

City of Capitola



**Request for Proposal
Retirement Plan Administration
for
401(a) Money Purchase Plan
and
457(b) Deferred Compensation Plan**

Issue Date: June 13, 2019
Proposal Deadline: July 18, 2019

City of Capitola
Finance Department
420 Capitola Ave.
Capitola, CA 95010

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REQUEST FOR PROPOSAL RETIREMENT PLAN ADMINISTRATION

INTRODUCTION

The City of Capitola (City) is seeking proposals from qualified plan administrators (Service Provider) to provide deferred compensation retirement plan administration, recordkeeping, communication, education, investment management, and custodial trustee services for the City of Capitola 401(a) and 457(b) Plans (the “Plans”). The primary goals of the RFP review and selection process will be:

- Enhancing participant retirement outcomes;
- Analyzing the overall competitiveness of the Plan;
- Providing for the integrated administration and reporting for the Plan;
- Offering the most appropriate investment menu;
- Improving participant education and communication services;
- Providing robust on-line transaction and information capabilities;
- Evaluating alternative pricing structures;
- Reducing participant and Plan expenses; and
- Providing for an orderly and timely transition of assets and services, if necessary.

All proposals must be submitted to the Finance Department at 420 Capitola Ave, Capitola, CA 95010 by 5:00 P.M. on Thursday July 18, 2019. All proposals must be in the format specified, enclosed in a sealed envelope and clearly identified with proposal title, name of proposer, and date of proposal closure. Responding firms shall be solely responsible for any expenses incurred in preparing proposals in response to this request.

The City may select a Service Provider based on proposal alone or may narrow the field to the top firms (not to exceed three) based on strength of proposal, and then conduct interviews to finalize a selection. The City will then initiate contract negotiations with the selected Service Provider. Pending successful negotiations, the City will have the Service Provider execute the City’s Standard Professional Services Agreement (Attachment A).

It is the intent of the City to award the contract for an initial five-year period beginning with fiscal year ending June 30, 2020, with the option to renew for additional five-year periods at the sole discretion of the City. Proposals will be considered only from parties that are free of all obligation and interests that may conflict with the best interest of the City of Capitola and have the capacity to provide services on a timely basis.

BACKGROUND

The City of Capitola is a small coastal community located in Santa Cruz County that occupies approximately two square miles and serves a population of about 10,150. Located on the northern edge of Monterey Bay, approximately 35 miles north of Monterey and 75 miles south of San Francisco, Capitola enjoys a rich history and offers residents diverse recreational opportunities. Capitola Village is located along a sandy beach with expansive views of Monterey Bay and is home to numerous craft galleries, boutiques, and restaurants.

Capitola is a General Law City, which was incorporated on January 11, 1949. The City is subject to the framework and procedures established by State Law and operates under the Council – City Manager form of government. The Council is comprised of four Council Members and a Mayor, all of whom are directly elected by the citizens. The Council Members serve four-year staggered terms; and the Mayor and Vice-Mayor are elected annually by the Council. The City provides police protection, recreation, building, planning, zoning, administrative services, financial services, street, park and facilities maintenance for Capitola. Independent special districts provide fire protection, water, sewer, and limited drainage services.

The City's 401(a) Plan is a legacy plan with 2 inactive employees. The City's 457(b) Plan is a voluntary supplemental savings plan that is available to all full-time employees. Participating employees may have a portion of their salaries withheld, subject to limitations imposed by the Internal Revenue Service. Employees have different investment fund options in which to direct contributions. Payroll is submitted on a biweekly basis by the employer. Loans are allowed under the plan and the City desires to keep this option available with the new service provider.

As of March 31, 2019, the 401(a) Plan had a market value of \$170,314 with 2 inactive employees participating. The 457(b) Plan had a market value of \$3,430,356 with approximately 56 (including 26 active) participants in the plan. During the past five years, annual contribution amounts have averaged \$178,500 while annual distribution amounts have averaged \$385,800.

The City will administer the proposal process in accordance with the terms and dates outlined in this RFP; however, the City reserves the right to modify the activities, timeline, or any other aspect of the process at any time, as deemed necessary. By requesting proposals, the City is in no way obligated to award a contract or pay the expenses of proposing firms in association with the preparation or submission of a proposal. The award of any contract shall be contingent on the requisite staff and City Council approvals.

SCOPE OF WORK

The City is seeking proposals for a single Service Provider to administer both the 401(a) and 457(b) plans. The services being requested include recordkeeping and administration, employee communication and education, investment management services, employer education and investment advisory services.

1. Implementation Services

All Service Providers must provide a detailed transition strategy along with sample communication materials to explain any new plan changes and enhancements. The potential conversion from the current plan provider to a new provider will require Service Providers to provide an explanation of the process, blackout period and reconciliation of plan assets to the individual participant records.

2. Recordkeeping and Administration Services

Service Provider must be able to maintain required plan documents for both the 401(a) and 457(b) plans. All Service Providers must provide detailed information about their deferred compensation recordkeeping and administrative systems and use of technology. Important factors include the ability to process payroll deductions, monitor compliance, process participant transactions on a daily basis, and provide timely and accurate participant statements and plan level financial statements, as needed. The Service Provider selected by the City must have in place a toll-free customer center, voice response system, and Internet services that allow participants access to self- service capabilities in both the 401(a) and 457(b) Plans.

The Service Provider's internet services must include data encryption and a secured method for the Plan to submit and receive payroll data as well as allow City staff and Plan auditors the ability to view participant demographic information and Plan activity.

3. Employee Communication/Education and Participant Services

The plans are intended to operate as retirement plans. Recognizing that investments will be subject to participant choice; important consideration will be given to employee education and communication services as well as web-based tools in the evaluation of Service Providers.

All Service Providers must provide a comprehensive employee communication and investment education program. Communication services are to be supported by customer service representatives and comprehensive internet services that provide participants with interactive financial and retirement planning tools and software.

In addition to your core communication services, field service representatives must be available to provide one on one participant counseling and conduct employee education meetings according to the following schedule:

- Initial transition meetings with all eligible employees
- Annual group meeting with all eligible employees
- Individual employee meetings (as needed, but not more than quarterly)

All educational meetings will be scheduled through Human Resources and held at City Hall. Field representatives' compensation may not be structured for any bias towards any investment product.

The Service Provider will be required to assist employees with the completion of enrollment forms, verify the completeness of the forms and coordinate the institution of salary deferrals and plan contributions with the City's payroll system.

The Service Provider must prepare enrollment packages, which must be distributed at group meetings, in response to employee requests and contain all information in a complete and concise manner, so that an employee would be able to enroll in the Plan. The Service Provider must also provide enrollment counseling to employees who wish to discuss the Plan and the investment offerings in person or over the telephone.

The City will require a quarterly report from the Service Provider to monitor all plan level activities. This report shall include data on both the Plan and participation level, as well as the status and resolution of any participant problems, and developments in the delivery of plan services.

4. Investment Management Services: Investment Options & Stable NAV

The Plans are looking for an open architecture platform and no proprietary investment requirements.

5. Employer Education

The Service Provider will be required to provide ongoing employer education as it relates to the day-to-day operation of the Plan including:

- Transmission and receipt of contribution/payroll files
- Features of the Plan sponsor website
- Plan compliance with current and future regulatory requirements including participant notifications and plan amendments
- Communication and education program

6. Investment Advisory Services

The City may choose to add investment advisory services for participants.

MINIMUM QUALIFICATIONS

1. All applicable laws and regulations of the Federal Government, the State of California and ordinances and regulations of the City of Capitola shall apply to any resulting agreement.
2. Service Providers must offer the following administrative services (i.e., deferred compensation recordkeeping/administration, employee communication and education, investment management, and employer education for both 401(a) and 457(b) plan types.
3. Service Providers must comply with all RFP specifications. Unless otherwise noted in your cover letter, it is assumed that, by submitting a response to this RFP, the Service Provider intends to conform to the scope of services in every way.
4. Service Providers must provide a representative who can provide a single point of contact, seamless administration and accountability, and meet, on a regular basis, with the City.
5. Service Providers must have at least five (5) years' experience in providing the proposed services and products to the public sponsor deferred compensation marketplace and a minimum of 20 distinct government plan sponsors.
6. Service Provider's field service representatives that provide enrollment and education services may not have commission-based compensation or any financial incentives to promote any investment product or service. A salary-based compensation structure is required for all field service representatives allocated to this relationship.
7. Service Providers must provide 1099R Forms for all distributions (including beneficiary) as part of the custodial trust services and provide administration services under Section 401(a) (9) required and minimum distributions.
8. Service Providers must be able to process beneficiary changes, rollovers, hardship withdrawals, loans and Qualified Domestic Relations Orders (QDROs).
9. Service Providers must be able to maintain and track participant contribution rate changes and report an electronic feedback file with updated information to payroll so that they can in turn update their payroll deduction records.

10. Service Providers must be solely liable and responsible for any processing errors of the provider or its agents. In the event of a participant's loss of interest and/or dividend and/or principal due to an error by the selected Service Provider or its agent in processing transactions on behalf of the participant, the selected Service Provider agrees to adjust the participant's account to the same position as if the processing error had not occurred.

PROPOSAL REQUIREMENTS

In your proposal please provide the following:

Cover Letter: Shall be signed by an official authorized to bind the firm and shall contain a statement indicating that the proposal is valid for ninety days.

Project Understanding: Present your understanding of the project and the general approach to be used.

Scope of Work: Provide a detailed Scope of Work proposed to accomplish the tasks. The scope of work shall also clearly set forth services that are not included or anticipated as part of the proposal.

Personnel: Present the experience of the Account Manager and other key personnel to be assigned to the City, including any sub-consultants. A resume shall be included for the Account Manager and other key personnel, including education, employment history and experience relevant to the project, with corresponding dates. During the course of the project, substitution of key personnel is subject to the approval of the City.

Relevant Experience: Provide a list of projects where the proposed Account Manager and key team members have performed similar work. For each, provide the name of project, location, brief description, and name and phone number of a contact person.

Project Schedule: Provide a proposed project schedule for providing an orderly and timely transition of assets and services.

Please limit the proposal to no more than ten (10) pages of text, exclusive of cover letter and resumes. Provide three (3) hard copies of the proposal and one electronic copy of the proposal via email to Jim Malberg, jmalberg@ci.capitola.ca.us

In a separate sealed envelope, provide a Cover Letter and Fee Summary. Provide a fee schedule that includes all fees that may be charged for providing services requested in this RFP. Please clearly mark the separate envelope "**Fee Summary**".

EVALUATION OF PROPOSALS AND NEGOTIATIONS

A selection panel will be convened of City staff, which will include Finance and possibly other departments. A member of the City Council and/or City's Finance Advisory Committee may also participate in the scoring of the final proposal selection process. The evaluation will consider technical approach, including project understanding, scope of work, overall project team, and fee schedule. The evaluation will also include relevant experience, including that of the Account Manager, key team members including sub-consultants, and experience of the firm. At the completion of the proposal review, the panel may elect to invite the top scoring firms to make a presentation at no cost to the City. The City may request Best and Final offers. Based on the presentation and the Best and Final offers, if requested,

the panel will select the proposal that best fulfills the City's requirements. The City may negotiate with the selected Service Provider to determine final pricing and contract form. There will be no public opening and reading of proposals.

CONDITIONS AND STIPULATIONS

The City reserves the right to reject any and all proposals, cancel all or part of this RFP, and waive any non-material irregularities or informalities and to request additional information and clarification regarding any particular service from the proposing Service Providers.

The City reserves the right to reject any proposal for any reason. The proposal should be the best effort possible by the Service Provider, since the City reserves the right to award the contract with no further negotiations. Conversely, the City reserves the right to negotiate with the selected proposer any additional terms and conditions not contained in their proposal, which are in the best interest of the City or to otherwise revise the scope of this RFP. All proposals, whether accepted or rejected, shall become the property of the City of Capitola. All proposals received become public records. The City's decision to award a contract will be based on many factors including, but not limited, service, cost, experience, ability to deliver, and for any other reason deemed by the selection committee to be in the best interest of the City. No single factor, such as cost, will determine the final decision to award a contract. This RFP and the Service Provider's responses, including all promises, warranties, commitments, and representations made in the selected proposal, shall become binding contractual obligations, and will be incorporated by reference in the final agreement between the City of Capitola and the selected Service Provider. All terms and conditions not specifically identified as exceptions will be considered acceptable to the Service Provider.

ESTIMATED TIMELINE (Dates are subject to change)

- | | |
|---|--------------------------|
| • Distribution of RFP | June 13, 2019 |
| • Deadline for Questions | July 5, 2019 |
| • Closing Date | July 18, 2019 at 5:00 PM |
| • Begin Selected Vendor Presentations/Interviews (if necessary) | Week of July 29, 2019 |
| • Contract Award | August 2019 |

CONTACTS

For questions regarding the scope of proposal or the proposal process, please submit questions through email or fax only to:

Jim Malberg, Finance Director
Fax: (831) 479-8879
Email: jmalberg@ci.capitola.ca.us

SUBMISSION INFORMATION

Proposals must be submitted to:

**City of Capitola
Finance Department
Attention: Jim Malberg, Finance Director
420 Capitola Ave
Capitola, CA 95010**

All proposals must be delivered no later than **5:00 p.m. on July 18, 2019**. Late submissions or proposals delivered via fax or email will not be accepted.

ATTACHMENTS

Attachment A: Standard City Professional Services Agreement – Insurance and Indemnifications

Thank you for your interest in working with the City of Capitola for this service. We look forward to receiving your proposal.

Attachment A

**CITY OF CAPITOLA
PROFESSIONAL SERVICES AGREEMENT**

_____ (insert brief description of contract)
_____ (insert consultant name)

THIS AGREEMENT is entered into on _____, 201_, by and between the City of Capitola, a Municipal Corporation, hereinafter called "City" and _____, hereinafter called "Consultant".

WHEREAS, City desires certain services described in Appendix One and Consultant is capable of providing and desires to provide these services;

NOW, THEREFORE, City and Consultant for the consideration and upon the terms and conditions hereinafter specified agree as follows:

**SECTION 1
Scope of Services**

The services to be performed under this Agreement are for _____ (insert brief contract description) and further detailed in Appendix One.

**SECTION 2
Duties of Consultant**

All work performed by Consultant, or under its direction, shall be sufficient to satisfy the City's objectives for entering into this Agreement and shall be rendered in accordance with the generally accepted practices, and to the standards of, Consultant's profession.

Consultant shall not undertake any work beyond the scope of work set forth in Appendix One unless such additional work is approved in advance and in writing by City. The cost of such additional work shall be reimbursed to Consultant by City on the same basis as provided for in Section 4.

If, in the prosecution of the work, it is necessary to conduct field operations, security and safety of the job site will be the Consultant's responsibility excluding, nevertheless, the security and safety of any facility of City within the job site which is not under the Consultant's control.

Consultant shall meet with _____, called "Director," or other City personnel, or third parties as necessary, on all matters connected with carrying out of Consultant's services described in Appendix One. Such meetings shall be held at the request of either party hereto. Review and City approval of completed work shall be obtained monthly, or at such intervals as may be mutually agreed upon, during the course of this work.

**SECTION 3
Duties of the City**

City shall make available to Consultant all data and information in the City's possession which City deems necessary to the preparation and execution of the work, and City shall actively aid and assist Consultant in obtaining such information from other agencies and individuals as necessary.

The Director may authorize a staff person to serve as his or her representative for conferring with Consultant relative to Consultant's services. The work in progress hereunder shall be reviewed from time to time by City at the discretion of City or upon the request of Consultant. If the work is satisfactory, it will

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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be approved. If the work is not satisfactory, City will inform Consultant of the changes or revisions necessary to secure approval.

SECTION 4 **Fees and Payment**

Payment for the Consultant's services shall be made upon a schedule and within the limit, or limits shown, upon Appendix Two. Such payment shall be considered the full compensation for all personnel, materials, supplies, and equipment used by Consultant in carrying out the work. If Consultant is compensated on an hourly basis, Consultant shall track the number of hours Consultant, and each of Consultant's employees, has worked under this Agreement during each fiscal year (July 1 through June 30) and Consultant shall immediately notify City if the number of hours worked during any fiscal year by any of Consultant's employees reaches 900 hours. In addition each invoice submitted by Consultant to City shall specify the number of hours to date Consultant, and each of Consultant's employees, has worked under this Agreement during the current fiscal year.

SECTION 5 **Changes in Work**

City may order major changes in scope or character of the work, either decreasing or increasing the scope of Consultant's services. No changes in the Scope of Work as described in Appendix One shall be made without the City's written approval. Any change requiring compensation in excess of the sum specified in Appendix Two shall be approved in advance in writing by the City.

SECTION 6 **Time of Beginning and Schedule for Completion**

This Agreement will become effective when signed by both parties and will terminate on the earlier of:

- The date Consultant completes the services required by this Agreement, as agreed by the City; or
- The date either party terminates the Agreement as provided below.

Work shall begin on or about _____, 201__.

In the event that major changes are ordered or Consultant is delayed in performance of its services by circumstances beyond its control, the City will grant Consultant a reasonable adjustment in the schedule for completion provided that to do so would not frustrate the City's objective for entering into this Agreement. Consultant must submit all claims for adjustments to City within thirty calendar days of the time of occurrence of circumstances necessitating the adjustment.

SECTION 7 **Termination**

City shall have the right to terminate this Agreement at any time upon giving ten days written notice to Consultant. Consultant may terminate this Agreement upon written notice to City should the City fail to fulfill its duties as set forth in this Agreement. In the event of termination, City shall pay the Consultant for all services performed and accepted under this Agreement up to the date of termination.

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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SECTION 8 Insurance

Consultant shall procure and maintain for the duration of the contract and for ____ years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001).
2. Insurance Services office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California, and Employer's Liability Insurance.
4. Professional (Errors and Omissions) Liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage shall include contractual liability.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

- | | |
|--|---|
| 1. General Liability:
(including operations,
products and completed
operations) | \$1,000,000 per occurrence and \$2,000,000 in
aggregate (including operations, for bodily injury,
personal and property damage. |
| 2. Automobile Liability: | \$1,000,000 per accident for bodily injury and
property damage. |
| 3. Employer's Liability Insurance | \$1,000,000 per accident for bodily injury and
property damage. |
| 4. Errors and Omissions
Liability:
Limits | \$1,000,000 per claim and \$2,000,000 in the
aggregate. |

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Capitola, its officers, officials, employees and volunteers are to be covered as additional insured's as respects: liability arising out of work or operations performed by or on behalf of the Consultant or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after prior written notice has been given to the City.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Capitola** for all work performed by the Contractor, its employees, agents and subcontractors.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 9 Indemnification

(For Design Professionals as defined in Civil Code section 2782.8: licensed architects, licensed landscape architects, professional engineers, professional land surveyors):

Consultant agrees to indemnify, defend, and hold harmless the City, its officers, officials, employees, agents and volunteers from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from the negligence, recklessness, or willful misconduct of Consultant, Consultant's employees, agents, or subcontractors

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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in the performance of this agreement. But this indemnity does not apply to liability for damages arising from the sole negligence, active negligence or willful misconduct of the City.
(For Non Design Professionals, such as for construction management services):

Consultant shall hold harmless, defend, and indemnify City and its officers, officials, employees, agents, and volunteers from and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Consultant, Consultant's employees, agents or subcontractors, except where caused by the active negligence, sole negligence, or willful misconduct of the City.

SECTION 10

Civil Rights Compliance/Equal Opportunity Assurance

Every supplier of materials and services and all consultants doing business with the City of Capitola shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990, and shall be an equal opportunity employer as defined by Title VII of the Civil Rights Act of 1964 and including the California Fair Employment and Housing Act of 1980. As such, consultant shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, age or sex with respect to hiring, application for employment, tenure or terms and conditions of employment. Consultant agrees to abide by all of the foregoing statutes and regulations.

SECTION 11

Legal Action/Attorneys' Fees

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which he or she may be entitled. The laws of the State of California shall govern all matters relating to the validity, interpretation, and effect of this Agreement and any authorized or alleged changes, the performance of any of its terms, as well as the rights and obligations of Consultant and the City.

SECTION 12

Assignment

This Agreement shall not be assigned without first obtaining the express written consent of the Director after approval of the City Council.

SECTION 13

Amendments

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the City and Consultant. Consultant acknowledges that no such amendment shall be effective until approved and authorized by the City Council, or an officer of the City when the City Council may from time to time empower an officer of the City to approve and authorize such amendments. No representative of the City is authorized to obligate the City to pay the cost or value of services beyond the scope of services set forth in Appendix Two. Such authority is retained solely by the City Council. Unless expressly authorized by the City Council, Consultant's compensation shall be limited to that set forth in Appendix Two.

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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SECTION 14 Miscellaneous Provisions

1. *Project Manager.* Director reserves the right to approve the project manager assigned by Consultant to said work. No change in assignment may occur without prior written approval of the City.

2. *Consultant Service.* Consultant is employed to render professional services only and any payments made to Consultant are compensation solely for such professional services.

3. *Licensure.* Consultant warrants that he or she has complied with any and all applicable governmental licensing requirements.

4. *Other Agreements.* This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter, and no other agreement, statement or promise related to the subject matter of this Agreement which is not contained in this Agreement shall be valid or binding.

5. *City Property.* Upon payment for the work performed, or portion thereof, all drawings, specifications, records, or other documents generated by Consultant pursuant to this Agreement are, and shall remain, the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information and reference in connection with the City's use and/or occupancy of the project. The drawings, specifications, records, documents, and Consultant's other work product shall not be used by the Consultant on other projects, except by agreement in writing and with appropriate compensation to the City.

6. *Consultant's Records.* Consultant shall maintain accurate accounting records and other written documentation pertaining to the costs incurred for this project. Such records and documentation shall be kept available at Consultant's office during the period of this Agreement, and after the term of this Agreement for a period of three years from the date of the final City payment for Consultant's services.

7. *Independent Contractor.* In the performance of its work, it is expressly understood that Consultant, including Consultant's agents, servants, employees, and subcontractors, is an independent contractor solely responsible for its acts and omissions, and Consultant shall not be considered an employee of the City for any purpose.

8. *Conflicts of Interest.* Consultant stipulates that corporately or individually, its firm, its employees and subcontractors have no financial interest in either the success or failure of any project which is, or may be, dependent on the results of the Consultant's work product prepared pursuant to this Agreement.

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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9. *Notices.* All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given and fully received when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed to the respective parties as follows:

CITY
CITY OF CAPITOLA
420 Capitola Avenue
Capitola, CA 95010
831-475-7300

CONSULTANT
Name
Address
Phone

By: _____
Benjamin Goldstein, City Manager

By: _____

Dated: _____

Dated: _____

Approved as to Form:

Reed Gallogly, City Counsel

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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APPENDIX ONE
Scope of Services

[To be completed for each consultant]

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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APPENDIX TWO Fees and Payments

For the services performed, City will pay consultant on a not-to-exceed, lump sum basis upon satisfactory completion of the services and delivery of work products. Payments will be issued monthly as charges accrue, the sum of consultant's salary expenses and non-salary expenses.

Consultant hereby represents and warrants, based upon Consultant's independent determination of the time and labor, including overtime, which will be required to perform said services, that Consultant will provide all said services at a cost which will not exceed the maximum price set forth in this agreement for Consultant's services. Consultant hereby assumes the risk that Consultant will perform said services within this maximum price constraint and Consultant acknowledges that its inability to do so shall not excuse completion of the services and shall not provide a basis for additional compensation.

Salary expenses include the actual direct pay of personnel assigned to the project (except for routine secretarial and account services) plus payroll taxes, insurance, sick leave, holidays, vacation, and other fringe benefits. The percentage of compensation attributable to salary expenses includes all of Consultant's indirect overhead costs and fees. For purposes of this Agreement, Consultant's salary expenses and non-salary expenses will be compensated at the rates set forth in the fee schedule attached to this appendix and in accordance with the terms set forth therein. Non-salary expenses include travel, meals and lodging while traveling, materials other than normal office supplies, reproduction and printing costs, equipment rental, computer services, service of subconsultants or subcontractors, and other identifiable job expenses. The use of Consultant's vehicles for travel shall be paid at the current Internal Revenue Service published mileage rate.

Salary payment for personnel time will be made at the rates set forth in the attached fee schedule for all time charged to the project. Normal payroll rates are for 40 hours per week. Consultant shall not charge the City for personnel overtime salary at rates higher than those set forth in the attached fee schedule without the City's prior written authorization.

In no event shall the total fee charged for the scope of work set forth in Appendix One exceed the total budget of \$_____ (_____ Thousand Dollars and Zero Cents), without specific, written advance authorization from the City.

Payments shall be made monthly by the City, based on itemized invoices from the Consultant which list actual costs and expenses. Such payments shall be for the invoice amount. The monthly statements shall contain the following affidavit signed by a principal of the Consultant's firm:

"I hereby certify as principal of the firm of _____, that the charge of \$_____ as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated _____, __, and has not been previously paid."

Professional Services Agreement _____ (insert date of contract)

_____ (insert brief description of contract)

_____ (insert name of vendor)

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