



## **Notice Requesting Qualifications for On-Call Solid Waste and Recycling Consultant Services 2024-2029**

The City of San Luis Obispo ("City") is requesting proposals for solid waste and recycling consultant services in a variety of areas associated with the management and administration of the City's waste and recycling program as specified in this Request for Qualifications (RFQ).

All interested firms must register with BidSync at [www.BidSync.com](http://www.BidSync.com), where proposers can obtain RFQ packages and submit questions - BidSync (<https://www.bidsync.com/bidsync-app-web/vendor/register/Login.xhtml>)

Proposals responsive to the RFQ will be reviewed by staff in the Solid Waste Program of the Utilities Department as they are received and must be completely uploaded on BidSync at or before [Date], 5:00 p.m. Pacific Standard Time. Proposals received after said time will not be considered.

Proposals shall be submitted using the forms provided in this RFQ package. Proposals submitted in any manner not specified above will not be accepted.

RFQ packages and additional information may be obtained at the City's BidSync website at [www.BidSync.com](http://www.BidSync.com). Please contact Meg Buckingham, Solid Waste and Recycling Program Manager at [mbuckin@slocity.org](mailto:mbuckin@slocity.org) for any questions about the content of the RFQ.

For technical help with BidSync please contact BidSync tech support at 800 -990-9339.



## **A. INTRODUCTION**

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The City is requesting qualifications from qualified consultants to provide solid waste and recycling consultant services (“Consultant Services”). The Solid Waste and Recycling Program of the City of San Luis Obispo Utilities Department coordinates the planning, development, and implementation of programs and services related to solid waste, recycling, organics recycling, zero waste, and other waste diversion programs, but is either not adequately staffed to perform all necessary tasks to the fullest extent or require expert technical assistance.

Consultants should expect projects and tasks that will relate to meeting the legislative and regulatory requirements of Senate Bill 1383 and other solid waste and recycling related legislation; meeting the circular economy and waste diversion-related goals specified in the City’s Climate Action Plan; and management of the City’s franchise agreements for solid waste, mixed recyclables, and organics collection.

Full-time, regular staff dedicated to this program area include the Utilities Director, Deputy Director of Wastewater, Solid Waste and Recycling Program Manager, and Solid Waste and Recycling Coordinator.

The City is interested in generating a list of qualified consultants specializing in this type of work to draw from as needed.

## **B. SCOPE OF WORK**

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The City is requesting proposals for Consultant Services in a variety of solid waste and recycling related program areas to establish a list of qualified firms and individuals for contract work the City may need during a five-year period.

The City requests information regarding the qualifications of consultants and consulting firms interested in providing solid waste and recycling consultant services to the City, as needed, via an established list of on-call outside consultants (“On-call List”). The City is interested in retaining a diverse group of firms and individuals who will be placed on the On-call List to provide high-quality consulting services.

Selection of solid waste and recycling consultants is based on the qualifications and program area experience, quality of work, articulate approach to controlling costs and adhering to budgets, and effectiveness in communicating with the City.

In addition to being placed on the On-call List, selected consultants or consulting firms will enter into a Professional Services Agreement (“PSA”) (attached to this RFP in Exhibit A. PSAs for specific engagements will include (1) a written scope of work, (2) a capped “not to exceed” amount, including the circumstances under which initial payment terms may be modified; and (3) the names of the individual consultants in the consulting firm assigned to work on the matter along with their hourly rate(s), which shall be consistent with the proposal submitted for this RFQ.

Placement on the On-call List does not guarantee that the consultant or consulting firm will be engaged to provide services. Consultant Services will be used on an as-needed, case by case, or matter by matter basis.

Outside consultant services may involve one or more of the following areas:

**1. Planning Activities**

- Strategic planning
- Sustainable and zero waste planning
- Waste characterizations/audits
- Disaster debris management
- Financial: budgeting, modeling, cost and revenue studies, funding alternatives, fee development
- Facility design and evaluation
- Program design and evaluation
- Policy and ordinance development
- Grant application and management
- Organizational and informational flow system assessment and design
- Extended producer responsibility: local assessment, implementation

**2. Legislative Compliance and Outreach Assistance**

- Outreach campaigns: development, content creation, marketing
- Generator compliance: monitoring, route reviews, lid flipping, audits, assistance, custom outreach
- Stakeholder outreach: community workshops, public opinion surveys, focus groups
- Program tracking, reporting, and monitoring

**3. Operations and Performance**

- Franchise agreement/hauler contract compliance reviews
- Rate reviews and setting, audits, studies, and analysis: cost of service, fees, customer rates, payments, billing system functions, collection operations, transfer operations
- Other reviews and analysis: management, administrative function, collection system productivity, vehicle routing
- Benchmarking: metrics/standards development, enhancement strategies, tracking, monitoring
- Proposition 218 and 26 assistance, and other propositions that may become pertinent

**4. Contract Procurement, Management, and Negotiations Assistance**

- Collection system service options evaluation
- Policy and program development and analysis
- Annual rate adjustment mechanisms
- Performance standards and penalties
- Request for proposals: development, technical and financial evaluation
- Franchise agreement/hauler contracts: development, review, monitoring
- Rate models and rate structure analysis and development

**5. Any other miscellaneous projects or tasks relating to the solid waste and recycling industry**

## C. GENERAL TERMS AND CONDITIONS

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### PROPOSAL REQUIREMENTS

1. **Requirement to Meet All Provisions.** Each individual or firm submitting a proposal (“Candidate”) shall meet all the terms, and conditions of the RFQ project package. By virtue of its proposal submittal, the bidder acknowledges agreement with and acceptance of all provisions of the RFQ specifications.
2. **Proposal Submittal.** Each proposal must be submitted on the form(s) provided in Section I of these specifications and be accompanied by the other required submittals and supplemental materials. Proposal documents shall be submitted electronically via BidSync.
3. **Insurance Certificate.** Each proposal must include a certificate of insurance showing:
  - a. The insurance carrier and its A.M. Best rating.
  - b. Scope of coverage and limits.
  - c. Deductibles and self-insured retention.

The purpose of this submittal is to generally assess the adequacy of the Candidate’s insurance coverage during proposal evaluation; endorsements are not required until contract award. The City’s insurance requirements are detailed in Exhibit B.

5. **Proposal Withdrawal and Opening.** A Candidate may withdraw its proposal, without prejudice, prior to the time specified for the proposal opening, by submitting a written request to the Director of Finance for its withdrawal. No proposal received after the time specified or at any place other than that stated in the “Notice Inviting Bids/Requesting Proposals” will be considered.
6. **Submittal of One Proposal Only.** No individual or business entity of any kind shall be allowed to make or file, or to be interested as the primary submitter in more than one proposal, except an alternative proposal when specifically requested; however, an individual or business entity that has submitted a sub-proposal to a Candidate submitting a proposal, or who has quoted prices on materials to such Candidate, is not thereby disqualified from submitting a sub-proposal or from quoting prices to other Candidates submitting proposals.
7. **Communications.** All timely requests for information submitted in writing via BidSync prior to the date indicated in the RFQ will receive a response. Telephone communications with City staff are not encouraged but will be permitted. However, any such oral communication shall not be binding on the City.

### CONTRACT AWARD AND EXECUTION

8. **Proposal Retention and Award.** The City reserves the right to retain all proposals in accordance with the retention schedule (currently two years from decision for all unsuccessful proposals and five years past audit for successful ones). The City also reserves the right to waive non-substantial irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a

proposal and accept the other, except to the extent that proposals are qualified by specific limitations. See the “special terms and conditions” in Section D of these specifications for proposal evaluation and contract award criteria.

9. **Competency and Responsibility of Candidate.** The City reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Candidates. Candidates will provide, in a timely manner, all information that the City deems necessary to make such a decision.
10. **Form of Agreement.** Additional contract terms and conditions that Candidate will be expected to execute and be bound by when assigned a matter from their position on the On-Call List are listed in the Form of Agreement (Exhibit A).

#### **D. SPECIAL TERMS AND CONDITIONS**

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- 1.
2. **Term.** The On-call List created from this RFQ will be active for the five-year period, commencing on the date the Form of Agreement is executed and expiring after five (5) years.
3. **Proposal Review/ Candidate Selection to the List.** The City will develop the On-call List based upon the responses to this RFQ. Responses will be evaluated as set forth in in Section F of these specifications.
4. **Consultant Selection and Compensation.** Acceptance onto the On-Call List does not guarantee that any work will be assigned to Consultant. The decision to retain Consultant Services will be that of the City on a case-by-case basis or matter-by-matter basis. Proposed fee structures should take into account the five-year life of the On-call List, and Candidates are encouraged to include in their proposal any fee escalator information that will be relevant to cost evaluation over the life of the On-call List.
5. **Non-Exclusive Contract.** During the life of the On-call List, the City reserves the right to enter into agreements for solid waste and recycling consultant services with persons or firms who do not respond to the RFQ. The City further reserves the right to waive responses to any part of this request if, in its sole judgment, it determines that it is in the best interests of the City to do so. The City may require any Candidate to participate in negotiations and to submit such other information or documentation as it may deem necessary as conditions of awarding a contract. The City reserves the right to vary or waive requirements for different Candidates as shall fit the City’s needs for a particular type of engagement or area of representation.

#### **E. SUBMITTAL CONTENT AND FORM**

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1. **Letter of Interest (5-page maximum).** Please include in the submittal a letter introducing the Candidate and expressing the Candidate’s interest in being considered for on-call consulting services, clearly identifying the applicable sub-area(s) of interest. The letter of interest should also include all of the following:

- a. Provide the name of the entity, its mailing address, telephone, facsimile number.
- b. Please describe the organization.
- c. Indicate that the Candidate has the availability and time to dedicate the personnel and resources necessary to provide on-call consulting services.
- d. Indicate that the Candidate has the minimum qualifications listed to perform any variety of the tasks outlined in Section B.
- e. Indicate the intention of the Candidate to adhere to the provisions described in the RFQ. (If selected to provide on-call consulting services, the Candidate will be expected to sign a service provider agreement with the City.)
- f. Please identify the contact person responsible for the submittal, specifying the name, title, and contact information. Please note that the person signing the letter of interest must be a legal representative of the Candidate authorized to bind the Candidate to an agreement in the event of an award.
- g. Provide a brochure or list of relevant services that can be provided, including but not limited to services outlined in Section B.

**2. Relevant Experience of Key Personnel and the Firm (10-page maximum).**

- a. Key Personnel Experience. The submittal must identify the key personnel that is to be assigned if awarded a contract, detailing their qualifications, areas of expertise, a summary of their past experience performing similar services for other jurisdictions, and a resume of each key personnel, including experience working with City staff, local San Luis Obispo community groups and decision- makers, and regional partner agencies.
- b. Firm Experience. The submittal must describe the Firm' s pertinent project experience, including a list of performed relevant projects, past performance, individual or team accomplishments, and examples of similar work for San Luis Obispo or neighboring jurisdictions in California, including experience working with City staff, local San Luis Obispo community groups and decision- makers, and regional partner agencies.
- c. General Firm Information. General firm information including the number of employees, location of firm headquarters, branch offices, and the number of years in business may also be provided. Please note that general firm information is not a substitute for the specific information requested in the above Sections E -2a and b.
- d. Any other information that would assist us in making this award decision.

**3. Fee Structure.** Please include a clear and comprehensive fee schedule, including a detailed statement of hourly rates for all positions and classifications of individuals involved that would be necessary to render service as noted in the Scope of Work above on a project- by-project basis. Provide a list of expenses being proposed to be billed in addition to legal fees, including the basis for such expenses.

**5. Submittal of Proposal Forms.** Each Candidate shall submit completed version of the three required forms in Section I.

- a. Acknowledgement of RFQ specifications.
- b. References from at least three firms for whom you have provided similar services.
- c. Statement of Contract Disqualifications.
- d. Certificate of insurance.

**6. Additional Services.** If there are related services not otherwise identified in the City' s RFQ, the Candidate may offer those to the City. Proposals are not required to address any additional

services in order to be considered an acceptable proposal.

## **F. PROPOSAL EVALUATION AND SELECTION**

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Proposals will be evaluated by a selection panel made up of members from the Utilities Department Solid Waste and Recycling Program. The panel will score the qualification materials submitted on a zero to 100-point scale, excluding bonus points, based upon the following criteria.

Consultants who qualify will be placed on the list of qualified on-call consultants for each subarea. Placement on the list of qualified on-call consultants is not a guarantee of work and does not constitute a commitment by the City to enter into a contract with the Consultant. As appropriate, the City may conduct an additional competitive process ( e.g., solicit bids or issue Requests for Proposals) prior to awarding contracts. The City anticipates that all services will be on an as-needed or on-call basis.

1. **Letter of Interest.** Demonstrated competence and the capacity and professional qualifications necessary to provide the Consulting Services specified in the RFQ. Ability to meet standard City contract and insurance requirements.
2. **Relevant Experience.** Demonstrated ability, based on consultant experience and specific experience of key personnel, to provide technical assistance on the types of tasks listed in the RFQ. Consultants need not necessarily be experts in every task in a given sub-area in order to achieve a favorable score. Prior experience, including the ability to work with City staff, local San Luis Obispo community groups and decision- makers, and regional partner agencies. **(30 Points Maximum)**
3. **Responsiveness to the RFQ.** Presentation, completeness, and clarity of information provided.
4. **Fee Structure.** The Candidate's cost competitiveness and reasonableness. **(20 Points Maximum)**
5. **Client References. (Pass/ Fail)**
6. **Additional Information.** Information about how your company mitigates the environmental impact of its services, such as greenhouse gas emissions, amount of waste generated, water and energy use, or other areas related to your products and services.

## **G. ADDITIONAL TERMS AND CONDITIONS**

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1. **Nondiscrimination.** The City will not discriminate against any interested consultant on the grounds of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation.
2. **City's Right to Modify RFQ.** The City reserves the right at its sole discretion to modify this RFQ (including but not limited to the selection criteria) should the City deem that it is in its best interests to do so. Any changes to the proposal requirements will be made by written addendum. The failure of a consultant to read the latest addendums shall have no effect on the validity of such modification.
3. **City's Right to Cancel RFQ.** The City reserves the right at its sole discretion to cancel this RFQ in part or in its entirety should the City deem that it is in the City's best interests to do so.
4. **City's Right to Reject All Submittals.** The City reserves the right, in its sole discretion, to reject all submittals should the City deem that it is in its best interests to do so.

5. **City's Right to Extend RFQ Deadlines.** The City reserves the right to extend the deadline for submittals by written addendum should the City deem that it is in its best interests to do so.
6. **City's Right to Negotiate With Consultants.** The City reserves the right to negotiate with the consultants on the list of qualified on-call consultants regarding their exceptions to the standard service provider agreement. If any, or regarding other price and terms in their submittals and to require the selected Consultant to submit such technical, price, or other revisions of their submittals as may result from negotiations.
7. **Standard Form Service Provider Agreement & Insurance.** Consultants acknowledge that placement on the list of qualified on-call consultants does not commit the City to award a contract. For any project, the City reserves the right to award a contract to consultants 1) that are on the list of qualified on-call consultants; (2) that have an existing contract with the City, or (3) that are selected through a separate competitive process.

Consultants on the list of qualified on-call consultants who are awarded a contract will be expected to sign a service provider agreement with the City. The standard service provider agreement and associated insurance requirements are attached as Exhibit A and B. Comments or exceptions, if any, to the standard service provider agreement and/ or insurance requirements must be noted in the Letter of Interest. It is understood that consultants have reviewed the service provider agreement (Exhibit A) and will take exception only to those items identified in their Letter of Interest.

Neither review of the submittal by the City nor placement on the list of qualified on-call consultants constitutes an acceptance by the City of the Proposer's recommended changes to the service provider agreement. If there are any concerns or proposed exceptions requested to the standard service provider agreement, these issues will be discussed at the time the City awards a contract, if any.

8. **Cost of Submittals.** All costs incurred during submittal preparation or in any way associated with the Consultant's preparations or submission shall be the sole responsibility of the Candidate.
9. **Liability for Submittal Errors.** Candidates are liable for all errors and omissions contained in their submittals.
10. **Permits and Licenses.** Candidates, at their sole expense, shall obtain and maintain during the term of any agreement all appropriate permits, certificates, and licenses including, but not limited to, a City Business License, which will be required in connection with the performance of on-call consulting services.

## **H. ADDITIONAL TERMS AND CONDITIONS**

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1. **Ownership of Materials.** All original drawings, plan documents and other materials prepared by or in possession of the Consultant as part of the work or services under these specifications shall become the permanent property of the City and shall be delivered to the City upon demand.
2. **Release of Reports and Information.** Any reports, information, data, or other material given to, prepared by, or assembled by the Consultant as part of the work or services under these specifications shall be the property of the City and shall not be made available to any individual or organization by the Consultant without the prior written approval of the City.



3. **Copies of Reports and Information.** If the City requests additional copies of reports, drawings, specifications, or any other material in addition to what the Consultant is required to furnish in limited quantities as part of the work or services under these specifications, the Consultant shall provide such additional copies as are requested, and City shall compensate the Consultant for the costs of duplicating of such copies at the Consultant's direct expense.

**SECTION I: PROPOSAL SUBMITTAL FORMS**

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**1. Acknowledgement of RFQ Specifications**

The undersigned declares that she or he:

- Has carefully examined [\_\_\_\_\_], which is hereby made a part of this proposal.
- Is thoroughly familiar with its contents.
- Is authorized to represent the proposing firm.
- Agrees to perform the work as set forth in this proposal.

Certificate of insurance attached; insurance company's A.M. Best rating: \_\_\_\_\_.

***Firm Name and Address***

<i>Contact</i>	<i>Phone</i>

***Signature of Authorized Representative***

	<i>Date</i>
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## 2. References

Number of years engaged in providing the services included within the scope of the specifications under the present business name: \_\_\_\_\_.

Describe fully the last three contracts performed by your firm that demonstrate your ability to provide the services included with the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

### Reference No. 1:

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

### Reference No. 2:

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	

**Reference No. 3**

Agency Name	
Contact Name	
Telephone & Email	
Street Address	
City, State, Zip Code	
Description of services provided including contract amount, when provided and project outcome	



**EXHIBIT A : DRAFT FORM OF AGREEMENT**

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**CITY OF SAN LUIS OBISPO  
PROFESSIONAL SERVICES AGREEMENT**

This agreement (Agreement) is made and entered into in the City of San Luis Obispo on \_\_\_\_\_, by and between the City of San Luis Obispo, a municipal corporation and charter city (City) and [FILL] hereinafter referred to as Contractor (collectively referred to as the “Parties”).

**WITNESSETH:**

WHEREAS, on [date], City requested proposals for solid waste and recycling on-call consulting services; and

WHEREAS, the City wants to utilize consultant services for projects relating to utilize consultant services for projects and tasks relating to solid waste and recycling legislation, meeting the circular economy and waste diversion-related goals specified in the City’s Climate Action Plan, and management of the City’s franchise agreements for solid waste, mixed recyclables, and organics collection (the “Services”); and

WHEREAS, Consultant is qualified to perform this type of Services and has submitted a written proposal to do so, which has been accepted by City; and

NOW, THEREFORE, in consideration of their mutual promises, obligations, and covenants hereinafter contained, the Parties hereto agree as follows:

1. **TERM.** The term of this Agreement shall be from the date this Agreement is made and entered, as first written above with a duration of five (5) years.
2. **INCORPORATION BY REFERENCE.** The City Request for Qualifications for on-call services and Consultant's proposal dated [date] are hereby incorporated in and made a part of this Agreement, attached as Exhibit A. The City’s insurance requirements are hereby incorporated in and made part of this Agreement, attached as Exhibit B. To the extent that there are any conflicts between the Consultant’s fees and scope of work and the City’s terms and conditions as stated herein, the City’s terms and conditions shall prevail unless specifically agreed otherwise in writing signed by both Parties.
3. **CITY’S OBLIGATIONS.** For providing services as specified in this Agreement, City will pay and Consultant shall receive therefor compensation in accordance with the Consultant’s submitted rates in the RFQ.
4. **CONSULTANT’S OBLIGATIONS.** For and in consideration of the payments and agreements herein before mentioned to be made and performed by City, Consultant agrees with City to do everything required by this Agreement including that work as set forth in Exhibit A.
5. **PAYMENT OF TAXES.** The contract prices shall include full compensation for all taxes that Consultant is required to pay.
6. **LICENSES AND PERMITS.** 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. The Consultant shall procure all permits and licenses, pay all charges and fees, and give all notices necessary under this Agreement.

7. **COMPLIANCE WITH LAW.** The Consultant shall keep itself informed of and shall observe and comply with all applicable State and Federal laws and regulations, and county and City of San Luis Obispo ordinances, regulations and adopted codes, which in any manner affect those employed by Consultant or in any way affect the performance of the Services pursuant to this Agreement. The City, 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. Failure to comply with local ordinances may result in monetary fines and cancellation of this Agreement.
8. **COMPLIANCE WITH INDUSTRY STANDARD.** Consultant shall provide services acceptable to City in strict conformance with the Agreement. Consultant shall also provide in accordance with the standards customarily called for under this Agreement using the degree of care and skill ordinarily exercised by reputable providers of such services. Where approval by the City, the City Manager, the Mayor, or other representative of City is required, it is understood to be general approval only and does not relieve Consultant of responsibility for complying with all applicable laws, codes, policies, regulations, and good business practices.
9. **INDEPENDENT CONTRACTOR.**
  - a. Consultant is and shall at all times remain as to the City a wholly 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 City 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 City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatsoever against City, or bind City 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, City shall not pay salaries, wages, or other compensation to Consultant for performing the Services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.
10. **PRESERVATION OF CITY PROPERTY.** The Consultant shall provide and install suitable safeguards, approved by the City, to protect City property from injury or damage. If City property is injured or damaged resulting from Consultant's operations, it shall be replaced or restored at Consultant's expense. The City's facilities shall be replaced or restored to a condition as good as when the Consultant began the work.
11. **IMMIGRATION ACT OF 1986.** The Consultant warrants on behalf of itself and all subconsultants engaged for the performance of the Services that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the Services hereunder.
12. **NON-DISCRIMINATION.** In the performance of the Services, the Consultant agrees that it will not engage in, nor permit such subconsultants as it may employ, to engage in discrimination in

employment of persons because of age, race, color, sex, national origin or ancestry, sexual orientation, or religion of such persons.

13. **PAYMENT TERMS.** The City's payment terms are 30 days from the receipt of an original invoice and acceptance by the City of the materials, supplies, equipment, or services provided by the Consultant (Net 30). 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. Final June invoices shall be received no later than the 5th business day of July to meet City fiscal year-end deadlines. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City 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.
14. **INSPECTION.** City shall at all times have the right to inspect the work being done under this Agreement and Consultant shall furnish City with every reasonable opportunity and assistance required for City to ascertain that the Services of the Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done, and all materials furnished, if any, shall be subject to the City's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations under the Agreement.
15. **RELEASE OF INFORMATION.**
  - a. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not, without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.
  - b. Consultant shall promptly notify City 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, unless the City is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless Consultant is prohibited by law from informing the City of such Discovery. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless City is a party to the lawsuit, arbitration, or administrative proceeding and is averse to Consultant in such proceeding, Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to Discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.
16. **OWNERSHIP OF DOCUMENTS.**

- a. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relate to the performance of the 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 City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City 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 under this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to City 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.
17. **INDEMNIFICATION AND DEFENSE.** To the fullest extent permitted by law (including, but not limited to California Civil Code Sections 2782 and 2782.8), Consultant shall indemnify, defend, and hold harmless the City, and its elected officials, officers, employees, volunteers, and agents ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Consultant's performance or Consultant's failure to perform its obligations under this Agreement or out of the operations conducted by Consultant, including the City's passive negligence, except for such loss or damage arising from the sole or active negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant's performance of this Agreement, the Consultant shall provide a defense to the City Indemnitees or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal fees, incurred in defense of such claims.
18. **SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE.**
  - a. The City 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 thirty (30) 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 City 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 City 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 City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 14.

19. **TERMINATION FOR CAUSE.** If, during the term of the Agreement, the City determines the Consultant is not faithfully abiding by any term or condition contained herein, the City may notify the Consultant in writing of such defect or failure to perform. This notice must give the Consultant a ten (10) calendar day notice of time thereafter in which to perform said work or cure the deficiency.

- a. If the Consultant has not performed the work or cured the deficiency within the ten (10) days specified in the notice, such shall constitute a breach of the Agreement and the City may terminate the Agreement immediately by written notice to the Consultant to said effect ("Notice of Termination"). Thereafter, neither party shall have any further duties, obligations, responsibilities, or rights under the Agreement except to comply with the obligations upon termination.
- b. In said event, the Consultant shall be entitled to the reasonable value of its services performed from the beginning date in which the breach occurs up to the day it received the City's Notice of Termination, minus any offset from such payment representing the City's damages from such breach. "Reasonable value" includes fees or charges for goods or services as of the last milestone or task satisfactorily delivered or completed by the Consultant as may be set forth in the Agreement payment schedule; compensation for any other work or services performed or provided by the Consultant shall be based solely on the City's assessment of the value of the work-in-progress in completing the overall scope.
- c. The City reserves the right to delay such payment until completion or confirmed abandonment of the project, as may be determined in the City's sole discretion, so as to permit a full and complete accounting of costs. In no event, however, shall the Consultant be entitled to receive in excess of the not to exceed amount shown in this Agreement.

20. **INSURANCE.** Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and made part of this Agreement.

21. **BUSINESS LICENSE & TAX.** The Consultant must have a valid City of San Luis Obispo business license & tax certificate before execution of the contract. Additional information regarding the City's business tax program may be obtained by calling (805) 781-7134.

22. **SAFETY PROVISIONS.** The Consultant shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.

23. **PUBLIC AND EMPLOYEE SAFETY.** Whenever the Consultant operations create a condition hazardous to the public or City employees, it shall, at its expense and without cost to the City, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.

24. **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 City 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 City 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 City to any and all remedies at law or in equity.
25. **ASSIGNMENT.** The Consultant shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City.
- a. As required above, before retaining or contracting with any subconsultant for any services under this Agreement, City must consent to such assignment of performance in writing. For City to evaluate such proposed assignment, Consultant shall provide City with the identity of the proposed subconsultant, a copy of the proposed written contract between Consultant and such subconsultant, which shall include an indemnity provision similar to the one provided herein and identifying City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from City for such insurance.
26. **AMENDMENT.** Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by the appropriate review authority according to the City's Financial Management Manual. 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 by the City in advance and in writing.
27. **COMPLETE AGREEMENT.** This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete Agreement between the Parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral Agreement, understanding, or representation be binding upon the Parties hereto. 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.
28. **NOTICE.** All notices to the Parties hereto under this Agreement shall be in writing and shall be sent either by (i) personal service, (ii) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) United States Mail, certified, postage prepaid, return receipt requested. All such notices shall be delivered to the addressee or addressed as set forth below:

To City: [DEPT]  
City of San Luis Obispo  
[ADDRESS]

To Consultant: Name

Mailing Address

29. **GOVERNING LAW.** Any action arising out of this Agreement shall be brought in the Superior Court of San Luis Obispo County, California, regardless of where else venue may lie. The validity, interpretation, construction and performance of this Agreement, and all acts and transactions pursuant hereto and the rights and obligations of the Parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of California, without giving effect to principles of conflicts of law.
30. **AUTHORITY TO EXECUTE AGREEMENT.** Both City and Consultant do covenant that each individual executing this Agreement on behalf of each party is a person duly authorized and empowered to execute Agreements for such party.

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

CITY	CONSULTANT
<hr/> By: [Name] Its: [Title of City Manager or Department Head]	<hr/> By: [Name] Its: [Title]
APPROVED AS TO FORM:	
<hr/> By: J. Christine Dietrick, City Attorney	

## **EXHIBIT B: INSURANCE REQUIREMENTS**

### **Insurance Requirements – Standard Professional Services**

The Contractor 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 the Contractor, its agents, representatives, employees or subcontractors.

**Minimum Scope of Insurance.** Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

**Minimum Limits of Insurance.** Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit of \$2,000,000.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

**Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**Other Insurance Provisions.** The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, official, employees, agents or volunteers.
2. For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

**Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

**Verification of Coverage.** Contractor shall furnish the City with a certificate of insurance showing maintenance of the required insurance coverage. Original endorsements effecting general liability and automobile liability coverage required by this clause must also be provided. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.