REQUEST FOR PROPOSALS
HAZARD MITIGATION PLAN CONSULTING SERVICES

CITY OF PICO RIVERA
COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT
6615 PASSONS BOULEVARD
PICO RIVERA, CA 90660

ISSUE DATE: February 22, 2018
DUE DATE: March 15, 2018
REQUEST FOR PROPOSALS
HAZARD MITIGATION PLAN (HMP)

SCHEDULE

Issuance Date: Thursday, February 22, 2018
Deadline/Written Questions: Thursday, March 1, 2018
Answers Posted on Web: Thursday, March 8, 2018
Proposal Due: Thursday, March 15, 2018

SUBMITTAL INSTRUCTIONS

Request for Proposals/Qualifications may be obtained at the City of Pico Rivera, Community and Economic Development Department. A copy may be downloaded from the City’s website at http://www.pico-rivera.org/depts/admin/clerk/city_projects/default.asp.

The outside of the envelope must be clearly marked "Hazard Mitigation Plan Proposal".

1. Qualified respondents should review the attached information and submit a PDF version via email no later than 12:00 p.m. on March 15, 2018 to:

   Julia Gonzalez
   Deputy Director
   Community & Economic Development Department
   City of Pico Rivera
   6615 Passons Boulevard
   Pico Rivera, CA 90660
   juliagonzalez@pico-rivera.org

2. Only written questions will be accepted. Written questions should be addressed to Julia Gonzalez by email at juliagonzalez@pico-rivera.org prior to Thursday, March 1, 2018. Answers to questions will be posted online at http://www.pico-rivera.org/depts/admin/clerk/city_projects/default.asp by Thursday, March 8, 2018.

I. CITY INTRODUCTION

The City of Pico Rivera, incorporated in 1958, is a general law city which operates under the council/manager form of government. The City’s 2010 Census population count was 62,942 and the City has a land area of 8.9 square miles. The City has its own Housing and Water Authority and contracts with the Los Angeles County Sheriff’s Department and the Los Angeles County Fire Department for public safety services.
Pico Rivera is a thriving community that offers opportunities to all who live and work in the City. Situated between the San Gabriel and Rio Hondo Rivers, Pico Rivera is approximately 13 miles southeast of downtown Los Angeles. It is within easy reach of the 5 and 605 freeways. Pico Rivera is part of the Gateway Cities Council of Governments region.

II. GENERAL INFORMATION

A. RFP INTRODUCTION:

Pursuant to the Disaster Mitigation act of 2000, local government agencies must adopt a Hazard Mitigation Plan and update it every five years to remain eligible for various pre-and-post disaster grants and community assistance from the Federal Emergency Management Agency (FEMA). In 2004 the City adopted a Multi-Jurisdiction Hazard Mitigation Plan (the Plan) and updated the Plan on December 13, 2011. The Plan has since expired on April 11, 2017, and needs to be updated as soon as possible. The City will no longer be a part of the Multi-Jurisdictional Hazard Mitigation Plan and local jurisdictions will now need to develop their own Plan.

The City is accepting proposals from qualified, experienced hazard mitigation consultants to update the City’s Plan as a single-jurisdiction FEMA approved Local Hazard Mitigation Plan.

B. Relevant Documents:

A copy of the current Plan is on the City’s website at: http://www.pico-rivera.org/depts/ced/emergency/documents.asp.

C. City Business License

The selected Consultant(s) shall be required to obtain a City of Pico Rivera business license before the commencement of the contract.

D. MBE/WBE Participation

The City of Pico Rivera encourages the participation of minority and women-owned businesses in all City contracts. Please describe any MBE/WBE participation that may be part of work contemplated under the resulting contract.

E. Standard Agreement

The signer of the RFP must declare in writing that the only person, persons, company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person, persons, company or parties submitting a proposal; that it is in all respects fair and in good faith without collusion or fraud; and, that
the signer of the proposal has full authority to bind the proposer to a Professional Service Agreement substantially in the form attached as Exhibit C.

F. Right to Reject Proposals

The City of Pico Rivera reserves the right to reject any or all proposal, or any part of any proposal, to waive minor technicalities, or to solicit new proposals on the same project. Proposals may be rejected for any alterations of form, additions or alternatives not requested, incomplete proposals, or irregularities of any kind.

G. Notification of Withdrawal of Proposals

Proposals may be modified or withdrawn prior to the time and date specified for proposal submission by formal written notice from an authorized representative of the consultant. Proposals submitted will become the property of the City of Pico Rivera after the proposal submission deadline and may be released as a public document after that time.

H. Cost of Preparation of Proposal

The City of Pico Rivera will not pay any costs incurred in the preparation, printing, interview, or negotiation process. All costs associated with preparing and presenting proposals shall be borne by the proposing consultants.

I. Request for Proposals is not a Commitment

This Request for Proposal is not a contract or commitment of any kind by the City of Pico Rivera and does not commit the City to award a contract or to pay any costs incurred in the submission of a proposal. All proposals will become the property of the City of Pico Rivera.

III. SUBMITTAL REQUIREMENTS

A. Statement of Qualifications (SOQ). The SOQ must fully describe the proposer’s ability to prepare the required documents. It must contain:

1. Consultant Team. An organizational chart showing lines of responsibility, as well as a list of team members, their relevant qualifications, and their duties as part of the team. This portion should include any sub consultants proposed. Please include applicable professional registrations, licenses, certifications including state and year for each team member.

2. References. For each key team member, provide at least three (3) client references (names and current phone numbers) from similar recent work (previous three years). Include a brief description of each project associated with the reference and the role of the respective team member.
B. **Commitment.** Commitment that the key team members have been with the firm for a significant amount of time to indicate or reasonably appear that they will be with the respective firm for the term of the agreement. Replacement of key team members will not be permitted without prior consultation with approval by the City.

C. **Work Plan/Scope of Services/Deliverables.** A description of the approach to the work involved, demonstrating methodology. The Consultant should indicate how the final product will be organized, formatted, and presented in a user friendly format. The work plan must clearly identify and describe any actions that the Consultant may recommend including additional natural and man-made disasters. Inclusive, please elaborate on the contents of the deliverables per each task.

D. **Schedule.** Provide a schedule from completion of each task.

E. **Compensation Rates/Fee Schedule.** Provide a proposed fee schedule by task and subtask. The fees should also detail all individual team members (including subconsultants) hourly billable rate. Compensation for consulting services shall be based on the Consultant’s submitted fee schedule of professional services. All fees and expenses should be incorporated into the cost proposal including all blue printing, photocopying, travel and miscellaneous costs. Demonstrate an appropriate and cost-efficient method of approach in preparing and delivering services to be performed, quality control methods, and any other measures necessary to ensure a quality product prepared on time and within budget. Compensation will be in a not to exceed amount.

F. The Consultant shall execute and provide original copies of the Certification of Nondiscrimination by Consultant (Exhibit A) and the Non-Collusion Affidavit (Exhibit B).

G. Any additional information that would reflect the bidder’s ability to provide the services described in this RFP.

IV. **CONSULTANT SELECTION-PROPOSAL AND EVALUATION**

The City will create a panel composed of relevant City staff that will evaluate and rank each proposal using the evaluation criteria listed below. The City reserves the right to invite firms for an interview to further assess competence.

A. Satisfaction of previous clients
B. Qualifications and experience of key team members
C. Billable rates/costs
D. Quality control assurance
F. Schedule and capacity to provide qualified personnel
G. Concise description of tasks & deliverables
EXHIBIT A

TO BE INCLUDED IN PROPOSAL

CERTIFICATION OF NONDISCRIMINATION BY CONSULTANT

The undersigned Consultant or corporate officer, during the performance of this contract, certifies as follows:

1. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

2. The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant; state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

3. The Consultant shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers’ representatives of the Consultant’s commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Consultant shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Consultant’s non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction/services contracts in accordance with procedures authorized in Execution Order 11246 of September 24, 1965, and such other sanctions may be
imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

7. The Consultant shall include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract or purchase order as the administering agency may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the

8. Consultant may request that the United States enter into such litigation to protect the interests of the United States.

9. Pursuant to California Labor Code Section 1735, as added by Chapter 643 Stats. 1039, and as amended, No discrimination shall be made in the employment of persons because of race, religious creed, color national origin, ancestry, physical handicaps, mental condition, marital status, or sex of such persons, except as provided in Section 1420, and any Consultant violating this Section is subject to all the penalties imposed for a violation of the Chapter.

FIRM

________________________
SIGNED AND PRINTED NAME

________________________
TITLE DATE
EXHIBIT B

TO BE INCLUDED IN PROPOSAL

NON-COLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the CITY OF PICO RIVERA:

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the PROPOSER declares that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the PROPOSER has not directly or indirectly induced or solicited any other PROPOSER to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived or agreed with any PROPOSER or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the PROPOSER has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the PROPOSER or any PROPOSER, or to fix any overhead, profit, or cost element of the bid price, or of that of any other PROPOSER, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the PROPOSER has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Note: The above Non-collusion Affidavit is part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Non-collusion Affidavit. PROPOSERS are cautioned that making a false certification may subject the certifier to criminal prosecution.

State of California________________________ County of Subscribed and sworn to (or affirmed) before me on this___________ day of 2018, by proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature                                  Notary Public Seal

Page 7 of 18
1. **IDENTIFICATION**

   THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Pico Rivera, a California municipal corporation ("City") and <Consultant Name>, a California Corporation <or other form of entity> ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a “Party” and collectively referred to as “Parties.”

2. **RECITALS**

   2.1 City has determined that it requires the following professional services from a consultant to <briefly describe the consulting services to be performed>.

   2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

**NOW, THEREFORE,** for and in consideration of the performance by the Parties of the mutual covenants and conditions herein contained, the Parties hereto agree as follows:

3. **DEFINITIONS**

   3.1 “Scope of Services”: Such professional services as are set forth in Consultant’s <date> proposal to City attached hereto as Exhibit A and fully incorporated herein by this reference.

   3.2 “Approved Fee Schedule”: Such compensation rates as are set forth on the “Fee Proposal” of Consultant’s <date> proposal to City attached hereto as Exhibit A.

   3.3 “Commencement Date”: _________________.

   3.4 “Expiration Date”: _________________.

4. **TERM**

   The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the Parties or terminated in accordance with Section 21 below.
5. CONSULTANT’S SERVICES

5.1 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of <amount> unless specifically approved in advance, in writing, by City.

5.2 Consultant shall perform all work to the highest professional standards of Consultant’s profession and in a manner reasonably satisfactory to City.

6. COMPENSATION

6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.

6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within ten business days of receipt of each invoice, City shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty calendar days of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.

6.3 Payments for any services requested in writing by City and not included in the Scope of Services shall be made to Consultant by City on a time-and-materials basis using Consultant’s standard fee schedule. Consultant shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Consultant be entitled to increase fees for services rendered before the thirtieth day after Consultant notifies City in writing of an increase in that fee schedule. Fees for such additional services shall be paid within sixty days of the date Consultant issues an invoice to City for such services.

7. BUSINESS LICENSE

Consultant shall obtain a City business license prior to commencing performance under this Agreement.

8. COMPLIANCE WITH LAWS

Consultant shall keep informed of State, Federal and Local laws, ordinances, codes and regulations that in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality
of the foregoing, if Consultant is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to sections 2105 and 17451 of the California Corporations Code. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

9. **CONFLICT OF INTEREST**

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute; and (ii) City has not consented in writing prior to Consultant’s performance of such work.

10. **PERSONNEL**

Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant’s services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City’s premises. **<Name of individual>** shall be Consultant’s project administrator and shall have direct responsibility for management of Consultant’s performance under this Agreement. No change shall be made in Consultant’s project administrator without City’s prior written consent.

11. **OWNERSHIP OF WRITTEN PRODUCTS**

All reports, documents or other written material ("written products") developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

12. **INDEPENDENT CONTRACTOR**

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not at any time represent that it is, or that any of its agents or employees are, in any manner employees of City.
13. **CONFIDENTIALITY**

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data and any copies thereof shall be returned to City upon the termination or expiration of this Agreement.

14. **INDEMNIFICATION**

14.1 The Parties agree that City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys’ fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to City. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant’s commitment to indemnify and protect City as set forth herein.

14.2 To the full extent permitted by law, Consultant shall indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys’ fees incurred by counsel of City’s choice.

14.3 City shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant’s failure to pay City promptly any indemnification arising under this Section 14 and related to Consultant’s failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers’ compensation laws.

14.4 The obligations of Consultant under this Section 14 will not be limited by the provisions of any workers’ compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

14.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 14 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all
claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant’s subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys’ fees incurred by counsel of City’s choice.

14.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

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

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

15. INSURANCE

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

15.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars ($1,000,000) per occurrence / Two Million Dollars ($2,000,000) in the annual aggregate, including products and Completed operations hazard, contractual insurance, broad form property damage, independent Consultants, personal injury.

15.1.2 Automobile Liability Insurance for vehicles used in connection with the
performance of this Agreement with minimum limits of One Million Dollars ($1,000,000) per claimant and One Million dollars ($1,000,000) per incident.

15.1.3 Worker’s Compensation insurance as required by the laws of the State of California.

15.1.4 Professional Liability insurance against errors and omissions in the performance of the work under this Agreement with coverage limits of not less than One Million Dollars ($1,000,000).

15.2 Consultant shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

15.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best’s Insurance Guide.

15.4 Consultant agrees that if it does not keep the aforesaid insurance in full force and effect City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant’s expense, the premium thereon.

15.5 At all times during the term of this Agreement, Consultant shall maintain on file with City’s Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and, for the general liability and automobile liability policies, naming the City as an additional insured. Consultant shall, prior to commencement of work under this Agreement, file with City’s Risk Manager such certificate(s).

15.6 Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall provide such proof to City at least two weeks prior to the expiration of the coverages.

15.7 The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days’ prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word “endeavor” with regard to any notice provisions.

15.8 The general liability and automobile policies of insurance provided by Consultant shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant’s insurance and shall not contribute with it.
15.9 All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant’s employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the City.

15.10 Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of City, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

15.11 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant’s liability or as full performance of Consultant’s duties to indemnify, hold harmless and defend under Section 14 of this Agreement.

16. **MUTUAL COOPERATION**

16.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant’s services under this Agreement.

16.2 In the event any claim or action is brought against City relating to Consultant’s performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require.

17. **RECORDS AND INSPECTIONS**

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

18. **PERMITS AND APPROVALS**

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

19. **NOTICES**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).
20. **SURVIVING COVENANTS**

The Parties agree that the covenants contained in Sections 13, 14 and Paragraph 16.2 of Section 16, of this Agreement shall survive the expiration or termination of this Agreement.

21. **TERMINATION**

21.1. City shall have the right to terminate this Agreement for any reason on five calendar days’ written notice to Consultant. Consultant shall have the right to terminate this Agreement for any reason on sixty calendar days’ written notice to City. The effective date of termination shall be upon the date specified in the notice of termination. Consultant agrees that in the event of such termination, City’s obligation to pay Consultant shall be limited to payment only for those services satisfactorily rendered prior to the effective date of termination. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

21.2. If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

22. **ASSIGNMENT**

Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City’s prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any Party other than Consultant.

23. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY**

23.1. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. Consultant will take affirmative action
to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.2 Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.3 Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

24. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

25. NON-WAIVER

25.1 The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

25.2 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City’s sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

26. COURT COSTS

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the
forbearance of the exercise by any Party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such Party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the Party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants’ fees, if any, and attorneys’ fees expended in such action. The venue for any litigation shall be Los Angeles County, California.

27. **SEVERABILITY**

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

28. **GOVERNING LAW**

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

29. **ENTIRE AGREEMENT**

All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Consultant.

**TO EFFECTUATE THIS AGREEMENT**, the Parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

**ATTEST:**

<table>
<thead>
<tr>
<th>Anna M. Jerome, City Clerk</th>
<th>Renè Bobadilla, City Manager</th>
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<tr>
<td>________________________</td>
<td>___________________________</td>
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</table>

By: __________________________

Date: ________________________
APPROVED AS TO FORM:  

Consultant  

By: ____________________________  

Its:  

Date: ____________________________  

Arnold M. Alvarez-Glasman, City Attorney