



# REQUEST FOR PROPOSALS Professional Services

## VISITOR CENTER MANAGEMENT



August

RFP Issued .....	August 25, 2020
All questions must be received by 5:00 p.m.....	September 4, 2020
Proposal Due by 4:00 p.m.....	September 15, 2020
Evaluation Period Concludes .....	September 21, 2020
Council Review & Award Contract	End of September/Early October 2020

PUBLIC NOTICE  
**REQUEST FOR PROPOSALS**  
PROFESSIONAL SERVICES  
  
CITY OF SOLVANG  
**VISITOR CENTER MANAGEMENT**

The City of Solvang is inviting qualified candidates to submit proposals for Professional Services TO MANAGE AND OPERATE THE SOLVANG VISITOR CENTER.

The City of Solvang is a tourism destination deriving 50% of its general fund revenue from Transient Occupancy Tax. Solvang is often referred to as Danish Capital of America. It was established in 1911 by small group of Danish teachers and is part of the Santa Ynez Valley. Solvang (meaning sunny field) is rich in Danish history and culture, which can be viewed at the Elverhoj Museum <http://www.elverhoj.org/> . The City of Solvang is a relatively young city having incorporated on May 1,1985. But the town has a long history as a beautiful place to live and visit.

Solvang reflects a thoughtful blend of history and culture. The City's economy largely depends on tourism, and the Danish village has much to offer. Major attractions for visitors include the City's Danish-themed village with unique shops, inns, bakeries, European style streets and architecture, cafés, local wineries, art galleries, golf courses, equestrian and other livestock production, the Santa Ines Mission, The Wildling Museum, and the Elverhoj Museum of History and Art. There is always something fun to do in Solvang! For wine enthusiasts, wine tasting events abound throughout the year. The City offers eighteen wine tasting rooms, along with the more than 120 wineries throughout the Santa Ynez Valley. Solvang has an up and coming craft beer scene as well with many popular local brews. Foodies can enjoy an incredible variety of flavors and International cuisine offered in Solvang's restaurants or take a sweet stroll along Solvang's Sweet Treats Trail. The City also hosts annual events including the Danish Days in September, and Julefest in December.



City of Solvang Visitor Center

The Request for Proposals is for operation of the Visitor Center. Working collaboratively with the City, City's Marketing Consulting Firm, Elverhoj Museum, local organizations and businesses in Solvang and surrounding area, the Visitor Center Operator will be responsible for providing:

1. Management of the Visitor Center information content and maintaining up-to date information about the local business community
2. Staffing a dedicated phone line with trained qualified staff (recommend business hours)
3. Provide with staff and management of staff on premises during peak hours and season
4. Manage all Visitor Center business operations as an independent entity

5. Develop recommendations for improvements for the Visitor Center operations and strategy

All proposals will be compared on the basis of understanding the scope of work to be performed, methods and procedures to be used, management, personnel and experience, and consultation and coordination with the City of Solvang.

If your firm is interested and qualified, please submit six (6) hard copies and one (1) electronic copy of your Proposal by September 15, 2020, by 4:00 p.m. to:

City of Solvang  
Attn: Xenia Bradford, City Manager  
City of Solvang  
1644 Oak St, Solvang, CA 93463

Proposal shall be clearly labeled "PROPOSAL for Professional Services – Visitor Center Management. Please provide your Cost Proposal in a separate sealed envelope.

Any changes, additions, or deletions to this Request for Proposal will be in the form of written addenda issued by the City. Addenda will be posted on the City website, along with RFP. Prospective proposers must check the website for addenda or other relevant new information during the response period. The City is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Proposal. In addition, any questions submitted shall be posted with answers on the website as well.

**ATTACHMENTS:**

- A SAMPLE City of Solvang Professional Services Agreement**

## II. SCOPE OF WORK - REQUIRED

- a) Management of the Visitor Center information content and maintaining up-to date information about the local business community
  - Visitor Center will be responsible for all outreach and communication with local businesses to collect information for inclusion in any publications, informational materials at the Visitor Center, and online
  - Visitor Center will be responsible for updating online information about local businesses including contact information and hours of operations on the City's Marketing Website
  - Visitor Center will be responsible for publication of both hard copy publications such as maps or guides as well as online guide materials
- b) Staffing a dedicated phone line with trained qualified staff (recommend business hours)
  - Visitor Center will provide staff to answer tourist questions about City of Solvang business operations (including COVID-19 guidelines)
  - Visitor Center will provide adequate training to staff who will be well informed about the history of Solvang, culture, local attractions and businesses. Elverhoj Museum will work with the contractor to provide informational materials on City of Solvang culture, heritage and history.
- c) Provide with staff and management of staff on premises during peak hours and season
  - Visitor Center will be responsible for appropriately staffing the on-site location on Copenhagen Drive with staff to accommodate demand while minimizing the cost to the City.
- d) Manage all Visitor Center business operations as an independent entity
  - Visitor Center will operate as an independent contractor responsible for all administrative operations.
- e) Develop recommendations for improvements for the Visitor Center operations and strategy
  - As marketing field evolves and has become much more dependent on information technology, the Visitor Center will be responsible for making recommendations for improving and guiding the Visitor Center operations to embrace applications and online presence to best guide our visitors

## SCOPE OF WORK – OPTIONAL

The City encourages applicants to be creative and submit any additional creative ideas on how Visitor Center could best serve our City and Visitors. Please submit optional work item proposals as an option to the proposal to be exercised if the City so desires. Please submit budget for such options separately from proposed budget for the required scope of work.

### **III. PROPOSAL CONTENT AND ORGANIZATION**

The Proposal, consisting of six (6) hard copies and one (1) electronic copy must be received by mail, recognized carrier, or hand delivered no later than **4:00 p.m. on September 15, 2020.** Late Proposals will not be considered and will be returned, unopened.

Proposal shall be addressed to:

City of Solvang  
City Manager, Xenia Bradford  
1644 Oak Street, Solvang, CA 93463

Cost Proposal shall be submitted in a SEPARATE SEALED ENVELOPE.

All proposals received prior to the date and time specified above for receipt may be withdrawn or modified by written request of the proposer. To be considered, the modification must be received in writing, and in the same number of copies as the original proposal, prior to the date and time specified for receipt of proposals.

Until award of the contract, the proposals shall be held in confidence and shall not be available for public review. The scope of work will be presented to the City Council in conjunction with the Council approval of consultant selection. Upon award of a contract to the successful proposer, all proposals shall be public records. No proposal shall be returned after the date and time set for opening thereof. Following execution of the contract between the City and the consultant, a project kick-off meeting will be held to finalize the project scope and begin the project.

#### **Proposal Content and Organization**

The organization of the proposal should follow the general outline below.

#### **Technical Proposal:**

##### **1. Transmittal Letter**

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consultant(s) firm, and who may be contacted during the period of proposal evaluation. Only one transmittal letter need be prepared to accompany all copies of the technical and cost proposals. Proposal transmittal letter shall also state the Consultant's ability to comply with the contract provisions as outlined in the City's sample professional services agreement and insurance requirements, or indicate which provisions will require amendments during contract negotiations

##### **2. Introduction**

In this section, the proposer should demonstrate an adequate understanding of the role and relationships of the City and an awareness of issues specific to expectations outlined in the RFP.

The Introduction shall include:

- a. A brief description of the consultant(s) firm/organization, including the year the firm/organization was established, type of organization of firm (partnership, corporation, etc.), and any variation in size over the last five years, along with a statement of the organization's qualifications for performing the subject consulting services; and

b. A brief description of the firm's experience with similar projects.

**3. Technical Approach**

Technical Approach shall include:

a. A thorough explanation of the consultant's proposed course of action. References should be made to the RFP requirements and the consultant's plans for meeting those requirements; and

**4. Consultant Staff**

The proposal must describe the qualifications and experience of the Manager for this contract.

**5. Consultant Qualifications and References**

The proposal must include a list of references for similar clients. References should include client contact names, addresses, phone numbers, description of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work.

**6.** The proposal should include the logical timeline and milestones for the contractor's onboarding.

**Cost Proposal – Submit in separate sealed envelope:**

**7. Cost Proposal**

The cost proposal shall be submitted in a separately sealed envelope. This separately sealed envelope will not be opened until the consultants' proposals have been ranked based on their qualifications.

The proposer shall prepare a detailed cost proposal for the work to be performed. The same cost proposal detail is required for sub-consultants. Include a total "not-to-exceed" amount for this proposal.

**III. PROPOSAL EVALUATION and CONSULTANT SELECTION**

**Evaluation Criteria**

Upon receipt of the proposals, a technical evaluation will be performed. Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. Evaluation criteria will include such considerations as:

<b>EVALUATION CRITERIA</b>	<b>Weight</b>
Understanding of the required work scope	20%
Familiarity or understanding of the City of Solvang heritage, business community needs and tourism	25%
Qualifications	20%
References	10%
Business Plan and Creativity	25%
<b>TOTAL:</b>	<b>100%</b>

#### IV. GENERAL CONDITIONS

##### Limitations

This Request for Proposals (RFP) does not commit the City to award a contract, to pay any costs incurred in the preparation of the proposal in response to this request, or to procure or contract for services or supplies. The City expressly reserves the right to reject any and all proposals or to waive any irregularity or information in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. The City reserves the right to withdraw this RFP at any time without prior notice. Further, the City reserves the right to modify the RFP schedule described above.

##### Award

The City may ask RFP finalists to present oral presentations regarding their firms and any special expertise in the necessary areas. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their proposals as may result from negotiations. The City also reserves the right to award the contract without discussion or interviews, based upon the initial proposals. Selection will be based upon demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. Following the initial qualifications-based selection, the price proposal provided will be the basis for negotiations to ensure the City receives a fair and reasonable price.

##### Inquiries and Responses

All questions pertaining to this RFP shall be submitted in writing to the City Manager, Xenia Bradford, at [xeniab@CityofSovlang.com](mailto:xeniab@CityofSovlang.com). The question and its response will be forwarded via email to all potential proposers and/or posted on the RFP webpage.

Bidders are specifically directed not to contact any other City personnel for meetings, conferences, or technical discussions related to this Request for Proposals. Failure to adhere to this policy may be grounds for rejection of proposal.

The City of Solvang will not be responsible for oral interpretations given by any City employee, representative, or others. Bidders are cautioned that any statements made that materially change any portion of the proposal documents shall not be relied upon unless subsequently ratified by a formal written amendment to the proposal document. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. Any changes, additions, or deletions to this Request for Proposal will be in the form of written addenda issued by the City. Addenda will be posted on the Planning Division's General Plan Update webpage along with RFP. Prospective proposers must check the website for addenda or other relevant new information during the response period. The City is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Proposal.

##### Pre-contractual Expense

Pre-contractual expenses are defined as expenses incurred by proposers and selected contractor in:

1. Preparing proposals in response to this RFP;
2. Submitting proposals to City;
3. Negotiations with City on any matter related to proposals; and
4. Other expenses incurred by a contractor or proposer prior to the date of award of any agreement.

In any event, the City shall not be liable for any pre-contractual expenses incurred by any proposer or selected contractor. Proposers shall not include any such expenses as part of the price proposed in response to this RFP. The City shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

**Proprietary Information**

The proposals received shall become the property of the City of Solvang and are subject to public disclosure. Proposers are to indicate any restrictions on the use of data contained in their responses. Those parts of a proposal which are defined by the bidder as business or trade secrets, as that term is defined in California Government Code, Section 6254.7, and are reasonably marked as "Trade Secrets", "Confidential" or "Proprietary" shall only be disclosed to the public if such disclosure is required or permitted under the California Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most or all, of their proposal as exempt from disclosure may be deemed non-responsive.

**Contract Requirements**

The selected consultant must enter into a Professional Services Agreement with the City for provisions related to compensation, conflict of interest, indemnification, insurance, etc. The scope, budget and schedule to complete the study will be incorporated into the professional services agreement. See RFP Attachment A – SAMPLE City of Solvang Professional Services Agreement.

The Consultant has total responsibility for the accuracy and completeness of all data, plans, and estimates prepared for this project, and shall check all such material accordingly. While the City may review for quality, completeness and conformity, the responsibility for accuracy and completeness of such items remains solely that of the Consultant.

**Method of Payment**

For all services rendered as described in the Scope of Work (including all labor, equipment, materials, and expenses) the Consultant shall submit proposed payment schedule.

## AGREEMENT FOR OPERATION OF SOLVANG VISITORS CENTER

Recitals:

WHEREAS, [ORGANIZATION NAME] enters into agreement with the City of Solvang to provide services to operate the Solvang Visitors Center ("Visitors Center") facility owned by the City of Solvang ("City") located at 1639 Copenhagen Drive, Solvang, California, and to undertake efforts to promote visitation to the City of Solvang; and

WHEREAS, the [ORGANIZATION NAME] agrees to provide services defined in Exhibit-A, Scope of Services.

In consideration of the above recitals and purposes, the parties hereby agree as follows:

### **A. City of Solvang's Obligations.**

From DATE through June 30, 2021, City shall:

1. Pay [ORGANIZATION NAME] monthly payments of \$XXX from the effective date of XXX through JUNE 30, 2021, payment to be made no later than the 5<sup>th</sup> of each month.
2. Provide to [ORGANIZATION NAME] a non-exclusive revocable license for use of:
  - a. a month-to-month, \$0, no cost lease of the Solvang Visitors Center, including all furniture, fixtures and equipment, and other City-owned exhibits at the Solvang Visitors Center, for the use set forth in this Agreement.
3. City may remove or utilize such item at any time in the future as City deems advisable upon giving reasonable written notice to the [ORGANIZATION NAME].

4. City shall provide [ORGANIZATION NAME] access to all public records related to the Visitors Center.
5. City shall maintain the exterior of the Center including, but not limited to, sidewalk, flower beds, exterior painting, trash cans, and structural integrity.
6. City shall provide and pay for utility service (heat, electricity, water and sewer), telephone, and internet services to the Solvang Visitors Center.
7. City shall ensure that excessive loitering is prohibited inside and outside the Solvang Visitors Center.

**B. [ORGANIZATION NAME] Obligations.**

1. From DATE through June 30, 2021, [ORGANIZATION NAME] shall:
  - a. Operate the Visitors Center in accordance with the Scope of Services - copies of which are attached hereto as Exhibit - A (collectively "the Goals"). [ORGANIZATION NAME] shall cooperate with City in the transfer of the Solvang Visitors Center to any successor.
    1. Submit monthly written reports to City detailing actions towards realization of the goals. Said reports shall include but are not limited to the:
      1. Number of inquiries responded to;
      11. Traffic counts at Visitors Center.
  - b. Provide and pay for all interior janitorial service and window washing of the Visitors Center and keep the interior of the Visitors Center in a clean and neat state which is comfortable for visitors.

- c. Ensure that no employee engages in public defamation of the City, its agents, or its employees.
2. [ORGANIZATION NAME] shall mark or otherwise identify all of organization owned furniture or equipment placed in the Visitors Center so as to avoid confusion as to ownership. Furniture and equipment not so marked or identified shall be presumed to be City property.
3. All work product and digital assets generated by [ORGANIZATION NAME] pursuant to this Agreement are the property of the City and shall, at the conclusion or termination of this Agreement, be transferred to City, including any necessary passwords, licenses, or other information reasonably requested by City. [ORGANIZATION NAME] agrees that all copyrights, websites, URLs, trademarks, digital documents, audible content, motion pictures, photographs, illustrations, animations, spreadsheets, word documents, and files, whether stored on computers/laptops, in the cloud, in electronic storage devices, on telecommunication devices, or on any and all apparatuses which are, or will be, used by [ORGANIZATION NAME], which arise from creation of the work pursuant to this Agreement shall be vested in the City, notwithstanding the proprietorship of the physical devices onto which the digital assets are stored. [ORGANIZATION NAME] waives and relinquishes all claims to copyright or other intellectual property rights in favor of City.

### **C. Additional Obligations of Parties.**

1. Term and Option to Renew.
  - a. This Agreement shall commence DATE, and shall expire June 30, 2021, unless earlier terminated pursuant to Section C(2), below. This term may be extended for an additional period if both parties agree in writing to such an extension.
2. Termination.
  - a. Either party may terminate this Agreement upon 30 days prior written notice.
  - b. At termination or expiration of this Agreement, [ORGANIZATION NAME] shall provide City all documents and data files of [ORGANIZATION NAME] related to its performance under this agreement, as further set forth in Section (B)(3).
  - c. Upon expiration or termination of this Agreement, the [ORGANIZATION NAME] shall surrender and deliver the Visitors Center to the City in as good condition as when received by [ORGANIZATION NAME] or thereafter.

improved, excepting only: 1) ordinary wear and tear; 2) deterioration or functional obsolescence of improvements due to age and 3) any defects objected to in a writing signed by [ORGANIZATION NAME] and delivered to the City of Solvang prior to the [ORGANIZATION NAME] execution of this Agreement.

- d. Not later than the expiration or termination date of this Agreement, or of any extended term, [ORGANIZATION NAME] shall remove all of its property from the Visitors Center.
3. [ORGANIZATION NAME] shall provide all equipment necessary for performance of its obligations under this Agreement.
4. **Non-Discrimination.** [ORGANIZATION NAME] shall not discriminate against any person or persons or exclude any persons from participation in the Visitor Centers' operations, programs, or activities conducted on the City's premises because of race, color, age, sex, handicap, national origin, or religion.
5. **Independent Contractor.** City retains [ORGANIZATION NAME] solely as an independent contractor of the City, and not as an employee of the City. As such, [ORGANIZATION NAME] shall determine the method, details, and means of performing the services set forth herein. [ORGANIZATION NAME] shall employ and pay such personnel as it deems necessary to perform the services required by this Agreement. City may not direct, control, or supervise [ORGANIZATION NAME]' employees in the performance of those services. Under no circumstances shall [ORGANIZATION NAME] and/or its employees be deemed employees of the City. As such, [ORGANIZATION NAME] and its employees have no right to Workers ' Compensation or any other City-sponsored employee benefits. [ORGANIZATION NAME] agrees to provide Workers' Compensation and other employee benefits, where required by law, for [ORGANIZATION NAME] ' employees and agents.
6. **Insurance.** [ORGANIZATION NAME] shall, throughout the term of this Agreement and any subsequent extensions, maintain liability insurance in the amount of \$1,000,000.00, and such insurance policy shall name City as additional insured. [ORGANIZATION NAME] shall also maintain all other legally required form of insurance, including but not limited to workers' compensation insurance. All policies of insurance maintained by the [ORGANIZATION NAME] shall extend coverage to the City as an additional insured [ORGANIZATION NAME] shall furnish to the City certificates of insurance confirming that such insurance is in full force and effect and [ORGANIZATION NAME] shall notify City at least thirty (30) days

prior to cancellation, termination or modification of such insurance.

7. Indemnification. City shall defend, indemnify and hold harmless [ORGANIZATION NAME], its agents or employees from and against any and all claims, demands and causes of action of any nature whatsoever, and any expenses incident to defense of and by the City therefrom, for any injury to or death of persons or loss of or damage to property in any manner arising out of [ORGANIZATION NAME]' use and occupation of the Visitors Center or performance of this Agreement, except to the extent caused by the sole negligence of [ORGANIZATION NAME] , including its agents and employees.
8. Use of Visitors Center. [ORGANIZATION NAME] may use the Visitors Center solely for purposes related to the performance of this Agreement.
9. Compliance with Laws and Care of Premises.
  - a. [ORGANIZATION NAME] shall not permit any unlawful occupation, business or trade to be conducted at the Visitors Center, or any use to be made thereof contrary to any law, ordinance or regulation.
  - b. [ORGANIZATION NAME] shall neither use nor permit any assignee to use the Visitors Center or any purpose which poses a substantial risk of damage by means of fire or otherwise.
10. Default. If [ORGANIZATION NAME] at any time during the term of this Agreement or any holdover period shall fail to observe or perform any of [ORGANIZATION NAME]' other obligations hereunder, and if within sixty (60) days after the City shall have mailed to [ORGANIZATION NAME] written notice specifying such default or defaults, [ORGANIZATION NAME] shall not have commenced to cure such default and proceed diligently to cure the same, then the City may give [ORGANIZATION NAME] notice of termination of this Agreement.
11. Notices. Any and all notices required or permitted under this Agreement, unless otherwise specified in writing by the party whose address is changed, shall be addressed as follows:

THE CITY:  
City Manager,  
City of Solvang  
1644 Oak Street  
Solvang, CA 93463  
-with copy to-  
Chip Wullbrandt, Esq.  
Price, Postel & Parma LLP  
200 E. Carrillo St., Suite 400

Santa Barbara, CA 93101

[ORGANIZATION NAME and ADDRESS]:

12. Inspection. City will retain a key to the Visitors Center. City may inspect the Visitors Center at its convenience without prior notice to [ORGANIZATION NAME].
13. Successors in Interest. This Agreement shall be binding upon and inure to the benefit of the respective heirs, successors and assigns of the parties hereto.
14. Assignment or Subletting. [ORGANIZATION NAME] shall not assign or sublet or grant a security interest in this Agreement without the prior written consent of the City.
15. Integration and Modification. This document contains the entire agreement of the parties hereto. All negotiations, statements, representations, warranties, and assurances, whether oral or written, which are in any way related to the subject matter of this Agreement or the performance of either party hereto are merged and integrated into the terms of this document. This Agreement may not be modified or amended except by a writing signed by both parties hereto, and any purported amendment or modification is without effect until reduced to a writing signed by both parties hereto.
16. Covenants and Conditions. Each term and each provision of this Agreement shall be construed to be both a covenant and a condition.
17. Time of the Essence. Time is of the essence as to each term and provision of this Agreement to be performed by [ORGANIZATION NAME].
18. Severability. Any provision of this Agreement which shall prove to be invalid, void or illegal, shall in no way affect, impair or invalidate any other provision hereof and the remaining provisions hereof shall nevertheless remain in full force and effect.

IN WITNESS WHEREOF, the parties have executed this contract on the following date.

**Consultant:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Name and Title

**City of Solvang:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Mayor or City Manager

**APPROVED AS TO FORM:**

City Attorney:

Price, Parma and Postel LLP

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Chip Wullbrandt  
City Attorney

## EXHIBIT A - SCOPE OF SERVICES

Proposal

## **EXHIBIT B**

### **INSURANCE REQUIREMENTS**

*Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.*

*Consultant shall provide the following types and amounts of insurance:*

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

For employees of RPLG, Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

*Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.*

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant’s employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
2. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this

Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

3. 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 City and approved of in writing.
4. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
5. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
6. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
7. Certificate(s) are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
8. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to City.
9. Consultant agrees to ensure that 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 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 subcontractors and others engaged in the project will be submitted to City for review.
10. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor,

subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

11. The City 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 City will negotiate additional compensation proportional to the increased benefit to City.
12. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
13. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
14. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
15. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
16. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
17. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. 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 limiting or all-inclusive.

18. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
19. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
20. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
21. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.