



CITY OF SEAL BEACH

REQUEST FOR PROPOSAL

for a

Local Hazard Mitigation Plan

August 1, 2017

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I. General Information

The City of Seal Beach, California is seeking a qualified consultant to coordinate, facilitate, and prepare a new City of Seal Beach Local Hazard Mitigation Plan (LHMP) pursuant to the Disaster Mitigation Act of 2000, implementing regulations and guidance as they apply to local governments. The plan will be consistent with the State of California's FEMA-approved mitigation plan. Seal Beach is a beach community that has unique features, topography, coastline and a military base. A FEMA-approved plan will help identify mitigation actions that will make the City of Seal Beach and plan participants more disaster resistant. The City of Seal Beach has obtained a FEMA grant for the development of this LHMP.

This will be an inclusive citywide planning process and will include the following participants seeking FEMA approval of the Plan: City of Seal Beach, local districts, agencies, and other stakeholders will be invited to participate in the plan development process as members of the planning committee.

Consultant shall submit their proposals to the City of Seal Beach Police Department by **5:00p.m. on August 29, 2017.**

II. Receipt of Proposals

Interested parties should provide the following reproductions of proposals, signed by an officer of the firm who is authorized to execute legally binding agreements:

- Three (3) bound copies of the proposal
- Flash drive with PDF copy of proposal

The proposals shall be delivered to:

Michael Henderson,
Operations Administrative Sergeant
Seal Beach Police Department
911 Seal Beach Bl.
Seal Beach, CA 90740

III. Requests for Information (RFI)

Should a Consultant require additional information prior to submitting a proposal, please send requests to Michael Henderson via email at mhenderson@sealbeachca.gov. Responses will be posted on the City website in the form of an Addendum. The deadline to submit an RFI is **5:00 p.m. on August 15, 2017.**

IV. City Information

Located in northwestern Orange County, the City of Seal Beach is situated along the coast of the Pacific Ocean between the cities of Huntington Beach and Long Beach; other neighboring communities include the cities of Los Alamitos, Garden Grove, and Westminster, and the unincorporated community of Rossmore. Seal Beach covers approximately 11.15 square miles, over 8 of which (approximately 73% of the city) is occupied by the Naval Weapons Station Seal Beach, which includes the Seal Beach National Wildlife Refuge. The climate in Seal Beach is a Mediterranean climate typical of many communities along the California coast, with average annual temperatures between 55 and 75 degrees, and approximately 13 inches of rain annually.

Seal Beach extends a maximum of approximately 5 miles inland and is quite flat. The San Gabriel River flows into the ocean along the city's western border with Long Beach, forming an outlet commonly known as Stingray Bay. Flood control channels define much of the city's western and southern border before draining into the Anaheim Bay estuary near the Seal Beach National Wildlife Refuge. The coastal areas of Seal Beach are served by California State Highway 1 (the Pacific Coast Highway), while the northern part of the community is served by Interstate 405 (the San Diego Freeway). Seal Beach currently serves an approximate population of 25,000 people. In addition to residents, Seal Beach welcomes a large tourist population to enjoy the beaches, shops and restaurants. The City of Seal Beach operates under a City Council - City Manager form of government. The City is a full-service municipality, including police and marine safety with the Orange County Fire Authority providing contract fire services.



V. Scope of Work

The Scope of work for this project is organized into four phases: 1) LHMP Planning/Development Process; 2) Risk Assessment (Hazard Identification, Vulnerability Assessment, and Capability Assessment); 3) Hazard Mitigation Strategy; and 4) Plan Maintenance Process

LHMP Planning/Development Process

As part of the LHMP planning and development process, the City of Seal Beach will organize a Hazard Mitigation Planning Committee (HMPC). Members of the HMPC will include representatives from each participating jurisdiction; staff with other local, state, and federal agencies; take the “whole community” approach including non-profits, religious institutions, disability access and functional needs groups, experts, or members of the public; and may also include a cross-section of the community, such as residents, community leaders, and business owners. The public will also be invited to participate on the HMPC. The HMPC will:

- Participate in the planning process, attend meetings, and provide data as requested
- Solicit input from citizens and professionals with knowledge of applicable hazards
- Provide input on how the risk differs across the planning area
- Identify new/proposed mitigation projects
- Review drafts of the plan
- Hold public meetings
- Coordinate the formal adoption of the plan by governing boards
- Manage the implementation of the proposed mitigation projects.

The consultant shall facilitate a minimum of three public meetings. Each meeting will focus on educating the public on the LHMP development process and identify community concerns. The consultant shall provide content to post on the City’s webpage and social media platforms. When a final draft LHMP is developed, the public will be invited to review and provide comments to the current draft. Public comments will be incorporated as appropriate by the consultant.

- Note: For security reasons, all critical infrastructure protection information will need to be redacted from the plan prior to dissemination or presentation to the public.

The City of Seal Beach LHMP will thoroughly document the hazard mitigation planning process, including but not limited to:

- A narrative description of how the plan was prepared and the process followed
- An outline of plan development meeting dates, attendees, and agendas
- Identify agencies and organizations that participated in plan development
- Coordination with existing planning mechanisms
- Description of how the public was involved and strategy for public outreach/meetings

Risk Assessment (Hazard Identification, Vulnerability Assessment, and Capability Assessment)

A detailed risk assessment will be developed for this LHMP. The purpose of this section is to understand the risk and vulnerability of identified natural hazards and to provide a basis for hazard

mitigation strategy development. The risk assessment will include:

- a) Hazard Identification and Profiles:** The Hazard Identification and Profiles will include a description and prioritization of the hazards that have occurred within the City. The hazard categories may include:
 - Flood-related hazards
 - Wildfire hazards
 - Earthquake hazards
 - Severe weather-related hazards (extreme temperatures, drought, fog, heavy rains/thunderstorms, wind/lightning, etc.)
 - Nuclear hazards
 - Climate change hazards
 - Other man-made hazards
 - Other geologic and soil hazards
 - Other hazards as identified by the HMPC and other data sources
- b) Hazard Mapping:** Using the best available data, the risk assessment will include maps (hazard and infrastructure maps will be provided by the consultant) that delineate areas affected by hazards and identify locations of local assets. The geographic information data will comprise a comprehensive inventory for use in developing map data layers (to the extent data is available), of the following items relative to the multiple hazard area:
 - Public buildings
 - Critical facilities and infrastructure
 - Maps that depict the location of parcels, structures, land use, and populations
 - Structures will be delineated by type of use (e.g. residential, commercial, industrial, etc.)
- c) Vulnerability Assessment:** Based on the previous information, the Consultant will develop an overview of the City's vulnerability to specific hazards. Digital maps and GIS data (provided by the consultant) will be developed that identify local assets that are located within known hazard areas. HAZUS will be used to model losses as appropriate. This vulnerability assessment will include (as the data allows):
 - Types and numbers of buildings, infrastructure, and critical facilities located within the planning area and within identified hazard areas
 - An inventory of all repetitive flood loss structures, as defined by FEMA, if applicable
 - Potential dollar losses from identified hazards will be estimated through a process that utilizes HAZUS or GIS analysis of County assessor's data with hazard locations
 - Description of land uses and development trends to advise future land use decisions
- d) Capability Assessment:** A capability assessment will be conducted that will inventory those existing plans, policies, and procedures that the City has in place to temper the effect of hazards. This will include protective measures under the National Flood Insurance Program (NFIP), building codes, zoning ordinances, completed or ongoing mitigation projects, and mitigation policies established in the general or comprehensive plans of participating jurisdictions.

Hazard Mitigation Strategy

The LHMP will include a mitigation strategy to address its exposure to identified hazards. This will require meetings of the HMPC, facilitated by the consultant, and include:

- a) Developing mitigation goal statements that focus on reducing the risk and vulnerability from the identified hazards.
- b) Developing a comprehensive range of specific mitigation actions items being considered to reduce the effects of each hazard, based on the risk assessment. The range of potential action items will include emphasis on mitigating losses for new and existing buildings and infrastructure and for future development areas. This section will include a list of prioritized hazard mitigation action items that best meet the City of Seal Beach's needs for hazard damage reduction. Prioritization factors will include an analysis of proposed mitigation projects focused on several key areas, including but not limited to economic (including benefits and cost), engineering, technical, legal, environmental, social, and political feasibility. Action items given the highest priority will meet most or all aspects of the feasibility analysis and will be the best fit for the City of Seal Beach and all plan participants.
- c) Based on previous tasks, a draft plan will be prepared in accordance with state and federal requirements. The Consultant will ensure that each required component for each plan participant is included in the Plan. The draft plan will be made available to the HMPC for review and comment. The Consultant will incorporate HMPC comments and prepare a public review draft to be distributed to interested parties.

Hazard Mitigation Plan Maintenance Process

- a) **Monitoring, Evaluating, and Updating:** This chapter will detail how the City of Seal Beach HMPC will monitor, evaluate, implement, and update the Plan. For example, maintenance will occur at an annual meeting of the HMPC where the LHMP mitigation strategy and implementation progress will be evaluated and modified as appropriate. The Plan will be revised, updated, and readopted every five years in accordance with the requirements of the Disaster Mitigation Act of 2000.
- b) **Incorporation into Existing Planning Mechanisms:** The City of Seal Beach will implement and incorporate hazard mitigation plan goals and actions into other local planning documents, such as the local emergency operations plan, community wildfire protection plans, storm water plans, etc. Incorporation of the LHMP into the Safety Element of the General Plan for the City will be emphasized.
- c) **Implementation Schedule:** The completed LHMP will include procedures for ensuring the Plan's implementation, including an implementation schedule for each action item.
- d) **Continued Public Involvement:** The City of Seal Beach is committed to continued public involvement in the LHMP development, maintenance, and future updates. A description of public involvement activities for the Plan will be included.
- e) **Final Plan:** The Consultant will collect and incorporate public comments to the public review draft, make all necessary revisions, and will prepare a Final Plan for submittal to Cal OES and FEMA Region IX for review and approval. The Consultant is responsible for all plan revisions from Cal OES, FEMA, or the City of Seal Beach until it is adopted by Seal Beach City Council.
- f) **LHMP Adoption and Approval:** The governing body of each participating jurisdiction will adopt the LHMP upon approval of the Plan from Cal OES and FEMA Region IX.

VI. Contents of Proposal

The City does not require consultants to prepare proposals in any particular format. It is anticipated that consultants develop their own proposals in a manner best suited to represent their particular organization. However, all requirements and items listed in this RFP must be addressed and confirmed.

Proposals shall be concise and not exceed twenty-five (25) pages excluding covers and resumes. Consultants are discouraged from using general company advertising literature such as brochures, unless directly related and referenced in the proposal.

Proposals shall include, at minimum, the following:

- a. Understanding - Consultant shall discuss their understanding of the requested services as described in this document.
- b. Project Team – Consultant shall prepare a Project Organization Chart showing the relationship between each team member and subconsultants, and communication lines with City Project Manager. Consultant shall include one-page resumes of key project personnel. Resumes shall be included in the proposal appendices.

Include a written statement acknowledging that the individuals included in the Project Organization Chart will perform the work and that team members will not be replaced or removed from the team without written approval from the City.

- c. Project Experience – Consultant shall provide descriptions of previous projects completed by the firm's current employees of similar type, size and scope. Projects shall include date of completion and client reference information.
- d. Project Approach – Consultant shall provide a write-up on how they propose to meet the project objectives, any anticipated problems that may be encountered, and how each problem will be addressed. Consultants shall state any assumptions made for their proposal.
- e. Project Schedule - Include a detailed preliminary design schedule incorporating all anticipated milestone dates, meetings, and document review periods.
- f. Project Cost - Shall include all incidentals and per diem charges. No additional reimbursement will be provided for incidentals and/or per diems such as mileage, miscellaneous fees, prints, lodging, insurance, meals or mark-ups. A detailed cost proposal to include milestones and deliverables shall be outlined in the "scope of work".
- g. Acceptance of City Professional Services Agreement - A copy of the City's Professional Services Agreement is included in the Appendix for review. The Consultant is required to obtain and maintain coverage for the listed insurance policies throughout the project. The Consultant shall state whether or not they agree to the contract language and should identify any discrepancies.

VII. Addendum

All responses to RFI's will be provided to Consultant electronically via addendum. The Consultant shall note on the proposal cover letter acknowledgement and agreement to all addenda issued by the City.

VIII. Contract Award

Selected Consultant shall enter into a written contract with the City of Seal Beach binding all terms and conditions of the proposal and items negotiated prior to award of contract. Contract period shall be for the entire duration of the project unless modified.

IX. Proposal Development

By submitting a proposal, the Consultant agrees that the costs to prepare and submit a proposal will be the responsibility of the Consultant.

X. Non-Obligation

This Request for Proposal (RFP) shall not be construed to create an obligation on part of the City of Seal Beach to enter into a contract with a Consultant. The RFP is for solicitation of proposals only. The City reserves the right to reject any and all proposals or to accept the proposal that, in the supposition of the City, is of most value.

XI. Selection Criteria

The City will evaluate proposals based on the Consultant's response to all items of this RFP. The following serves to list some of the criteria that may be used in the evaluation and comparison of proposals as well as the importance of each selection criteria.

- a. Project Understanding (5%)
- b. Qualifications of the Project Team (15%)
- c. Relative Project Experience (15%)
- d. Project Approach and Proposal Contents (50%)
- e. Proposed Cost (15%)

XII. Selection Procedures

Proposals will be thoroughly reviewed by City of Seal Beach staff and evaluated specifically on proposal content. Should the need arise, the City will conduct interviews with the top three prospective firms prior to selection. Compensation and rates discussed with Consultants will not be disclosed to other candidates. When the final selection is made and all terms of the contract have been established, a recommendation of award will be made to City Council.

XIII. Schedule

The following dates are estimates. The City shall not be held responsible for any changes in the schedule shown below. Any schedule change affecting the RFP submittal will be distributed via addendum.

- | | |
|--------------------------|--------------------|
| a. Advertisement of RFP | August 1, 2017 |
| b. RFI Due Date | August 15, 2017 |
| c. Proposals Due | August 29, 2017 |
| d. City Council Approval | September 25, 2017 |
| e. Contract Execution | October 3, 2017 |
| f. Notice to Proceed | October 10, 2017 |

APPENDIX

City of Seal Beach Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

Between



City of Seal Beach
211 8th Street
Seal Beach, CA 90740

&

[Consultant's Name]
[Consultant's Address]
[Consultant's Phone Number]

This Professional Service Agreement ("the Agreement") is made as of [REDACTED], 2017 (the "Effective Date"), by and between [REDACTED] ("Consultant"), a [REDACTED], and the City of Seal Beach ("City"), a California charter city, (collectively, "the Parties").

RECITALS

- A. City desires certain professional services.
- B. Consultant represents that it is qualified and able to provide City with such services.

NOW THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereto agree as follows.

AGREEMENT

1.0 Scope of Services

1.1. Consultant shall provide those services ("Services") set forth in the attached **Exhibit A**, which is hereby incorporated by this reference. To the extent that there is any conflict between Exhibit A and this Agreement, this Agreement shall control.

1.2. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

1.3. In performing this Agreement, Consultant shall comply with all applicable provisions of federal, state, and local law.

1.4. Consultant will not be compensated for any work performed not specified in the Scope of Services unless the City authorizes such work in advance and in writing. The City Manager may authorize extra work to fund unforeseen conditions up to the amount approved at the time of award by the City Council. Payment for additional work in excess of this amount requires prior City Council authorization.

2.0 Term

This term of this Agreement shall commence as of the Effective Date and shall continue for a term of years unless previously terminated as provided by this Agreement.

3.0 Consultant's Compensation

City will pay Consultant in accordance with the hourly rates shown on the fee schedule set forth in **Exhibit ___** for Services but in no event will the City pay more than \$. Any additional work authorized by the City pursuant to

Section 1.4 will be compensated in accordance with the fee schedule set forth in Exhibit ____.

4.0 Method of Payment

4.1. Consultant shall submit to City monthly invoices for all services rendered pursuant to this Agreement. Such invoices shall be submitted within 15 days of the end of the month during which the services were rendered and shall describe in detail the services rendered during the period, the days worked, number of hours worked, the hourly rates charged, and the services performed for each day in the period. City will pay Consultant within 30 days of receiving Consultant's invoice. City will not withhold any applicable federal or state payroll and other required taxes, or other authorized deductions from payments made to Consultant.

4.2. Upon 24-hour notice from City, Consultant shall allow City or City's agents or representatives to inspect at Consultant's offices during reasonable business hours all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement. City's rights under this Section 4.2 shall survive for two years following the termination of this Agreement.

5.0 Termination

5.1. This Agreement may be terminated by City, without cause, or by Consultant based on reasonable cause, upon giving the other party written notice thereof not less than 30 days prior to the date of termination.

5.2. This Agreement may be terminated by City upon 10 days' notice to Consultant if Consultant fails to provide satisfactory evidence of renewal or replacement of comprehensive general liability insurance as required by this Agreement at least 20 days before the expiration date of the previous policy.

6.0 Party Representatives

6.1. The City Manager is the City's representative for purposes of this Agreement.

6.2. _____ is the Consultant's primary representative for purposes of this Agreement.

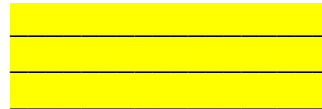

7.0 Notices

7.1. All notices permitted or required under this Agreement shall be deemed made when personally delivered or when mailed 48 hours after deposit

in the United States Mail, first class postage prepaid and addressed to the party at the following addresses:

To City: City of Seal Beach
211 8th Street
Seal Beach, California 90740
Attn: City Manager

To Consultant:


Attn: 

7.2. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

8.0 Independent Contractor

8.1. Consultant is an independent contractor and not an employee of the City. All services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the services. Any additional personnel performing services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

8.2. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

9.0 Subcontractors

No portion of this Agreement shall be subcontracted without the prior written approval of the City. Consultant is fully responsible to City for the performance of any and all subcontractors.

10.0 Assignment

Consultant shall not assign or transfer any interest in this Agreement whether by assignment or novation, without the prior written consent of City. Any purported assignment without such consent shall be void and without effect.

11.0 Insurance

11.1. Consultant shall not commence work under this Agreement until it has provided evidence satisfactory to the City that Consultant has secured all insurance required under this Section. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements shall be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

11.2. Consultant shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of this Agreement. Insurance is to be placed with insurers with a current A.M. Best's rating no less than **A:VIII**, licensed to do business in California, and satisfactory to the City. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and, if required by the City, (3) Professional Liability. Consultant shall maintain limits no less than: (1) General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage and if Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and (3) Professional Liability: \$1,000,000 per claim/aggregate.

11.3. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to state: (1) coverage shall not be suspended, voided, reduced or canceled except after 30 days prior written notice by certified mail, return receipt requested, has been given to the City; (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect

coverage provided to the City, its directors, officials, officers, (3) coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage and that any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it; (4) for general liability insurance, that the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (5) for automobile liability, that the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible.

11.4. All insurance required by this Section shall contain standard separation of insureds provisions and shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents, and volunteers.

11.5. Any deductibles or self-insured retentions shall be declared to and approved by the City. Consultant guarantees that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents, and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

12.0 Indemnification, Hold Harmless, and Duty to Defend

Consultant shall defend, indemnify, and hold the City, its officials, officers, employees, volunteers and agents serving as independent contractors in the role of city officials (collectively "Indemnitees") free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any acts or omissions of Consultant, its employees, or its agents in connection with the performance of this Agreement, including without limitation the payment of all consequential damages and attorneys' fees and other related costs and expenses, except for such loss or damage arising from the sole negligence or willful misconduct of the City. With respect to any and all such aforesaid suits, actions, or other legal proceedings of every kind that may be brought or instituted against Indemnitees, Consultant shall defend Indemnitees, at Consultant's own cost, expense, and risk, and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Consultant shall reimburse City and its directors, officials, officers,

employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its directors, officials, officers, employees, agents or volunteers. All duties of Consultant under this Section shall survive termination of this Agreement.

13.0 Equal Opportunity

Consultant affirmatively represents that it is an equal opportunity employer. Consultant shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, sexual orientation, or age. Such non-discrimination includes, but is not limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

14.0 Labor Certification

By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code that require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

15.0 Entire Agreement

This Agreement contains the entire agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings, or agreements. This Agreement may only be modified by a writing signed by both parties.

16.0 Severability

The invalidity in whole or in part of any provisions of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

17.0 Governing Law

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

18.0 No Third Party Rights

No third party shall be deemed to have any rights hereunder against either party as a result of this Agreement.

19.0 Waiver

No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

20.0 Prohibited Interests; Conflict of Interest

20.1. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the Services, or which would conflict in any manner with the performance of the Services. Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Consultant shall avoid the appearance of having any interest, which would conflict in any manner with the performance of the Services. Consultant shall not accept any employment or representation during the term of this Agreement which is or may likely make Consultant "financially interested" (as provided in California Government Code §§1090 and 87100) in any decision made by City on any matter in connection with which Consultant has been retained.

20.2. Consultant further warrants and maintains that it has not employed or retained any person or entity, other than a bona fide employee working exclusively for Consultant, to solicit or obtain this Agreement. Nor has Consultant paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Consultant, any fee, commission, gift, percentage, or any other consideration contingent upon the execution of this Agreement. Upon any breach or violation of this warranty, City shall have the right, at its sole and absolute discretion, to terminate this Agreement without further liability, or to deduct from any sums payable to Consultant hereunder the full amount or value of any such fee, commission, percentage or gift.

20.3. Consultant warrants and maintains that it has no knowledge that any officer or employee of City has any interest, whether contractual, non-contractual, financial, proprietary, or otherwise, in this transaction or in the business of Consultant, and that if any such interest comes to the knowledge of Consultant at any time during the term of this Agreement, Consultant shall immediately make a complete, written disclosure of such interest to City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws as described in this subsection.

21.0 Attorneys' Fees

If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement,

the prevailing party in such litigation shall be entitled to have and recover from the losing party all of its attorneys' fees and other costs incurred in connection therewith.

22.0 Exhibits

All exhibits referenced in this Agreement are hereby incorporated into the Agreement as if set forth in full herein. In the event of any material discrepancy between the terms of any exhibit so incorporated and the terms of this Agreement, the terms of this Agreement shall control.

23.0 Corporate Authority

The person executing this Agreement on behalf of Consultant warrants that he or she is duly authorized to execute this Agreement on behalf of said Party and that by his or her execution, the Consultant is formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties hereto, through their respective authorized representatives have executed this Agreement as of the date and year first above written.

CITY OF SEAL BEACH

CONSULTANT

By: _____
Jill R. Ingram, City Manager

By: _____

Name: _____

Attest:

Its: _____

By: _____
Robin L. Roberts, City Clerk

By: _____

Name: _____

Approved as to Form:

Its: _____

By: _____
Craig A. Steele, City Attorney