



THE CITY OF
HALF MOON BAY
CALIFORNIA

Request for Proposal (RFP)

Pest Management Services

City of Half Moon Bay

Issue Date: October 9, 2018

RFP Submittal Due Date: November 13, 2018 at 4pm PST

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1 INTRODUCTION

The City of Half Moon Bay (City) seeks proposals from qualified pest control applicator (Contractor) businesses. The City intends to select an operator who is registered and licensed in the State of California to provide pest control services to the City. The selected Contractor will be used to perform a variety of services to provide a pest free environment within City owned and leased buildings and facilities. Additionally, the Contractor will provide vector control services in designated locations within the City. The initial contract will run through June 2020 with possible extension until June 2021.

All work shall be in accordance to the scope of services and requirements under the direction of the City Public Works staff.

Interested firms should submit one (1) electronic (Adobe PDF) file, one (1) unbound original and three (3) bound copies of their RFP to:

City of Half Moon Bay
501 Main Street
Half Moon Bay, CA 94019
Attention: John Doughty, Public Works Director

Submittals shall be delivered no later than 4:00 p.m. on Tuesday, November 13, 2018. The RFP shall be in the format identified herein. *Note: Firms intending to submit an RFP for these services shall check the City's web site regularly up to the date of submission for any addenda or notices pertaining to this Request for Proposal.*

2 RFP Overview

2.1 Purpose of RFP

This Request for Proposals ("RFP") is being issued by the City of Half Moon Bay (the "City"). The City is soliciting proposals from firms ("contractor(s)") to provide scheduled and on-call pest management services for City buildings, facilities and parks. The City intends to have the new contract beginning on or before January 1, 2019.

2.2 RFP Timeline

Proposals are due November 13, 2018. The City anticipates award of contract no later than December 4, 2018 with a start date of January 1, 2019.

The City reserves the right, at its sole discretion, to adjust the RFP schedule as it deems necessary. Notification of any adjustment to the RFP Schedule of Events will be provided to all Proposers.

2.3 RFP Questions and Pre-Proposal Site Visit

All questions, technical or otherwise, pertaining to this RFP must be submitted via email to:

John Doughty
Public Works Director
City of Half Moon Bay
Email: jdoughty@hmbcity.com

The deadline to receive all questions is November 2, 2018 at 12:00pm (noon). Questions received after this date may not be answered. Proposer questions should clearly identify the relevant section(s) of the RFP and page number(s) related to the question being asked.

The City will offer an optional pre-proposal site visit for interested proposers. Site visit will start at City Hall, 501 Main Street, Half Moon Bay, CA at 9:00 AM on November 1, 2018. Transportation between facilities will not be provided by the City. Please email your RSVP to Publicworks@hmbcity.com.

2.4 RFP Amendment and Cancellation

The City reserves the unilateral right to amend this RFP in writing at any time. The City also reserves the right to cancel or reissue the RFP at its sole discretion. If amendment(s) are issued, notification shall be provided to all Proposers. Amendment(s) will also be posted on the City's website: <http://www.half-moon-bay.ca.us/287/Bid-RFP-Center>.

2.5 Proposal Submittal

Sealed proposals must be received by the City no later than the date and time indicated in Section 1.2. Proposers assume the risk of the method of delivery chosen. The City assumes no responsibility for delays caused by any delivery service. Postmarks will not be accepted as proof of receipt. Failure to submit a proposal as required before the deadline may cause the proposal to be disqualified.

Proposal packages must be sealed and include one (1) unbound original, three (3) bound hard copies and one (1) electronic copy of the proposal (a single .pdf file containing all submitted material).

The proposal package must be mailed, couriered, or hand delivered to the City at the following address:

City of Half Moon Bay
 501 Main Street
 Half Moon Bay, CA 94019

The package should be clearly labeled as follows:

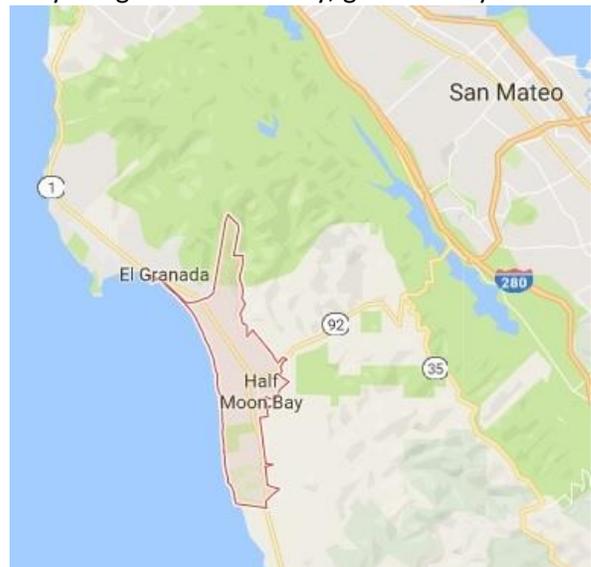
Proposal for Pest Management Services
 Due Date: November 13, 2018 at 4PM PST
 Attn: John Doughty, Public Works Director
 Name of Proposing Contractor: _____
 Proposer’s Address: _____
 Proposer’s Contact Person: _____
 Proposer’s Telephone Number: _____

All proposers are expected to make all necessary inquiries and examinations to ascertain all conditions and requirements affecting the full performance of the contract and to verify any representations made by the City. If the Proposer receives an award as a result of its proposal submission, failure to have made such investigations and examinations will in no way relieve the firm from its obligation to comply in every detail with all provisions and requirements of the contract, nor will a plea of ignorance of such conditions and requirements be accepted as a basis for any claim whatsoever by the firm for additional compensation.

3 City Overview

Incorporated in 1959, Half Moon Bay has a population of about 12,600 and encompasses approximately 6.5 square miles. The City of Half Moon Bay is a general law entity, governed by a council-manager form of government. The City employs 36 full-time employees. Half Moon Bay is nestled on the peninsula between forested hills and the scenic coastlines of San Mateo County, located 28 miles south of San Francisco and 40 miles north of San Jose.

Its historic downtown is home to numerous shops, art galleries, restaurants, bed and breakfasts, and other businesses, and its celebrated beaches and parks are wonders of nature, accessible to pedestrians, bicyclists, and equestrians. With its many activities and events, beautiful natural scenery, old-town charm, and abundance of retail and commercial services, Half Moon Bay is a



regional destination. Growth in the number of households is expected to be 0.1 percent per year over the next 10 years.

4 Scope of Services

4.1 General

Contractor to propose scope of work and fee schedule for pest management services at City buildings/facilities and Parks (see Attachment 1) that includes, but is not limited to, the following pests:

1. Spiders, cockroaches, and beetles
2. Crickets and grasshoppers
3. Ants (all species), earwigs, sow bugs, and silverfish
4. Fleas and other biting insects
5. Wasps, hornets and other stinging insects nesting in the interior or exterior, up to a maximum height of two (2) stories
6. Mice, rats, and other rodents

Contractor to also propose scope of work for vector control services based on a time and material basis. Currently, vector control services are provided adjacent to Canada Verde Creek and Canada Cove Mobile Home Park pursuant to the San Mateo County Mosquito and Vector Control District (Vector Control). Management shall be via use of traps as this area is adjacent to raptor habitat. Areas may be added, subtracted or amended based upon consultation with Vector Control.

4.2 Detailed Description

- 1) All pest control services shall be performed in accordance with Federal, State and Local rules and regulations. Any and all chemicals used during the service must be approved for its intended use and applied in a manner consistent with the regulations established by the State of California Department of Pesticide Regulation and consistent with Federal and Cal OSHA standards.
- 2) The contractor shall submit a copy of the company's Integrated Pest Management (IPM) policy along with the proposal. Should the contractor not have a current IPM policy, the contractor must establish an IPM policy and submit along with the proposal. The contractor selected to provide pest control services to the City, shall implement the IPM policy by the start date of service.
- 3) The Contactor shall establish and submit to the Public Works Superintendent a schedule of services to be performed at each facility. Each site and facility shall be

serviced monthly, unless noted otherwise. Schedule to be submitted within 30-days of entering into contract and no later than July 1 of each subsequent contract year.

- 4) All contractor personnel shall wear a uniform with proper identification whenever working in or around any City facility. Contract personnel shall schedule all visits prior to providing services with the Public Works Superintendent and Contract personnel shall check in with City staff before performing services to receive an update on any issues that may have come up since the last routine service. Employees of the Contractor must also be clearly identifiable as employees of that Contractor and be courteous to all persons and animals.
- 5) The Contractor must perform a thorough inspection during routine service. Contractor personnel shall provide the City with a copy of the inspection report within one week of service in order to report any issues that may be addressed by the City prior to the next scheduled service (i.e. trim vegetation away from building, install door sweeps, etc.). Complaints and service requests between routine services must be addressed within 24 hours after notification and will be at no additional cost to the City.
- 6) The Contractor shall furnish all labor, materials, tools and equipment necessary to safely perform the work assigned. The Contractor will clearly post name of business on all company vehicles. All work performed, methods, and equipment used shall be in conformance with the Prevailing State and Federal Occupational Safety and Health Act (OSHA). Costs from delays and losses due to operations not in conformance to these acts, specifications, or stoppages by OSHA inspectors or the designated representative, as a result of non-conformance, shall be solely borne the Contractor.

5 Reporting Requirements

5.1 Monthly Activity Report

The Contractor shall provide computerized monthly activity report(s) to the City along with the written/emailed invoice.

5.2 Invoices

The Contractor shall provide one computerized invoice to the City by the fifteenth (15) working day of each month for the previous month. Invoices must be sent by **E-MAIL ONLY** to pwinvoices@hmbcity.com. Any other form of submission will not be accepted. No payment will be made without submittal of the Monthly Activity Report.

Invoices must clearly identify charges based upon the six (6) activity areas included in subsection 4.1. The invoice is to clearly identify location of service (by address where possible) and the nature of work completed (pruning, removal or planting).

5.3 Payment

All payments will be made within thirty (30) days after an invoice has been approved for payment by the City.

6 Proposal Submission Requirements

Proposers should display their expertise in the field and the proposed methodology to accomplish each of the services expected as defined in the Scope of Work. However, it should be noted that this Request for Proposal may not have identified each specific, individual task required to successfully and completely provide this service. The City relies on the professionalism and competence of the Contractor to be knowledgeable of the general areas identified in the Scope of Work and of adequate competence to include all required tasks and subtasks, personnel commitments, man hours, direct and indirect costs, etc. in its proposal. The City will not approve addenda to the Contractor's agreement which do not involve a substantial change from the general Scope of Work identified in this Request for Proposal.

6.1 Proposal Format

Proposals should not exceed fifteen (15) pages (sheets of paper), double sided (8.5" x 11"), excluding table of contents, attachments, and fingerprint reports. Proposals should include page numbers.

Proposals must include:

- One (1) printed unbound copy marked "Original" and containing an original signature.
- Three (3) printed and bound copies marked "Duplicate."
- One (1) electronic copy on a USB drive.

Note: Faxed submittals will not be accepted.

Proposal should follow the structure below:

- Title Page
- Table of Contents
- Cover Letter
- Technical Proposal
- References
- Cost Schedule

6.2 Cover Letter

All proposals should include a cover letter that provides the following:

- Name, address, telephone number, fax number (if applicable), and email address of applicant's key contact person.
- Description of the size, years in business, and type (e.g. corporation, partnership) of organization submitting proposal.
- Name of the entity that will sign the agreement, in the event one is awarded.
- A written statement warranting that the requirements as written in the RFP, its enclosures, and all addenda (listed by addenda and dates received), have been thoroughly reviewed and the Proposer has conducted all due diligence necessary to confirm material facts upon which the proposal is based.
- A written statement acknowledging that the Proposer will not receive any additional compensation that is not included in the Proposer's Cost Schedules.

- A written statement acknowledging the validity of the proposal contents including proposed Cost Proposal for a period of ninety (90) days.
- A written statement that subcontractors will not be used to fulfill this contract.
- A written statement that the Proposer or any individual who will perform work for the Proposer is free of any conflict of interest (e.g., employment by the City).
- A written statement of acknowledgement that the City's legal documents have been reviewed and accepted with or without exception. If exceptions are involved, those items requiring adjustment or modification must be identified and listed along with suggested modifications to the contract. If no exceptions are noted, the City will assume that the Proposer can perform all tasks and services without reservation or qualification to the contract.
- Signature of a company officer empowered to bind the Proposer to the provisions of this RFP and any contract awarded pursuant to it.

6.3 Technical Proposal

Proposer's must demonstrate their understanding of the services requested in the Scope of Work. Proposals should summarize the company's qualifications and experience that display the company's ability to fulfill the City's requested scope of services. Proposals should include the name and title of City's primary contact.

6.4 References

Proposers must provide three (3) references, preferably for public agencies, for similar contracts. Each reference must include a contact name and contact information (phone number and/or e-mail at minimum).

6.5 Cost Proposal

The cost proposal for regular services is to be based upon the proposed service frequencies for initial and on-going services as each location included in the proposed scope of work. Contractor to include flat fee cost proposal for on-call and emergency call-outs. For vector control, cost proposal will be based upon a time and material basis. For regular scheduled services, the cost proposal shall be based on a fixed monthly rate per facility to perform all pest control services. The fee schedule must state the number of services included with the monthly rate. Rates will remain effective for the term of the contract.

Special Note: The City reserves the right to negotiate rates and fees submitted by Contractor. The rates in the fully executed agreement between the City and Contractor will be binding. The City may request cost estimates for services covered under the contract.

7 Firm Selection

7.1 Proposal Evaluation

A staff level evaluation committee will review all proposals based on various factors to determine which Proposers have qualified for consideration. Only those proposals that meet

or exceed the intent of the mandatory requirements will be further evaluated. Late submissions will not be considered.

The evaluation committee will carefully weigh:

- Quality, clarity, and responsiveness of proposal.
- Demonstrated understanding and ability to meet the needs of the City.
- Contractor's qualifications including certifications, references, and identification of designated staff.
- Cost of services.
- Other qualifications/criteria as deemed appropriate by the Evaluation Committee.

The City may, at its sole option, ask for interviews or an oral presentation by any Proposer(s) participating in this process. Attendance at any such interview will be at the Proposers' expense.

The City reserves the right to reject any and all proposals and to determine which proposal is, in the City's judgment, the most responsive.

7.2 Award of Contract

It is the City's intent to award a single contract to the Contractor that can best meet the requirements of the Request for Proposal document. The City reserves the right to award a contract to multiple firms or a single firm or to make no award, whichever is in the best interest of the City.

7.3 Business License

The successful Proposer that is awarded the contract will be required to provide a Half Moon Bay Business License, which can be purchased online at:
<https://halfmoonbay.hdlgov.com/>.

8 RFP Terms and Conditions

8.1 Undue Influence

The Proposer declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award or terms of the Agreement that will be executed as a result of this RFP, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employees of the City will receive compensation, directly or indirectly, from the vendor, or from any officer, employee or agent of the vendor, in connection with the award of the Agreement or any work to be conducted as a result of the RFP. Violation of this Section shall be material breach of the Agreement/Contract entitling the City to any and all remedies by law or in equity.

8.2 Nondiscrimination

No person will be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City's contracted programs or activities on the grounds of disability, age,

race, color, religion, sex, national origin, or any other classification protected by federal or California State Constitutional or statutory law; nor will they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City's contractors. Accordingly, all Proposers entering into contracts with the City will, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

8.3 Proposal Preparation Costs

The City will not pay any costs associated with the preparation, submittal, or presentation of any proposal.

8.4 Proposal Withdrawals

Proposals may be withdrawn up until the due date. To withdraw a proposal, the Proposer must submit a written request signed by an authorized representative. After withdrawing a previously submitted proposal, the Proposer may submit another proposal at any time up to the deadline for submitting proposals.

8.5 Proposal Errors

Proposers are liable for all errors or omissions contained in their proposals. Proposers will not be allowed to alter proposal documents after the deadline for submitting a proposal.

8.6 Incorrect Proposal Information

If the City determines that a Proposer has provided, for consideration in the evaluation process or contract negotiations, incorrect information which the Proposer knew or should have known was materially incorrect, that proposal will be determined non-responsive, and the proposal will be rejected.

8.7 Prohibition of Proposer Terms and Conditions

A Proposer may not submit the Proposer's own contract terms and conditions in a response to this RFP. If a proposal contains such terms and conditions, the City, at its sole discretion, may determine the proposal to be a nonresponsive counter-offer, and the proposal may be rejected.

8.8 Right to Refuse Personnel

The City reserves the right to refuse, at its sole discretion, any subcontractors or any personnel provided by the prime contractor or its subcontractors.

8.9 Proposal of Additional Services

If a Proposer indicates an offer of services in addition to those required by and described in this RFP, these additional services may be added to the contract before contract signing at the sole discretion of the City.

8.10 Licensure

Before a contract pursuant to this RFP is signed, the Proposer must hold all necessary, applicable business and professional licenses. The City may require any or all Proposers to submit evidence of proper licensure.

8.11 Conflict of Interest and Proposal Restrictions

By submitting a response to the RFP, the Proposer certifies that no amount will be paid directly or indirectly to an employee or official of the City as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or Proposer to the Proposer in connection with the procurement under this RFP.

Notwithstanding this restriction, nothing in this RFP will be construed to prohibit another governmental entity from making a proposal, being considered for award, or being awarded a contract under this RFP. Any individual, company, or other entity involved in assisting the City in the development, formulation, or drafting of this RFP or its scope of services will be considered to have been given information that would afford an unfair advantage over other Proposers, and said individual, company, or other entity may not submit a proposal in response to this RFP.

8.12 Contract Negotiations

Upon evaluation of each proposal, the City intends to enter into contract negotiations with the selected Proposer(s). These negotiations could include all aspects of services and fees. If a contract is not finalized in a reasonable period of time, the City may open negotiations with the next ranked service provider(s).

8.13 Right of Rejections

The City reserves the right, at its sole discretion, to reject any and all proposals or to cancel this RFP in its entirety.

Any proposal received which does not meet the requirements of this RFP may be considered to be nonresponsive and the proposal may be rejected. Proposers must comply with all of the terms of this RFP and all applicable State laws and regulations. The City may reject any proposal that does not comply with all of the terms, conditions, and performance requirements of this RFP.

The City reserves the right, at its sole discretion, to waive variances in technical proposals provided such action is in the best interest of the City. Where the City waives minor variances in proposals, such waiver does not modify the RFP requirements or excuse the Proposer from full compliance with the RFP. Notwithstanding any minor variance, the City may hold any Proposer to strict compliance with the RFP.

8.14 Disclosure of Proposal Contents

All proposals and other materials submitted in response to this RFP procurement process become the property of the City. Selection or rejection of a proposal does not affect this right. All proposal information, including detailed price and cost information, will be held in confidence during the evaluation process. Upon the completion of the evaluation of

proposals, the proposals and associated materials will be open for review by the public to the extent allowed by the California Public Records Act (Government Code Section §6250-6270 and §6275-6276.48). By submitting a proposal, the Proposer acknowledges and accepts that the contents of the proposal and associated documents will become open to public inspection.

8.15 Proprietary Information

The master copy of each proposal will be retained for official files and will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law (Government code §6276). Each Proposer may clearly label part of a proposal as "CONFIDENTIAL" if the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City will constitute a complete waiver of all claims for damages caused by any release of the information.

8.16 Severability

If any provision of this RFP is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions will not be affected; and, the rights and obligations of the City and Proposers will be construed and enforced as if the RFP did not contain certain provision held to be invalid.

8.17 Proposal Amendment

The City will not accept any amendments, revisions, or alterations to proposals after the deadline for proposal submittal unless such is formally requested, in writing, by the City.

8.18 Rights of the City

The City reserves the right to:

- Make the selection based on its sole discretion
 - Reject any & all proposals
 - Issue subsequent Requests for Proposals
 - Postpone opening proposals, if necessary, for any reason
 - Remedy errors in the Request for Proposal process
 - Approve or disapprove the use of certain subcontractors
 - Negotiate with any, all, or none of the Proposers
 - Accept other than the lowest offer
 - Waive informalities and irregularities in the proposals
 - Enter into an agreement with another Proposer in the event the originally selected Proposer(s) defaults or fails to execute an agreement with the City
- An agreement will not be binding or valid with the City unless and until it is approved by the City Council and executed by authorized representatives of the City and of the Proposer.

Attachments

- 1) Compensation Schedule Form—Buildings and Facilities
- 2) Sample—Professional Services Agreement

Attachment 1--Compensation Schedule Buildings and Facilities

	Facility	Interior Building	Exterior Building	Frequency	Total Monthly Rate	Total Annual Rate
1	City Hall 501 Main Street	X	X	Monthly		
2	Library 620 Correas Street	X	X	Monthly		
3	Ted Adcock Community Center 635 Kelly Avenue	X	X	Monthly		
4	Sheriff Substation/EOC 637 Kelly Avenue	X	X	Monthly		
5	Corporation Yard Office 880 Stone Pine Road	X	X	Monthly		
6	Historic Train Depot and Restrooms 110 Higgins Canyon Road	X	X	Monthly		
7	City Hall Annex (Lease Space) 507-B Purissima Street	X	X	Monthly		
8	Oak Park Restrooms 461 Oak Avenue.	X	X	Quarterly		
9	Smith Field Concession Stand/ Restrooms Building Wavecrest Road	X	X	Monthly (Mar – June)		
10	Smith Field Concession Stand/Restrooms Building Wavecrest Road	X	X	Quarterly (July - February)		
11	Ocean View Park Restrooms 627 Alsace Lorraine Avenue	X	X	Quarterly		
12	Residence and Garage 555 Kelly Avenue	X	X	Monthly		



CITY OF HALF MOON BAY PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is made by and between the City of Half Moon Bay, a California municipal corporation (“City”) and [Insert Name of Consultant], a [Insert Type of Business Entity, LLP, LLC, Corporation, etc.] (“Consultant”), effective as of [insert start date of services].

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached hereto as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, this Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the date first noted above and shall run until [Insert End Date] or until terminated by either party pursuant to Section 8.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement in accordance with usual and customary professional and shall conform to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.2 above and to satisfy Consultant’s obligations hereunder.

Section 2. COMPENSATION. Exhibit A to this contract contains the Scope of Work and the Fee Schedule. The City shall pay Consultant for services rendered pursuant to the Fee

Schedule at the time and in the manner set forth herein. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed prior to the invoice date. Invoices shall contain the following information:
- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
 - The beginning and ending dates of the billing period;
 - A Task Summary containing for each planning application along with the amount of prior billings, the total due in the current period, and the percentage of completion of processing for the application;
 - For each application processed, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, and a brief description of the work;
 - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours;
 - The Consultant's signature.
- 2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the Fee Schedule shown in Exhibit A, incorporated herein by this reference.
- 2.4 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.5 Payment upon Termination. In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.

2.6 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 4. INSURANCE REQUIREMENTS.

4.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

- Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.
- Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.
- Worker's Compensation insurance as required by the laws of the State of California.
- Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000).

4.2 Consultant shall require each of its subcontractors within their subcontract (in writing) to maintain insurance coverage that meets all of the requirements of this Agreement.

- 4.3** The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A: VII in the latest edition of Best's Insurance Guide.
- 4.4.** Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.
- 4.5.** At all times during the term of this Agreement, Consultant shall maintain on file with City's Finance Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the City and its officers, employees, agents and volunteers as additional insureds. Consultant shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).
- 4.6.** Consultant shall provide proof that policies of insurance required herein expiring, or cancelled, during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages, or immediately for any policy being cancelled.
- 4.7.** The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City and its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City.
- 4.8.** The insurance provided by Consultant shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 4.9.** All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City.
- 4.10.** Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Consultant shall either reduce or eliminate the deductibles

or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

- 4.11.** Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

Consultant shall hold harmless, defend and indemnify City and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Consultant's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the City.

The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the negligence or willful misconduct of the City or its officers, employees, agents, or volunteers and (2) the actions of Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

The total liability in the aggregate of Consultant and its employees, subcontractors or suppliers to the City and anyone claiming through or under the City on all claims of any kind (excluding claims for death or bodily injury) arising out of or in any way related to Consultant's services or from any cause or causes whatsoever shall not exceed the limits of insurance identified herein.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors

shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

- 7.5 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon 15 day's written notice to Consultant.

Consultant may cancel this Agreement upon 15 days' written notice to City.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contract or prepared by or for Consultant or the City in connection with this Agreement. In the event Consultant is not provided notice of any outstanding materials to be delivered to City, Consultant shall be entitled to payment within 30 days.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein.

Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 Amendments. The parties may amend this Agreement only by a writing signed by all the parties.

8.4 Assignment and Subcontracting. City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

8.5 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 Options upon Breach by Consultant. If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:

8.6.1 Immediately terminate the Agreement;

8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the

amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. To the extent allowed by law, City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.

9.2 Consultant's Books and Records. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this

Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 Venue. In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Mateo or in the United States District Court for the Northern District of California.

10.3 Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

10.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.

10.6 Use of Recycled Products. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by the City Manager or their designee (“Contract Administrator”). All correspondence shall be directed to or through the Contract Administrator.

10.10 Notices.

Any written notice to Consultant shall be sent to:

Insert Consultant Name

Insert Consultant Street Address

Insert Consultant City, State, Zip

Insert Consultant Attn. To

Insert Consultant Phone

Insert Consultant Fax

Insert Consultant Email]

Any written notice to City shall be sent to:

City of Half Moon Bay

501 Main Street

Half Moon Bay, CA 94019

Attn: **Insert Name**

Phone: **Insert Phone**

Fax: (650) 726-9389

Email: **Insert Email**

10.11 Integration. This Agreement, including the Scope of Work and Fee Schedule attached hereto and incorporated herein as Exhibit A, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

/

IN WITNESS WHEREOF, the City and the Consultant have executed this Agreement effective as of the date first written above.

“CITY”
CITY OF HALF MOON BAY

Date: _____

By: _____
City Manager

Attest:

Approved as to form:

By: _____
City Clerk

City Attorney

Date: _____

“CONSULTANT”
[Insert Consultant Name]

Date: _____

By: _____
[Insert Typed Name]
Its: _____

Attachments:

Exhibit A. Scope of Services & Fee Schedule