



**REQUEST FOR PROPOSAL**

**FOR**

**General Liability Third Party Claims Administration**

**Human Resources- Risk Management Department  
CITY OF HUNTINGTON BEACH**

**Released on December 7, 2023**

**General Liability Third Party Claims Administration**  
**REQUEST FOR PROPOSAL (RFP)**

**1. BACKGROUND & OBJECTIVE**

The City of Huntington Beach (City) is a local municipality located along the coast of Southern California within the County of Orange, 35 miles south of Los Angeles and 90 miles north of San Diego. It is bordered by the Pacific Ocean on the west, and it known for its 8.5 miles of beautiful beach. The City services a population of approximately 200,000 residents and draws over 11 million visitors to the City each year. The City of Huntington Beach is a full-service City and provides Police, Fire and Marine Safety services to the citizens.

The City maintains a program of self-insurance for general liability pursuant to the California Tort Claims Act with a Self-Insured Retention of \$1,000,000.00. The City is soliciting Request for Proposals ("RFP") from qualified liability claims third party administrators ("TPA") to assist the City in administering such a program including the investigation, adjustment, processing, supervision and resolution of claims asserted by third parties against the City, its officers, agents and employees. The City's current agreement is set to expire on February 18, 2024, and in accordance with City policies and procedures, this Request for Proposal shall be carried out in an effort to solicit responses from firms capable of providing the required services and to retain the most qualified firm to provide these services to the City.

The qualified TPA must be able to demonstrate that all services will be performed in a manner commensurate with the highest standards of professionals in the industry. The TPA must have a minimum of five (5) years experience administering claims for a public entity with a population of at least 50,000 and that provides public safety (Police and Fire) services. The TPA must also have an electronic database capable of producing specialized ad hoc reports in addition to any reports required by any reporting entities, such as the excess insurance carriers. The TPA must be able to successfully manage a transition from the current TPA and provide their plan to ensure they are able to achieve this.

The City has averaged approximately 200 new claims per fiscal year over the last five (5) years and currently has 89 open claims.

The City's Risk Management Division of the Human Resources Department will be responsible for management of the City's general liability program, including contract administration of the TPA agreement. The City will hold final decision on acceptance or denial of a claim and on any settlement authority.

## **Claims Administration Minimum Requirements**

1. TPA shall be a licensed adjusting firm in the State of California.
2. TPA is responsible for filing any and all necessary documentation and reporting to the State of California, and any other required reporting by Governmental Entities.
3. TPA agrees that the claim files are the property of the City of Huntington Beach. No files will be destroyed without prior written consent by the Risk Manager.
4. TPA will provide electronic media of all historic loss data at termination of agreement, at no cost to the City.

### **A. Claims Handling**

- a. **Please provide responses to the following in a supplemental document to the RFP:**
  - i. Describe your general approach to providing claims administration services including such procedures as:
    1. Calendaring
    2. Reserving of Claims
    3. Claims file management
    4. File documentation
    5. Approach to investigation services
    6. Notification to excess carriers
    7. Collaborating with City Attorneys and Excess Partners
  - ii. How many self-insured public agency accounts do you currently administer?
  - iii. Describe those aspects of your administrative services which distinguish your firm from your competitors.
  - iv. List the Cities that are in a JPA for excess liability for whom you have performed claims administration services.
  - v. What is the maximum caseload handled by your claims adjusters?
  - vi. Explain the firm's process for managing litigated claims.
  - vii. Provide sample reports generated from your Claim Processing System. Do you charge extra for certain reports?
  - viii. Describe in detail your best practices for claims supervision.

- ix. How often do you provide training for your staff? What type of training do you provide? Do you have an in-house training program? If yes, please describe your in-house training program.
- x. Provide a detailed timeline demonstrating the steps to ensure a successful transition.
- xi. Describe your backup procedures and personnel if the key personnel are unavailable to the City.

## **2. SCHEDULE OF EVENTS**

This request for proposal will be governed by the following schedule:

Release of RFP	12-7-2023
Deadline for Written Questions	12-15-2023@4pm
Responses to Questions Posted on Web	12-22-2023
Proposals are Due	12-29--2023 @4pm
Proposal Evaluation Completed	1-09-2024
Panel Tentative Interview	1-17 or 18 -2024
Approval of Contract	February 2024

## **3. SCOPE OF WORK**

The Consultant is to provide the City with the following services:

### **A. Program Administration:**

Consultant shall:

1. Provide professional and technical staff to perform General Liability Claims Administration services with the assignment of qualified personnel, including at least one dedicated principal claims examiner, and 3 designated claims examiners to efficiently and effectively meet the scope of work listed in this section. Such assignment shall be subject to approval by the City.
2. Represent the City in all matters related to the set-up, investigation, adjustment, processing, negotiation and resolution of liability claims against the City.

3. Inform the City of changes or proposed changes in statutes, rules and regulations and any other case law affecting its General Liability Program.
4. Provide information and guidance regarding the general liability claims program and specified claims.
5. Provide copies of file correspondence and documentation as requested by City.
6. Inform City of problem areas and/or trends, both potential and perceived, and provide recommendations and/or solutions to address problem areas and/or trends.
7. Attend appointments, including but not limited to: meetings, conferences, Court appearances and scene investigations at the request of the City.
8. Provide 24-hour on-call service by providing the City with contact information for key personnel. This may include, but is not limited to, responding to an incident scene and/or conducting investigations.
9. Conduct risk management related seminars for department heads and/or City staff at the request of the City.
10. Attempt to settle or recommend denial of claims.
11. Prepare necessary reports of claims filed for the City's primary and excess carriers.
12. Establish and maintain a file for each potential claim.
13. Prepare a Monthly Status Report on all claims including litigated claims. Copies of the report shall be furnished to both the City Attorney and Risk Manager within twenty (20) days of the close of each calendar month. The Monthly Status Report shall include, but is not limited to, the following:
  - i. The details of each claim. This includes a list of all claims segregated by policy year showing the following: policy year, case number, claimant's name, cause of loss description, date of loss, type of loss, status, losses paid to date, reserves, and total incurred; the outstanding reserves of each claim and detail of all claim payments during the month; investigative costs; claims opened and closed during the month; and any active litigation.

#### **B. Claims Administration**

Consultant shall provide administrative services that include, but are not limited to:

1. At the direction of the City, claimants or their attorneys will be contacted promptly and appropriate contact will be maintained until the claim is closed. Claimants or their attorneys will receive a telephone call from Consultant or have a contact letter mailed to them from Consultant within 48 hours of receipt of claim by Consultant.
2. Obtain estimates of automobile damage when appropriate.

3. Review the status of claims and adequacy of reserves on all active cases at least every 90 days.
4. Provide first investigative report to Risk Management within thirty (30) days of receipt of claim.
5. Provide narrative reports when recommending rejection or settlement of a claim, when a claim is going to trial, or when any other significant events have occurred or will occur. Reports must be clear and concise.
6. Negotiate settlements for submittal to the Risk Manager for approval.
7. All files will be diaried at appropriate intervals to allow for timely completion of required activity.
8. Content of all files will be in chronological order with correspondence in the designated section.
9. Files will clearly and concisely document action taken on the claim.
10. Telephone calls will be returned within 24 hours. If the staff member called is not available within this timeframe, another designated staff member will return to call.
11. Review all new claims for liability and provide an assessment of liability to the City no later than thirty (30) days from receipt of loss notice to City.
12. Identify and notify possible co-defendants.
13. Tender claims to other potential responsible parties.
14. Process all claims in accordance with City's instructions and policies.
15. Have translators available to assist with non-English speaking claimants and/or witnesses.
16. Maintain a procedure to alert necessary persons of important dates with respect to the claims.
17. If the possibility of subrogation exists, place the tortfeasor on notice of the City's subrogation rights and work with Risk Management and/or the City Attorney's Office to draft legal documents to recover monies spent on a claim.
18. Report to BICEP (Excess Liability Pool) in accordance with policy provisions.
19. Comply and meet with any excess carrier claims administration requirements.

### **C. Investigations**

1. Within ten (10) days of receipt of claim, unless otherwise requested by the Risk Manager, take statements of facts from claimants when not represented by an attorney. Statements will be preserved by recording or taking handwritten signed statements.
2. Further investigate claims where the initial review indicates that it is warranted. Further investigation may include, but is not limited to: on-sight investigation, photographs, interviewing witnesses and taking signed or recorded statements, verification of damage or loss, taking measurements, obtaining maps/diagrams from the City or other sources, obtaining medical releases, police reports, internal operations investigations, paramedic reports, marine safety department reports, building permits, or other records as required.
3. If an attorney is involved, direct all communication to the claimant's attorney regarding the investigation, negotiation, and evaluation of any claims leading to a settlement.
4. Report all bodily injury claims to Index Bureau. Conduct Index bureau searches for repeat claimants. Conduct additional Index Bureau searches at request of the City.
5. Obtain approval from City before engaging the services of an outside vendor for an investigative assignment.

### **D. Litigation Management**

Consultant shall provide Litigation Management services that include, but are not limited to:

1. Provide City Attorney's Office with transmittal letter outlining the status of the case, results of investigations, primary issues, requested action, a complete copy of the file and any documentation within fourteen (14) days of receipt of lawsuit with a copy to the Risk Manager.
2. Maintain liaison with the City Attorney's Office and defense counsel and provide such investigation as required during the entire litigation process, including but not limited to: additional investigations for pretrial and trial that may be requested by either the City Attorney's Office or defense counsel.
3. Obtain approval from City prior to agreement or settlement.
4. Obtain a fully executed release on all settlements and dismissals.
5. Attend Settlement Conferences, mediation or arbitrations as requested.
6. Assist the City Attorney and defense counsel in preparing and/or answering discovery as requested.

7. Assist City personnel in Small Claims Court actions filed by and against City, including but not limited to: obtaining witness information, evidence, assistance in preparing the case for trial, and appearance at the trial if deemed necessary by the City.

#### **E. Subrogation/Property Recovery**

1. All liability and property investigative matters related to the incident or file are completed by the handling claims adjuster. Claim damage documents can be used to recover the final damages.
2. Use completed damage documentation to evidence the amount of recovery sought to begin preparation of the demands.
3. Work closely with Risk Management to tailor the recovery process to fit the needs of the City.

#### **4. PROPOSAL FORMAT GUIDELINES**

Interested contractors are to provide the City of Huntington Beach with a thorough proposal based on the Scope of Work using the following guidelines:

Proposal should be typed and should contain no more than 20 typed pages using a 12-point font size, including transmittal letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graphic exhibits. Each proposal will adhere to the order and content of sections as outlined below. Proposal should be straightforward, concise and provide “layman” explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract may be rejected.

The Following proposal sections are to be included:

##### **A. Vendor Application Form and Cover Letter**

Complete Appendix A, “Request for Proposal-Vendor Application Form” and attach this form to the cover letter. A cover letter, not to exceed three (3) pages in length, should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 180 days. Also, the cover letter should indicate the address and telephone number of the contractor’s office located nearest to Huntington Beach, California, and the office from which services will be provided, if they differ.

##### **B. Background and Project Summary Section**



The Background and Project Summary Section should describe your understanding of the City of Huntington Beach, the work to be done, and the objectives to be accomplished. Refer to the Scope of Work (Section 3) of this RFP.

**C. Methodology Section**

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

- 1) An implementation plan that describes in detail (i) the methods, including controls by which your firm manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
- 2) Detailed description of efforts your firm will undertake to achieve client satisfaction and to satisfy the requirements of the “Scope of Work” section.
- 3) Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion.
- 4) Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

**D. Project Organization and Staffing**

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform. Include a resume for each designated individual. This section shall define the experience of the Project Manager as well as other key personnel assigned to provide services to the City. The designated Project Manager shall be the primary contact with the City during the contract period.

Upon award and during the contract period, if the contractor chooses to assign different personnel to the project, the contractor must submit their name(s) and qualifications, including information listed above, to the City for approval before they begin work.

**E. Statement of Qualifications and References**

The information in this section should describe the qualifications of the firm, key staff and sub-contractors performing projects within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

- 1) Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.
- 2) A summary of your firm’s demonstrated capability, including length of time that your firm has provided the services being requested in this Request for Proposal.

- 3) Provide at least five City level agency references for which your firm has provided similar services. The City of Huntington Beach reserves the right to contact any of the organizations or individuals listed. Information provided shall include:
  - a. Client Name
  - b. Project Description
  - c. Project start and end dates
  - d. Client Project manager name, telephone number and e-mail address
- 4) Provide a list of three (3) clients who have elected to discontinue to contract with your firm during the past five (5) years, describe reason for change and information regarding the size of the organization.

**F. Fee Proposal**

The City of Huntington Beach desires a three (3) year proposal that may be extended up to two (2) years. Describe your firm's fee schedule on an annual basis.

**5. PROCESS FOR SUBMITTING PROPOSALS**

All proposals must be submitted in PDF file format.

◆ **Content of Proposal**

The proposal must be submitted using the format as indicated in the proposal format guidelines.

◆ **Preparation of Proposal**

Each proposal shall be prepared simply and economically, avoiding the use of elaborate promotional material beyond those sufficient to provide a complete, accurate and reliable presentation.

◆ **Number of Proposals**

Submit one (1) PDF file format copy of your proposal in sufficient detail to allow for thorough evaluation and comparative analysis.

◆ **Submission of Proposals**

*Complete written proposals must be submitted electronically in PDF file format via the Planetbids.com website no later than 4:00 p.m. (P.S.T) on December 29, 2023. Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted.*

◆ **Inquiries**

*Questions about this RFP must be directed via Planetbids through the Q & A tab no later than December 22, 2023 @ 4pm*

Glynis Litvak, Principal Finance Analyst

[Glynis.litvak@surfcity-hb.org](mailto:Glynis.litvak@surfcity-hb.org)

From the date that this RFP is issued until a firm is selected and the selection is announced, firms are not allowed to communicate for any reason with any City employee other than the contracting officer listed above regarding this RFP, except during the pre-proposal conference. Refer to the Schedule of Events of this RFP or the City webpage to determine if a pre-proposal conference has been scheduled. The City reserves the right to reject any proposal for violation of this provision. No questions other than written will be accepted, and no response other than written will be binding upon the City.

◆ **Conditions for Proposal Acceptance**

This RFP does not commit the City to award a contract or to pay any costs incurred for any services. The City, at its sole discretion, reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified source, or to cancel this RFP in part or in its entirety. All proposals will become the property of the City of Huntington Beach, USA. If any proprietary information is contained in the proposal, it should be clearly identified.

## **6. EVALUATION CRITERIA**

The City's consultant evaluation and selection process is based upon Qualifications Based Selection (QBS) for professional services. The City of Huntington Beach may use some or all of the following criteria in its evaluation and comparison of proposals submitted. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance:

- A. Compliance with RFP requirements
- B. Understanding of Project
- C. Methods and approach described to accomplish the Scope of Work of this RFP.
- D. Recent experience in conducting work of similar scope, complexity, and magnitude for other public agencies.
- E. Educational background, work experience, most importantly public sector work experience, and directly related consulting experiences.
- F. Price
- G. References from local clients with particular emphasis on local government.

The City may also contact and evaluate the bidder's and subcontractor's references; contact any bidder to clarify any response; contact any current users of a bidder's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The evaluation committee shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the City.

After written proposals have been reviewed, discussions with prospective firms may or may not be required. If scheduled, the oral interview will be a question/answer format for the purpose of clarifying the intent of any portions of the proposal. The individual from your firm that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview.

A Notification of Intent to Award may be sent to the vendor selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City may negotiate a contract with the next highest scoring vendor or withdraw the RFP.

## **7. STANDARD TERMS AND CONDITIONS**

### **◆ Amendments**

The City reserves the right to amend this RFP prior to the proposal due date. All amendments and additional information will be posted *via* planetbids. Bidders should check this web page daily for new information.

### **◆ Cost for Preparing Proposal**

The cost for developing the proposal is the sole responsibility of the bidder. All proposals submitted become the property of the City.

### **◆ Contract Discussions**

Prior to award, the apparent successful firm may be required to enter into discussions with the City to resolve any contractual differences. These discussions are to be finalized and all exceptions resolved within one (1) week from notification. If no resolution is reached, the proposal may be rejected and discussions will be initiated with the second highest scoring firm. See Appendix B for a sample agreement.

### **◆ Confidentiality Requirements**

The staff members assigned to this project may be required to sign a departmental non-disclosure statement. Proposals are subject to the Freedom of Information Act. The City cannot protect proprietary data submitted in proposals.

◆ Financial Information

The City is concerned about bidders' financial capability to perform, therefore, may ask you to provide sufficient data to allow for an evaluation of your firm's financial capabilities.

◆ Payment by Electronic Funds Transfer – EFT:

The City requires that payment be made directly to the vendor's bank account via an Electronic Fund Transfer (EFT) process. Banking information will need to be provided to the City via an Electronic Credit Authorization form. A City Representative will provide the Electronic Credit Authorization form upon intent to award. Vendor will receive an Electronic Remittance Advice with the payment details via email. It is solely the responsibility of the vendor to immediately notify the City of any change to their information related to payments.

◆ Insurance Requirements & Sample Agreement

City Resolution 2008-63 requires that licensees, lessees, and vendors have an ***approved*** Certificate of Insurance (not a declaration or policy) on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful bidder must furnish the City with the Certificates of Insurance proving coverage as specified in Appendix C. Failure to furnish the City with the required certificates within the time allowed will result in forfeiture of the Proposal Security. ***The City strongly encourages all bidders to review the Sample Agreement and Insurance Requirements before responding to the Request for Proposal.***

***Please carefully review the Sample Agreement and Insurance Requirements before responding to the Request for Proposal enclosed herein. The terms of the agreement, including insurance requirements, have been mandated by the City Council and can be modified only if extraordinary circumstances exist. Your response to the Request for Proposal must indicate if you are unwilling or unable to execute the agreement as drafted as well as providing the insurance requirements. The City will consider this in determining responsiveness to the Request for Proposal.***

# APPENDIX A

**REQUEST FOR PROPOSAL**  
**VENDOR APPLICATION FORM**

TYPE OF APPLICANT: ☐ NEW ☐ CURRENT VENDOR

Legal Contractual Name of Corporation: \_\_\_\_\_

Contact Person for Agreement: \_\_\_\_\_

Corporate Mailing Address: \_\_\_\_\_

City, State and Zip Code: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Contact Person for Proposals: \_\_\_\_\_

Title: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Business Telephone: \_\_\_\_\_ Business Fax: \_\_\_\_\_

Is your business: (check one)

☐ NON PROFIT CORPORATION ☐ FOR PROFIT CORPORATION

Is your business: (check one)

<input type="checkbox"/> CORPORATION	<input type="checkbox"/> LIMITED LIABILITY PARTNERSHIP
<input type="checkbox"/> INDIVIDUAL	<input type="checkbox"/> SOLE PROPRIETORSHIP
<input type="checkbox"/> PARTNERSHIP	<input type="checkbox"/> UNINCORPORATED ASSOCIATION

**Names & Titles of Corporate Board Members**

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Federal Tax Identification Number: \_\_\_\_\_

City of Huntington Beach Business License Number: \_\_\_\_\_

(If none, you must obtain a Huntington Beach Business License upon award of contract.)

City of Huntington Beach Business License Expiration Date: \_\_\_\_\_



# APPENDIX B

PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF HUNTINGTON BEACH AND

FOR

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PROFESSIONAL SERVICES CONTRACT BETWEEN  
THE CITY OF HUNTINGTON BEACH AND

\_\_\_\_\_  
FOR  
\_\_\_\_\_

THIS AGREEMENT ("Agreement") is made and entered into by and between the City of Huntington Beach, a municipal corporation of the State of California, hereinafter referred to as "CITY, and \_\_\_\_\_, a \_\_\_\_\_ hereinafter referred to as "CONSULTANT."

WHEREAS, CITY desires to engage the services of a consultant to \_\_\_\_\_; and

Pursuant to documentation on file in the office of the City Clerk, the provisions of the Huntington Beach Municipal Code, Chapter 3.03, relating to procurement of professional service contracts have been complied with; and

CONSULTANT has been selected to perform these services,

NOW, THEREFORE, it is agreed by CITY and CONSULTANT as follows:

1. SCOPE OF SERVICES

CONSULTANT shall provide all services as described in **Exhibit "A,"** which is attached hereto and incorporated into this Agreement by this reference. These services shall sometimes hereinafter be referred to as the "PROJECT."

CONSULTANT hereby designates \_\_\_\_\_ who shall represent it and be its sole contact and agent in all consultations with CITY during the performance of this Agreement.

2. CITY STAFF ASSISTANCE

CITY shall assign a staff coordinator to work directly with CONSULTANT in the performance of this Agreement.

3. TERM; TIME OF PERFORMANCE

Time is of the essence of this Agreement. The services of CONSULTANT are to commence on \_\_\_\_\_, 20\_\_\_\_ (the "Commencement Date"). This Agreement shall automatically terminate three (3) years from the Commencement Date, unless extended or sooner terminated as provided herein. All tasks specified in **Exhibit "A"** shall be completed no later than \_\_\_\_\_ from the Commencement Date. The time for performance of the tasks identified in **Exhibit "A"** are generally to be shown in **Exhibit "A."** This schedule may be amended to benefit the PROJECT if mutually agreed to in writing by CITY and CONSULTANT.

In the event the Commencement Date precedes the Effective Date, CONSULTANT shall be bound by all terms and conditions as provided herein.

4. COMPENSATION

In consideration of the performance of the services described herein, CITY agrees to pay CONSULTANT on a time and materials basis at the rates specified in **Exhibit "B,"** which is attached hereto and incorporated by reference into this Agreement, a fee, including all costs and expenses, not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

5. EXTRA WORK

In the event CITY requires additional services not included in **Exhibit "A"** or changes in the scope of services described in **Exhibit "A,"** CONSULTANT will undertake such work only after receiving written authorization from CITY. Additional

compensation for such extra work shall be allowed only if the prior written approval of CITY is obtained.

6. METHOD OF PAYMENT

CONSULTANT shall be paid pursuant to the terms of **Exhibit "B."**

7. DISPOSITION OF PLANS, ESTIMATES AND OTHER DOCUMENTS

CONSULTANT agrees that title to all materials prepared hereunder, including, without limitation, all original drawings, designs, reports, both field and office notices, calculations, computer code, language, data or programs, maps, memoranda, letters and other documents, shall belong to CITY, and CONSULTANT shall turn these materials over to CITY upon expiration or termination of this Agreement or upon PROJECT completion, whichever shall occur first. These materials may be used by CITY as it sees fit.

8. HOLD HARMLESS

CONSULTANT hereby agrees to protect, defend, indemnify and hold harmless CITY, its officers, elected or appointed officials, employees, agents and volunteers from and against any and all claims, damages, losses, expenses, judgments, demands and defense costs (including, without limitation, costs and fees of litigation of every nature or liability of any kind or nature) arising out of or in connection with CONSULTANT's (or CONSULTANT's subcontractors, if any) negligent (or alleged negligent) performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement by CONSULTANT, its officers, agents or employees except such loss or damage which was caused by the sole negligence or willful misconduct of CITY. CONSULTANT will conduct all defense at its sole cost and expense and CITY shall approve selection of CONSULTANT's counsel. This indemnity shall

apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as limitation upon the amount of indemnification to be provided by CONSULTANT.

9. PROFESSIONAL LIABILITY INSURANCE

CONSULTANT shall obtain and furnish to CITY a professional liability insurance policy covering the work performed by it hereunder. This policy shall provide coverage for CONSULTANT's professional liability in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence and in the aggregate. The above-mentioned insurance shall not contain a self-insured retention without the express written consent of CITY; however an insurance policy "deductible" of Ten Thousand Dollars (\$10,000.00) or less is permitted. A claims-made policy shall be acceptable if the policy further provides that:

- A. The policy retroactive date coincides with or precedes the initiation of the scope of work (including subsequent policies purchased as renewals or replacements).
- B. CONSULTANT shall notify CITY of circumstances or incidents that might give rise to future claims.

CONSULTANT will make every effort to maintain similar insurance during the required extended period of coverage following PROJECT completion. If insurance is terminated for any reason, CONSULTANT agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this Agreement.

If CONSULTANT fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the CITY with required proof that

insurance has been procured and is in force and paid for, the CITY shall have the right, at the CITY's election, to forthwith terminate this Agreement. Such termination shall not effect Consultant's right to be paid for its time and materials expended prior to notification of termination. CONSULTANT waives the right to receive compensation and agrees to indemnify the CITY for any work performed prior to approval of insurance by the CITY.

10. CERTIFICATE OF INSURANCE

Prior to commencing performance of the work hereunder, CONSULTANT shall furnish to CITY a certificate of insurance subject to approval of the City Attorney evidencing the foregoing insurance coverage as required by this Agreement; the certificate shall:

- A. provide the name and policy number of each carrier and policy;
- B. state that the policy is currently in force; and
- C. shall promise that such policy shall not be suspended, voided or canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice; however, ten (10) days' prior written notice in the event of cancellation for nonpayment of premium.

CONSULTANT shall maintain the foregoing insurance coverage in force until the work under this Agreement is fully completed and accepted by CITY.

The requirement for carrying the foregoing insurance coverage shall not derogate from CONSULTANT's defense, hold harmless and indemnification obligations as set forth in this Agreement. CITY or its representative shall at all times have the right to demand the original or a copy of the policy of insurance. CONSULTANT shall pay, in a prompt and timely manner, the premiums on the insurance hereinabove required.

11. INDEPENDENT CONTRACTOR

CONSULTANT is, and shall be, acting at all times in the performance of this Agreement as an independent contractor herein and not as an employee of CITY. CONSULTANT shall secure at its own cost and expense, and be responsible for any and all payment of all taxes, social security, state disability insurance compensation, unemployment compensation and other payroll deductions for CONSULTANT and its officers, agents and employees and all business licenses, if any, in connection with the PROJECT and/or the services to be performed hereunder.

12. TERMINATION OF AGREEMENT

All work required hereunder shall be performed in a good and workmanlike manner. CITY may terminate CONSULTANT's services hereunder at any time with or without cause, and whether or not the PROJECT is fully complete. Any termination of this Agreement by CITY shall be made in writing, notice of which shall be delivered to CONSULTANT as provided herein. In the event of termination, all finished and unfinished documents, exhibits, report, and evidence shall, at the option of CITY, become its property and shall be promptly delivered to it by CONSULTANT.

13. ASSIGNMENT AND DELEGATION

This Agreement is a personal service contract and the work hereunder shall not be assigned, delegated or subcontracted by CONSULTANT to any other person or entity without the prior express written consent of CITY. If an assignment, delegation or subcontract is approved, all approved assignees, delegates and subconsultants must satisfy the insurance requirements as set forth in Sections 9 and 10 hereinabove.



14. COPYRIGHTS/PATENTS

CITY shall own all rights to any patent or copyright on any work, item or material produced as a result of this Agreement.

15. CITY EMPLOYEES AND OFFICIALS

CONSULTANT shall employ no CITY official nor any regular CITY employee in the work performed pursuant to this Agreement. No officer or employee of CITY shall have any financial interest in this Agreement in violation of the applicable provisions of the California Government Code.

16. NOTICES

Any notices, certificates, or other communications hereunder shall be given either by personal delivery to CONSULTANT's agent (as designated in Section 1 hereinabove) or to CITY as the situation shall warrant, or by enclosing the same in a sealed envelope, postage prepaid, and depositing the same in the United States Postal Service, to the addresses specified below. CITY and CONSULTANT may designate different addresses to which subsequent notices, certificates or other communications will be sent by notifying the other party via personal delivery, a reputable overnight carrier or U. S. certified mail-return receipt requested:

TO CITY:

City of Huntington Beach  
ATTN: \_\_\_\_\_  
2000 Main Street  
Huntington Beach, CA 92648

TO CONSULTANT:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. CONSENT

When CITY's consent/approval is required under this Agreement, its consent/approval for one transaction or event shall not be deemed to be a consent/approval to any subsequent occurrence of the same or any other transaction or event.

18. MODIFICATION

No waiver or modification of any language in this Agreement shall be valid unless in writing and duly executed by both parties.

19. SECTION HEADINGS

The titles, captions, section, paragraph and subject headings, and descriptive phrases at the beginning of the various sections in this Agreement are merely descriptive and are included solely for convenience of reference only and are not representative of matters included or excluded from such provisions, and do not interpret, define, limit or describe, or construe the intent of the parties or affect the construction or interpretation of any provision of this Agreement.

20. INTERPRETATION OF THIS AGREEMENT

The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the parties. If any provision of this Agreement is held by an arbitrator or court of competent jurisdiction to be unenforceable, void, illegal or invalid, such holding shall not invalidate or affect the remaining covenants and provisions of this Agreement. No covenant or provision shall be deemed dependent upon any other unless so expressly provided here. As used in this Agreement, the masculine or neuter gender and singular or plural number shall be deemed to include the other whenever the context so indicates or requires. Nothing contained herein shall be construed so as to require the commission of any act

contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute, law, ordinance or regulation contrary to which the parties have no right to contract, then the latter shall prevail, and the provision of this Agreement which is hereby affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law.

21. DUPLICATE ORIGINAL

The original of this Agreement and one or more copies hereto have been prepared and signed in counterparts as duplicate originals, each of which so executed shall, irrespective of the date of its execution and delivery, be deemed an original. Each duplicate original shall be deemed an original instrument as against any party who has signed it.

22. IMMIGRATION

CONSULTANT shall be responsible for full compliance with the immigration and naturalization laws of the United States and shall, in particular, comply with the provisions of the United States Code regarding employment verification.

23. LEGAL SERVICES SUBCONTRACTING PROHIBITED

CONSULTANT and CITY agree that CITY is not liable for payment of any subcontractor work involving legal services, and that such legal services are expressly outside the scope of services contemplated hereunder. CONSULTANT understands that pursuant to *Huntington Beach City Charter* Section 309, the City Attorney is the exclusive legal counsel for CITY; and CITY shall not be liable for payment of any legal services expenses incurred by CONSULTANT.

24. ATTORNEY'S FEES

In the event suit is brought by either party to construe, interpret and/or enforce the terms and/or provisions of this Agreement or to secure the performance hereof, each party shall bear its own attorney's fees, such that the prevailing party shall not be entitled to recover its attorney's fees from the nonprevailing party.

25. SURVIVAL

Terms and conditions of this Agreement, which by their sense and context survive the expiration or termination of this Agreement, shall so survive.

26. GOVERNING LAW

This Agreement shall be governed and construed in accordance with the laws of the State of California.

27. SIGNATORIES

Each undersigned represents and warrants that its signature hereinbelow has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify CITY fully for any injuries or damages to CITY in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

**CONSULTANT's Initials** \_\_\_\_\_

28. ENTIRETY

The parties acknowledge and agree that they are entering into this Agreement freely and voluntarily following extensive arm's length negotiation, and that each has had the opportunity to consult with legal counsel prior to executing this Agreement. The parties also acknowledge and agree that no representations, inducements, promises, agreements or warranties, oral or otherwise, have been made by that party or anyone acting on that party's behalf, which are not embodied in this Agreement, and that

that party has not executed this Agreement in reliance on any representation, inducement, promise, agreement, warranty, fact or circumstance not expressly set forth in this Agreement. This Agreement, and the attached exhibits, contain the entire agreement between the parties respecting the subject matter of this Agreement, and supersede all prior understandings and agreements whether oral or in writing between the parties respecting the subject matter hereof.

29. EFFECTIVE DATE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers. This Agreement shall be effective on the date of its approval by the City Attorney. This Agreement shall expire when terminated as provided herein.

CONSULTANT,

CITY OF HUNTINGTON BEACH,  
a municipal corporation of the State of  
California

\_\_\_\_\_  
COMPANY NAME  
\_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_  
City Administrator

INITIATED AND APPROVED:

\_\_\_\_\_  
print name

**ITS:** *(circle one)* Chairman/President/Vice President

\_\_\_\_\_  
Director/Chief

**AND**

By: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
print name

**ITS:** *(circle one)* Secretary/Chief Financial Officer/Asst.  
Secretary – Treasurer

\_\_\_\_\_  
City Attorney

Date \_\_\_\_\_

## **EXHIBIT "A"**

A. STATEMENT OF WORK: (Narrative of work to be performed)

B. CONSULTANT'S DUTIES AND RESPONSIBILITIES:

1.

2.

C. CITY'S DUTIES AND RESPONSIBILITIES:

1.

2.

D. WORK PROGRAM/PROJECT SCHEDULE:

## EXHIBIT "B"

### Payment Schedule (Hourly Payment)

#### A. Hourly Rate

CONSULTANT'S fees for such services shall be based upon the following hourly rate and cost schedule:

#### B. Travel. Charges for time during travel are not reimbursable

#### C. Billing

1. All billing shall be done monthly in fifteen (15) minute increments and matched to an appropriate breakdown of the time that was taken to perform that work and who performed it.
2. Each month's bill should include a total to date. That total should provide, at a glance, the total fees and costs incurred to date for the project.
3. A copy of memoranda, letters, reports, calculations and other documentation prepared by CONSULTANT may be required to be submitted to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.
4. CONSULTANT shall submit to CITY an invoice for each monthly payment due. Such invoice shall:
  - A) Reference this Agreement;
  - B) Describe the services performed;
  - C) Show the total amount of the payment due;
  - D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement; and
  - E) For all payments include an estimate of the percentage of work completed.

Upon submission of any such invoice, if CITY is satisfied that CONSULTANT is making satisfactory progress toward completion of tasks in accordance with this Agreement, CITY shall approve the invoice, in which event payment shall be made within thirty (30) days of receipt of the invoice by CITY. Such approval shall not be unreasonably withheld. If CITY does not approve an invoice, CITY shall notify CONSULTANT in writing of the reasons for non-approval and the schedule of performance set forth in **Exhibit "A"** may at the option of CITY be suspended until the parties agree that past performance by CONSULTANT is in, or has been brought into compliance, or until this Agreement has expired or is terminated as provided herein.

5. Any billings for extra work or additional services authorized in advance and in writing by CITY shall be invoiced separately to CITY. Such invoice shall contain all of the information required above, and in addition shall list the hours expended and hourly rate charged for such time. Such invoices shall be approved by CITY if the work performed is in accordance with the extra work or additional services requested, and if CITY is satisfied that the statement of hours worked and costs incurred is accurate. Such approval shall not be unreasonably withheld. Any dispute between the parties concerning payment of such an invoice shall be treated as separate and apart from the ongoing performance of the remainder of this Agreement.



## **EXHIBIT "B"**

### **Payment Schedule (Fixed Fee Payment)**

1. CONSULTANT shall be entitled to monthly progress payments toward the fixed fee set forth herein in accordance with the following progress and payment schedules.

2. Delivery of work product: A copy of every memorandum, letter, report, calculation and other documentation prepared by CONSULTANT shall be submitted to CITY to demonstrate progress toward completion of tasks. In the event CITY rejects or has comments on any such product, CITY shall identify specific requirements for satisfactory completion.

3. CONSULTANT shall submit to CITY an invoice for each monthly progress payment due. Such invoice shall:

- A) Reference this Agreement;
- B) Describe the services performed;
- C) Show the total amount of the payment due;
- D) Include a certification by a principal member of CONSULTANT's firm that the work has been performed in accordance with the provisions of this Agreement; and
- E) For all payments include an estimate of the percentage of work completed.

Upon submission of any such invoice, if CITY is satisfied that CONSULTANT is making satisfactory progress toward completion of tasks in accordance with this Agreement, CITY shall approve the invoice, in which event payment shall be made within thirty (30) days of receipt of the invoice by CITY. Such approval shall not be unreasonably withheld. If CITY does not approve an invoice, CITY shall notify CONSULTANT in writing of the reasons for non-approval and the schedule of performance set forth in **Exhibit "A"** may at the option of CITY be suspended until the parties agree that past performance by CONSULTANT is in, or has been brought into compliance, or until this Agreement has expired or is terminated as provided herein.

4. Any billings for extra work or additional services authorized in advance and in writing by CITY shall be invoiced separately to CITY. Such invoice shall contain all of the information required above, and in addition shall list the hours expended and hourly rate charged for such time. Such invoices shall be approved by CITY if the work performed is in accordance with the extra work or additional services requested, and if CITY is satisfied that the statement of hours worked and costs incurred is accurate. Such approval shall not be unreasonably withheld. Any dispute between the parties concerning payment of such an invoice shall be treated as separate and apart from the ongoing performance of the remainder of this Agreement.

# APPENDIX C

## CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Vendor Type	Minimum Insurance Requirements					
	Automobile Liability	General Liability	Professional Liability	Property Insurance	Workers' Comp	Additional Insured Endorsements
<i>Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII. See Exhibits A1 - 4 for sample forms.</i> <i>Email: Justin.Wessels@surfcity-hb.org or Heather.Campbell@surfcity-hb.org Phone: 714-374-5378 or 714-536-5210. Fax: 714-536-5212.</i>						
<i>Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.</i>						
<b>Contractors:</b> Any persons or entities who contract with the City and/or provide services to the City which are readily available and efficiently procured by competitive bidding.	Minimum of \$1,000,000 per occurrence for bodily injury, personal injury and property damages. Allows up to \$1,000 deductible.(See Note 1 below.)	Combined single limit bodily injury and property damage. Minimum of \$1,000,000 per occurrence. Allows up to \$5,000 deductible. (Additional Insured Endorsement is always required with General Liability Ins.)			As required by the State of California, with Statutory Limits and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. (See Note 2 below.)	Include the policy number and Additional Insured Endorsement Requirement statement below. (See Note 3 below.)
<b>Permittees:</b> Any persons or entities who make application to the City for any use of or encroachment upon any public street, waterway, pier, or City property.						
<b>Vendors:</b> Any persons or entities who transfers property or goods to the City which may or may not involve delivery and/or installation.						
Note 1 - Automobile Liability: The City of Huntington Beach, its officers, elected or appointed officials, employees, agents and volunteers must be named as certificate holder and as additional insured by separate attached endorsement. Permittees who do not use vehicles or equipment in connection with the permit shall not be required to provide auto insurance. To be exempt from this requirement, permittees must execute a declaration such as Exhibit 1 attached.						
Note 2 - Workers' Compensation Exemption: If entity has no employees, a signed Declaration of Non-Employee Status form is required.						
Note 3 - Additional Insured Endorsement Requirements: The City, its officers, elected or appointed officials, employees, agents, and volunteers are to be covered as additional insureds by separate attached endorsement(s) as respects liability arising out of action performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor, or automobiles owned, leased or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City.						

## CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Vendor Type	Minimum Insurance Requirements					
	Automobile Liability	General Liability	Professional Liability	Property Insurance	Workers' Comp	Additional Insured Endorsements
<p><i>Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII. See Exhibits A1 - 4 for sample forms.</i></p> <p><i>Email: Justin.Wessels@surfcity-hb.org or Heather.Campbell@surfcity-hb.org Phone: 714-374-5378 or 714-536-5210. Fax: 714-536-5212.</i></p>						
<p><i>Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.</i></p>						
<p><b>Design Professionals:</b> Professional service contractors who contract with the City and/or provide architectural and/or engineering services to the City.</p>			Minimum of \$1,000,000 per occurrence and in the aggregate. Allows up to \$10,000 deductible.			
<p><b>Professional Services:</b> Services that involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience or services which are not readily or efficiently procured by competitive bidding pursuant to HB Muni Code 3.02. Services includes but are not limited to those services provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants.</p>						
<p>Claims made policies are acceptable if the policy further provides that:</p> <ol style="list-style-type: none"> <li>1) The policy retroactive date coincides with or precedes the professional services contractor's start of work (including subsequent policies purchased as renewals or replacements).</li> <li>2) The professional services contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds.</li> <li>3) If insurance is terminated for any reason, professional services contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this agreement or permit.</li> <li>4) The reporting of circumstances or incidents that might give rise to future claims.</li> </ol>						

## CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

Vendor Type	Minimum Insurance Requirements					
	Automobile Liability	General Liability	Professional Liability	Property Insurance	Workers' Comp	Additional Insured Endorsements
<p><i>Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII. See Exhibits A1 - 4 for sample forms.</i></p> <p><i>Email: Justin.Wessels@surfcity-hb.org or Heather.Campbell@surfcity-hb.org Phone: 714-374-5378 or 714-536-5210. Fax: 714-536-5212.</i></p>						
<p><i>Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.</i></p>						
<p><b>Licensees/Lessees:</b> Any persons or entities who contract with the City for the use of public property.</p>		<p>Combined single limit bodily injury and property damage. Minimum of \$1,000,000 per occurrence. Allows up to \$5,000 deductible.</p> <p><i>(Additional Insurance Endorsement is always required with General Liability Ins.)</i></p>		<p>Full replacement cost with no coinsurance penalty provision.</p>	<p>As required by the State of California, with Statutory Limits and Employer's Liability Insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease. <i>(See Note 1 below.)</i></p>	<p>Include the policy number and Additional Insured Endorsement Requirement statement below. <i>(See Note 2.)</i></p>
<p>Note 1 - Workers' Compensation Exemption: If entity has no employees, a signed Declaration of Non-Employee Status form is required.</p>						
<p>Note 2 - Additional Insured Endorsement Requirements: The City, its officers, elected or appointed officials, employees, agents, and volunteers are to be covered as additional insureds by separate attached endorsement(s) as respects liability arising out of action performed by or on behalf of the contractor, products and completed operations of the contractor, premises owned, occupied or used by the contractor, or automobiles owned, leased or borrowed by the contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City.</p>						

## CITY OF HUNTINGTON BEACH INSURANCE REQUIREMENTS

*Huntington Beach City Council Resolution No. 2008-63 requires submittal of certificates of insurance evidencing the following minimum limits with a California admitted carrier with a current A.M. Best's Rating of no less than A:VII.*

*Any deductible other than those allowed in this matrix, self-insured retentions or similar forms of coverage limitations or modifications must be approved by the Risk Manager and City Attorney of the City of Huntington Beach. NOTE: Waivers and / or modifications are discouraged and will be considered only under extraordinary circumstances.*

Vendor Type	Minimum Insurance Requirements
	Professional Liability
<b>Design Professionals:</b> Professional service contractors who contract with the City and/or provide architectural and/or engineering services to the City.	Minimum of \$1,000,000 per occurrence and in the aggregate. Allows up to \$10,000 deductible.
<b>Professional Services:</b> Services that involve the exercise of professional discretion and independent judgment based on an advanced or specialized knowledge, expertise or training gained by formal studies or experience or services which are not readily or efficiently procured by competitive bidding pursuant to HB Muni Code 3.02. Services includes but is not limited to those services provided by appraisers, architects, attorneys, engineers, instructors, insurance advisors, physicians and other specialized consultants.	
<u>Claims made policies are acceptable if the policy further provides that:</u> 1) The policy retroactive date coincides with or precedes the professional services contractor’s start of work (including subsequent policies purchased as renewals or replacements). 2) The professional services contractor will make every effort to maintain similar insurance during the required extended period of coverage following project completion, including the requirement of adding all additional insureds. 3) If insurance is terminated for any reason, professional services contractor agrees to purchase an extended reporting provision of at least two (2) years to report claims arising from work performed in connection with this agreement or permit. 4) The reporting of circumstances or incidents that might give rise to future claims.	