



DATE: April 4, 2007
TO: Honorable Mayor and City Councilmembers
FROM: City Manager's Office
SUBJECT: **APPROVAL OF A PROFESSIONAL SERVICES AGREEMENT FOR THE QUARTERLY PRINTING OF THE *OCEANSIDE MAGAZINE***

SYNOPSIS

Staff recommends that the City Council approve a four-year professional services agreement with Advanced Web in an amount not to exceed \$17,245 per issue (\$68,980 per year) for the printing of up to sixteen issues of *Oceanside Magazine*, and authorize the City Manager to execute the agreement.

BACKGROUND

Since August 1996, Advanced Web has been providing all printing services for the quarterly *Oceanside Magazine*. The current professional services agreement with Advanced Web has recently terminated. Consequently, it was necessary to review Advanced Web's performance as well as to solicit bids from other comparable printers. Staff solicited and reviewed the information provided by various printers, and it is staff's recommendation that Advanced Web, due to its long history with *Oceanside Magazine* as well as the fact that they were the lower bidder, continues to be the best option for the printing of *Oceanside Magazine*.

ANALYSIS

The City of Oceanside produces four issues of *Oceanside Magazine* each year. The printing of the magazines has always been done outside of the organization. Currently, the City is printing an average of 87,000 magazines per issue, which are distributed to residences and businesses in the City of Oceanside. The cost for printing *Oceanside Magazine* is offset by the advertising revenues that the City receives. The cost for printing each issue is approximately \$17,245, which is less than the amount received in ad revenues, which averages approximately \$25,293 per issue. The remaining ad revenue is used to offset mailing and graphic design costs.

FISCAL IMPACT

The four-year professional services agreement requires that Advanced Web provide printing services for no more than \$17,245 per issue for a total of \$68,980 on an annual basis (four issues). The \$68,980 on an annual basis is paid for by approximately \$101,172 in annual revenues from advertising sales.

INSURANCE REQUIREMENTS

Meets or exceeds the City's insurance requirements.

COMMISSION OR COMMITTEE REPORT

Does not apply.

CITY ATTORNEY'S ANALYSIS

The professional services agreement with Advanced Web has been reviewed by the City Attorney and approved as to form.

RECOMMENDATION

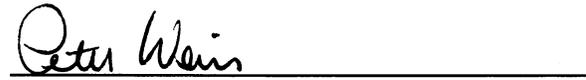
Staff recommends that the City Council approve the four-year professional services agreement with Advanced Web in an amount not to exceed \$17,245 per issue or \$68,980 annually for four issues to be paid for by ad revenue for the printing of *Oceanside Magazine* with the option to renew for an additional eight issues and authorize the City Manager to execute the agreement.

PREPARED BY:



Michelle Skaggs Lawrence
Deputy City Manager

SUBMITTED BY:



Peter A. Weiss
Interim City Manager

Attachment 1: Professional services agreement

Oceanside Magazine

Quotations are based on a per issue price - 4 issues per year

	Per specs supplied	4 color plate	Spot color plate	Total
San Dieguito Printers 1880 Diamond Street San Marcos, CA 92069 (760) 744-0910	16,784.00	400.00	200.00	17,384.00
Advanced Web Offset 2260 Oak Ridge Way Vista, CA 92083 (760) 727-1700	16,585.00	495.00	165.00	17,245.00
VQS Enterprises, Inc. 1081 Poinsettia Avenue Vista, CA 92081 (760) 597-1200	18,545.00	275.00	70.00	18,890.00

CITY OF OCEANSIDE

PROFESSIONAL SERVICES AGREEMENT

PROJECT: OCEANSIDE QUARTERLY MAGAZINE PRINTING

THIS AGREEMENT is made and entered into this ___th day of _____, 2007, by and between the CITY OF OCEANSIDE, a municipal corporation, hereinafter designated as "CITY", and ADVANCED WEB OFFSET, hereinafter designated as "CONSULTANT."

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **SCOPE OF WORK.** This project includes printing four issues of the Oceanside Quarterly Magazine per year with a print run of an average of 87,000 magazines per issue. All magazines will be delivered by the CONSULTANT to the U.S. Post Office Bulk Mail Facility in Oceanside. The detailed scope of work is listed in Exhibit A.
 - 1.1 **Term.** The term of this agreement shall be for the following sixteen (16) issues with the option to renew for an additional eight issues by mutual consent:
 - a. Spring 2007, 2008, 2009, and 2010
 - b. Summer 2007, 2008, 2009, and 2010
 - c. Fall 2007, 2008, 2009, and 2010
 - d. Winter 2007, 2008, 2009, and 2010
2. **INDEPENDENT CONTRACTOR.** CONSULTANT'S relationship to the CITY shall be that of an independent contractor. CONSULTANT shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless specifically authorized in writing by the City Manager. CONSULTANT shall be solely responsible for the performance of any of its employees, agents, or subcontractors under this Agreement. CONSULTANT shall report to the CITY any and all employees, agents, and consultants performing work in connection with this project, and all shall be subject to the approval of the CITY.
3. **WORKER'S COMPENSATION.** Pursuant to Labor Code section 1861, the CONSULTANT hereby certifies that the CONSULTANT is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and the CONSULTANT will comply

OCEANSIDE QUARTERLY MAGAZINE PRINTING

with such provisions, and provide certification of such compliance as a part of this Agreement.

4. LIABILITY INSURANCE.

4.1. CONSULTANT shall, throughout the duration of this Agreement maintain comprehensive general liability and property damage insurance, or commercial general liability insurance, covering all operations of CONSULTANT, its agents and employees, performed in connection with this Agreement including but not limited to premises and automobile.

4.2 CONSULTANT shall maintain liability insurance in the following minimum limits:

Comprehensive General Liability Insurance
(bodily injury and property damage)

Combined Single Limit Per Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000*

Commercial General Liability Insurance
(bodily injury and property damage)

General limit per occurrence	\$ 1,000,000
General limit project specific aggregate	\$ 2,000,000

<u>Automobile Liability Insurance</u>	\$ 1,000,000
---------------------------------------	--------------

*General aggregate per year, or part thereof, with respect to losses or other acts or omissions of CONSULTANT under this Agreement.

4.3 If coverage is provided through a Commercial General Liability Insurance policy, a minimum of 50% of each of the aggregate limits shall remain available at all times. If over 50% of any aggregate limit has been paid or reserved, the CITY may require additional coverage to be purchased by the CONSULTANT to restore the required limits. The CONSULTANT shall also notify CITY of all losses or claims over \$25,000 resulting from work performed under this contract, or any loss or claim against the CONSULTANT resulting from any of the CONSULTANT'S work.

4.4 All insurance companies affording coverage to the CONSULTANT for the purposes of this Section shall add the City of Oceanside as "additional insured" under the designated insurance policy for all work performed under this agreement. Insurance coverage provided to the City as additional insured shall be primary insurance and

OCEANSIDE QUARTERLY MAGAZINE PRINTING

other insurance maintained by the City of Oceanside, its officers, agents, and employees shall be excess only and not contributing with insurance provided pursuant to this Section.

- 4.5 All insurance companies affording coverage to the CONSULTANT pursuant to this agreement shall be insurance organizations admitted by the Insurance Commissioner of the State of California to transact business of insurance in the state or be rated as A-X or higher by A.M. Best.
- 4.6 All insurance companies affording coverage shall provide thirty (30) days written notice to the CITY should the policy be cancelled before the expiration date. For the purposes of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 4.7 CONSULTANT shall provide evidence of compliance with the insurance requirements listed above by providing a Certificate of Insurance, in a form satisfactory to the City Attorney, concurrently with the submittal of this Agreement.
- 4.8 CONSULTANT shall provide a substitute Certificate of Insurance no later than thirty (30) days prior to the policy expiration date. Failure by the CONSULTANT to provide such a substitution and extend the policy expiration date shall be considered a default by CONSULTANT and may subject the CONSULTANT to a suspension or termination of work under the Agreement.
- 4.9 Maintenance of insurance by the CONSULTANT as specified in this Agreement shall in no way be interpreted as relieving the CONSULTANT of any responsibility whatsoever and the CONSULTANT may carry, at its own expense, such additional insurance as it deems necessary.
5. **CONSULTANT'S INDEMNIFICATION OF CITY.** CONSULTANT shall indemnify and hold harmless the CITY and its officers, agents and employees against all claims for damages to persons or property arising out of the conduct, negligent acts, errors or omissions or wrongful acts of conduct of the CONSULTANT, or its employees, agents, subcontractors, or others in connection with the execution of the work covered by this Agreement, except for those claims arising from the willful misconduct, sole negligence or active negligence of the CITY, its officers, agents, or employees. CONSULTANT'S indemnification shall include any and all costs, expenses, attorneys' fees, expert fees and liability assessed against or incurred by the CITY, its officers, agents, or employees in defending against such claims or lawsuits, whether the same proceed to judgment or not. Further, CONSULTANT at its own expense shall, upon written request by the CITY, defend any such suit or action brought against the CITY, its officers, agents, or

OCEANSIDE QUARTERLY MAGAZINE PRINTING

employees resulting or arising from the conduct, tortuous acts or omissions of the CONSULTANT.

CONSULTANT'S indemnification of CITY shall not be limited by any prior or subsequent declaration by the CONSULTANT.

6. **COMPENSATION.** CONSULTANT'S compensation for all work performed in accordance with this Agreement, shall not exceed the total contract price of \$17,245 per issue, unless the parties agree in writing to a higher amount based upon: (1) increased production charges as authorized by the City or (2) verifiable paper material increases as authorized by City. Consultant shall provide City at least 60 days written notice of paper material increases.
- 6.1 No work shall be performed by CONSULTANT in excess of the total contract price without prior written approval of the City Manager or his/her designee.
7. **TIMING REQUIREMENTS.** Time is of the essence in the performance of work under this Agreement and the timing requirements shall be strictly adhered to unless otherwise modified in writing, and signed by Consultant and City, per Exhibit B.
8. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between CITY and CONSULTANT concerning the work to be performed for this project and supersedes all prior negotiations, representations, or agreements.
9. **INTERPRETATION OF THE AGREEMENT.** The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. The Agreement does not limit any other rights or remedies available to CITY.

The CONSULTANT shall be responsible for complying with all local, state, and federal laws whether or not said laws are expressly stated or referred to herein.

Should any provision herein be found or deemed to be invalid, the Agreement shall be construed as not containing such provision, and all other provisions, which are otherwise lawful, shall remain in full force and effect, and to this end the provisions of this Agreement are severable.
10. **AGREEMENT MODIFICATION.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by the parties hereto.

OCEANSIDE QUARTERLY MAGAZINE PRINTING

11. **TERMINATION OF AGREEMENT.** This Agreement may be terminated for any reason by either party by providing written notification ninety (90) days prior to printing deadlines provided in Exhibit B.

Furthermore, this Agreement may be terminated and/or re-opened by the City upon the happening of an event that subjects the City to a "significant reduction" in funding available to its General Fund. A significant reduction in General Fund revenues is defined as any loss of revenue sufficient to require a reduction in City Services, as determined in the sole discretion of the City.

12. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT'S duties be delegated, without the express written consent of the CITY. Any attempt to assign or delegate this Agreement without the express written consent of the CITY shall be void and of no force or effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

13. **NOTICES.** All notices, demands, requests, consents or other communications which this Agreement contemplates or authorizes, or requires or permits either party to give to the other, shall be in writing and shall be personally delivered or mailed to the respective party as follows:

TO CITY:
City of Oceanside
City Manager
300 North Coast Highway
Oceanside, CA 92054

TO CONSULTANT:
Advanced Web Offset
2260 Oakridge Way
Vista, CA 92083

///

OCEANSIDE QUARTERLY MAGAZINE PRINTING

14. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the CONSULTANT and the CITY.

IN WITNESS WHEREOF the parties hereto for themselves, their heirs, executors, administrators, successors, and assigns do hereby agree to the full performance of the covenants herein contained and have caused this Professional Services Agreement to be executed by setting hereunto their signatures this 7th day of March, 2007.

ADVANCED WEB OFFSET

CITY OF OCEANSIDE

By: Tracy Wellman admin mgr
Name/Title

By: _____
Peter A. Weiss, Interim City Manager

By: _____
Name/Title
33-0372755
Employer ID No.

APPROVED AS TO FORM:
John P. [Signature]
City Attorney

NOTARY ACKNOWLEDGMENTS OF CONSULTANT MUST BE ATTACHED.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of SAN DIEGO } ss.

On MARCH 7, 2007 before me, SYLVIA MARTIN, NOTARY PUBLIC
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared TRACY LYNN WELLMAN
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence



to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.
Sylvia Martin
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

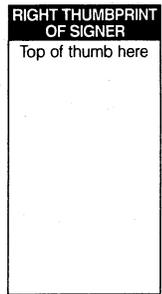
Title or Type of Document: OCEANSIDE QUARTERLY MAGAZINE PRINTING
Document Date: MARCH 7, 2007 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

- Signer's Name: TRACY LYNN WELLMAN
- Individual
 - Corporate Officer — Title(s): ADMINISTRATIVE MGR.
 - Partner — Limited General
 - Attorney-in-Fact
 - Trustee
 - Guardian or Conservator
 - Other: _____

Signer Is Representing: ADVANTAGE WEB OFFSET



SCOPE OF WORK

Title: Oceanside Quarterly Magazine Printing
Quantity: 87,000 copies per issue (approximate)
Pages: 64 interior pages plus four-page cover
Page Size: 8-1/8" x 10-1/2"
Stock: Interior Pages 34# Hibrite 72 brite
 Covers: 60# Gloss Book stock
Colors: Interior Pages Single color: black
 Covers four-color both sides
Copy: Post-scripted files supplied on disk for film output. Single letter-sized film/page/color included in price. For any additional pre-press work required, include an additional charges sheet
Bindery: Saddle-stitched and trimmed
Packaging, Shipping & FOB: Coordinate with Advance Mail Services; Bundle-tied and skid-packed.
Production Schedules: Production schedules shall be established and adhered to by City and printer, provided that neither shall incur any liability or penalty for delays due to war, riot, civic disorder, labor trouble, accidents, energy failures, acts of God, or other causes beyond the control of the City or printer. Where production schedules are not adhered to by City, final delivery dates shall be subject to renegotiation.
Delivery Dates: See Exhibit B.

Additional Conditions:

Creative Conditions: Creative work, such as sketches, copy, dummies and all preparatory work developed and furnished by the printer, shall remain its exclusive property and no use of same shall be made, nor any ideas obtained therefrom be used, except upon compensation to be determined by the printer and not expressly identified and included in the selling price.

Preparatory

Materials: Working mechanical art, type, negative, positives, flats, plates and other items when supplied by the printer, shall remain its exclusive property unless otherwise agreed in writing.

Alterations: Alterations represent work performed in addition to the original specifications. Such additional work shall be charged at current rates and be supported with documentation upon request.

Pre-Press

Proofs: Pre-press proofs shall be submitted with original copy. Corrections are to be made on the "master set" and returned marked "OK" or "OK with corrections" and signed by the customer. If revised proofs are desired, request must be made when proofs are returned. Printer will not be held responsible for errors under either or both of the following conditions: if the customer has failed to return proofs with indication of changes, or if the customer has instructed printer to proceed without submission of proofs.

Press

Proofs: Unless specifically provided in printer's quotation, press proofs will be charged at current rates. An inspection sheet of any form can be submitted for customer approval, at no charge, provided customer is available at the press during the time of make-ready. Lost press time due to customer delay, or customer changes and corrections, will be charged at current rates.

Color

Proofing: Because of difference in equipment, processing, proofing, substrates, paper, inks, pigments, and other conditions between color proofing and production pressroom operations, a reasonable variation in color between color proofs and the completed job shall constitute acceptable delivery.

Over-runs and

under-runs: Over-runs or under-runs not to exceed 10 percent (10%) on quantities ordered, or the percentage agreed upon, shall constitute acceptable delivery. Printer will bill for actual quantity delivered within this tolerance.

Customer's

Property: The printer will maintain fire, extended coverage, vandalism, malicious mischief and sprinkler leakage on all property belonging to the customer while such property is in the printer's possession; printer's liability of such property shall not exceed the amount recoverable from such insurance, as specified in Section 5 of the professional services agreement. Customer's property of extraordinary value shall be insured through separate mutual agreement.

Title: Title for finished work shall pass to customer upon printer's delivery to shipping point, designated delivery locations.

Customer-
furnished
Materials:

Paper stock, inks, camera copy, film, color separations and other customer-furnished materials shall be manufactured, packed and delivered to printer's specifications.

Terms:

Payment shall be as set forth in section 6 of this agreement or as otherwise mutually agreed in writing. Printer shall invoice CITY in accordance with the terms of this agreement, and CITY shall pay within 30 days of receipt of invoice.

Claims:

Claims for defects, damages, or shortages must be made by CITY within 15 days of notice of such defects, damages, or shortages. Failure to make such claim within 15 days shall constitute irrevocable acceptance of the material.

Liability:

Printer's liability shall be limited to stated selling price of any defective goods, and shall in no event include special or consequential damages, including profits or profits lost. As security for payment of any sum due or to become due under terms of any agreement, printer shall have the right, if necessary, to retain possession of, and shall have a lien on, all customer property in printer's possession including work in process and finished work. The extension of credit or the acceptance of notes, trade acceptance, or guarantee of payment shall not affect such security interest and lien.

Defective:
Material:

CONSULTANT shall make every effort to produce a product to CITY's specifications. Should an error be made solely due to operations of CONSULTANT, CONSULTANT shall, at its own expense, correct the error or issue a credit to CITY for any portion of the work in error. CONSULTANT shall not be liable for any loss of profit or special damages as a result of printing error.

OCEANSIDE MAGAZINE – PUBLICATION DEADLINES – 2007-2010

Issue					Cover and Inside to Printer
2007					
Spring					Cover – 2/16/07 Inside – 2/19/07 Blueline – 2/21/07 Distributed – 2/28/07
Summer					Cover – 5/21/07 Inside – 5/23/07 Blueline – 5/24/07 Distributed – 5/31/07
Fall					Cover – 8/21/07 Inside – 8/23/07 Blueline – 8/27/07 Distributed – 8/31/07
Winter					Cover – 11/19/07 Inside – 11/21/07 Blueline – 11/26/07 Distributed – 11/30/07
2008					
Spring					Cover – 2/19/08 Inside – 2/21/08 Blueline – 2/25/08 Distributed – 2/29/08
Summer					Cover – 5/21/08 Inside – 5/23/08 Blueline – 5/26/08 Distributed – 5/30/08
Fall					Cover – 8/19/08 Inside – 8/21/08 Blueline – 8/25/08 Distributed – 9/1/08
Winter					Cover – 11/19/08 Inside – 11/21/08 Blueline – 11/24/08 Distributed – 12/1/08

Spring = March, April, May

Summer = June, July, August

Fall = September, October, November

Winter = December, January, February

Issue				Cover and Inside to Printer
2009				
Spring				Cover – 2/16/09 Inside – 2/19/09 Blueline – 2/23/09 Distributed – 2/27/09
Summer				Cover – 5/19/09 Inside – 5/22/09 Blueline – 5/25/09 Distributed – 6/1/09
Fall				Cover – 8/20/09 Inside – 8/24/09 Blueline – 8/25/09 Distributed – 9/1/09
Winter				Cover – 11/19/09 Inside – 11/23/09 Blueline – 11/24/09 Distributed – 12/1/09
2010				
Spring				Cover – 2/17/10 Inside – 2/22/10 Blueline – 2/23/10 Distributed – 3/1/10
Summer				Cover – 5/19/10 Inside – 5/24/10 Blueline – 5/26/10 Distributed – 6/1/10
Fall				Cover – 8/19/10 Inside – 8/23/10 Blueline – 8/25/10 Distributed – 12/1/10
Winter				Cover – 11/19/10 Inside – 11/21/10 Blueline – 11/24/10 Distributed – 12/1/10

Spring = March, April, May
Summer = June, July, August
Fall = September, October, November
Winter = December, January, February