

Purchasing Division

300 West Third Street
Oxnard, CA 93030
(805) 385-538
www.oxnard.org



December 27, 2016

Ladies and Gentlemen:

The City of Oxnard invites proposals from qualified firms that specialize in providing Polygraph Services for the Oxnard Police Department.

This request for proposal is made up of the following sections: A. Instructions to Proposers, B. General Terms and Conditions, C. Scope of Services, D. Response Requirements, and two (2) Attachments which include a sample of a consulting services agreement, and insurance requirements. Proposers will be responsible to carefully examine the requirements contained herein.

Proposals will be received in the City of Oxnard Purchasing Office located at 300 W. Third St., Second Floor, Oxnard, CA 93030 by 5:00 p.m. on Monday, January 23, 2017. A copy of the requirements, specifications and proposal documents may be obtained from the Purchasing Office or may be obtained at the City's website: <http://www.oxnard.org>. The envelope containing your proposal must be sealed and marked "**RFP - Polygraph Services**". Proposals will not be opened publicly.

If you have any questions regarding this request for proposal, please call me at (805) 385-7538 or email: Patricia.garcia@oxnard.org.

Sincerely,

A handwritten signature in blue ink that reads "Patricia Garcia".

Patricia Garcia
Buyer
City of Oxnard

CITY OF OXNARD
POLICE DEPARTMENT

REQUEST FOR PROPOSALS (RFP)

FOR

POLYGRAPH SERVICES

**PROPOSALS MAY BE MAILED
OR DELIVERED IN PERSON
TO THE PURCHASING OFFICE AT
300 WEST THIRD ST., SECOND FLOOR, OXNARD, CA 93030**

**PROPOSALS MUST BE RECEIVED BY 5:00 P.M.
ON THE DATE INDICATED BELOW:**

JANUARY 23, 2017

**CITY OF OXNARD
REQUEST FOR PROPOSALS
FOR POLYGRAPH SERVICES**

Proposed Timeline

DATE	ACTIVITY
December 27, 2016	Release of Request for Proposal (RFP)
January 23, 2017	Submission of the Proposal is due to the City of Oxnard Purchasing Division by <u>5:00 p.m.</u>
January 24 – January 28, 2017	Review of Proposals
January 30, 2017	Agreement Development
February 7, 2017	Contract Compliance approval
March 1, 2017	Contracted work begins

The above dates are tentative and are subject to change as necessary.

**CITY OF OXNARD
REQUEST FOR PROPOSAL
FOR POLYGRAPH SERVICES**

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**CITY OF OXNARD
REQUEST FOR PROPOSAL
FOR POLYGRAPH SERVICES**

INSTRUCTIONS TO PROPOSERS

RECEIPT AND OPENING OF PROPOSALS

The City of Oxnard (“City”) invites proposals from qualified firms that specialize in Polygraph Services described in the Request for Proposal (“RFP”). The City will receive proposals at its Purchasing Office located at 300 West Third Street, Second Floor, Oxnard, CA 93030 by **5:00 p.m. on Monday, January 23, 2017.**

At the proposer’s option, proposals may be submitted via email in .pdf format to Patricia.garcia@oxnard.org **OR** an envelope containing one (1) executed original of the proposal and three (3) signed copies. The envelope containing the proposal must be sealed and addressed to the City’s Purchasing Office at the address listed above and to the attention of Patricia Garcia, who is the City’s Buyer. The envelope must show the Proposer’s name and address and must be marked “ **RFP - Polygraph Services**”.

Any proposal received after the established closing date and time will not be accepted. The time of delivery shall be determined by the timestamp located at the Buyer’s office. Proposers are solely responsible for ensuring that their proposals are received in proper time, and Proposers assume all risks arising out of their chosen means of delivery. Proposals may be withdrawn upon written request at any time prior to the time stated for closing of proposal but shall not be considered timely submitted unless returned by the deadline listed above. The Proposer or the Proposer’s authorized agent must sign such request.

Proposals will not be opened publicly. Proposal results will be available after proposals have been reviewed.

EXAMINATION OF REQUIREMENTS

Each proposer must carefully examine the requirements contained herein. Once the proposer submits a proposal, that Proposer must be thoroughly familiar with all requirements contained in this RFP. The failure or omission to examine any form or document shall in no way relieve a proposer from any obligation in this RFP. Any misinterpretation of the requirements is solely that of the proposer’s.

QUALIFICATIONS SUBMISSION REQUIREMENTS

Statements of Qualifications should be as concise as possible and at a minimum shall contain the information requested in this proposal.

Additional materials, including detailed resumes and brochures, may be submitted as an attached appendix to the proposal. Brochures and marketing materials not directly related to specific experience with the proposed scope of work shall not be submitted as part of this proposal.

In addition, any material that will add to the persuasiveness of your proposal may be included.

Your proposal must be signed and dated in ink by the owner, partner, or corporate officer of the company, or by an agent duly authorized to represent the Proposer under this proposal. Include the name and position held within Proposer's organization.

ADDENDA AND INTERPRETATION

No interpretation of the meaning of the specifications or other proposal documents will be made to any proposer orally. Proposers are not to contact any individual other than the Buyer. Upon discovering an error, omission, ambiguity or conflict in this RFP, a Proposer may email a request for clarification or correction to the Buyer at patricia.garcia@oxnard.org at least seven (7) calendar days before the date fixed for the closing of RFP, stating the Proposer's name and "RFP for Polygraph Services." Requests received after this deadline will be disregarded. Any clarification or correction will be made only by a written addendum. Failure of any Proposer to receive any such addendum or interpretation shall not relieve such Proposer from any obligation under its proposal as submitted. All addenda so issued shall become part of the specifications and contract documents. No oral clarification or correction shall be binding.

AWARD OF CONTRACT

The award of the contract will be made to a responsive and responsible proposer whose proposal best meets the needs of the City. The successful proposer will enter into a contract with the City incorporating all prescribed requirements and conditions of this request for proposal. If the successful proposer refuses or fails to execute the contract, the City may consider the next most qualified proposer. The City shall be the sole judge as to the successful proposer.

The City reserves the right to reject any or all responses to this Request for Proposal ("RFP") and to waive any informality or irregularity in this RFP or in responses, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this RFP, in the best interest of the City. The City reserves the right to request more information for clarification or due to omission of information. Proposers may be asked to make an oral presentation as part of the evaluation process. This RFP does not commit the City to award a contract, or to procure or contract for services or goods.

Before award, proposers may be required to furnish evidence of capability, equipment, and financial resources to adequately perform the job. The proposals of proposers found not to be qualified may be rejected.

PUBLIC RECORDS

All Proposals submitted in response to this RFP become the property of the City and under the Public Records Act (Government Code section 6250 et. Seq.) are public records, and as such may be subject to public review. However, the Proposals shall not be disclosed until negotiations are complete and recommendation for selection and award is made.

If a proposer claims a privilege against public disclosure for trade secret or other proprietary information, such information must be clearly identified in the proposal. Note that under California law, price proposal to a public agency is not a trade secret.

QUESTIONS

Any questions regarding this RFP must be directed to the Buyer at the address or email mentioned earlier or at (805) 385-7538.

**CITY OF OXNARD
REQUEST FOR PROPOSAL
FOR POLYGRAPH SERVICES**

GENERAL TERMS AND CONDITIONS

- A. The City shall not be liable for any expenses incurred by any proposer prior to issuing the contract.

- B. The successful firm will be required to enter into a contract with the City using the City's Standard Agreement for Services. A copy of a sample Agreement is attached to this RFP. Provisions include, but are not limited to, indemnification, insurance requirements, applicable compliance to ordinances, laws, regulations and licenses, City of Oxnard Business Tax Certificate and other terms and conditions. If a firm is not prepared to accept the terms of these general clauses, the firm should not submit a proposal.

- C. The selected firm nor any of its employees shall provide, directly or indirectly, any gifts or gratuities to any elected or appointed City official, or to any City employee responsible for administering any provision of this Agreement. Elected or appointed City officials affected by this provision include members of the City Council, the City Manager any assistant, deputy, or interim City Manager, any department director, and any other employee involved in the administration of this Agreement. Gift has the meaning ascribed to that term in California Government Code section 82028(a) and includes anything that confers a personal benefit on the recipient to the extent that consideration of equal or greater value is not received.

**CITY OF OXNARD
REQUEST FOR PROPOSAL
FOR POLYGRAPH SERVICES**

SCOPE OF SERVICES

Oxnard, a vibrant and growing community of approximately 200,000 people, is located on the western side of Ventura County. The City of Oxnard, incorporated in 1903, is a General Law City operating under the Council-Manager form of government. The governing body, the City Council, is composed of five (5) members.

The Oxnard Police Department has been in existence for over one hundred years and is dedicated to the delivery of quality, professional services in all activities that promote community safety, security and public trust. The Departments' goal is to provide for the safety and welfare of the citizens of Oxnard utilizing effective law enforcement systems, including crime prevention, patrol, traffic enforcement, criminal investigation follow-up, crime analysis, vice and narcotic enforcement, gang suppression, and community relations. Hiring qualified employees is key to meeting this goal. To this end, the City of Oxnard has issued this Request for Proposal for an annual contract for polygraph services for the City of Oxnard Police Department.

SCOPE OF SERVICES

The City of Oxnard invites qualified firms or individuals to submit a proposal for performing polygraph services for the Oxnard Police Department. The Successful Proposer shall provide polygraph services, including pre-employment and investigative examinations, using a polygraph technique taught by a polygraph school accredited by the American Polygraph Association (APA).

It is the City's intent to contract with a single firm; however, the City reserves the right to award more than one contract for the services specified herein in order to insure the continuing ability to obtain timely and accurate polygraph examinations of candidates for employment and for criminal investigations. The contract shall be for a three (3) year period.

All polygraph examinations shall be performed in accordance with the following regulations:

- APA By-Laws
 - APA Model Policy for Law Enforcement-Public Services Pre-Employment Screening Examinations
 - APA Model Policy for the Evaluation of Examinee Suitability for Polygraph Testing
- California Penal Code Sections 632 and 637.4(a)

The Successful Proposer shall perform the examinations and provide the required reports and forms within fourteen (14) days of receipt of request, unless the City grants an extension for cause. To be considered qualified, the Successful Proposer must have the in-house personnel

and resources to complete a maximum of twenty (20) Sworn Police Officer pre-employment polygraph examinations in a fourteen (14) day period, while also being available to complete investigative polygraph examinations as needed by the City.

The Successful Proposer shall also provide the following services:

- Provide a printed copy of all polygraph examination reports to the City
- Provide a copy of all audio/video recordings of investigative examinations to the City
- Provide a copy of all examination tracings/charts to the City upon request
- Audio and video record all examinations

QUALIFICATIONS

As a prerequisite for submitting a proposal, Proposers shall possess the following minimum qualifications or abilities:

1. Proposers must have graduated from a polygraph school accredited by the American Polygraph Association (APA).
2. Proposers must have a minimum of three (3) years of continuous service of providing pre-employment polygraph examinations and investigative polygraph examinations to law enforcement agencies.
3. Successful Proposer shall have a minimum of ten (10) years law enforcement experience with a municipal or county law enforcement agency, with a minimum of two (2) years of Detective experience.
4. Successful Proposer shall hold full membership in the California Association of Polygraph Examiners (CAPE) and either the American Polygraph Association (APA) or the American Association of Police Polygraphists (AAPP).
5. Successful Proposer shall have completed a minimum of 200 polygraph examinations, with at least 100 involving pre-employment and fifty (50) involving specific issue examinations.
6. Successful Proposer will be required to provide summary invoicing which is supported by detailed cost descriptions.
7. The Successful Proposer, and all of its employees and subcontractors who will perform work under the contract, may be subject to a background investigation. Employees hired after and during the contract term and any subsequent renewal periods may also be subject to a background investigation before they are authorized to perform work under the contract. It shall be the Successful Proposers responsibility to notify the City of Oxnard Police Department of all newly hired employees.
8. Successful Proposer must be available upon request (at no cost to the City) to discuss contract issues and concerns.

**CITY OF OXNARD
REQUEST FOR PROPOSAL
FOR POLYGRAPH SERVICES**

RESPONSE REQUIREMENTS

PROPOSALS SHOULD FOLLOW THE SEQUENCE OUTLINED BELOW:

- Organizational background including years of experience.
- List proposer's principal officer, complete listing of the personnel who will be involved with the program, and the office that will handle the contract. Include specific role and qualifications.
- Cost structure that demonstrates how fees are assessed.
- Provide a minimum of three (3) references

ATTACHMENTS
SAMPLE PROFESSIONAL SERVICES AGREEMENT

Agreement No. **[Enter #]**

AGREEMENT FOR CONSULTING SERVICES

THIS AGREEMENT FOR CONSULTING SERVICES (“**Agreement**”) is made and entered into in the County of Ventura, State of California, this **[Day]** day of **[Month]**, 20**[Year]**, by and between the City of Oxnard, a municipal corporation (“**City**”), and **[Name of Consultant]** (“**Consultant**”). City and Consultant are sometimes individually referred to as “**Party**” and collectively as “**Parties.**”

WHEREAS, City desires to hire Consultant to perform certain consulting services specified herein; and

WHEREAS, Consultant represents that Consultant and/or Consultant’s personnel have the qualifications and experience to properly perform such services.

NOW, THEREFORE, City and Consultant hereby agree as follows:

Scope of Services

Consultant shall furnish City with professional consulting services as more particularly set forth in **Exhibit A** attached hereto and incorporated by this reference in full herein (the “**Services**”).

Method of Performing Services

Subject to the terms and conditions of this Agreement, Consultant may determine the method, details, and means of performing the Services.

Standard of Performance

Consultant agrees to undertake and complete the Services to conclusion, using that standard of care, skill, and diligence normally provided by a professional person in performance of similar consulting services.

Nonexclusive Services

This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant’s own account or to any other person or entity as Consultant in its sole discretion shall determine. Consultant agrees that performing such services will not materially interfere with the Services to be performed for the City.

Coordination of Services

The Services shall be coordinated with [Insert position title] (“Manager”), subject to the direction of the City Manager or Department Manager.

Place of Work

Consultant shall perform the Services provided for in this Agreement at any place or location and at such times as the Consultant shall determine.

Correction of Errors

Consultant agrees to correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.

Time for Performance

The Services performed under this Agreement shall be completed during the term of this Agreement [pursuant to the schedule provided in **Exhibit B** attached hereto and incorporated by this reference in full herein]. (**INCLUDE THE PREVIOUS CLAUSE WITHIN THE BRACKETS IF THE SERVICES ARE TO BE PERFORMED PURSUANT TO A SCHEDULE. OTHERWISE, DELETE THE CLAUSE, RENUMBER THE EXHIBIT C REFERENCE IN SECTION 14 TO EXHIBIT B, REMOVE EXHIBIT B COVERSHEET AND RENUMBER EXHIBIT C COVERSHEET TO EXHIBIT B. DELETE THESE INSTRUCTIONS PRIOR TO COMPLETION OF THE AGREEMENT.**). City agrees to amend the performance termination date whenever Consultant is delayed by action or inaction of City and Consultant promptly notifies Manager of such delays.

Principal in Charge

Consultant hereby designates [Enter name of Principle-in-Charge] as its principal-in-charge and person responsible for necessary coordination with Manager.

Permits, Licenses, Certificates

Consultant, at Consultant’s sole expense, shall obtain and maintain during the term of this Agreement, all permits, licenses, and certificates required in connection with the performance of the Services, including a City business tax certificate.

City’s Responsibility

City shall cooperate with Consultant as may be reasonably necessary for Consultant to perform the Services. Manager agrees to provide direction to Consultant as requested regarding particular project requirements.

Term of Agreement

This Agreement shall begin on [Start Date], and expire on [End Date].

Termination

This Agreement may be terminated by City without cause if Manager notifies Consultant, in writing, of Manager's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice. City agrees to pay Consultant in full for all amounts due Consultant as of the effective date of termination, including any expenditures incurred on City's behalf, whether for the employment of third parties or otherwise.

This Agreement may be terminated by Consultant without cause if Consultant notifies Manager, in writing, of Consultant's desire to terminate the Agreement. Such termination shall be effective ten (10) calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed prior to the date of termination.

Compensation

City agrees to pay Consultant in an amount not to exceed \$[Amount] for the Services at rates provided in **Exhibit C** attached hereto and incorporated by this reference in full herein.

The acceptance by Consultant of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services.

Consultant agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Consultant or its employees, subcontractors, agents and subconsultants for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant, its employees, subcontractors, agents and subconsultants.

Consultant shall provide Manager with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service.

If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

Method of Payment

City agrees to pay Consultant monthly upon satisfactory completion of the Services and upon submission by Consultant of an invoice delineating the Services performed, in a form satisfactory to Manager. The invoice shall identify the Services by project as specified by Manager.

Consultant agrees to maintain current monthly records, books, documents, papers, accounts and other evidence pertaining to the Services performed and costs incurred. Such items shall be adequate to reflect the time involved and cost of performing the Services. Consultant

shall provide Manager with copies of payroll distribution, receipted bills and other documents requested for justification of the invoice.

Responsibility for Expenses

Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services. All expenses incident to the performance of the Services shall be borne by the Consultant, including, but not limited to rent, vehicle, and travel, entertainment and promotion, general liability and health insurance, workers' compensation insurance, and all compensation and benefits of employees or agents engaged by Consultant. Consultant shall, at its own cost and expense, supply all personal property necessary or appropriate to perform the Services provided for under this Agreement, including, but not limited to any personal property used by employees and agents of Consultant in the performance of such Services.

Non-Appropriation of Funds

Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

Records

Consultant agrees that all final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data and photographs expressly required to be prepared by Consultant as part of the scope of services ("**documents and materials**") shall be the property of City and shall, upon completion of the Services or termination of this Agreement, be delivered to Manager.

At City's request, City shall be entitled to immediate possession of, and Consultant shall furnish to Manager within ten (10) calendar days, all of the documents and materials. Consultant may retain copies of these documents and materials.

Any substantive modification of the documents and materials by City staff or any use of the completed documents and materials for other City projects, or any use of uncompleted documents and materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant. City agrees to hold Consultant harmless from all damages, claims, expenses and losses arising out of any reuse of the documents and materials for purposes other than those described in this Agreement, unless Consultant consents in writing to such reuse.

Maintenance and Inspection of Records

Consultant agrees that City or its auditors shall have access to and the right to audit and reproduce any of Consultant's relevant records to ensure that City is receiving the Services

to which City is entitled under this Agreement or for other purposes relating to the Agreement. Consultant shall maintain and preserve all such records for a period of at least three (3) years after the expiration of this Agreement, or until an audit has been completed and accepted by City. Consultant agrees to maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead.

Confidentiality of Information

Any documents and materials given to or prepared or assembled by Consultant under this Agreement shall be confidential and shall not be made available to any third person or organization by Consultant without prior written approval of the Manager.

Indemnity

To the fullest extent permitted by law, Consultant shall (1) immediately defend; (2) indemnify; and (3) hold harmless City, its City Council, each member thereof, and its directors, officers, and employees (the “**Indemnified Party**”) from and against all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with Consultant’s performance of this Agreement or Consultant’s failure to comply with any of its obligations contained in this Agreement. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys’ fees; court costs; and costs of alternative dispute resolution. Consultant’s obligation to indemnify applies unless it is adjudicated that any of the liabilities covered by this Section are the result of the sole active negligence or sole willful misconduct of the Indemnified Party. If it is finally adjudicated that liability is caused by the comparative negligence or willful misconduct of the Indemnified Party, Consultant’s indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

The duty to defend is a separate and distinct obligation from Consultant’s duty to indemnify. Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the Indemnified Party immediately upon tender to Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of negligence or willful misconduct by the Indemnified Party shall not relieve Consultant from its separate and distinct obligation to defend the Indemnified Party. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of the Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of the Indemnified Party, Consultant may submit a claim to City for reimbursement of reasonable attorneys’ fees and defense costs.

The review, acceptance or approval of Consultant’s work or work product by the Indemnified Party shall not affect, relieve or reduce Consultant’s indemnification or defense obligations. This Section shall survive completion of the Services or termination of this

Agreement. The provisions of this Section shall not be restricted by and do not affect the provisions of this Agreement relating to insurance.

Insurance

Consultant shall obtain and maintain during the performance of the Services the insurance coverages as specified in **Exhibit INS-[]**, attached hereto and incorporated herein by this reference, issued by a company satisfactory to the Risk Manager, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages.

Consultant shall, prior to performance of the Services, file with the Risk Manager evidence of insurance coverage as specified in **Exhibit INS-[]**. Evidence of insurance coverage shall be forwarded to the Risk Manager, addressed as specified in **Exhibit INS-[]**.

Maintenance of proper insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide evidence of renewal may be considered as a material breach of this Agreement.

Independent Contractor

City and Consultant agree that in the performance of the Services, Consultant shall be, and is, an independent contractor, and that Consultant and its employees are not employees of City. Consultant has and shall retain the right to exercise full control over the employment, direction, compensation and discharge of all persons assisting Consultant.

Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's employees, agents, subcontractors and subconsultants, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations.

Consultant acknowledges that Consultant and Consultant's employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, or health, life, dental, long-term disability and workers' compensation insurance benefits.

Consultant Not Agent

Except as Manager may specify in writing, Consultant, and its agents, employees, subcontractors and subconsultants shall have no authority, expressed or implied, to act on behalf of City in any capacity, as agents or otherwise, or to bind City to any obligation.

Conflict of Interest

If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a **"governmental decision"** as described in Title 2, section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for City

that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement.

Assignability of Agreement

Consultant agrees that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's personnel's unique competence, experience and specialized personal knowledge. Assignments of any or all rights, duties, or obligations of Consultant under this Agreement will be permitted only with the express written consent of Manager, which consent may be withheld for any reason.

Successors and Assigns

Consultant and City agree that this Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant and City.

Fair Employment Practices

Consultant agrees that all persons employed by Consultant shall be treated equally by Consultant without regard to or because of race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law, and in compliance with all antidiscrimination laws of the United States of America, the State of California, and City.

Consultant agrees that, during the performance of this Agreement, Consultant and any other parties with whom Consultant may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

Consultant agrees to state in all of its solicitations or advertisements for applicants for employment that all qualified applicants shall receive consideration for employment without regard to their race, color, religion, ancestry, national origin, disability, sex, marital status, age, or any other status protected by law.

Consultant shall provide City staff with access to and, upon request by Manager, provide copies to Manager of all of Consultant's records pertaining or relating to Consultant's employment practices, to the extent such records are not confidential or privileged under State or federal law.

Force Majeure

Consultant and City agree that neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include, but not be limited to acts of God, strikes, lockouts, riots, acts of war,

epidemics, governmental regulations imposed after this Agreement was executed, fire, communication line failures, earthquakes, or other disasters.

Time of Essence

Consultant and City agree that time is of the essence in regard to performance of any of the terms and conditions of this Agreement.

Covenants and Conditions

Consultant and City agree that each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

Governing Law

City and Consultant agree that the construction and interpretation of this Agreement and the rights and duties of City and Consultant hereunder shall be governed by the laws of the State of California.

Compliance with Laws

Consultant agrees to comply with all City, State, and federal laws, rules, and regulations, now or hereafter in force, pertaining to the Services performed by Consultant pursuant to this Agreement.

Severability

City and Consultant agree that the invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision.

Waiver

City and Consultant agree that no waiver of a breach of any provision of this Agreement by either Consultant or City shall constitute a waiver of any other breach of the same provision or any other provision of this Agreement. Failure of either City or Consultant to enforce at any time, or from time to time, any provision of this Agreement, shall not be construed as a waiver of such provision or breach.

Counterparts

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

Arbitration

Consultant and City agree that in the event of any dispute with regard to the provisions of this Agreement, the Services rendered or the amount of Consultant's compensation, the dispute may be submitted to non-binding arbitration upon the mutual agreement of the parties, under such procedures as the parties may agree upon, or, if the parties cannot agree, then under the Rules of the American Arbitration Association.

Expenses of Enforcement

Consultant and City agree that the prevailing party's reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney Office) and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

Authority to Execute

City acknowledges that the person executing this Agreement has been duly authorized by the City Council to do so on behalf of City.

Consultant acknowledges that the person executing this Agreement has been duly authorized by Consultant to do so on behalf of Consultant.

Notices

Any notices to Consultant may be delivered personally or by mail addressed to [Enter name of Consultant], [Enter Consultant's address], [Enter City], [Enter State and Zip], Attention: [Enter Principal-in-Charge].

Any notices to City may be delivered personally or by mail addressed to City of Oxnard, [Enter Department or Division Name], [Enter Address], Oxnard, California 93030, Attention: [Enter Project Manager].

Amendment

City and Consultant agree that the terms and conditions of the Agreement may be reviewed or modified at any time. Any modifications to this Agreement, however, shall be effective only when agreed upon to in writing by both the City representative authorized to do so under the City's purchasing policies and Consultant.

Entire Agreement

City and Consultant agree that this Agreement constitutes the entire agreement of the parties regarding the subject matter described herein and supersedes all prior communications, agreements, and promises, either oral or written.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date first written above.

CITY OF OXNARD

[VENDOR OR CONSULTANT]

Greg Nyhoff, City Manager

[Name] , [Title]

APPROVED AS TO FORM:

[Name] , [Title]

Stephen M. Fischer, City Attorney

APPROVED AS TO CONTENT:

[Name] , [Department Director]

[Name] , Project Manager

APPROVED AS TO INSURANCE:

James Throop, Risk Manager

**INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)**

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of \$1,000,000, with neither Consultant nor listed subconsultants having less than \$500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than \$1,000,000 per claimant.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be forwarded to the Risk Manager, addressed as follows:

City of Oxnard
Risk Manager
Reference No. _____
300 West Third Street, Suite 302
Oxnard, California 93030

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed**). Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
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CODE SUB-CODE	COMPANIES AFFORDING INSURANCE COVERAGE
INSURED	COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE
	COMPANY LETTER B

COVERAGES
 THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY [x] COMMERCIAL GENERAL LIABILITY [] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE \$1,000,000 PRODUCTS COMP/OP AGG . \$1,000,000 PERSONAL & ADV. INJURY \$1,000,000 EACH OCCURRENCE \$1,000,000 FIRE DAMAGE (Any one fire) \$ MED. EXPENSE (Any one person) \$
A	AUTOMOBILE LIABILITY [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE \$1,000,000 LIMIT BODILY INJURY \$ (Per person) BODILY INJURY \$ (Per accident) PROPERTY DAMAGE \$
A	EXCESS LIABILITY UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE \$ AGGREGATE \$
A	WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT \$1,000,000 DISEASE-POLICY LIMIT \$1,000,000 DISEASE-EACH EMPLOYEE \$1,000,000
A	OTHER Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage \$1,000,000 Each consultant/ \$500,000 & listed sub-consultant

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER City of Oxnard Attn: Risk Manager Reference No. _____ 300 W. Third Street, Suite 302 Oxnard CA 93030	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE
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**GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")**

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)
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PRODUCER

Telephone:

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE Included in Limits
 In Addition to Limits

NAMED INSURED

Deductible Self-Insured Retention (check which) of \$ _____
with an Aggregate of \$ _____ applies to _____
coverage. Per Occurrence Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
 COMMERCIAL GENERAL LIABILITY Claims Made
 COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
 OWNERS & CONTRACTORS PROTECTIVE Occurrence

OTHER PROVISIONS

COVERAGES

LIABILITY LIMITS IN THOUSANDS \$
EACH OCCURRENCE AGGREGATE

GENERAL
 PRODUCTS/COMPLETED OPERATIONS
 PERSONAL & ADVERTISING INJURY
 FIRE DAMAGE

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CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
Telephone: () _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

- 1. INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
- 2. CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
- 3. SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
- 4. CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
- 5. PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
- 6. SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
 - Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
 - If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Risk Manager
Reference No. _____
300 W. Third Street, Suite 302
Oxnard, CA 93030

AUTHORIZED REPRESENTATIVE
 Broker/Agent Underwriter _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: () _____ Date Signed: _____

