process. The City of Seaside may contact references listed or any other person known to have contracted with Consultant.
- E. An agreement shall not be binding or valid with the City of Seaside unless and until it is executed by authorized representatives of the City of Seaside, and of the Consultant.
- F. While it is the intent of the City of Seaside is to proceed with this project, this solicitation does not obligate the City of Seaside to enter into an Agreement. The City of Seaside retains the right to cancel this RFP at any time should the project be cancelled, the City of Seaside loses the required funding, or it is deemed in the best interest of the City of Seaside. No obligation either expressed or implied, exists on the part of the City of Seaside to make an award or to pay any cost incurred in the preparation or submission of an RFP.
- G. Failure to execute the agreement within the time frame identified above shall be sufficient cause for voiding the award.

- H. Failure to comply with other requirements within the set time shall constitute failure to execute the Agreement. If the selected respondent refuses or fails to execute the Agreement, the City of Seaside may award the contract to the next qualified highest ranked Respondent.

XIX. ATTACHMENTS

- A – Quality Assurance Program (“QAP”)
B – Consultant Agreement



QUALITY ASSURANCE PROGRAM (QAP)

CITY OF SEASIDE

DEPARTMENT OF PUBLIC WORKS

440 Harcourt Avenue Telephone (831) 899-6825
Seaside, CA 93955 FAX (831) 899-6311

Approved By:

A handwritten signature in blue ink that reads "Jack Paul".

City Engineer

Name and Title

Date:

September 15, 2016

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I. PURPOSE OF QUALITY ASSURANCE PROGRAM (QAP)

The purpose of this Quality Assurance Program (QAP) is to provide assurance that the materials incorporated into construction projects implemented by the City of Seaside (City) conform with the contract specifications. This QAP should be updated every five years or more frequently if there are changes of the testing frequencies or to the tests themselves.

This QAP applies to three primary categories of projects:

1. Projects on the State Highway System (SHS);
2. Projects not on the SHS and on the National Highway System (NHS); and
3. Projects not on the SHS or NHS.

The QAP for projects implemented by the City of Seaside on the State Highway System shall be consistent with the State of California Department of Transportation (Caltrans) Construction Manual and QAP Manual for Use by Local Agencies (QAP Manual) in accordance with the provisions of a Cooperative Agreement and/or Encroachment Permit approved by Caltrans. The current Caltrans Construction Manual and QAP Manuals are available via the Caltrans website at www.dot.ca.gov.

The QAP for projects implemented by the City of Seaside on the NHS, but not on the SHS, shall be consistent with the QAP Manual and this QAP.

The QAP for projects implemented by the City of Seaside not on the SHS or NHS shall be this QAP.

Sections of the Caltrans Construction Manual or the QAP Manual referenced in this QAP are incorporated herein by reference.

II. DEFINITION OF TERMS

Quality Assurance Program (QAP): A sampling, testing and inspection program to provide assurance that the materials and workmanship incorporated into the project conform to the contract specifications. The main elements of a QAP are the Material Acceptance Program and the Independent Assurance Sampling and Testing Program. The quality assurance measures for an individual project are dependent on the type of project as indicated in *Section I: Purpose of Quality Assurance Program (QAP)* of this QAP.

Material Acceptance Program: Sampling, testing, inspection, and certification of project materials to determine compliance with the contract specifications.

Acceptance Testing (AT): Testing of project materials to determine compliance with the contract specification criteria.

Certificate of Compliance: A signed document from the materials manufacturer committing that the delivered goods meet the contract specifications.

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Source Inspection: Sampling, testing and/or inspection of manufactured or prefabricated structural materials at a location other than the job site, generally at the manufactured location.

Independent Assurance Program (IAP): A program that verifies that AT is being performed correctly by certified testers using qualified laboratories and calibrated equipment.

Contract Documents: Contract documents shall consist of the contract plans, special provisions and technical provisions; and any standard plans, specifications and special provisions incorporated into the contract plans, special provisions and technical provisions by reference. The contract documents shall include agreed upon contract change orders executed during contract administration.

III. MATERIALS ACCEPTANCE PROGRAM

Material incorporated into the work shall be accepted by one or more of the following methods, as specified in this QAP and the contract specifications:

- Field Sampling and Acceptance Testing;
- Source Inspection and Testing;
- Manufacturer's Certificate of Compliance (with attachments if required); and/or
- Visual Inspection (typically for minor quantities).

Field Sampling and Acceptance Testing

Field sampling and acceptance testing shall be performed in accordance with the following general provisions:

- Acceptance sampling and testing shall be performed by certified materials personnel.
- Acceptance testing will be performed utilizing accredited materials laboratories and properly calibrated equipment.
- Certifications and accreditations shall be specific to the tests being performed.
- A materials testing results log shall be maintained for any test method performed more than once on a project.
- The test results for materials incorporated into the work shall be in compliance with the contract specifications.
- Actions taken regarding material with failing test results will be fully documented, including details documenting remove/replace, rework/re-test, and deduction contract changes orders.
- Justification shall be provided for any failing material allowed to remain in place.

Sampling and Testing Locations and Frequencies:

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Sampling and testing locations and frequencies shall be in accordance with the contract specifications. If not specified in the contract documents, sampling and testing locations and frequencies shall be as follows for the type of project indicated:

- Projects on the SHS – As required by the Caltrans Construction Manual and QAP Manual;
- Projects on the NHS and not on the SHS – As required by the QAP Manual; and
- Projects not on the SHS or NHS – As shown in *Attachment No. 1: Acceptance Sampling and Testing Frequencies for Projects not on the SHS or NHS* to this QAP.

When sampling products such as Portland cement concrete, cement-treated base, hot mix asphalt, or similar materials; the time of such sampling shall be varied with respect to the time of the day, insofar as possible, in order to avoid a predictable sampling routine.

Acceptance Test Methods:

The test methods used shall be as specified in the contract documents. For a material specified to comply with a property shown in the following table, the Agency tests using the corresponding test shown:

Test Property	Test
Relative compaction	CT 216 or 231
Sand equivalent	CT 217
Resistance (R-value)	CT 301
Grading (sieve analysis)	CT 202
Durability index	CT 229
Cleanness Value	CT 227

Acceptance Testing Laboratory:

Acceptance testing may be performed by a Local Agency Laboratory, a consultant laboratory, or other testing laboratory as determined by the City to satisfy the following conditions:

- The materials laboratory shall be under the responsible management of a *California Registered Engineer* with experience in sampling, inspection, and testing of construction materials;

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- The Engineer shall *certify* the results of all tests performed by laboratory personnel under the Engineer’s supervision;
- Laboratories shall be properly accredited;
- Laboratory testing personnel shall be appropriately certified;
- Testing equipment shall be properly calibrated; and
- Laboratory shall comply with *Section IV. Independent Assurance Program (IAP)*, of this QAP.

Reporting Test Results:

Test results shall be reported to the RE as soon as possible by email and telephone. Copies of complete material test result reports, including data and calculation sheets, shall be provided to the RE in accordance with the timetable below:

Timetable for Providing Full Test Results to RE		
Location Sample Taken	Test Performed	Timing for Results to RE
at Material Plant	Sieve Analysis; Sand Equivalent (SE); or Cleanness Value (CV)	Within 24 hours of test
at Job Site	Compaction; and/or Maximum Density	Within 24 hours of test
	Sieve Analysis; Sand Equivalent (SE); or Cleanness Value (CV)	Within 72 hours of test
	R Value; or Asphalt Extraction	Within 96 hours of test

Acceptance Testing Summary Logs:

The RE shall maintain a testing summary log for each test method performed more than once on the project (CT 217, CT 202 etc.), and by salient feature (structure backfill, subgrade, etc.). The testing summary log shall be consistent with *Appendix H: Example of a Log Summary Sheet* of the QAP Manual. At a minimum, the testing summary log shall contain the following information related to the testing:

- Federal-Aid project number and title;
- City contract number;
- Name and ID number of the test method performed;
- Date sample taken;
- Location where sample was taken;
- Date of test;

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- Name of tester;
- Location of test;
- Approximate quantity of material represented by the test;
- Required passing result;
- Actual test result; and
- Resolution of any failing results.

The logs shall be used by the RE to track that acceptance tests are performed at the required frequencies, that tester certifications are on file, and that all failing tests have been mitigated.

Source Inspection and Testing

Some manufactured or pre-fabricated structural materials will be inspected or tested prior to arrival at the jobsite, generally at the manufacturer's location (i.e. source inspected). Structural items categorized as "catastrophic consequences of failure" or "significant safety concern" may be source inspected. Materials that might be source inspected include, but are not limited to: structural steel, precast prestressed concrete girders and pilings; reinforced concrete pipe (RCP) with a diameter greater than 60", joint seals, bearing pads, lighting and signal poles, sign structures, electrical items. The RE may reject source inspected material at the job site if determined not acceptable for reasons such as the material is damaged in shipment or installation, or defective material; source inspection is usually a random sampling and may not have checked 100% of the material.

Personnel and equipment involved in source inspection shall comply with *Section IV. Independent Assurance Program (IAP)*, of this QAP.

Manufacturer's Certificates of Compliance

Various manufactured materials may be accepted for incorporation into the work without sampling or testing, on the basis of a certificate from the manufacturer. The contractor shall submit certificates of compliance as required by the contract documents, including attachments to the certificate such as test data and other information pertaining to the compliance. The RE may perform sampling and testing on such materials at any time. Certificates of compliance shall satisfy the following requirements:

- Be submitted by the Contractor before the material is incorporated into the work;
- Accompany the material to the job site;
- Identify the lot (or heat) number for each lot delivered;
- Include the contract number;
- Include test data and other documents related to the compliance;

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- Include a statement that the material complies with the contract documents; and
- Be signed by the producer of the material.

List of Materials Accepted by Certificate of Compliance:

Some materials can typically be accepted based on certificates of compliance as provided for in the contract documents and applicable standard specifications. A list of materials that can be typically accepted on the basis of certificates of compliance during construction can be found in Appendix F of the QAP Manual. All certificates of compliance shall conform to the requirements of the contract documents and applicable standard specifications.

Visual Inspection

Approximate quantities, as indicated below, of some materials may be accepted on the basis of visual inspection:

- Aggregates other than for use in Portland Cement Concrete, not to exceed:
 - 100 tons per day, nor
 - 500 tons per project;
- Bituminous Mixtures, e.g. hot mix asphalt, not to exceed:
 - 50 tons per day, nor
 - If project total is less than 500 tons., sample at RE's discretion; and
- Bituminous materials, e.g. liquid asphalt, not to exceed:
 - 100 per project.

Relatively minor quantities of construction materials may be accepted without testing if the following three conditions are met:

1. Visual examination of the material is performed;
2. The manufacturer or supplier has recently furnished similar materials found to be satisfactory using normal sampling and testing requirements.
3. The manufacturer (or supplier in the case of hot mix asphalt or concrete) provides certification that the material furnished complies with the contract specifications.

IV. INDEPENDENT ASSURANCE PROGRAM (IAP)

The Independent Assurance Program (IAP) shall verify the following:

- Sampling and testing procedures are being performed correctly;
- All testing equipment is in good condition and properly calibrated; and
- All Acceptance Testing (AT) performed on the project uses a qualified laboratory and certified testing personnel.

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A complete review of AT shall be performed by IAP personnel, or an independent materials laboratory chosen by the City, if unresolved discrepancies related to poor correlation between acceptance tester's results and other test results occur.

The IAP, including certification of testers and qualifications of laboratories, shall be executed by an IAP person (not involved in acceptance testing) designated by the City, Caltrans (for Caltrans test methods only), or a consultant (not involved in acceptance testing) as determined by the City.

Independent Assurance Testing shall be performed on every type of materials test required for the project. Independent Assurance Testing samples and tests shall not be used for determining compliance with contract requirements.

The AT materials laboratory shall participate and comply with one or more of the following Correlation Testing Programs:

- AASHTO Materials Reference Laboratory (AMRL);
- Cement and Concrete Reference Laboratory (CCRL); and/or
- Caltrans Reference Samples Program (RSP).

The AT materials laboratory qualification shall occur annually and a copy of the laboratory qualification shall be kept in the project files.

Sampling and testing personnel shall be certified for a maximum of two years by one or more of the personnel certification programs identified in the QAP Manual.

Proficiency tests shall be performed on Sieve Analysis, Sand Equivalent, and Cleanness Value tests. All other types of IAP shall be witness tests.

A copy of each tester's current and applicable certifications shall be kept in the project files.

The materials laboratory shall only use laboratory and testing equipment capable of performing the test required. Laboratory and testing equipment shall be in good working order. All such equipment shall be calibrated at least once each year. All testing equipment must be calibrated by impartial means using devices of accuracy traceable to the National Institute of Standards and Technology. A decal shall be firmly affixed to each piece of equipment showing the date of the last calibration. All testing equipment calibration decals shall be checked as part of the IAP.

V. RESIDENT ENGINEER CERTIFICATION OF PROJECT MATERIALS

The Resident Engineer (RE) shall complete and sign a Materials Certificate upon completion of the construction project. For federally-assisted contracts, the Materials Certificate shall be consistent with *Exhibit 17-G: Materials Certificate* of the Caltrans *Local Assistance Procedures Manual* (LAPM). The signed certificate shall be kept in the project files.

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September 2016*

The Materials Certificate shall include an explanation and justification for all materials incorporated into the work which did not conform to the contract documents, including changes by virtue of contract change orders.

For federally-assisted contracts, the signed Materials Certificate (consistent with *Exhibit 17-G: Materials Certificate* of the Caltrans *Local Assistance Procedures Manual*) shall be included in the Report of Expenditures submitted to the Caltrans District Local Assistance Engineer (DLAE).

VI. PROJECT QAP RECORDS

Each project shall have the following quality assurance documents on file, organized and indexed in the project files:

- Copy of Quality Assurance Plan
- Certificates of Proficiency-Testers and Samplers (LAPM Exhibit 16-D TL-0111)
- Certificate of Accreditation of Testing Lab(s) (TL-0113)
- Notice of Materials to be Used (LAPM Exhibit 16-I)
- Acceptance Testing Summary Logs and Test Results
- Certificates of Compliance, including Buy American Certificates
- Source inspection records and reports.
- Materials Certification (LAPM Exhibit 17-G)

All project records shall be available in a single location for inspection by auditors and reviewers at any time during the project and for up to three years following the date of final project voucher.

VI. ATTACHMENTS

Attachment No. 1: Acceptance Sampling and Testing Frequencies for Projects not on the SHS or NHS

QAP Attachment No. 1: Acceptance Sampling and Testing Frequencies for Projects not on the SHS or NHS**Sampling and Testing Frequency Table
for projects OFF the SHS.****HOT MIX ASPHALT (HMA) / ASPHALT CONCRETE (AC)**

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Aggregate Gradation (Sieve)	CT 202	1 Per 1000 Tons or Part Thereof ; Minimum 1 per day during production/placement of at least 300 tons per day.	At Plant Per CT 125 (a)
Sand Equivalent	CT 217		
Asphalt Binder Content	CT 382		Loose Mix Behind Paver Per CT 125
In-Place Density and Relative Compaction (Nuclear)	Nuclear (b) CT 375 or ASTM D2950 (c)	1 Per 1000 Tons or Part Thereof ; Minimum 1 per day during production/placement of at least 300 tons per day. (b)	Random Locations Per CT 375 (c)
Theoretical Maximum Specific Gravity and Density (Rice)	CT 309	1 Per Day During Production/Placement of At Least 300 Tons Per Day	Loose Mix Behind Paver Per CT 125
HMA Moisture Content	CT 226 or CT 370		
Stabilometer Value (d)	CT 366		
Asphalt Binder	Sample per Section 92	Sample 1 min. per day for production over 300 tons per day; See (f) regarding testing.	At Plant Per CT 125
Smoothness	12-foot Straightedge	As necessary to confirm contract compliance.	Final Pavement Surface

- (a) Exact tonnage of sample location to be determined by Random Sampling Plans
- (b) Compaction determined by Nuclear Density Device. Core testing required if compaction fails the nuclear test
- (c) Correlation between core densities and nuclear device required only if compaction fails the nuclear test
- (d) Report the average of 3 tested briquettes from a single split source
- (e) Use CT 309 to determine maximum theoretical density in lieu of CT 367 calculated maximum theoretical density
- (f) No testing required unless warranted by concern ; sample and store until completion of project

QAP Attachment No. 1: Acceptance Sampling and Testing Frequencies for Projects not on the SHS or NHS**SUBGRADE (DISTURBED BASEMENT SOIL) OR EMBANKMENT**

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Maximum Density and Relative Compaction	CT 216/CT 231	1 Min. Test per 5000 sq ft under vehicle traveled way and shoulder 1 Min. Test Per 300 linear foot under sidewalk	Random locations as determined by the Engineer in place after compaction.

AGGREGATE BASES AND SUBBASES, IMPORTED BORROW

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Sieve Analysis	CT 202	1 Min. Test Per Material Source	Sample from site stockpile/plant prior to placement.
R-Value	CT 301		
Sand Equivalent	CT 217		
Maximum Density and Relative Compaction	CT 216/CT 231	1 Min. Test per 5000 sq ft	Random locations as determined by the Engineer in place after compaction.

STRUCTURE BACKFILL, SELECT BACKFILL

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Sieve Analysis	CT 202	1 Min. Test Per Material Source	Sample from site stockpile/plant prior to placement
R-Value	CT 301		
Sand Equivalent	CT 217		
Maximum Density and Relative Compaction	CT 216/CT 231	1 Min. Test Per 2 Vertical Lifts of Placement	Random locations as determined by the Engineer in place after compaction.

QAP Attachment No. 1: Acceptance Sampling and Testing Frequencies for Projects not on the SHS or NHS

PORTLAND CEMENT CONCRETE (PCC) - STRUCTURAL AND SIGNAL/LIGHTING FOUNDATIONS**COARSE AGGREGATE**

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Sieve Analysis	CT 202	1 min. test per 500 cu yds and per each material source ; 1 min. test on smaller projects; If bridge, 1 min. set per separate pour per abutment/pier/deck.	Sample from site stockpile/plant prior to placement
Cleanness Value	CT 227		

FINE AGGREGATE

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Sieve Analysis	CT 202	1 min. test per 500 cu yds and per each material source ; 1 min. test on smaller projects; If bridge, 1 min. set per separate pour per abutment/pier/deck.	Sample from site stockpile/plant prior to placement
Sand Equivalent	CT 217		

WET MIX

Quality Characteristic	Test Method	Minimum Sampling and Testing Frequency	Location/Time of Sampling
Slump/Penetration	CT 533	2 per day	Sample from truck/work site
Cylinders	CT 539/540	1 min. set of 3 per day; If bridge, 1 min. set per separate pour of abutment/pier/deck.	

**CITY OF SEASIDE
PROFESSIONAL SERVICE AGREEMENT FOR CONSTRUCTION PROJECT**

This PROFESSIONAL SERVICE AGREEMENT (PSA) FOR NON-CONSTRUCTION PROJECT ("AGREEMENT"), is made and effective as of _____, between the ("AGENCY") City of Seaside, a municipal corporation and _____, [a sole proprietorship, partnership, limited liability partnership, corporation] ("CONSULTANT"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

I. TERM

This AGREEMENT shall commence on _____ and shall remain and continue in effect until tasks described herein are completed, but in no event later than _____ unless sooner terminated pursuant to the provisions of this AGREEMENT.

II. SERVICES

CONSULTANT shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. CONSULTANT shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A. To the extent that Exhibit A is a proposal from CONSULTANT, such proposal is incorporated only for the description of the scope of services and no other terms and conditions from any such proposal shall apply to this AGREEMENT unless specifically agreed to in writing.

III. PERFORMANCE

CONSULTANT shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONSULTANT hereunder in meeting its obligations under this AGREEMENT.

IV. AGENCY MANAGEMENT

Agency's City Engineer shall represent AGENCY in all matters pertaining to the administration of this AGREEMENT, review and approval of all products submitted by CONSULTANT, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to CONSULTANT. Agency's Manager shall be authorized to act on AGENCY's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change CONSULTANT's compensation, subject to Section 5 hereof.

V. PAYMENT

- A. The AGENCY agrees to pay CONSULTANT monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____dollars (\$__.00) for the total term of the AGREEMENT unless additional payment is approved as provided in this AGREEMENT.
- B. CONSULTANT shall not be compensated for any services rendered in connection with its performance of this AGREEMENT which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Agency Manager. CONSULTANT shall be compensated for any additional services in the amounts and in the manner as agreed to by Agency Manager and CONSULTANT at the time AGENCY's written authorization is given to CONSULTANT for the performance of said services. The Agency Manager may approve additional work not to exceed ten percent (10%) of the amount of the AGREEMENT, but in no event shall such sum exceed ten-thousand dollars (\$10,000.00). Any additional work in excess of this amount shall be approved by the Governing Board.
- C. CONSULTANT will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the AGENCY disputes any of CONSULTANT's fees it shall give written notice to CONSULTANT within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this AGREEMENT shall be made within forty-five (45) days of receipt of an invoice therefore.

VI. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

- A. The AGENCY may at any time, for any reason, with or without cause, suspend or terminate this AGREEMENT, or any portion hereof, by serving upon the CONSULTANT at least ten (10) days prior written notice. Upon receipt of said notice, the CONSULTANT shall immediately cease all work under this AGREEMENT, unless the notice provides otherwise. If the AGENCY suspends or terminates a portion of this AGREEMENT such suspension or termination shall not make void or invalidate the remainder of this AGREEMENT.
- B. In the event this AGREEMENT is terminated pursuant to this Section, the AGENCY shall pay to CONSULTANT the actual value of the work performed up to the time of termination, provided that the work performed

is of value to the AGENCY. Upon termination of the AGREEMENT pursuant to this Section, the CONSULTANT will submit an invoice to the AGENCY pursuant to Section 5.

VII. DEFAULT OF CONSULTANT

- A. The CONSULTANT's failure to comply with the provisions of this AGREEMENT shall constitute a default. In the event that CONSULTANT is in default for cause under the terms of this AGREEMENT, AGENCY shall have no obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and can terminate this AGREEMENT immediately by written notice to the CONSULTANT. If such failure by the CONSULTANT to make progress in the performance of work hereunder arises out causes beyond the CONSULTANT's control, and without fault or negligence of the CONSULTANT, it shall not be considered a default.
- B. If the Agency Manager or his/her designee determines that the CONSULTANT is in default in the performance of any of the terms or conditions of this AGREEMENT, he/she shall cause to be served upon the CONSULTANT a written notice of the default. The CONSULTANT shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the CONSULTANT fails to cure its default within such period of time or fails to present the AGENCY with a written plan for the cure of the default, the AGENCY shall have the right, notwithstanding any other provision of this AGREEMENT, to terminate this AGREEMENT without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this AGREEMENT.

VIII. OWNERSHIP OF DOCUMENTS

- A. CONSULTANT shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by AGENCY that relate to the performance of services under this AGREEMENT. CONSULTANT shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to the representatives of AGENCY or its designees at reasonable times to such books and records; shall give AGENCY the right to examine and audit said books and records; shall permit AGENCY to make transcripts or copies therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this AGREEMENT. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

- B. Upon completion of, or in the event of termination or suspension of this AGREEMENT, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this AGREEMENT shall become the sole property of the AGENCY and may be used, reused, or otherwise disposed of by the AGENCY without the permission of the CONSULTANT. With respect to computer files, CONSULTANT shall make available to the AGENCY, at the CONSULTANT's office and upon reasonable written request by the AGENCY, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. CONSULTANT hereby grants to AGENCY all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by CONSULTANT in the course of providing the services under this AGREEMENT.

IX. INDEMNIFICATION AND DEFENSE

A. Indemnity

To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless AGENCY and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel's fees and costs, caused in whole or in part by the negligent or wrongful act, error or omission of CONSULTANT, its officers, agents, employees or subconsultants (or any agency or individual that CONSULTANT shall bear the legal liability thereof) in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify and hold harmless AGENCY shall not extend to the AGENCY's sole or active negligence.

B. Duty to defend

In the event the AGENCY, its officers, employees, agents and/or volunteers are made a party to any action, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this AGREEMENT, and upon demand by AGENCY, CONSULTANT shall defend the AGENCY at CONSULTANT's cost or at AGENCY's option, to reimburse AGENCY for its costs of defense, including reasonable attorney's fees and costs incurred in the defense of such matters to the extent the matters arise from, relate to or are caused by CONSULTANT's negligent acts, errors or omissions. Payment by AGENCY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and AGENCY, as to whether liability arises from the sole or active negligence of the AGENCY or its officers, employees, or agents, CONSULTANT will be obligated to pay for

AGENCY's defense until such time as a final judgment has been entered adjudicating the AGENCY as solely or actively negligent. CONSULTANT will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney's fees, expert fees and costs of litigation.

X. INSURANCE

CONSULTANT shall maintain prior to the beginning of and for the duration of this AGREEMENT insurance coverage as specified in Exhibit C attached to and part of this AGREEMENT.

XI. INDEPENDENT CONSULTANT

- A. CONSULTANT is and shall at all times remain as to the AGENCY a wholly independent consultant and/or independent contractor. The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither AGENCY nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees, or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the AGENCY. CONSULTANT shall not incur or have the power to incur any debt, obligation, or liability whatever against AGENCY, or bind AGENCY in any manner.
- B. No employee benefits shall be available to CONSULTANT in connection with the performance of this AGREEMENT. Except for the fees paid to CONSULTANT as provided in the AGREEMENT, AGENCY shall not pay salaries, wages, or other compensation to CONSULTANT for performing services hereunder for AGENCY. AGENCY shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder.

XII. LEGAL RESPONSIBILITIES

The CONSULTANT shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this AGREEMENT. The CONSULTANT shall at all times observe and comply with all such laws and regulations. The AGENCY, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the CONSULTANT to comply with this Section.

XIII. UNDUE INFLUENCE

CONSULTANT declares and warrants that no undue influence or pressure was used against or in concert with any officer or employee of the AGENCY in connection with the award, terms or implementation of this AGREEMENT, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the AGENCY has or will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee or agent of CONSULTANT, in connection with the award of this AGREEMENT or any work to be conducted as a result of this AGREEMENT. Violation of this Section shall be a material breach of this AGREEMENT entitling the AGENCY to any and all remedies at law or in equity.

XIV. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of AGENCY, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this AGREEMENT.

XV. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

A. All information gained by CONSULTANT in performance of this AGREEMENT shall be considered confidential and shall not be released by CONSULTANT without AGENCY's prior written authorization. CONSULTANT, its officers, employees, agents, or subconsultants, shall not without written authorization from the Agency Manager or unless requested by the Agency Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this AGREEMENT or relating to any project or property located within the AGENCY. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives AGENCY notice of such court order or subpoena.

B. CONSULTANT shall promptly notify AGENCY should CONSULTANT, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this AGREEMENT and the work performed there under or with respect to any project or property located within the AGENCY, unless the AGENCY is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless CONSULTANT is prohibited by law from informing the AGENCY of such Discovery. AGENCY retains the right, but has no obligation, to represent

proposed written contract between CONSULTANT and such sub-consultant which shall include and indemnity provision similar to the one provided herein and identifying AGENCY as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed sub-consultant carries insurance at least equal to that required by this AGREEMENT or obtain a written waiver from AGENCY for such insurance.

XVIII. LICENSES

At all times during the term of this AGREEMENT, CONSULTANT shall have in full force and effect, all licenses required of it by law for the performance of the services described in this AGREEMENT.

XIX. GOVERNING LAW

The AGENCY and CONSULTANT understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this AGREEMENT and also govern the interpretation of this Agreement. Any litigation concerning this AGREEMENT shall take place in the municipal, superior, or federal district court with jurisdiction over the AGENCY.

XX. ENTIRE AGREEMENT

This AGREEMENT contains the entire understanding between the parties relating to the obligations of the parties described in this AGREEMENT. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this AGREEMENT or with respect to the terms and conditions of this AGREEMENT, are merged into this AGREEMENT and shall be of no further force or effect. Each party is entering into this AGREEMENT based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

XXI. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

CONSULTANT is bound by the contents of AGENCY's Request for Proposal, Exhibit "D" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the CONSULTANT, Exhibit "E" hereto. In the event of conflict, the requirements of AGENCY's Request for Proposals and this AGREEMENT shall take precedence over those contained in the CONSULTANT's proposals. The incorporation of the CONSULTANT's proposal shall be for the scope of services to be provided only, and any other terms and conditions included in such proposal shall have no force and effect on this AGREEMENT or the relationship between CONSULTANT and/or AGENCY, unless expressly agreed to in writing.

XXII. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this AGREEMENT on behalf of CONSULTANT warrants and represents that he/she has the authority to execute this AGREEMENT on behalf of the CONSULTANT and has the authority to bind CONSULTANT to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

CONSULTANT	City of Seaside A Municipal Corporation
By: _____ (Signature)	By: _____ (Signature)
_____ (Typed Name)	_____ (Typed Name)
_____ (Title)	<u>City Manager</u> _____ (Title)
_____ (Date)	_____ (Date)

Attachments:

- Exhibit A Tasks to Be Performed
- Exhibit B Payment Schedule
- Exhibit C Insurance Requirements
- Exhibit D Request for Proposal
- Exhibit E Consultant's Proposal

EXHIBIT A
TASKS TO BE PERFORMED

EXHIBIT B
PAYMENT SCHEDULE

EXHIBIT C

INSURANCE REQUIREMENTS

Without limiting CONSULTANT's indemnification of AGENCY, and prior to commencement of Work, CONSULTANT shall obtain, provide and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described below and in a form satisfactory to AGENCY.

General liability insurance. CONSULTANT shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. CONSULTANT shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this AGREEMENT, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. CONSULTANT shall maintain professional liability insurance that covers the Services to be performed in connection with this AGREEMENT, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this AGREEMENT and CONSULTANT agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this AGREEMENT.

Note: May need to delete workers' compensation and employer's liability insurance requirements for certain sole proprietorships, partnerships, or corporations without employees.

Workers' compensation insurance. CONSULTANT shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

CONSULTANT shall submit to AGENCY, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of AGENCY, its officers, agents, employees and volunteers.

Note: If the required limits for general liability, auto and employer's liability are \$1 million or less, the following paragraph may be omitted.

Umbrella or excess liability insurance. [Optional depending on limits required]. CONSULTANT shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrence of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. CONSULTANT shall provide certificates of insurance to AGENCY as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by Agency's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with AGENCY at all times during the term of this contract. AGENCY reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONSULTANT shall procure and maintain for the duration of the contract insurance 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 CONSULTANT, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by CONSULTANT shall be primary and any insurance or self-insurance procured or maintained by AGENCY shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of AGENCY before the AGENCY's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this AGREEMENT does not comply with these specifications or is canceled and not replaced, AGENCY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by AGENCY will be promptly reimbursed by

CONSULTANT or AGENCY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, AGENCY may cancel this AGREEMENT.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the Agency's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against AGENCY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow CONSULTANT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONSULTANT hereby waives its own right of recovery against AGENCY, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). CONSULTANT acknowledges and agrees that any actual or alleged failure on the part of the AGENCY to inform CONSULTANT of non-compliance with any requirement imposes no additional obligations on the AGENCY nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the AGENCY requires and shall be entitled to coverage for the higher 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 AGENCY.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to AGENCY with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that AGENCY and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting

endorsement of any kind that has not been first submitted to AGENCY and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. CONSULTANT agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by CONSULTANT, provide the same minimum insurance coverage and endorsements required of CONSULTANT. CONSULTANT agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. CONSULTANT agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to AGENCY for review.

Agency's right to revise specifications. The AGENCY reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the CONSULTANT ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the CONSULTANT, the AGENCY and CONSULTANT may renegotiate CONSULTANT's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by AGENCY. AGENCY reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by AGENCY.

Timely notice of claims. CONSULTANT shall give AGENCY prompt and timely notice of claims made or suits instituted that arise out of or result from CONSULTANT's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONSULTANT shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

EXHIBIT D
REQUEST FOR PROPOSAL

EXHIBIT E
CONSULTANT'S PROPOSAL