



City of Pacific Grove

Request for Proposal
Building Services and Valuation Fee Study

Issue Date: March 6, 2020
Proposal Due Date: March 20, 2020

Submit responses to:

City of Pacific Grove
Attn: Jennifer Pope, Management Analyst
300 Forest Avenue
Pacific Grove, CA 93950
jpope@cityofpacificgrove.org

RFP Overview

I. General Information

The City of Pacific Grove is a Charter City known for small-town hospitality and friendliness. It is run by a council-manager form of government. The major operating departments of the City are: City Manager, Administrative Services, Community Development, Public Works, Police, Fire, Recreation and the Library. The City population is 15,698 and it is approximately 2.86 square miles. The City shares borders with the City of Monterey, the Pacific Ocean, and the Del Monte Forest.

The City's Building Services fees are comprised of fees based on cost-recovery, as well fees based on valuation tables. In Fiscal Year 17/18, 2017 the City of Pacific Grove worked with a consultant to complete a Cost Allocation Plan and User Fee Study. As part of this study, the Building Services Fees were only evaluated for overhead. This was primarily related to contracting with another City for building services, which provided compensation based on a percentage of the building-related fees. In Fiscal Year 19/20, the City discontinued this contract; and entered into an agreement with a private sector consulting firm.

Based on this transition, the City of Pacific Grove is requesting for proposal is to identify and select a vendor with a proven record of accomplishment in conducting Building Services and Valuation Fee Studies. This Request for Proposal (RFP) describes the general rules for preparing and submitting proposals and the City's requirements for the Building Services and Valuation Fee Study. The Building Services function is currently part of the City's Community Development Department.

II. Scope of Services

Project tasks shall include, but are not necessarily limited to, the following. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal.

1. Work and meet with City staff to refine the project scope, purpose, uses and goals of the City's Building Valuation Fees to ensure that the study will be both accurate and appropriate to the City's needs. The City wishes to continue using a valuation based model to recover costs, along with individual fees for specific activities that wouldn't be appropriate based on a valuation method. Consideration will be given to other approaches or methods that would best benefit the City and residents. Review project schedule and answer any questions pertaining to the successful development of the Study.
2. Conduct a comprehensive review of the City's existing Building Services fees. For a list of current City Building and Permitting fees, go to page 15 of the [City of Pacific Grove Fee Schedule](#), which is adopted annually and is effective July 1. Identify the total cost of providing each City service and in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates and charges by public entities.
3. Compare service costs with existing recovery levels. This should include any service areas where the City is currently charging for services as well as areas where the City,

perhaps, should charge in light of the City's practices, or the practices of similar or neighboring cities. Include (as allowed by statutes/laws/rules/regulations) practices for deferral and/or forgiveness of fees and or/or substitution of public services/facilities in lieu of fees for privately funded and City projects with public benefit. Include a comparison of current City practices and similar practices of similar or neighboring cities.

4. Recommend appropriate fees and charges based on your analysis together with the appropriate subsidy percentage for those fees where full cost recovery may be unrealistic. Consider the cost of pre-application and post-application meetings to mitigate project problems, assist project proponents to prepare the application, emergency response cost recovery such as inspection costs after fires and/or acts of god and how those costs can be recovered, either on a permit specific basis or as an overall percentage applied to permit fees.
5. Prepare a report that identifies each service, its full cost, recommended and current cost recovery levels. The report should also identify the direct cost, the indirect cost, and the overhead cost for each service; and provide a model for adjusting these fees for the City's current and future needs, when relevant.
6. Prepare a report that identifies the present scope performed under the fee, the proposed scope performed under the recommended fee, present fees, recommended fees, percentage change, cost recovery percentage, revenue impact and fee comparison with other Monterey County cities or other California cities that are comparable to Pacific Grove. A survey comparison of fees with similar cities is for information only.
7. Report on other matters that come to your attention in the course of your evaluation that in your professional opinion the City should consider.
8. Present your study to the City's management group and make necessary adjustments as requested.
9. Assist the Administrative Services Department in presenting the plan to the City Council.
10. Provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation in a format that can be edited and updated by City staff to accommodate changes in the organization or changes in costs. Develop a model for adjusting fees to include the addition of future service enhancements, and the ability to calculate the estimated costs of providing the service under consideration (Scenario and "what if" analyses).
11. Provide on-site training to enable staff to update any fees that are not subject to valuation tables on an annual basis.
12. Prepare a final fee study report in a single PDF file of the plan that can be made available to City staff. Any Master Fee Schedule revisions developed shall be made available to the City electronically, providing the ability to add or delete and/or update information as needed.

13. Consult with City staff should it become necessary to defend the City's User Fees as a result of any legal or other challenge.

III. Requirements

Proposals should provide a straightforward, concise description of the vendor's company, qualifications, proposed solution, and capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content.

Proposals should be organized consistent with the outline provided in this section of the RFP. Vendors must follow all formats and address all portions of the RFP set forth herein providing all information requested.

1. The proposal must also include:
 - a) Description of organizational structure, other business affiliations, number and location of offices, and total number of professional staff. If sole proprietor, include a description of business affiliations.
 - b) Project Experience: narrative description, accompanied by examples of reports or other related deliverables of projects similar in scope to the one covered by this RFP.
 - c) At least three references from local government agencies with similar demographics.
2. Proposal Content Requirements

To be considered, proposals shall follow the format outlined in this section. Each proposal shall consist of the following sections:

- a) Background Information
- b) Proposal Summary
- c) Scope of Work
- d) Statement of Qualifications
- e) Pricing Page (submitted separately, in a sealed envelope)
- f) Signature Page
- g) Attachments, including but not limited to, exceptions to the RFP or City's standard contract and proposer's contract, if one is required.

IV. Outline Strategies and Options

Outline Strategies and Options Outline methodology, planning and design strategies that will result in the development and recommendations that are practical to the City of Pacific Grove, meaning that the recommendations must not exceed the City's ability to implement and properly utilize. Provide detailed information on methodology and tools used to meet the needs of the City's request.

1. Expected Timeline

RFP issued	March 6, 2020
Proposal due date	March 20, 2020

2. Addenda to the Request for Proposals

- a) In the event that it becomes necessary to revise any part of this RFP, addenda will be provided to all agencies invited to respond.

V. Proposals Submission

Submittals must be received no later than 4:00 PM on Friday, March 20, 2020. Proposals received after this date and time will not be considered.

All sealed proposals must be plainly marked in the lower left hand corner, "Building Services and Valuation Fee Study Proposal" and sent to the following address:

City of Pacific Grove
Attn: Jennifer Pope
300 Forest Avenue
Pacific Grove, CA 93950

The point of contact is Jennifer Pope, Management Analyst. She can be reached via email at jpope@cityofpacificgrove.org . You can find the City's response to questions on the City website at <http://www.cityofpacificgrove.org> .

VI. Evaluation and Selection Process

After the proposals are received, the City shall review and evaluate them for responsiveness to the RFP in order to determine whether the proposer possesses the qualifications necessary for the satisfactory performance of the services required. The City may also investigate qualifications of all proposers to whom the award is contemplated, and the City may request clarifications of proposals directly from one or more proposers.

The City will make every effort to evaluate the proposals quickly.

VII. Contract

The contracted firm will be required to sign a contract with the City relating to the work to be performed.

VIII. Response Material Ownership

The material submitted in response to the RFP becomes the property of the City of Pacific Grove and will only be returned to the contracted firm at the City's option. Responses may be reviewed by any person after the final selection has been made. The City of Pacific Grove has the right to use any or all ideas presented in reply to this request. Disqualification of a Contractor does not eliminate this right.

IX. Acceptance of Proposal Content

The contents of the proposal of the successful Contractor may become contractual obligations if the City of Pacific Grove wishes to execute a contract based on the submitted proposal.

Failure of the successful Contractor to accept these obligations in a contract may result in cancellation of the award and such Contractor may be removed from future solicitations.

X. Reference Checks

The City of Pacific Grove reserves the right to contact any reference or any client listed in the documents for information which may be helpful to the City in evaluating the Contractor's performance on previous assignments

XI. General Conditions of RFP

1. The City reserves the right to reject any and all proposals, to waive any informality, to request interviews of Contractor(s) prior to award and to select and negotiate the Contract services in the best interest of the City.
2. The City intends to recommend award of a contract to the City Council for the requested services within one (1) month of receipt of the proposals. The Contractor shall be prepared to commence performance of the services offered and the total price of the proposal not less than 30 days from the deadline for submission of proposals.
3. The City reserves the right to accept all or part of any proposal, and to negotiate a contract for services and cost with the selected Contractor.
4. The Contractor shall provide all necessary personnel, materials and equipment to perform and complete all work under this proposal.
5. The Contractor shall be unbiased and vendor neutral.
6. Unless otherwise stated, invoices are to be submitted to the Finance department upon delivery of service to the City. The invoice must include an itemization of all services provided, including unit list price, net price, extensions total amount(s) due, and amounts previously paid.
7. Unless otherwise stated, payment will be made within thirty (30) days of the completion of the service, in an acceptable fashion, to the City, and receipt of invoice, whichever is later.
8. The contract for the services described in the RFP should not be considered exclusive. As deemed necessary, the City reserves the right to obtain these services from any other vendor.
9. Unless otherwise specified all costs listed are firm for the term of the contract.
10. Neither party shall be liable for any inability to perform its obligations under any subsequent agreement due to war, riot, insurrection, civil commotion, fire, flood, earthquake, storm or other act of nature.
11. Notification of the parties shall be considered to have been constructively received when it is mailed via the United States Postal Service or delivered in hand to the parties as stated in the contract.

12. Proposal shall also mean quotation, bid, offer, qualification/experience statement, and services. Proposers shall also mean vendors, proposers, bidders, or any person or firm responding to a Request for Information.
13. All contracts entered into by the City of Pacific Grove shall be governed by the Laws of the State of California. Any disputes shall be resolved within the venue of the State of California.

CITY OF PACIFIC GROVE AGREEMENT FOR PROFESSIONAL SERVICES
(Under \$35,000)

This Professional Services Agreement (“Agreement”) is made by and between the City of Pacific Grove, a political subdivision of the State of California (hereinafter “City”) and _____, (hereinafter “CONTRACTOR”).

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

1. **SERVICES TO BE PROVIDED.** The City hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibit A** in conformity with the terms of this Agreement. The services are generally described as follows: _____

2. **PAYMENTS BY CITY.** City shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibit A**, subject to the limitations set forth in this Agreement. The total amount payable by City to CONTRACTOR under this Agreement shall not exceed the sum of \$ _____.

3. **TERM OF AGREEMENT.** The term of this Agreement is from _____ to _____ unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and City and with City signing last, and CONTRACTOR may not commence work before City signs this Agreement.

4. **ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A: [scope of services/payment provisions, etc.]

5. **PERFORMANCE STANDARDS.**

5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR’s agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the City, or immediate family of an employee of the City.

5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use City premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. **PAYMENT CONDITIONS.**

6.01. CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to City. If not otherwise specified, the CONTRACTOR may submit such invoice monthly or at the completion of each phase of the project, as provided on page 16 of the proposal, but in any event, not later than 30 days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the City may require. The Contract Administrator or his or her designee shall certify the invoice, either

in the requested amount or in such other amount as the City approves in conformity with this Agreement, and shall promptly submit such invoice to the City Auditor-Controller for payment. The City Auditor-Controller shall pay the amount certified within 30 days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses.

7. TERMINATION.

7.01. During the term of this Agreement, the City may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The City may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If City terminates this Agreement for good cause, the City may be relieved of the payment of any consideration to CONTRACTOR, and the City may proceed with the work in any manner which City deems proper. The cost to the City shall be deducted from any sum due the CONTRACTOR under this Agreement.

8. INDEMNIFICATION.

8.01. As respects all acts or omissions which do not arise directly out of the performance of professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONTRACTOR shall indemnify, defend, and hold harmless the City, its officers, agents, and employees, from and against any and all claims, liabilities, and losses whatsoever (including damages to property and injuries to or death of persons, court costs, and reasonable attorneys' fees) occurring or resulting to any and all persons, firms or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with the CONTRACTOR's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the City. "CONTRACTOR's performance" includes CONTRACTOR's action or inaction and the action or inaction of CONTRACTOR's officers, employees, agents and subcontractors.

8.02. Architects, Engineers Per Civil Code 2782.8 Where the services to be provided by CONTRACTOR under this Agreement are design professional services, as that term is defined under Civil Code Section 2782.8, CONTRACTOR agrees to indemnify, defend and hold harmless, the City, its officers, officials, employees and volunteers from any and all claims, demands, costs or liability that actually or allegedly arise out of, or pertain to, or relate to the negligence, recklessness or willful misconduct of CONTRACTOR and its agents in the performance of services under this contract, but this indemnity does not apply to liability for damages for bodily injury, property damage or other loss, arising from the sole negligence, active negligence or willful misconduct by the City, its officers, official employees, and volunteers. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of the City, then CONTRACTOR's indemnification and defense obligations shall be reduced in proportion to the established comparative liability of the City and shall not exceed the CONTRACTOR's proportionate percentage of fault.

As respects all acts or omissions which do not arise directly out of the performance of design professional services, including but not limited to those acts or omissions normally covered by general and automobile liability insurance, CONTRACTOR agrees to indemnify, defend and hold harmless the City, its officers officials, employees and volunteers for an against any claim, demands, losses, liability of any kind or nature arising out of or in connection with the CONTRACTOR's performance or failure to perform under the terms of this contract,

excepting those which arise out of the active negligence, sole negligence or willful misconduct of the City, its officers, officials, employees and volunteers.

Exemption/Modification (Justification attached; subject to approval).

9. INSURANCE.

9.01. Insurance Coverage Requirements: Without limiting CONTRACTOR's duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, no less broad than Insurance Services Office (ISO) CG 00 01, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broadform Property Damage, Independent Contractors, Products and Completed Operations, with a minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Umbrella Liability Insurance. If CONTRACTOR maintains higher limits than the specified minimum limits, City requires and shall be entitled to coverage for the higher limits maintained by CONTRACTOR.

Exemption/Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Exemption/Modification (Justification attached; subject to approval).

Workers' Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer's Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Exemption/Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided, (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a "claims-made" basis rather than an occurrence basis, the retroactive date shall be no later than the commencement of the work. Coverage applicable to the work performed under this agreement shall be continued for three (3) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this agreement.

Exemption/Modification (Justification attached; subject to approval).

9.02. Other Insurance Requirements. All insurance required by this Agreement shall be with a company acceptable to the City and issued and executed by an admitted insurer authorized to transact Insurance business in the State of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or, if the policy is not written on an occurrence basis, such policy with the coverage required

herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

. CONTRACTOR shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required polices are reduced; (3) or the deductible or self insured retention is increased. In the event of any cancellation or reduction in coverage or limits of any insurance, CONTRACTOR shall forthwith obtain and submit proof of substitute insurance. Should CONTRACTOR fail to immediately procure other insurance, as specified, to substitute for any canceled policy, the City may procure such insurance at CONTRACTOR's sole cost and expense.

Commercial general liability and automobile liability policies shall provide an endorsement naming the City of Pacific Grove, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR'S work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the City and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR'S insurance. The required endorsement form for Commercial General Liability Additional Insured is **ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000)**. The required endorsement form for Automobile Additional Insured endorsement is **ISO Form CA 20 48 02 99**.

The general liability policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.

CONTRACTOR shall provide to City an endorsement that the insurer waives the right of subrogation against the City, its officers, officials, employees, agents and volunteers.

Prior to the execution of this Agreement by the City, CONTRACTOR shall file certificates of insurance with the City's contract administrator and City's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five calendar days after any change is made in any insurance policy which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by City, annual certificates to City's Contract Administrator and City's Contracts/Purchasing Division. If the certificate is not received by the expiration date, City shall notify CONTRACTOR and CONTRACTOR shall have five calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement which entitles City, at its sole discretion, to terminate this Agreement immediately.

10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the City or prepared in connection with the performance of this Agreement, unless City specifically permits CONTRACTOR to disclose such records or information. CONTRACTOR shall promptly transmit to City any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

10.02. City Records. When this Agreement expires or terminates, CONTRACTOR shall return to City any City records which CONTRACTOR used or received from City to perform services under this Agreement.

10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and City rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three year period, then CONTRACTOR shall retain said records until such action is resolved.

10.04. Access to and Audit of Records. The City shall have the right to examine, monitor and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000, the parties to this Agreement may be subject, at the request of the City or as part of any audit of the City, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.

10.05. Royalties and Inventions. City shall have a royalty-free, exclusive and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of City.

11. NON-DISCRIMINATION. During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

12. COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT. If this Agreement has been or will be funded with monies received by the City pursuant to a contract with the state or federal government in which the City is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, City will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

13. INDEPENDENT CONTRACTOR. In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the City. No offer or obligation of permanent employment with the City or particular City department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from City any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR's performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold City harmless from any and all liability which City may incur because of CONTRACTOR's failure to pay such taxes.

14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the City's and CONTRACTOR'S contract administrators at the addresses listed below:

FOR CITY:	FOR CONTRACTOR:
Name and Title	Name and Title
300 Forest Avenue Pacific Grove, CA 93950	Address
Address	Address
(831) 648-	Phone
Phone	Phone

15. **MISCELLANEOUS PROVISIONS.**

15.01. Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.

15.02. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the City and the CONTRACTOR.

15.03. Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the City and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

15.04. Contractor. The term "CONTRACTOR" as used in this Agreement includes CONTRACTOR's officers, agents, and employees acting on CONTRACTOR's behalf in the performance of this Agreement.

15.05. Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute. Contractor and the CITY hereby agree to make good faith efforts to resolve disputes as quickly as possible. In the event any dispute arising from or related to this Agreement results in litigation or arbitration, the prevailing party shall be entitled to recover all reasonable costs incurred, including court costs, attorney fees, expenses for expert witnesses (whether or not called to testify), expenses for accountants or appraisers (whether or not called to testify), and other related expenses. Recovery of these expenses shall be as additional costs awarded to the prevailing party, and shall not require initiation of a separate legal proceeding.

15.06. Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the City. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the City. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.

15.07. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the City and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.

15.08. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.

15.09. Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.

15.10. Time is of the Essence. Time is of the essence in each and all of the provisions of this Agreement.

15.11. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.

15.12. Non-exclusive Agreement. This Agreement is non-exclusive and both City and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.

15.13. Construction of Agreement. The City and CONTRACTOR agree that each party has fully participated in the review and revision of 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 amendment to this Agreement.

15.14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

15.15. Authority. Any individual executing this Agreement on behalf of the City or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

15.16. Integration. This Agreement, including the exhibits any documents incorporated by reference, represent the entire Agreement between the City and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the City and the CONTRACTOR as of the effective date of this Agreement, which is the date that the City signs the Agreement.

15.17. Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

15.18. Severability. If any of the provisions contained in the Contract are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the Contract for any cause. If a part of this Contract is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Contract is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

This space is left blank, intentionally.

IN WITNESS WHEREOF, City and CONTRACTOR have executed this Agreement as of the day and year written below.

CITY OF PACIFIC GROVE

CONTRACTOR

By: _____
City Manager

Date: _____

By: _____
Department Head

Date: _____

Approved as to Form

By: _____
City Attorney

Date: _____

Approved as to Fiscal Provisions¹

By: _____
Finance

Date: _____

Approved as to Liability Provisions²

By: _____
Risk Management

Date: _____

Contractor's Business Name*

By: _____
(Signature of Chair, President, or Vice-President)*

Name and Title

Date: _____

By: _____
(Signature of Secretary, Asst. Secretary, CFO, or Asst. Treasurer)*

Name and Title

Date: _____

City Agreement Number: _____.

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

¹ Approval by Finance necessary only if financial questions or issues raised in Council approval of agreement.

² Approval by Risk Management is necessary only if changes are made in paragraph 8 or 9.