REQUEST FOR PROPOSALS (RFP)

PAVEMENT CONDITION EVALUATION AND PAVMENT MANAGEMENT SYSTEM UPDATE

Deliver to:
City of Arroyo Grande
300 East Branch Street
Arroyo Grande, CA 93420
Attention: Geoff English
Public Works Director

January 8, 2016
The City of Arroyo Grande (City) is requesting qualifications from qualified firms for an update of its Pavement Management System (PMS). The 2016 PMS update will include a comprehensive survey and inventory of City streets and roadway system (approximately 70 centerline miles). Services requested include inputting all data collected during the survey into the City’s PMS program. The City currently uses StreetSaver® as its PMS Program.

All proposals must be received by the City of Arroyo Grande Public Works Department at 300 East Branch Street, Arroyo Grande, CA 93420 by 4:00 P.M. on February 4, 2016.

Proposals received after said time will not be considered. To guard against premature opening, each qualifications package must be submitted to the Community Development Department in a sealed envelope plainly marked with the:

- Request Title
- Request Number
- Consultant’s Name
- Time and Date when Proposals are Due

Proposals must be submitted using the forms provided in the request. Provide three (3) copies of your qualifications package and one (1) Adobe Acrobat Portable Document Format (PDF) file of the proposal on flash drive or compact disk.

Obtaining a Request Package
Download from the City’s Web site:

http://www.arroyogrande.org/Bids.aspx

Questions
Contact Geoff English at (805) 473-5466 or genglish@arroyogrande.org with any questions regarding this Request for Qualifications.
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SECTION A - DESCRIPTION OF WORK

The City is looking for consultants interested in working to update the City’s Pavement Management System (PMS).

Background:
The City of Arroyo Grande is requesting proposals from qualified, interested firms for an update of its Pavement Management System (PMS). The 2016 PMS update will include a comprehensive survey of City streets and roadway system (approximately 70 centerline miles). Services requested include inputting all data collected during the survey into the City’s PMS program and performing the work outlined in the Work Scope. The City currently uses StreetSaver® as its PMS Program. A copy of the current Arroyo Grande road segments is attached.

This Request for Proposal (RFP) describes the requested scope of services and information to be included in each proposal. The Consultant should include a summary of the project understanding, approach, proposed scope, schedule with deliverables and budget. Failure to submit information in accordance with the RFP’s requirements and procedure may be cause for disqualification.

Work Scope

The purpose of this RFP is to select a consulting firm to provide pavement condition evaluation and management services for the City. The scope of work should include, but is not limited to:

1. Kick-off Meeting with City staff to discuss Project guidelines and standardization of services, deliverable formats, and project administration.
2. Discuss with representatives from the City about the current procedures for pavement maintenance, available resources, historical expenditure levels, and desired service levels. This will help the individuals responsible for the work described in the RFP to gain an understanding of the City’s unique needs.
3. The Consultant shall coordinate with City representatives to review historical maintenance information and make sure this information is accurately incorporated into the pavement condition rating.
4. The Consultant shall perform the following tasks associated with the Pavement Management System:
   a. Review and audit the database inventory of the City’s roadway network (e.g., GIS/PMS linkage, functional class, surface type, length, width, and number of lanes).
   b. Split or combine, or add new sections as necessary.
   c. Enter Maintenance and Rehabilitation (M&R) History, if available, and establish or update the decision trees within StreetSaver® based on the City’s preferred treatment strategies. All existing and desired treatments and unit costs shall be entered.
d. Perform pavement inspection on the approximately 70 centerline miles of roadway. The Consultant shall be required to display competency and accuracy in performing inspection. All inspectors employed or contracted by the Consultant must be certified by Metropolitan Transportation Commission (MTC). The Certification issued is valid for two (2) years, and shall be renewed upon passing an inspection test. The Consultant’s method of inspection used for the project must be consistent with the method used to demonstrate ability to perform PMP distress surveys.

i. Manual Inspection: The most appropriate method to determine the Pavement Condition Index (PCI) of management sections of roads and streets is to conduct a walking distress survey. The distress definitions and descriptions are included the MTC-published "Pavement Condition Index Distress Identification Manual for Asphalt and Surface Treatment Pavements," 3rd Edition, April 2012 and the "Pavement Condition Index Distress Identification Manual for Joint Portland Cement Concrete Pavements," 2nd Edition, October 2002. The densities of distress types and severities present are recorded and used to calculate the PCI for each inspection unit inspected. Those PCI values are then used to calculate the section PCI.

ii. Automated Inspection: Other methods of distress survey include windshield survey, automated distress surveys, semi-automated distress surveys, and various hybrid combinations of these (herein are collectively referred to as ~automated surveys") shall be considered. Automated surveys shall be performed by the Consultant according to the distress definition and descriptions MTC-published "Pavement Condition Index Distress Identification Manual for Asphalt and Surface Treatment Pavements," 3rd Edition, April 2012 and the "Pavement Condition Index Distress Identification Manual for Joint Portland Cement Concrete Pavements," 2nd Edition, October 2002.

The Consultant shall use their method to complete the automated survey and provide the inspection data in the format of distress type, severity, and quantity within the City's pavement management database. The Consultant may also be subject to further evaluation as per the MTC-published “A User's Guide for Semi-Automated Pavement Distress Data Collection,” October 2007.

e. The Consultant shall implement a Quality Control Plan. This Plan should check that the Consultant uses reasonable quality control and manages the data collection process to effectively provide data that meets the MTC requirements.

f. The Consultant shall perform data entry of all distresses found during pavement inspection into StreetSaver©. Once completed, the Consultant shall calculate the PCI.
g. The Consultant shall perform data entry of all recent maintenance and repair work since last update into StreetSaver®. Once completed, The CONSULTANT shall calculate the PCI.

h. The Consultant shall estimate available revenues for pavements over the next seven years. Past trends should also be determined with an extension of trends over the next seven years.

i. The Consultant shall run at least three budget and/or target-driven scenarios analyses and show impacts through the use of GIS maps in the StreetSaver® GIS Toolbox. The three include: Unconstrained Needs distributed evenly over five years, estimated future revenues based on historical data (trends), and the “Break Even” point if trends do not provide the status quo.

j. The Consultant shall provide recommendations, if shortfalls exist, for how the City can employ better preventive maintenance strategies or increase funding by proposing a preferred future budget level.

k. The Consultant shall deliver a draft updated pavement management database, and Budget Options Report (BOR) containing the above information, to the City for their review.

l. Upon completion of the City’s review of the draft updated database and BOR, the Consultant shall deliver an updated pavement management database, and Budget Options Report (BOR) containing all required information, to the City.

m. The Consultant must provide a schedule of activities identifying key milestone dates assuming a notice to proceed has been issued by March 1, 2016.
SECTION B - GENERAL TERMS AND CONDITIONS

PROPOSAL REQUIREMENTS

1. Requirement to Meet All Provisions. Each individual or firm submitting a proposal (Consultant) shall meet all of the terms, and conditions of the Request for Proposal (RFP). By virtue of its proposal submittal, the Consultant acknowledges agreement with and acceptance of all provisions of the RFP specifications.

2. Proposal Submittal. Each proposal must be submitted on the form(s) provided and accompanied by any other required submittals or supplemental materials. Proposal documents must be enclosed in an envelope that shall be sealed and addressed to the Community Development Department, City of Arroyo Grande, 300 East Branch Street, Arroyo Grande, CA, 93420. Each proposal submittal must include one electronic copy of the proposal, submitted in Adobe Acrobat format on CD or flash drive. In order to guard against premature opening, the proposal should be clearly labeled with the request title, request number, name of Consultant, and date and time of proposal opening. No FAX submittals will be accepted.

3. Submittal of References. Each proposer shall submit a statement of qualifications and references on the form provided in the RFP package.


5. Proposal Withdrawal and Opening. A Consultant may withdraw its proposal, without prejudice prior to the time specified for the proposal opening, by submitting a written request to the City Engineer for its withdrawal, in which event the proposal will be returned to the Consultant unopened. No proposal received after the time specified or at any place other than that stated in the “Notice 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 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 Consultant submitting a proposal, or who has quoted prices on materials to such Consultant, is not thereby disqualified from submitting a sub-proposal or from quoting prices to other Consultants submitting proposals.

7. Communications. All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with City staff are not encouraged, but will be permitted. However, any such oral communication shall not be binding on the City.
8. **Alternative Proposals.** When specifically requested, the proposer may submit an alternative proposal (or proposals) that it believes will also meet the City's project objectives but in a different way. In this case, the proposer must provide an analysis of the advantages and disadvantages of each of the alternatives, and discuss under what circumstances the City would prefer one alternative to the other(s). If an alternative proposal is submitted, the maximum length of the proposal may be expanded proportionately by the number of alternatives submitted.

**CONTRACT AWARD AND EXECUTION**

9. **Proposal Retention and Award.** The City reserves the right to retain all proposals for a period of 60 days for examination and comparison. 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 C for proposal evaluation criteria.

10. **Competency and Responsibility of Consultant.** The City reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Consultants. Consultants will provide, in a timely manner, all information that the City deems necessary to make such a decision.

11. **Contract Requirement.** The Consultant to whom award is made (Consultant) shall execute a written contract with the City within ten (10) calendar days after notice of the award has been sent by mail to it at the address given in its proposal. The contract shall be made in the form adopted by the City and incorporated in this request.

12. **Insurance Requirements.** The Consultant shall provide proof of insurance in the form, coverages and amounts specified in this request within ten (10) calendar days after notice of contract award as a precondition to contract execution.

13. **Business License & Tax.** The Consultant must have a valid City of Arroyo Grande business license and tax certificate before execution of the contract.

14. **Failure to Accept Contract.** The following will occur if the Consultant to whom the award is made (Consultant) fails to enter into the contract: the award will be annulled and an award may be made to the next highest ranked Consultant.
SECTION C - PROPOSAL CONTENT AND SELECTION PROCESS

PROPOSAL CONTENT

1. Submittal Forms
   a. Acknowledgement
   b. References
   c. Statement of Past Disqualifications

2. Qualifications
   a. Experience of your firm in performing specified Pavement Management System (PMS) updates and other specialties that make your firm well-suited in assisting the City.
   b. Experience of the staff to be assigned to this work in performing similar services.
   c. Redundancy in the company of staff experienced in this type of work.
   d. Resumes of the individuals who would be assigned to this work.
   e. Proximity and staffing levels of the nearest company office.
   f. Statement and explanation of any instances where your firm has been removed from a project or disqualified from proposing on a project
   g. Standard hourly billing rates for consultant and sub-consultant staff
   h. Detailed list of services available directly from your firm.

3. Work Program
   a. Description of your approach to working with City staff to complete the PMS update on schedule.
   b. Services or data anticipated to be provided by the City.
   c. Any other information that would assist us in making this contract award decision.

4. Proposal Length and Copies
   a. Proposals should be the minimum length to provide the required information. Charts and other short form approaches to conveying information are encouraged.
   b. 3 copies of the proposal must be submitted.
   c. 1 Adobe Acrobat PDF electronic copy.

5. Proposed itemized fee
   a. Itemize the cost proposal based on the Scope of Work listed in Section A above.
   b. The City may remove specific task from the Scope of Work due to budgetary limitations.
PROPOSAL EVALUATION AND CONSULTANT SELECTION

Proposals will be evaluated by a review committee and contract award process as follows:

Evaluation of the proposals will be based on the following qualifications:
1. Understanding of the work involved in completing the Pavement Management System update.
2. Demonstrated competence, professional qualifications of proposed staff
3. Recent experience in successfully performing similar services
4. Ability to respond quickly to work requests
5. Proposed fee

Proposals will be reviewed by a selection committee and ranked in accordance with the above criteria. Where one or more proposals are rated consistently higher than others, the consultants may be selected as the top ranked consultants for purposes of contract negotiation.

6. Proposal Review and Award Schedule

The following is an outline of the anticipated schedule for proposal review and contract award:

- Issue RFP .................................................. January 8, 2016
- Receive proposals ................................ February 9, 2016
- Award contract ................................. February 23, 2016
- Authorization to proceed ................ March 1, 2016
SECTION D - FORM OF AGREEMENT

AGREEMENT FOR CONSULTANT SERVICES

This AGREEMENT FOR CONSULTANT SERVICES ("Agreement"), is made and effective as of ________, 2016, between ________, ("Consultant"), and the CITY OF ARROYO GRANDE, a Municipal Corporation ("City"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

   This Agreement shall commence on ______________, 2016 and shall remain and continue in effect until ___________, 2017 unless sooner terminated pursuant to the provisions of this Agreement. This Agreement may be extended for two (2) additional one (1) year periods after the Initial Term upon written agreement by City and Consultant. All terms and conditions of this Agreement shall apply to any additional one (1) year terms.

2. SERVICES

   Consultant shall perform the tasks described and comply with all terms and provisions set forth in the City’s Request For Proposals, Exhibit “A” and Consultant’s Proposal, Exhibit “B”, and attached hereto and incorporated herein by this reference.

3. PERFORMANCE

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

4. AGREEMENT ADMINISTRATION

   The City Engineer shall represent City in all matters pertaining to the administration of this Agreement. ______________ shall represent Consultant in all matters pertaining to the administration of this Agreement.

5. PAYMENT

   The City agrees to pay the Consultant in accordance with the payment rates and terms set forth in Consultant’s Proposal, Exhibit “B”, attached hereto and incorporated herein by this reference. The Consultant must correct any errors or omissions to work at no additional cost to the City.
6. **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 ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the 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 5.

7. **TERMINATION ON OCCURRENCE OF STATED EVENTS**

This Agreement shall terminate automatically on the occurrence of any of the following events:

(a) Bankruptcy or insolvency of any party;
(b) Sale of Consultant’s business; or
(c) Assignment of this Agreement by Consultant without the consent of City.
(d) End of the Agreement Initial Term specified in Section 1, unless otherwise extended.

8. **DEFAULT OF CONSULTANT**

(a) The Consultant’s failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant’s control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.
9. **LAWS TO BE OBSERVED.** Consultant shall:

   (a) Procure all permits and licenses, pay all charges and fees, and give all notices which may be necessary and incidental to the due and lawful prosecution of the services to be performed by Consultant under this Agreement;

   (b) Keep itself fully informed of all existing and proposed federal, state and local laws, ordinances, regulations, orders, and decrees which may affect those engaged or employed under this Agreement, any materials used in Consultant's performance under this Agreement, or the conduct of the services under this Agreement;

   (c) At all times observe and comply with, and cause all of its employees to observe and comply with all of said laws, ordinances, regulations, orders, and decrees mentioned above;

   (d) Immediately report to the City's Contract Manager in writing any discrepancy or inconsistency it discovers in said laws, ordinances, regulations, orders, and decrees mentioned above in relation to any plans, drawings, specifications, or provisions of this Agreement.

   (e) The City, and its officers, agents and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

10. **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 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 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 five (5) years after receipt of final payment.

    (b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the 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, and printing computer files. Upon request by City, Consultant shall make available all work papers and reports to any successor auditor in a timely manner.

11. **INDEMNIFICATION**

   (a) **Indemnification for Professional Liability.** When the law establishes a professional standard of care for Consultant’s Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including attorney’s fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or subcontractors or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this agreement.

   (b) **Indemnification for Other Than Professional Liability.** Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant.

   (c) **General Indemnification Provisions.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this agreement or this section.

12. **INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in "SECTION D–EXHIBIT “C” of the Request for Qualifications. Exhibit “C” attached hereto and incorporated herein as though set forth in full.
13. **INDEPENDENT CONSULTANT**

   (a) Consultant is and shall at all times remain as to the City a wholly independent Consultant. 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 whatever against City, or bind City in any manner.

   (b) No employee benefits shall be available to Consultant in connection with 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 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.

14. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure was or is used against or in concert with any officer or employee of the City of Arroyo Grande 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 of Arroyo Grande 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.

15. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

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

16. **RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

   (a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City’s prior written authorization. Consultant, its officers, employees, agents, or subcontractors, 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 or relating to any project or property located within the City. 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 subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar 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.

17. NOTICES

Any notice which either party may desire to give to the other party under this Agreement must be in writing and may be given 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) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Arroyo Grande
Director of Public Works
300 East Branch Street
Arroyo Grande, CA 93420

To Consultant: __________________________
__________________________
__________________________
__________________________

18. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, without the prior written consent of the City.
19. **GOVERNING LAW**

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

20. **ENTIRE AGREEMENT**

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

21. **TIME**

City and Consultant agree that time is of the essence in this Agreement. Time constraints are selection factors on individual service request. The consultant must start work within two weeks from receipt of a written authorization to proceed unless an alternate timeframe has been agreed upon. The City expects the work to be actively pursued until complete.

22. **CONTENTS OF REQUEST FOR PROPOSALS AND PROPOSAL**

Consultant is bound by the contents of the City's Request for Proposals, Exhibit "A", attached hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant. In the event of conflict, the requirements of City's Request for Qualifications and this Agreement shall take precedence over those contained in the Consultant's proposals.

23. **CONSTRUCTION**

The parties agree that each has had an opportunity to have their counsel review this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits thereto. The captions of the sections are for convenience and reference only, and are not intended to be construed to define or limit the provisions to which they relate.

24. **AMENDMENTS**

Amendments to this Agreement shall be in writing and shall be made only with the mutual written consent of all of the parties to this Agreement.
25.  **AUTHORITY TO EXECUTE THIS AGREEMENT**

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

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

**CITY OF ARROYO GRANDE**  
By: ____________________________  
Jim Hill, Mayor

**CONSULTANT**  
By: ______________________________

Its: ______________________________

(Title)

Attest: ____________________________

Kelly Wetmore, City Clerk

Approved As To Form:

Heather Whitham, City Attorney
EXHIBIT A - CITY’S REQUEST FOR PROPOSALS
EXHIBIT B - CONSULTANT’S PROPOSAL
EXHIBIT C – INSURANCE REQUIREMENTS

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

Consultant shall provide the following types and amounts of insurance:

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

Business Auto Coverage on ISO Business Auto Coverage from CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than $1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

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

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum $25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subcontractors or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than $1,000,000 per occurrence.
Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designated to protect against acts, errors or omissions of the Consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than $1,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

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

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

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees and agents, using standard ISO endorsement No. CG 2010. Consultant also agrees to require all Consultants, and subcontractors to do likewise.

2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant’s employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Consultants and subcontractors to do likewise.

3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.

4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

5. No liability policy shall contain any provision or definition that would serve to eliminate so-called “third party action over” claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subcontractor.

6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City’s protection without City’s prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant’s general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.

8. The insurer will provide 30 days notice to City of any cancellation of coverage.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to City.

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

11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant’s existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At the time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increase benefit to City.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirements in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.

15. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.

16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant’s insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

17. The provisions of any workers’ compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.

20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.
SECTION E - PROPOSAL SUBMITTAL FORMS

ACKNOWLEDGEMENT

The undersigned declares that she or he:

- Has carefully examined this Request for Qualifications
- Is thoroughly familiar with its content
- Is authorized to represent the proposing firm; and
- Agrees to perform the work as set forth in the specification and this proposal.

Firm Name and Address:

Contact Name:

Email:  Fax:  Phone:

Signature of Authorized Representative:  Date:
STATEMENT OF PAST CONTRACT DISQUALIFICATIONS

The Consultant shall state whether it or any of its officers or employees who have a proprietary interest in it, has ever been disqualified, removed, or otherwise prevented from bidding on, or completing a federal, state, or local government project because of the violation of law, a safety regulation, or for any other reason, including but not limited to financial difficulties, project delays, or disputes regarding work or product quality, and if so to explain the circumstances.

Do you have any disqualification as described in the above paragraph to declare?  

☐ Yes  ☐ No

If yes, explain the circumstances.

__________________________________________________________

__________________________________________________________

__________________________________________________________

Executed on ______________________ at ______________________ under penalty of perjury of the laws of the State of California, that the foregoing is true and correct.

__________________________________________________________

Signature of Authorized Consultant Representative
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

<table>
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Project Outcome
### Reference No. 2

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**Description of Services**

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**Project Outcome**
Reference No. 3

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