

REQUEST FOR PROPOSALS

Notice is hereby given that sealed proposals will be received by the City of San Fernando, California, for furnishing the following:

INFORMATION TECHNOLOGY MANAGED SERVICES

In strict accordance with the Specifications on file in the office of the SAN FERNANDO FINANCE DEPARTMENT, 117 Macneil Street, San Fernando, California, 91340. Copies of specifications and proposal documents may be obtained from the City's website at <https://ci.san-fernando.ca.us/rfps-rfqs-nibs-nois/>

Electronic copies in PDF format of the proposal must be uploaded to the City's Secure File Sharing System (Dropbox) after attending the Mandatory Job Walk. The City's IT Systems Administrator will share the web link to the Dropbox folder with those firms who will be attending the **Mandatory Job Walk** which is scheduled on **Thursday, January 18, 2024 at 10:00AM**. The established **RFP Due Date** is **Thursday, February 1, 2024 by 5:30PM**. Any proposing firm may withdraw their proposal, without obligation, at any time prior to the scheduled closing time for receipt of proposals. A withdrawal will not be effective unless made in writing via email or by telephonic notification received prior to the closing date. Proposals may later be referred to the City Council for appropriate action. The City reserves the right to reject any or all proposals as the best interests of the City may dictate.

By: _____
Julia Fritz, City Clerk

REQUEST FOR PROPOSALS



The Finance Department is requesting proposals for:

Information Technology Managed Services

The City of San Fernando is requesting Proposals from qualified Information Technology (IT) firms specializing in comprehensive managed services. IT Managed Services will support the City's operations at the seven sites: City Hall, Public Works Operations Center, Public Works Yard, Police Department, Recreation & Community Services, Las Palmas Park, and Pioneer Park.

RELEASE DATE: **Friday, December 15, 2023**

MANDATORY JOB WALK: **Thursday, January 18, 2024 at 10:00 AM**

RFP DUE DATE: **Thursday, February 1, 2024 by 5:30PM**

RFP OVERVIEW & TIMELINE	
RFP Title:	Information Technology Managed Services
Scope of Work:	See “ <i>Scope of Work</i> ” Section on Page 14
RFP Submittal Information:	Interested firms must: <ol style="list-style-type: none"> 1. Register Here to attend the Mandatory Job Walk. 2. The proposal upload portal/link will be provided to interested firms during the Mandatory Job Walk. 3. Proposal should be provided by Thursday, February 1, 2024 by 5:30 PM PST in PDF format. 4. Faxed or Printed Proposals are not required. Late Proposals will not be accepted.
RFP Due Date:	Thursday, February 1, 2024 by 5:30 PM PST
RFP Submittal Requirements:	Submitted Proposals must include the information described in the “ <i>IT MANAGED SERVICES QUALIFICATIONS & REQUIREMENTS</i> ” Section on Page 13-14 of this RFP. Submitted Proposals will be considered non-responsive if the Proposal does not provide all requested information.
Mandatory Job/Site Walk:	Thursday, January 18, 2024 at 10:00 AM PST Interested firms that want to submit a proposal, must register to attend the Mandatory Job Walk at: CLICK HERE TO REGISTER
City Contact:	Art Ziyalov IT Systems Administrator Office: (818) 898-1207 Email: AZiyalov@SFCity.org

The City of San Fernando is interested in contracting with an experienced professional firm to provide augmented full-service information technology management, including, but not limited to, network analysis and technical support, systems support, computer operations support, PC desktop technical support, software integration support, and IT policy and procedure development. The required services and performance conditions are described in the Scope of Work. The contracted firm will be working under the direction and supervision of the Director of Finance and the IT Systems Administrator.

BACKGROUND

The City of San Fernando was incorporated in 1911 and is currently organized according to the City Council/City Manager form of government with six departments, including a Police Department, Public Works Department, and Recreation and Community Services Department. The City employs approximately 150 full-time employees and an additional 50 part-time and seasonal employees with a total Adopted Budget for fiscal year 2023-2024 of \$51.7 million, which includes a General Fund budget of \$26.2 million. The City seeks to provide outstanding public services to its citizens and local businesses with long-term fiscal stability in mind.

The City currently contracts with an IT Managed Services Provider (MSP) that provides most IT functions, including client help desk support, desktop support, system, network and security administration, software, hardware, network troubleshooting, database administration, and specific project development, implementation, and support. The current IT Managed Services Provider (MSP) works closely with the City's IT Systems Administrator to achieve maximum confidentiality, integrity, as well as availability of the City's data, resources, and information systems. The IT Managed Services Provider is currently managed by the Finance Department with close coordination between all user departments.

The City believes that the open competition for services and products provides the City with the best results for its public dollars. As such, the City is interested in receiving responsive and competitive proposals from experienced and qualified firms to provide information technology management services, specifically in the areas of desktop technician support, network analysis and administration, software support, and computer operations. What follows is a description of the technical environment, contractor staffing, qualifications, and performance expectations.

INSTRUCTIONS TO SUBMITTING FIRMS

A. **Examination of Proposal Documents**

By submitting a proposal, the prospective firm represents that it has thoroughly examined and become familiar with the services required under this RFP, and that it is capable of delivering quality services to the City in a creative, cost-effective, and service-oriented manner.

B. **Mandatory Job Walk**

The City will host a one-time, pre-bid mandatory job walk to address all questions. The job walk is a required prerequisite for proposers. The job walk will take place at **10:00 am on January 18, 2024** at the City of San Fernando (117 Macneil Street, San Fernando, CA 91340) in the City Council Chambers. Parking is available across the street adjacent to the Police Department at **Civic Auditorium Lot 6N**.

To prepare for attendees, proposers may register: [HERE](#).

C. Submission of Proposals

All proposals shall be uploaded into the City’s established Dropbox folder after attending the Mandatory Job Walk on **Thursday, January 18, 2024 at 10:00 AM PST**. The link to upload the proposals will be emailed to individual firms. **The prospective firm shall submit the proposal in PDF format.**

Proposals must be received no later than **5:30 PM on Thursday, February 1, 2024.** Proposals received after that time will not be considered.

D. Withdrawal of Proposals

A firm may withdraw its proposal at any time before the due date for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of the prospective firm.

E. Rights of City of San Fernando

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in the preparation and submission of proposals or in anticipation of a contract.

The City reserves the right to:

- 1) Make the selection based on its sole discretion;
- 2) Reject any and all proposals without prejudice;
- 3) Issue subsequent Requests for Proposal;
- 4) Postpone opening for its own convenience;
- 5) Remedy technical errors in the Request of Proposal process;
- 6) Approve or disapprove the use of particular sub-contractors;
- 7) Negotiate with any, all, or none of the prospective firms;
- 8) Solicit best and final offers from all or some of the prospective firms;
- 9) Accept other than the lowest offer; and/or
- 10) Waive informalities and irregularities in the proposal process.

F. Professional Services Agreement

It is anticipated that a standard form professional services agreement (Attachment “A”) will be signed subsequent to City Council review and approval of the recommended firm. Please review the contract and submit any requested changes with your proposal.

The agreement will consist of a **two-year (2) initial term** to begin **July 1, 2024,** with **three (3) one-year** extension options.

G. Collusion

By submitting a proposal, each prospective firm represents and warrants that; its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the prospective firm has not directly, induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and, that the prospective firm has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

KICK-OFF MEETING & TRANSITION PLAN

After the Agreement is fully executed, the City will schedule a kick-off meeting.

The City is currently contracted with an IT MSP. The City's Municipal Code (Chapter 2, Article VI., Division 6, Section 2-778) requires formal competitive procedures to be initiated after the same vendor has been utilized for a period of five years.

In the event that the incumbent vendor is not selected through the competitive solicitation process, the City will ensure a transition plan is developed to include:

1. Access to all computer rooms and equipment.
2. Transition of passwords, vendor contact information, and other sensitive information.
3. How-To guides, training materials, and other resource materials.
4. Other information and necessary knowledge transfer to ensure the success of the awarded firm.

CURRENT INFORMATION TECHNOLOGY ENVIRONMENT

The City of San Fernando's Information Technology environment consists of seven (7) sites, thirty (30) servers, around two hundred (200) workstations, as well as a number of network and firewall appliances, and a mix of on-prem and cloud-hosted software applications. This section will cover the following:

1. Physical Network Layout.
2. Logical Network Layout.
3. Core Systems.
4. Servers and Network Applications.
5. Network Appliances.

- 6. Workstations.
- 7. Software and Desktop Applications.

1. Physical Network Layout

The City operates seven sites as listed below.

No.	Facility Description	Address
1	City Hall	117 Macneil Street
2	Public Works Operations Center	120 Macneil Street
3	Public Works Yard	501 First Street
4	San Fernando Police Department	910 First Street
5	Recreation & Community Services	208 Park Avenue
6	Las Palmas Park	505 S Huntington Street
7	Pioneer Park	828 Harding Avenue

NOTE: The City also has some network/communication infrastructure installed at the Regional Aquatics Facility/San Fernando Courthouse. However, these sites are operated by LA County and the City has no IT management responsibility at these sites.

The City's Core Network:

The City's core network infrastructure and servers are all housed in City Hall. The City's Core Network runs on Spectrum's Enterprise Dedicated 5Gbps Fiber Internet Access. The **San Fernando Police Department** and **Public Works Operations Center** connect to the City Hall core network via direct fiber.

Recreation & Community Services and Las Palmas Park Networks:

Both Recreation & Community Services and Las Palmas Park are using Spectrum's Business Cable Internet. Both sites connect to the City's Core Network via Site-to-Site VPN service.

Police Vehicles & MDTs/MCTs:

Our Police Department vehicles are equipped with Cradlepoint Cellular Modems that are configured in a private IP subnet that connects to the City's network over a private secure network.

At each site, all computers connect to the network over Ethernet. All cables are terminated at a central location and are connected to distribution switches.

2. Logical Network Layout

The City's network is based on the campus model – consisting of core, distribution, and access layers. It is segmented into multiple networks and VLANS, including:

- The management network contains the core and distribution switches, as well as various network appliances and network management tools.
- The Dell VRTX blade server and integrated SAN, handles all the traffic between the SAN and three (3) VMware server hosts with room for one (1) additional blade server.
- The City's network is made up of workstations, printers, copiers, and wireless access points, as well as VOIP phones that are installed at City Hall, Public Works Operations Center and the Police Department.
- The VOIP phones communicate on a segmented VLAN w/ QoS configuration applied.
- The Police network consists of stationary and mobile workstations (MDTs/MDCs) and network devices. It also handles secure connections to:
 - The Police Department's Virtual Patrol network, a City-Wide wireless mesh network that provides access to CCTV public safety cameras in multiple locations throughout the City.
 - The Los Angeles Sheriff's Data Network for access to secure law enforcement data hosted by LASD and the Department of Justice.
 - A cell-enabled private mobile network that allows Police vehicles to access network resources, as well as local/state/national law enforcement data.
- The Police Department includes a 911 Dispatch center that utilizes CAD Stations for City's network access.

The PD network also includes a segmented DMZ VLAN for access to web applications over the internet and an internal wireless network, as well as detective and investigation use. Additionally, select users can VPN into the network.

3. Core Systems

The core server is made up of a Dell VRTX and three Dell blade servers running VMWare vSphere Standard 6.0 in a clustered configuration. This system runs most of the City's servers – approximately 30 virtual servers – and is managed through vCenter. This system utilizes High Availability and vMotion technologies, as well as a number of other features.

4. Servers and Network Applications

The City utilizes approximately 30 servers to meet its needs for network management, security, specialized applications, databases, messaging, and storage. These include:

- Active Directory/DNS Management
- Active Directory Federation Services for Police Department
- File Server
- Print Server
- Windows Software Updates Services
- Microsoft 365 Commercial
- Microsoft SQL Server 2005/2008/2012
- Microsoft IIS Server
- Apache Tomcat

- Edgesoft AIMS/LMS/SAIRA
- Omnigo CAD/RMS
- Axon Vehicle ALPR
- Axon Body worn cameras
- Tyler Eden Financials
- HdL Business License and False Alarm
- Progressive Cashiering
- Silicor Technologies WindowVision DVR Server
- OnSSI Ocularis
- Various Legacy Applications

For an expanded list of server and network applications in use by the City, see “*Software and Desktop Applications*” section below.

5. Network Appliances

A number of network appliances perform key functions on the City’s network (edge and core). These appliances include:

- Cisco Catalyst & Ubiquiti UniFi POE switches
- SonicWall Firewall
- Cisco Meraki Firewalls
- Cisco Meraki Wireless Access Points
- Ubiquiti Wireless Access Points
- Raritan Network KVM & PDU
- TrippLite/Eaton Uninterruptable Power Supplies

6. Workstations

The City has approximately 200 workstations across all sites. A breakdown is as follows:

- City Hall: 60 workstations
- Police Department: 60 workstations and 20 vehicle-mounted data terminals (MDTs/MDCs)
- Public Works Operations Center: 30 workstations
- Recreation & Community Services: 15 workstations
- Las Palmas Park: 15 workstations

7. Software and Desktop Applications

The City workstations utilize a standard software suite, as well as specialized applications. The majority of City’s systems are web-based and do not require any software installation. The base workstation has the following app configuration:

- Windows 10/11 Professional
- Microsoft Office 2016 / Microsoft 365 Apps

- Adobe Acrobat Reader
- Google Earth Pro

In addition to the standard software suite, individual departments utilize specialized software/hardware:

- **Enterprise-wide:**
 - Adobe Acrobat Pro DC – Enterprise Subscription
- **Finance Department:**
 - Tyler Technologies - Eden ERP
 - HdL Business License, HdL False Alarm
 - Progressive Cashiering software
 - Timeclock (TCP Software) – Hardware & Web Access
- **City Clerk:**
 - AIMS/SAIRA by Edgesoft for document management
- **Public Works and Community Development:**
 - AIMS by Edgesoft for land management, as well as a Map guide server
- **Community Development:**
 - Bluebeam Revu
 - ESRI ArcGIS Online
- **Public Works:**
 - Autodesk AutoCAD
 - ESRI ArcGIS Online
 - GoGov for 311 Services
 - Web-based vehicle part inventory system
 - Water SCADA / Stormwater Infiltration System SCADA
- **Police Department:**
 - Omnigo CAD/RMS for dispatch, records management, and patrol
 - AXON Automated License Plate Reader in the police vehicles
 - AXON Body worn cameras
 - Dispatch utilizes AT&T Vesta 911
 - OnSSI's Ocularis CCTV monitoring software and NVR is used to monitor cameras on the Virtual Patrol Network.
 - Motorola NICE Health Manager
 - Other Applications

CURRENT AND UPCOMING PROJECTS AND WORKPLAN ITEMS

The following list is broken down into specific departments. These include current/ongoing and upcoming projects, as we have identified to include IT involvement, guidance, expertise, and/or oversight. These are high-level projects known to the IT division and are current as of December 2023.

City-Wide:

- 1) Microsoft 365 Commercial to Government GCC tenant migration with G3 or G5 licensing.
- 2) Enable M365 tenant-wide Multi-Factor Authentication (MFA).
- 3) Implement City's own IT Service Management / IT Asset Management System.
- 4) Implement City's own KnowBe4 Security Awareness Training System.
- 5) City's website migration to Granicus CMS.
- 6) Senate Bill 1637 implementation to migrate City's .ORG domain to .GOV through CISA.
- 7) Evaluate options for replacing Projectors in various Conference Rooms with Smartboard TVs.
- 8) Evaluate options for building redundancy for City's server infrastructure.
- 9) Evaluate options for upgrading the City's Wireless infrastructure.

Finance/IT:

- 1) Implement a new cloud Utility Billing system with integration into Tyler Eden ERP.
- 2) Domain Redesign & Azure/Entra ID Implementation.
- 3) Leverage Microsoft Intune for mobile device management, BYOD onboarding and governance.
- 4) Core Server/Storage Refresh.
- 5) VMWare Infrastructure Upgrade.
- 6) Network Infrastructure refresh at City Hall, Public Works Operations Center, and Police Department.
- 7) Leverage resources and services available to our City at CIS, MS-ISAC, CalOES.
- 8) Explore Cybersecurity Grant Funding opportunities.
- 9) Explore options to consolidate City's mobile devices across various carriers (AT&T, Verizon, T-Mobile) to a single carrier.
- 10) Explore options to replace existing Financial ERP system.
- 11) Evaluate a new backup and disaster recovery solution to replace the existing solution.
- 12) Explore options to implement the Microsoft Enterprise Agreement.
- 13) Explore options to replace/upgrade City's UPS system across all sites.

Administration:

- 1) Website migration from Wordpress to Granicus CMS
- 2) Streamline Employee Onboarding/Offboarding Processes with IT, HR and Payroll

City Clerk:

- 1) Pilot document digitization services through a FY 23-24 funding allocation, as well as identify scanning vendor.
- 2) Engage with Western Audio Visual for Council Chambers Audio/Video Equipment support/maintenance.
- 3) Evaluate options for migrating from Edgesoft's AIMS/SAIRA document management systems to potential vendors such as: Laserfiche, OpenText, Hyland, or others.

Community Development:

- 1) Symbium SolarApp permitting integration into Edgesoft's AIMS system.
- 2) Explore options for replacing the City's existing permitting system (e.g. Tyler EnerGov, OpenGov, etc..).
- 3) Integrate a public Kiosk for self-service of online permit access, as well as self-service solar permitting.

Police Department:

- 1) Upgrade the Police Department's Access Control System.
- 2) Deploy Flock Safety Cameras (Vendor-managed).
- 3) Implement a Police Resource Scheduling System.
- 4) Implement E-Cite Writing Solution.
- 5) Dispatch Non-Emergency/Allied Agency Phone Line Enhancements.
- 6) Enhance IT systems at the Emergency Operations Center (EOC).
- 7) Deploy additional Wireless Access Points at PD.
- 8) Explore software enhancements to CAD/RMS and other Public Safety applications.

Public Works:

- 1) Streamline PW Field technology for efficient work order processing of all Field Staff.
- 2) Enhance PW Vehicle Shop's IT technology for better vehicle part inventory management.
- 3) Explore options to enhance City's Water SCADA system technology.
- 4) Explore options to enhance the GoGov CRM/311 SaaS system.
- 5) Explore options to include CNG SCADA system redundancy/fail-over.

Recreation & Community Services:

- 1) Server Room Overhaul, which includes relocating existing ethernet cables at the distribution point, installing net new server rack with high-end equipment, and potentially replacing all 6 CCTV Cameras at the RCS site.
- 2) VOIP phone system migration.
- 3) Explore technology enhancements based on business need.

IT MANAGED SERVICES QUALIFICATIONS AND REQUIREMENTS

Qualifications & Requirements:

- The selected Firm shall ensure that all technicians working on the City's computer hardware, software, and networking systems shall have certification levels appropriate to the level of servicing required to properly install, maintain, operate, repair, and replace the hardware, software and networking systems for the City.
- The selected Firm shall demonstrate all technicians working on its behalf have cleared background checks including livescan for potential access to sensitive and confidential data, and CJIS/CLETS security requirements.
- The City requires proposals submitted by primary firms only. The prime firm will have completed and exclusive responsibility for satisfying all City conditions and requirements at all times during the life of the agreement. Any subcontractors mentioned in the RFP and/or used in the implementation of the Agreement will have no formal relationship with the City.
- All proposed subcontractors must be identified by name with a description of the work they will provide. Any subcontractors change proposed after the submittal date can only be made with prior approval of the City.
- Prime firm must be responsible for at least half the annual value of the proposed work consistent with the scope of work as noted in the proposal.
- Prime firm must have experience in providing similar work in at least two similar organizations.
- Close cooperation and productive working relationships between all parties are essential to the City. If there are irresolvable difficulties in the relationships between parties that impact service delivery to the City, either or both parties' contract will be terminated.

Additional Preferred Qualifications & Requirements:

- One on-site IT Technician.
- Any and all technicians that will have any level of access to the City's network, servers, and client devices will need to be subjected to live scan fingerprinting for clearance, per CJIS compliance requirements.
- Multi-industry compliance experience preferred (CJIS, PCI, SOX, CA PUBLIC RECORDS ACT, etc.).
- Multi-industry certifications (A+, Network+ Cisco Related, Microsoft Related, ITIL, VMware, PMP, CISSP, etc...).
- Strong understanding of Local Government/Municipal Compliance, Requirements, and Senate Bills impacting IT Systems, Access to Public Records, and Data Retention.
- Strong background in Public Safety Systems (CAD/RMS/Dispatch/MDT/MDC and Other related public safety systems).
- Strong understanding of IT Service Management (ITSM) with emphasis on the ITIL framework.
- Strong understanding of Cybersecurity Frameworks (NIST, CIS, MITRE ATT&CK, and others).
- Strong Networking Experience, including but not limited to:

- Layer 2 and Layer 3 Network Infrastructure, Gateways/Firewalls, Cisco Meraki, Fortinet, Ubiquiti Unifi, Juniper, Palo Alto, Wireless Access Points.
- Server Hardware Experience, including but not limited to:
 - Installing, repairing, troubleshooting, administering, and maintaining server systems (Physical and Virtual/VMWare).
 - Hyperconverged Infrastructure (HCI).
 - Traditional Host/SAN/Switch Infrastructure.
- Backup/Disaster Recovery Infrastructure Experience:
 - Veeam/Rubrik and other Similar Solutions.
- Software Experience, including but not limited to:
 - Microsoft Operating Systems (Server and Client).
 - Microsoft Office Suite (Standalone and Microsoft 365).
 - Microsoft 365 Tenant Administration.
 - Domain Controllers/Active Directory/Azure/Microsoft Entra/Federation Services/Group Policy Management.
 - SSL Certificate Management for Public Safety Multi-Agency authentication/authorization.
 - Multi-factor authentication (MFA) deployment management (M365 and Cisco Duo).
 - Microsoft SCCM/Microsoft Intune/Endpoint/Mobile Device Management.
 - Adobe Acrobat Enterprise Licensing Management.
- Other preferred qualifications:
 - Knowledge of Incident Response Planning and Management.
 - Knowledge of Backup Infrastructure & Disaster Recovery Planning and Management.
 - Knowledge of Emergency Operations Center and Emergency Management.

SCOPE OF WORK

A. CITY TO PROVIDE

1. The City will provide training in regard to the City's office, procurement, policies, and behavior standards.
2. The City is responsible for purchasing new equipment and planned replacements and upgrades.
3. The City's IT Systems Administrator will provide direction and guidance as needed or required, for situations requiring escalation, purchasing, interruption, system/network security-related issues, and other issues.
4. The City's IT Systems Administrator will provide necessary access for the Firm to various City Systems as deemed necessary for proper service delivery.

B. FIRM TO PROVIDE

1. The Firm shall provide adequate backup staffing resources to address major and immediate problems, staffing irregularities, and planned significant upgrades.
2. The Firm shall have advanced-level technical resources, or consultants, available to guide and support the on-site technicians and relevant City staff when complex and significant problems arise.

C. MINIMUM PERFORMANCE EXPECTATIONS

The Firm is expected to:

1. Provide timely, professional and effective services.
2. Work harmoniously with City staff and other city contractors.
3. Conduct regular status updates, performance, and information meetings with the Director of Finance and the City's IT Systems Administrator.
4. Provide regular and timely reports on outstanding issues, work accomplished, and general network health.
5. Make recommendations on improving City processes and procedures to adhere to best practices and achieve compliance.
6. Enforce all City policies relating to the use of information technology resources.

Desktop Support

Desktop Support Technicians are expected to resolve Client/caller generated trouble calls in a professional and efficient manner. Additionally, they will work on special project/task assignments as necessary: to setup and configure new PCs; to maintain current version levels of desktop software; to install, upgrade or troubleshoot software; to conduct hardware and software inventories; to do minor hardware installations and modifications on existing PCs and other related tasks.

1. Desktop Support Technicians will provide desktop support for all problems and project calls to diagnose, upgrade, install, fix, adjust, and general problem resolution during the hours of 7:30 am to 5:30 pm, Monday through Friday.
2. Desktop Support Technicians will respond (call acknowledging assignment of call) to Client/caller, resolution/diagnosis according to prioritization.
3. Desktop Support Technician will make appointment with Client/caller to address the Client/caller support needs at a mutually agreed upon time.

4. Desktop Support Technician will call Client/Caller if the appointment cannot be kept or will be delayed.
5. Client/Caller will be apprised of problem status during the entire problem resolution cycle in a timely manner, by the end of the activity service day.
6. Desktop Support Technicians will give Client the opportunity to test the system while they are present once the problem is resolved if at all possible. For long-term problems, the Client is to be notified weekly of progress until resolved/closed.
7. Desktop Support Technicians will document all actions taken on each call into the tracking system before they leave for the day, on the day that the activity took place whether the call is complete or not.
8. The Firm's staff is expected to provide their own transportation between City sites during their support activities.

Information Technology System Operations

The City's servers are expected to function 24 hours per day with very minimal unplanned service interruptions occurring between 7:30 am and 5:30 pm. Execution of scheduled maintenance and processes include:

1. Review of all process logs for normal execution and performance.
2. Preparation of reports and outputs for distribution on next regular work day.
3. Review of security logs and for unusual activity.
4. Performing backups, backup rotations and restores of all systems, servers, network equipment.
5. Maintaining filing, organizing, storing, status reporting on all operation and network activity records and reports.
6. Monitoring and reporting status of servers (disk allocations, etc.).
7. Monitoring and reporting on status of network.
8. Logging activity event entries into Operations Activity Log.

Additional computer operations duties include:

1. Cleaning and organizing Computer Room.
2. Checking on versions of software that require updates.
3. Maintaining process and operational documentation for Operations and Network Groups.
4. Maintaining inventory of supplies.
5. Keeping and maintaining records on hardware assets: PCs, Servers, Network equipment, etc., including acquisition date, warranty date, maintenance agreement location, maintenance and repair contact number.
6. Keeping and maintaining records on software assets: PCs, Servers, Databases, Applications, OS, etc., including acquisition date, warranty date, maintenance agreement location, maintenance and repair contact number.
7. Preparing and maintaining a Disruption Plan.
8. Maintaining a list of IT assets ready for disposition/E-Waste.

Network and Systems Support

The Network and Systems Support function is expected to provide all the necessary network and system technical expertise to the City to have its systems and network operate efficiently and effectively. Network and Systems staff hours are normally 7:30 am to 5:30 pm, Monday through Friday. However, they are expected to work after hours and weekends as necessary to resolve problems, install updates, and perform testing so as not to impact normal production activities of the City. The Network and Systems Support activities are expected to be the standard activities for a similar-sized City IT operation. They are generally described as follows:

1. Network is defined to include all City switches, hubs, routers, gateways, bridges, repeaters, firewalls, wireless access points, servers, etc.
2. Maintenance and installation of network cabling outside of the computer room is NOT part of this proposal. Separate proposals will be solicited for network cable installation services.
3. Network and network device performance monitoring, diagnostics, and tuning.
4. Network and network device configuration and version updates to keep within two versions of current.
5. Network and network device configuration management and record keeping.
6. Network, network device and server capacity monitoring and planning.

7. Network, network device and systems security administration and record keeping consistent with City policies.
8. Firewall monitoring for intrusion attempts, attacks, viruses, etc.
9. Firewall configuration and version updates.
10. Server OS configuration and version updates to keep within two versions of current.
11. Network intrusion and Virus software management (keeping current updates and versions).
12. Coordination and cooperation with other City service providers.

Communication and Analysis

The Firm is expected to have an effective communication rapport with the City, providing valuable, accurate information in a timely manner. Proficient writing skills are essential, and firm's analysis should be thorough. Project and regular Status updates will be discussed via regular meetings. The firm should be able to provide performance reports, metrics, as well as updates as needed.

INFORMATION TO BE SUBMITTED

Prospective Firms must submit one proposal in PDF format to include the following:

- **Section 1 – Proposal Summary:**

This Chapter shall discuss the highlights, key features, and distinguishing points of the Proposal. A separate sheet shall include all the contact people on the Proposal and how to communicate with them. Limit this Chapter to a total of up to **three pages** including the separate sheet with contact personnel.

- **Section 2 – Profile of the Proposing Firm(s):**

This Chapter shall include a brief description of the Firm's size as well as the proposed local organizational structure. Specifically, the City is interested in the potential for a long-term service relationship that would include financial stability. Include a discussion on the Firm's financial stability, capacity, and resources. If applicable, include all other firms participating in this Proposal, including similar information about the firm/subcontractors.

Additionally, this section shall include a listing of any lawsuit and/or subcontractors litigation and the result of that action resulting from (a) any public project undertaken by the Firm or by its subcontractors where litigation is still pending or has occurred within the last five years or

(b) any type of project where claims or settlements were paid by the Firm or its insurers within the last five years.

- **Section 3 – Qualifications of the Firm:**

This Chapter shall include a brief description of the Firm’s and sub-contractor’s qualifications and previous experience on similar or related projects. Provide a description of pertinent project experience with other public municipalities (maximum of four) and private sector (maximum of two) that includes a summary of the work performed, the total project cost, the percentage of work the Firm was responsible for, the period over which the work was completed, and the name, title, and phone number of clients to be contacted for references. Give a brief statement of the Firm’s adherence to the schedule and budget for each project.

- **Section 4 – Work Plan:**

In this Chapter, present a well-conceived service plan. This section of the proposal shall establish that the Firm's understanding of the City’s objectives and work requirements and the Firm’s ability to satisfy those objectives and requirements. Describe the proposed approach for addressing the required service, outlining the approach that would be undertaken in providing the requested services. Include a timetable for the transition to full operation. Describe related service experience by both the Firm and any subcontractors in similar work. Please describe the role, and extent of services (number of people used or saved, engagement duration, and contract value). Provide standard written operating procedures that cover the normal industry standard activities for Desktop Technicians, Network Administration and Security, Computer Operations and any other activities proposed by the Firm.

- **Section 5 – Project Staffing:**

In this Chapter, discuss how the Firm would propose to staff this project. Firm’s key project team members shall be identified by name, specific responsibilities on the project, and their qualifications. An organizational chart for the project team and resumes for key Firm’s personnel shall be included. Key Firm personnel will be an important factor considered by the Review Team or Committee. **There can be no change of key personnel once the proposal is submitted, without prior approval of the City.**

- **Section 6 – Proposed Innovations:**

The Firm may also suggest technical or procedural innovations that have been used successfully on other engagements and that may provide the City with better service delivery. In this Chapter discuss any ideas, innovative approaches, or specific new concepts included in the Proposal that would provide benefit to the City’s assessment of the Proposal. Focus primarily on cost-saving or efficiency-enhancing innovations.

- **Section 7 – Proposal Costs Sheet and Rates:**

In this Chapter include the proposed costs to provide the services desired. Include any other cost and price information that would be contained in a potential agreement with the City.

In addition, include the costs for extra after-hours services or any other services that are considered optional additions.

- **Section 8 – Acceptance or Exceptions to Professional Services Agreement**

In this chapter include a statement accepting the City’s Professional Services Agreement (PSA) as drafted in Attachment A or denote any exceptions to the PSA that should be taken under consideration by the Evaluation Team.

RFP TIMELINE

Milestone	Date
RFP Issued	Friday, December 15, 2023
Mandatory Job/Site Walk Registration:	Interested firms that want to submit a proposal, must register to attend the Mandatory Job Walk: CLICK HERE
Mandatory Job/Site Walk:	Thursday, January 18, 2024 at 10:00 AM PST
Proposal Upload Link Provided:	At the time of the Mandatory Job/Site Walk
RFP Due Date:	Thursday, February 1, 2024 by 5:30 PM PST
Consultant Interviews (Zoom or Microsoft Teams)*	March 18, 2024
City Council Award of Contract**	April 1, 2024
Kick-Off Meeting & Introduction to Staff***	On or before July 1, 2024
Start of Services	July 1, 2024

* Not all Consultants who submit a Proposal will be invited to an Interview.

** Consultants that submit a Proposal but are not awarded a contract will be notified after the City Council Award of Contract.

*** If the award is given to the City’s current IT firm, a kick-off meeting will not be required. Kick-off meeting will be held only with the newly awarded IT firm.

METHOD OF SELECTION AND NOTICES

A review team will evaluate the information provided in the submitted proposals using the following criteria as a guideline:

- Completeness and Comprehensiveness.
- Responsiveness to City's issues.
- Potential to benefit the City.
- Experience of the firm providing similar services to other municipal agencies.
- Cost effectiveness.
- Quality of proposed staff.

Attachment "A" (Professional Services Agreement) is included on the next page.



20XX

PROFESSIONAL SERVICES AGREEMENT

(Engagement: **INSERT ENGAGEMENT FOR ON-CALL SERVICES**)
(Parties: **INSERT CONSULTANT NAME** and City of San Fernando)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this _____ day of _____ 20XX (hereinafter, the "Effective Date") by and between the CITY OF SAN FERNANDO, a municipal corporation (hereinafter, "CITY") and **INSERT CONSULTANT NAME** (hereinafter, "CONSULTANT"). For the purposes of this Agreement, CITY and CONSULTANT may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONSULTANT interchangeably, as appropriate.

RECITALS

WHEREAS, CITY requires **INSERT THE KIND OF ON-CALL SERVICES REQUIRED**; and

WHEREAS, CITY staff has determined that CONSULTANT possesses the experience, skills and training necessary to competently provide such services to CITY; and

[INSERT ADDITIONAL RECITALS AS WARRANTED]

WHEREAS, [insert approval authority for this Agreement by the City Manager pursuant to a specific provision of the San Fernando Municipal Code, OR that the execution of this Agreement was approved by the San Fernando City Council at its Regular Meeting of _____, 20XX, under Agenda Item No. _____].

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONSULTANT agree as follows:

I.
ENGAGEMENT TERMS

1.1 **TERM:** This Agreement shall have a term commencing from the Effective Date through **INSERT COMPLETION DATE** (hereinafter, the "Term"). **OR: This Agreement shall have a term of [NUMBER] (DIGIT) years, (hereinafter, the "Term"), commencing from the Effective Date.** Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause as provided under Article V (Termination), below. **OPTIONAL TERM EXTENSION LANGUAGE: The Term may be extended for XX one-year periods at the option of the CITY, provided that CITY provides**

CONSULTANT with written notice of CITY's intent to exercise CITY's option to extend the term of the Agreement no less than thirty (30) days prior to the expiration of the Term or any prior extension term. In the event CITY exercises its option to extend this Agreement, all terms, conditions, and provisions of this Agreement shall remain in effect and govern the duties, responsibilities, and liabilities of the parties hereto.

1.2 SCOPE OF SERVICES:

- A. Subject to the terms and conditions of this Agreement, CONSULTANT agrees to provide the services and tasks described in that certain Request for Proposals of CITY entitled "**INSERT TITLE OF CITY REQUEST FOR PROPOSAL**" (hereinafter, "CITY RFP") and the written proposal of CONSULTANT entitled "**INSERT TITLE OF CONSULTANT PROPOSAL**" (hereinafter, the "CONSULTANT Proposal"). The CITY RFP and the CONSULTANT Proposal are attached and incorporated hereto as **Exhibit "A"** and **"B"** respectively. The term "Scope of Services" shall be a collective reference to the CITY RFP and the CONSULTANT Proposal. The capitalized term "Services" shall be a collective reference to all the various services and tasks referenced in the Scope of Services. In the event of any conflict or inconsistency between the provisions of the document entitled CITY RFP and the provisions of the document entitled CONSULTANT Proposal, the requirements of the document entitled CITY RFP shall govern and control but only to the extent of the conflict or inconsistency and no further. In the event of any conflict or inconsistency between the provisions of the Scope of Services and the provisions of this Agreement to which the Scope of Services is attached, the provisions of this Agreement shall govern and control.

[ALTERNATIVELY]

IF NO RFP ISSUED: Subject to the terms and conditions of this Agreement, CONSULTANT agrees to provide the services and tasks described in that certain proposal of CONSULTANT entitled "**INSERT TITLE OF PROPOSAL**" dated **INSERT DATE OF PROPOSAL** (hereinafter, the "CONSULTANT Proposal") which is attached and incorporated hereto as **Exhibit "A"**. CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks, and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Services."

1.3 PROSECUTION OF SERVICES:

- A. CONSULTANT shall perform the Services contemplated under this Agreement on an on-call, as-needed basis. Nothing in this Agreement shall be construed to grant CONSULTANT the exclusive right to perform any of the types of services or tasks contemplated under this Agreement nor shall

anything in this Agreement be construed to entitle CONSULTANT to the receipt of any sums under this Agreement, except to the extent CITY requests the performance of any Services in the manner described below and such Services is in fact performed and completed by CONSULTANT and accepted by CITY. CITY requests for the performance of specific services or tasks contemplated under this Agreement shall be made in the form of a written work order(s) issued by the City Representative (each such written request hereinafter referred to as a "Work Order"). Each Work Order shall include the following information:

1. A detailed description of the specific services or tasks requested;
 2. The location of where the particular services or tasks are to be performed, if applicable;
 3. A not-to-exceed budget for performing the services or tasks;
 4. A timeline for completing the requested services or tasks;
 5. Any other information CITY deems necessary and relevant to the requested services or tasks; and
 6. The signature of the City Representative, confirming that the services or tasks have been authorized by the City Representative.
- B. CONSULTANT shall not perform any of the Services contemplated under this Agreement without a written Work Order request from the City Representative, containing the information set forth in Section 1.3(A), above;
- C. CONSULTANT shall perform all assigned Services continuously and with due diligence so as to complete all assigned Services by the completion date indicated in each Work Order. CONSULTANT shall cooperate with CITY and in no manner interfere with the work of CITY, its employees or other consultants, contractors, or agents;
- D. CONSULTANT shall not claim or be entitled to receive any compensation or damage because of the failure of CONSULTANT, or its subconsultants, to have related services or tasks completed in a timely manner;
- E. CONSULTANT shall at all times enforce strict discipline and good order among CONSULTANT's employees; and
- F. CONSULTANT, at its sole expense, shall pay all sales, consumer, use or other similar taxes required by law.
- 1.4 **COMPENSATION:** CONSULTANT shall perform the Services in accordance with the "**INSERT TITLE OF COMPENSATION DOCUMENT**" which is attached and incorporated hereto as **Exhibit "C"** (hereinafter, the "COMPENSATION RATE"). The foregoing notwithstanding, CONSULTANT's total compensation for the performance of all Services contemplated under this Agreement, may not exceed the aggregate sum of **INSERT WRITTEN AMOUNT (\$ INSERT NUMBER)**

(hereinafter, the “Not-to-Exceed Sum”) during the Term of this Agreement, unless such added expenditure is first approved by the City Council. [NOTE: Not-to-Exceed Sum maybe defined as Annual, Fiscal Year or Aggregate, depending on the Term(s) involved.] In the event CONSULTANT’s charges are projected to exceed the Aggregate Not-to-Exceed Sum prior to the expiration of this Agreement, CITY may suspend CONSULTANT’s performance pending CITY approval of any anticipated expenditures in excess of the Aggregate Not-to-Exceed Sum or any other CITY approved amendment to the compensation terms of this Agreement.

- 1.5 PAYMENT OF COMPENSATION: Following the conclusion of each calendar month, CONSULTANT will submit to CITY an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and any reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT’s monthly compensation is a function of hours worked by CONSULTANT’s personnel, the invoice should indicate the number of hours worked in the recently concluded calendar month, the person(s) responsible for performing the Services, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY will notify CONSULTANT in writing of any disputed amounts included in the invoice. Within forty-five (45) calendar days of receipt of each invoice, CITY will pay all undisputed amounts included on the invoice. CITY will not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.
- 1.6 ACCOUNTING RECORDS: CONSULTANT will maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY will have the right to access and examine such records, without charge, during normal business hours. CITY will further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.7 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Services agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONSULTANT will deliver to CITY immediately and without delay, all materials, records, and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT will only be compensated for the reasonable value of the Services performed up to the time of cessation or abandonment, less a deduction for any damages, costs, or additional expenses which CITY may incur as a result of CONSULTANT’s cessation or abandonment.

II.

PERFORMANCE OF AGREEMENT

- 2.1 CITY’S REPRESENTATIVE: The CITY hereby designates **INSERT CITY**

REPRESENTATIVE (hereinafter, the “City Representative”) to act as its representative for the performance of this Agreement. The City Representative or the City Representative’s designee will act on behalf of the CITY for all purposes under this Agreement. CONSULTANT will not accept directions or orders from any person other than the City Representative or the City Representative’s designee.

2.2 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates **INSERT CONSULTANT REPRESENTATIVE** to act as its representative for the performance of this Agreement (hereinafter, “Consultant Representative”). Consultant Representative will have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. Consultant Representative or the Consultant Representative’s designee will supervise and direct the performance of the Services, using his/her best skill and attention, and will be responsible for all means, methods, techniques, sequences, and procedures and for the satisfactory coordination of all Services under this Agreement. Notice to the Consultant Representative will constitute notice to CONSULTANT.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONSULTANT agrees to work closely with CITY staff in the performance of the Services and this Agreement and will be available to CITY staff and the CITY Representative at all reasonable times. All work prepared by CONSULTANT will be subject to inspection and approval by City Representative or his or her designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges, and agrees to the following:

- A. CONSULTANT will perform all Services skillfully, consistent with and adhering to its professional standard of care, that is, the degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality;
- B. CONSULTANT shall at all times employ such force, plant, materials, and tools as will be sufficient in the opinion of the CITY to perform the Services within the time limits established, and as provided herein. It is understood and agreed that said tools, equipment, apparatus, facilities, labor, and material shall be furnished and said Services performed and completed as required by the Agreement, and subject to the approval of the CITY’s authorized representative;
- C. CONSULTANT will perform all Services in a manner reasonably satisfactory to the CITY;
- D. CONSULTANT will comply with all applicable federal, state, and local laws and regulations, including the conflict of interest provisions of Government Code §1090 and the Political Reform Act (Government Code §§81000 *et seq.*) CONSULTANT shall be liable for all violations of such laws and

regulations in connection with CONSULTANT's performance of the Services. If CONSULTANT performs any work knowing it to be contrary to such laws, rules and regulations, CONSULTANT shall be solely responsible for all costs arising therefrom;

- E. CONSULTANT understands the nature and scope of the Services to be performed under this Agreement as well as any and all schedules of performance;
- F. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training, and experience to perform those services and tasks assigned to them by CONSULTANT; and
- G. All of CONSULTANT's employees and agents (including, but not limited to, subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications, and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications, and approvals will be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT will perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONSULTANT's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONSULTANT to correct any errors or omissions will be commenced immediately upon their discovery by either Party and, notwithstanding Section 5.2(B), will be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the City Representative in writing and in her sole and absolute discretion. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf will not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand, and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge, and experience necessary to perform the Services under the standard of care as articulated under section 2.4(A).

- 2.5 **ASSIGNMENT**: The skills, training, knowledge, and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it will not assign or transfer, either directly or indirectly or by operation of law, this Agreement, or the performance of any of CONSULTANT's duties or obligations under this Agreement, without the prior written consent of the CITY. In the absence of CITY's prior written consent, any

attempted assignment or transfer will be ineffective, null and void and will constitute a material breach of this Agreement.

- 2.6 **[IF RELEVANT]** SUBSTITUTION OF KEY PERSONNEL: CONSULTANT has represented to CITY that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, CONSULTANT may substitute other personnel of at least equal competence upon written approval of CITY. In the event that CITY and CONSULTANT cannot agree as to the substitution of key personnel, CITY shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the CITY, or who are determined by the CITY to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the CONSULTANT at the request of the CITY. The key personnel for performance of this Agreement are as follows: **INSERT NAME(S) AND TITLE(S)**.
- 2.7 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Services will be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods, and details of performing the Services subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent contractor basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Services contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Services under this Agreement on behalf of CONSULTANT are not employees of CITY and will at all times be under CONSULTANT's exclusive direction and control. CONSULTANT will pay all wages, salaries and other amounts due such personnel and will assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONSULTANT will be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like. Notwithstanding any other CITY, state, or federal policy, rule, regulation, law, or ordinance to the contrary, CONSULTANT and any of its employees, agents, and subcontractors performing the Services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by CITY, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of CITY and entitlement to any contribution to be paid by CITY for employer contributions and/or employee contributions for PERS benefits.
- 2.8 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the City Representative to be uncooperative, incompetent, a threat to the

adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Services in a manner acceptable to the CITY, such officer, employee, agent, contractor, subcontractor or subconsultant will be promptly removed by CONSULTANT and will not be reassigned to perform any of the Services.

- 2.9 **COMPLIANCE WITH LAWS:** CONSULTANT will keep itself informed of and in compliance with all applicable federal, state, or local laws to the extent such laws control or otherwise govern the performance of the Services. CONSULTANT's compliance with applicable laws will include, without limitation, compliance with all applicable Cal/OSHA requirements and applicable regulations of the U.S. Department of Housing and Urbanization.
- 2.10 **NON-DISCRIMINATION:** CONSULTANT represents that it is an equal opportunity employer, and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.
- 2.11 **INDEPENDENT CONTRACTOR STATUS:** The Parties acknowledge, understand, and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and will at all times remain, wholly independent contractors and are not officials, officers, employees, departments, or subdivisions of CITY. CONSULTANT will be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONSULTANT and all persons retained or employed by CONSULTANT will have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt, or liability of any kind on behalf of, or against, CITY, whether by contract or otherwise, unless such authority is expressly conferred to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing.
- 2.12 **[IF RELEVANT] SUSPENSION AND DEBARMENT:** *CONSULTANT shall certify by signature that CONSULTANT and its principals, as defined in 49 CFR 29.995, and/or affiliates, as defined at 49 CFR 29.905, are not excluded, or disqualified, as defined at 49 CFR 29.940 and 29.945. CONSULTANT may submit proof of non-debarment or suspension by providing a printout or screenshot from the U.S. Government's official website (www.sam.gov) showing CONSULTANT and its principals are not debarred or suspended prior to the execution of this Agreement.*

[NOTE TO STAFF: For any contracts paid for with federal funds or any other special funds please consult with the City's contract compliance officer and/or the City attorney to identify any additional specialized compliance provisions required by the funding source.]

III.

INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Before performing any Services contemplated under this Agreement, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT will procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONSULTANT will procure and maintain Commercial General Liability Insurance (“CGL Coverage”) as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage will have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
 - B. Automobile Liability Insurance: For any owned, non-owned, or hired vehicles used in connection with the performance of this Agreement, CONSULTANT will procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance will have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
 - C. Workers’ Compensation Insurance/ Employer’s Liability Insurance: A policy of workers’ compensation insurance in such amount as will fully comply with the laws of the State of California and which will indemnify, insure and provide legal defense for both CONSULTANT and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONSULTANT in the course of carrying out the Services contemplated in this Agreement.
 - D. Errors & Omissions Insurance: For the full term of this Agreement and for a period of three (3) years thereafter, CONSULTANT will procure and maintain Errors and Omissions Liability Insurance appropriate to CONSULTANT’s profession. Such coverage will have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per claim.
 - E. [IF RELEVANT] Cyber Security: *Cyber Security coverage to include technology/professional liability insurance, intellectual property infringement, and data protection liability insurance. CONSULTANT shall procure and maintain coverage for cyber liabilities and financial loss resulting or arising from acts, errors, or omissions, in connection with data maintenance, hosting, software development and other information technology services provided under this agreement. Coverage shall include protection for liability arising from: intellectual property infringement arising out of software and/or content (excluding patent infringement and*

misappropriation of trade secrets); breaches of security; violation or infringement of any right, privacy, breach of federal, state, or foreign security and/or privacy laws or regulations including; data theft, damage, destruction, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential corporate information, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on a third party. The minimum limits shall be three million dollars (\$3,000,000) for each and every claim and in the aggregate.

- 3.2 **ADDITIONAL INSURED REQUIREMENTS:** The CGL Coverage and the Automobile Liability Insurance will contain an endorsement naming the CITY and CITY's elected and appointed officials, officers, employees, agents, and volunteers as additional insureds.
- 3.3 **REQUIRED CARRIER RATING:** All varieties of insurance required under this Agreement will be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance will be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A:VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representative is authorized to authorize lower ratings than those set forth in this Section.
- 3.4 **PRIMACY OF CONSULTANT'S INSURANCE:** All policies of insurance provided by CONSULTANT will be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents, or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents, or volunteers will be in excess of CONSULTANT's insurance and will not contribute with it.
- 3.5 **WAIVER OF SUBROGATION:** All insurance coverage provided pursuant to this Agreement will not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY, its officials, officers, employees, agents, and volunteers.
- 3.6 **VERIFICATION OF COVERAGE:** CONSULTANT acknowledges, understands, and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is a material consideration of this Agreement. Accordingly, CONSULTANT warrants, represents, and agrees that it will furnish CITY with certificates of insurance and endorsements evidencing the coverage required under this Article on ACORD-25 or forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy will be signed by a person authorized by that insurer to bind coverage on its behalf and will be on forms provided by the CITY if**

requested. Before performing any Services, CONSULTANT shall provide CITY with all certificates of insurance and endorsements referenced herein. Upon CITY's written request, CONSULTANT will also provide CITY with copies of all required insurance policies and endorsements.

- 3.7 The insurance coverage requirement set forth under this Article 3 are in addition to any coverage requirements set forth under Section **INSERT SECTION** (Insurance Coverages) of the **CITY RFP [IF APPLICABLE]**.
- 3.8 **FAILURE TO MAINTAIN COVERAGE:** In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced immediately so as to avoid a lapse in the required coverage, CITY has the right but not the duty to obtain the insurance it deems necessary, and any premium paid by CITY will be promptly reimbursed by CONTRACTOR or CITY will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, CITY may cancel this Agreement effective upon notice.
- 3.9 **SPECIAL RISKS OR CIRCUMSTANCES:** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. Any amendment to the insurance requirements of this Article shall be memorialized and approved in the form of a written amendment to this Agreement, signed by the Parties. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver will be void or invalid.

IV.

INDEMNIFICATION

- 4.1 CITY's elected and appointed officials, officers, employees, agents, and volunteers (hereinafter, the "City Indemnitees") should, to the fullest extent permitted by law, be protected from any and all 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 City Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein. Notwithstanding the foregoing, to the extent CONSULTANT's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT. CONSULTANT's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the CITY, its officials, officers, employees, agents, or volunteers.
- 4.2 To the fullest extent permitted by law, CONSULTANT shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees,

expert fees and all other costs, and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.

- 4.3 CITY shall have the right to offset against the amount of any compensation due to CONSULTANT under this Agreement, any amount due to CITY from CONSULTANT as a result of CONSULTANT's failure to either pay CITY promptly for any costs associated with CONSULTANT's obligations to indemnify the CITY Indemnitees under this Article or 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.
- 4.4 The obligations of CONSULTANT under this Article 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 and CITY's elected and appointed officials, officers, employees, agents, and volunteers.
- 4.5 CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth herein this Article 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 and CITY's elected and appointed officials, officers, employees, agents, and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from 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.
- 4.6 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.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend, and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

[ALTERNATIVELY]

[ONLY USE IF FOR DESIGN PROFESSIONALS: DELETE HIGHLIGHTED

SECTIONS BELOW IF NOT FOR DESIGN PROFESSIONALS] WORK OF CONSULTANT'S DESIGN PROFESSIONALS SERVICES: *The duty to indemnify, defend and hold harmless as set forth under this subsection shall apply to the negligence, recklessness or willful misconduct of any individual who qualifies as a "design professional" within the meaning of subsection (c)(2) of Section 2782.8 of the California Civil Code in so far as such negligence, recklessness or willful misconduct occurs in the performance, work or activities that must be performed by a "design professional." Subject to the limitation of the preceding sentence, to the fullest extent permitted by law, CONSULTANT shall immediately defend and indemnify and hold harmless the CITY Indemnities, defined above, from and against any and all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of the negligence, recklessness, or willful misconduct of CONSULTANT or any of CONSULTANT's officers, employees, servants, agents, contractors, subcontractors or authorized volunteers or any other person or entity involved by, for, or with or on behalf of CONSULTANT in the performance of design professional services under this Agreement. The Parties understand and agree that the duty of CONSULTANT to indemnify, defend and hold harmless pursuant to this subsection includes the duty to defend as set forth in Section 2778 of the California Civil Code. CONTRACTOR's obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, then CONSULTANT's indemnification obligation shall be reduced in proportion to the established comparative liability.*

WORK OF ALL OTHER PERSONS/NON-DESIGN PROFESSIONALS: *Except as otherwise provided under Section 4.2 of this Article, above, to the fullest extent permitted by law, CONSULTANT shall indemnify, defend and hold harmless the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature to the extent caused by CONSULTANT's negligent performance under this Agreement, including but not limited to the negligent acts, errors or omissions of CONSULTANT or CONSULTANT's officers, employees, agents, servants, contractors, subcontractors or subconsultants or the failure of the same to comply with any of the duties, obligations or standards of care set forth herein. The duty to indemnify, defend and hold harmless under this subsection shall not encompass a duty to indemnify, defend or hold harmless for liability, loss, suit, damage, expense, or cost caused by the negligence or willful misconduct of any or all of the CITY Indemnitees. The duty to indemnify, defend and hold harmless as set forth under this subsection is intended to encompass liabilities, losses, damages, expense, and costs not otherwise subject to subsection 4.2, above.*

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 Article 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.

The obligations of CONSULTANT under this Article 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 and CITY's elected and appointed officials, officers, employees, agents and authorized volunteers.

CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article 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 and CITY's elected and appointed officials, officers, employees, agents and authorized volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from 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.

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.

The duties to indemnify, defend and hold harmless as set forth under this Section, shall survive the early termination or normal expiration of this Agreement and shall be in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: CITY may immediately terminate this Agreement at any time for convenience and without cause by giving prior written notice of CITY's intent to terminate this Agreement which notice shall specify the effective date of such termination. Upon such termination for convenience, CONSULTANT will be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. CONSULTANT may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in section 6.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Services. CONSULTANT will be required to provide such Documents and Data within fifteen

(15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, will operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service, or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service, or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") will occur. For all Events of Default, the Party alleging an Event of Default will give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which will specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default will be cured, which will not be less than the applicable cure period set forth under Sections 5.2B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default will constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONSULTANT will cure the following Events of Defaults within the following time periods:
- i. Within ten (10) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation, or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 10-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 10-day cure period. The foregoing notwithstanding, CITY will be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.i. that exceeds seven (7) calendar days from the end of the initial 10-day cure period; or
 - ii. Within fourteen (14) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY will be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar

days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT will include, but will not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; and/or (v) CITY's discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY will cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.5, above, will be cured by CITY within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.
- D. CITY, in its sole and absolute discretion, may also immediately suspend CONSULTANT's performance under this Agreement pending CONSULTANT's cure of any Event of Default by giving CONSULTANT written notice of CITY's intent to suspend CONSULTANT's performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT will be compensated only for those services and tasks which have been rendered by CONSULTANT to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY will operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement will constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party will give the other Party any contractual rights by custom, estoppel, or otherwise.

- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder will be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
- i. Upon written notice to CONSULTANT, the CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;
 - iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or
 - iv. The CITY may exercise any other available and lawful right or remedy.

CONSULTANT will be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY's exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy will be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement will constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty, or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party will give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto will not operate to terminate any Article, Section or provision contained herein which provides that it will survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data will be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports,

analyses, correspondence, plans, designs, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT will require all subcontractors and subconsultants working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY will be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.

- 6.2 **CONFIDENTIALITY:** All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and will not be disclosed by CONSULTANT without prior written consent by CITY. CITY will grant such consent of disclosure as legally required. Upon request, all CITY data will be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT will not use CITY's name or insignia, photographs, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 **FALSE CLAIMS ACT:** CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., §§3789 *et seq.* and the California False Claims Act, Government Code §§12650 *et seq.*
- 6.4 **NOTICES:** All notices permitted or required under this Agreement will be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONSULTANT:

INSERT CONSULTANT NAME
INSERT ADDRESS
Attn: CONTACT PERSON
Phone: INSERT PHONE

CITY:

City of San Fernando
CITY DEPARTMENT
CITY ADDRESS
Phone: **CITY PHONE NUMBER**
Attn: **DEPARTMENT DIRECTOR**

Such notices will be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

- 6.5 **COOPERATION; FURTHER ACTS:** The Parties will fully cooperate with one

another and will take any additional acts or sign any additional documents as are reasonably necessary, appropriate, or convenient to achieve the purposes of this Agreement.

- 6.6 SUBCONTRACTING: CONSULTANT will not subcontract any of the Services contemplated under this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with subconsultants), if any, will contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS: CITY reserves the right to employ other independent contractors in connection with the various projects worked upon by CONSULTANT.
- 6.8 CONFLICTS OF INTEREST:
- A. CONSULTANT warrants, represents, and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid, nor has it agreed to pay, any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY will have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of CITY, during the term of his or her service with CITY, will have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
 - B. CONSULTANT may serve other clients, but none whose activities within the corporate limits of CITY or whose business, regardless of location, would place CONSULTANT in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code §81000 *et seq.*
 - C. CONSULTANT shall not employ any official or employee of the CITY during the Term of this Agreement or any extension term. No officer or employee of CITY shall have any financial interest in this Agreement that would violate Government Code §§1090 *et seq.* CONSULTANT warrants and represents that no owner, principal, partner, officer, or employee of CONSULTANT is or has been an official, officer, employee, agent, or appointee of the CITY within the twelve-month period of time immediately preceding the Effective Date. If an owner, principal, partner, officer, employee, agent, or appointee of CONSULTANT was an official, officer, employee, agent, or appointee of the CITY within the twelve-month period immediately preceding the Effective Date, CONSULTANT warrants that any such individuals did not participate in any manner in the forming of this Agreement. CONTRACTOR understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and CONSULTANT will not be entitled to any

compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and CONSULTANT will be required to reimburse the CITY for any sums paid to CONSULTANT. CONSULTANT understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code §1090.

- 6.9 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, will be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, will be in the Central District of California located in the City of Los Angeles, California.
- 6.11 ATTORNEYS' FEES: If either Party commences an action against the other Party, legal, administrative, or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation will be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 6.12 SUCCESSORS AND ASSIGNS: This Agreement will be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT: There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 6.14 CONSTRUCTION OF AGREEMENT: This Agreement will not be construed in favor of, or against, either Party but will be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions will continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement will be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver will be void and invalid.
- 6.17 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

- 6.18 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement will control.
- 6.19 ENTIRE AGREEMENT: This Agreement, including all attached exhibits, constitutes the entire, complete, final, and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, which may have been entered into between CITY and CONSULTANT prior to the execution of this Agreement. Any statements, representations, or other agreements, whether oral or written, made by either Party that is not embodied herein will not be valid or binding on the Parties. No amendment, modification or supplement to this Agreement will be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.16, above.
- 6.20 FORCE MAJEURE: The completion deadline for any Services assigned to CONSULTANT may be extended in the event of any delays due to unforeseeable causes beyond the control of CONSULTANT and without the fault or negligence of CONSULTANT, including but not limited to severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the CITY. CONSULTANT shall within three (3) calendar days of the commencement of such delay notify the City Representative in writing of the causes of the delay. The CITY Representative shall ascertain the facts and the extent of delay and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the CITY Representative such delay is justified. The City Representative's determination shall be final and conclusive upon the parties to this Agreement. In no event shall CONSULTANT be entitled to recover damages against the CITY for any delay in the performance of this Agreement, however caused, CONSULTANT's sole remedy being extension of the Agreement pursuant to this Section.
- 6.21 COUNTERPARTS: This Agreement will be executed in three (3) original counterparts each of which will be of equal force and effect. No handwritten or typewritten amendment, modification, or supplement to any one counterpart will be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart will be delivered to CONSULTANT and the remaining two original counterparts will be retained by CITY.

(SIGNATURES ON NEXT PAGE)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF SAN FERNANDO:

CONSULTANT NAME:

By: _____
Nick Kimball, City Manager

By: _____

Name: _____

Date: _____

Title: _____

Date: _____

APPROVED AS TO FORM:

By: _____
City Attorney

Date: _____

