

REQUEST FOR PROPOSALS

Notice is hereby given that Request for Proposals (RFP) will be received by the City of San Fernando, California, for furnishing the following:

Mental Health Clinician Services

The City of San Fernando Community Development Department is requesting RFPs from qualified providers to provide comprehensive homeless services. The contract term will be for a period of one (1) year.

Three original and one electronic copy of the proposal must be submitted to the POLICE DEPARTMENT in a sealed envelope labeled “**City of San Fernando RFP- Mental Health Clinician Services**” at SAN FERNANDO POLICE DEPARTMENT, 910 First Street, San Fernando, California, 91340, no later than **Thursday, August 29, 2024**. All RFPs received after that time will not be accepted.

A copy of the RFP may be obtained from the City’s website at SFCITY.ORG/rfps-rfqs-nibs-nois/.

Any bidder 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 or email 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

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REQUEST FOR PROPOSALS



The San Fernando Police Department is requesting proposals for:

Mental Health Clinician Services

RELEASE DATE: August 1, 2024

RESPONSE DUE: August 29, 2024

GENERAL INFORMATION

The City of San Fernando's Police Department ("City") is seeking proposals from qualified provider(s) ("Firm") or ("Consultant") interested in providing mental health clinician services to the San Fernando community. The City is requesting proposals to provide the following: 1) training and support services to police personnel in addressing mental health-related calls; 2) assistance to officers with de-escalation when responding to calls of people experiencing mental health crises; 3) conducting outreach in collaboration with the Police Department, City Manager's Office, and Los Angeles County Department of Mental Health; 4) collaboration with the Police Department's Community Engagement Officer and sister agencies; and 5) crisis counseling and follow-up to San Fernando residents.

BACKGROUND

The City of San Fernando (City) is a general law city incorporated in 1911. The City is governed by a five-member city Council whose members are elected at large and operates under a Council/City Manager form of government. It is located in the San Fernando Valley region of Los Angeles County and is approximately 2.4 square miles with a residential population of 24,564. San Fernando has its own municipal police department, which boasts an average response time of under four minutes for priority one calls-for-service. Despite its small geographic area and reputation for providing a high level of police service, the Police Department has recognized ongoing demand for addressing mental health crisis calls, which highlights the need for additional support in this area.

Additionally, the steady population of individuals experiencing unsheltered homelessness in San Fernando requires a specific approach to connecting them to services, support systems, and housing. A portion of this population may significantly benefit from mental health services. Therefore, the project also aims to procure a firm or team of clinicians specializing in addressing the mental health concerns of people experiencing homelessness.

The City of San Fernando intends to address this need by pairing mental and behavioral health clinicians with the Police Department to assist with de-escalation, crisis intervention, and follow-up case management. Additionally, the clinicians will provide capacity-building support, such as training Police Department staff on how to best handle mental health crises.

Furthermore, the project intends to educate San Fernando community stakeholders on mental health matter and eliminate the stigma surrounding mental health challenges through a citywide campaign. This campaign will include outreach events, banners and signage, and a comprehensive media strategy. The deployment of dedicated, mental health clinicians will enable the San Fernando Police Department staff to focus on emergency situations while ensuring a more comprehensive and specialized response to mental health issues in the community.

Given its small size, the City of San Fernando typically has only four on-duty officers covering the entire city, resulting in a ratio of 1 officer to approximately 6,000 residents—much lower than in other cities. This limited staffing can be problematic when a mental health call requires a 72-hour evaluation under 5150 WIC compliance, as an officer may be tied up at a local hospital for several hours. This situation can leave other officers at risk and unavailable for field duties. By integrating mental health clinicians into the response team, the need for officers to wait during evaluations is reduced, enabling them to remain available for other emergencies and improving the overall efficiency in deploying limited police resources and in managing mental health crises.

Substance Abuse and Mental Health Services Administration Grant

In 2023, the City of San Fernando received a Substance Abuse and Mental Health Services Administration (SAMHSA) Grant through the U.S. Department of Health and Human Services. The grant agreement outlines activities to address the needs of its residents experiencing mental health crises. The Mental Health Clinician Project focuses on providing support to Police Personnel when responding to calls involving persons experiencing mental health crises, including those experiencing homelessness. The goals of the program include the following:

Goal	Objectives
1. Increase the capacity of the Police Department to reduce the number of unwarranted police encounters with people experiencing mental health issues.	a. Reduce repeat calls for mental service by 50% by September 2025. b. Improve the level of service for Police Dispatch team as captured in the annual community survey.
2. Educate the community about mental health and its impact in the community.	a. Engage in at least 3 community events/seminars with the residential community on a quarterly basis. b. Engage in at least 3 community events/seminars with the business community on a quarterly basis. c. Increase the positive association with mental health services by 20% by September 2025.
3. Build the capacity of the City of San Fernando to better respond to the mental health needs of residents.	a. Develop and employ trainings for 100% of the Police Department personnel by July 2025. b. Ensure all key personnel are trained to exceed POST requirements on strategic communications, including a curriculum on mental health first aid (minimum of 8

	hours annually per staff) by September 2025.
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INSTRUCTIONS TO SUBMITTING FIRMS

A. Examination of Proposal Documents

By submitting a proposal, the prospective firm or individual 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 & service-oriented manner.

B. Questions/Clarifications

Please direct any questions regarding this RFP to Jennifer Spatig, Management Analyst, via e-mail at jspatig@sfcity.org. Questions must be received by 5:30 p.m. on **Thursday, August 8, 2024**. All questions received prior to the deadline will be collected and responses will be emailed by **Tuesday, August 13, 2024**.

C. Submission of Bid Proposals

Three original and one electronic copy of the proposal must be submitted to the POLICE DEPARTMENT in a sealed envelope labeled “**City of San Fernando RFP- Mental Health Clinician Services**” at the POLICE DEPARTMENT, 910 First Street, San Fernando, California, 91340, no later than **Thursday, August 29, 2024 at 5:30pm**. All RFPs received after that time will not be accepted.

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 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. Contract Type

It is anticipated that a standard form professional services agreement contract will be signed subsequent to City Council review and approval of the recommended firm. Please refer to the attached drafted Professional Services Agreement (PSA) for Mental Health Clinicians, Training, and Case Management Services as included as Attachment A. Proposals must include a statement accepting the City's PSA as drafted or denote any exceptions to the PSA that should be taken under consideration by the Evaluation Team.

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.

SCOPE OF SERVICE

The City is seeking to contract with qualifying firms that can provide comprehensive mental health clinician services. A firm may propose to provide services for as few as one or up to all these services in their response. The City retains the right to accept or reject any and all of the proposals; or any item or part thereof at its discretion; make an award for a portion of the scope of work/services; or award contracts to one or more proposers for any portion of the described services.

Agreements with selected firms(s) will be for a one-year term, under the provisions of a Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) Grant. Optional extensions are at the discretion of the City.

A list of the scope of services is provided herein. Firms responding to this proposal must indicate the skills, ability, and/or services which distinguish the consulting professionals or firms from other consulting professionals or firms to make the proposal the best choice for the City. The following section describes the specific services being requested by this Request for Proposal.

Ongoing Training and Support Services for Police Personnel

- Develop and provide comprehensive training programs for police personnel on handling mental health-related calls, including mental health awareness, crisis intervention and de-escalation techniques.
- Offer ongoing support and consultation to police personnel in the application of best practices for managing mental health crises.
- Implement and promote de-escalation strategies to ensure safe and effective resolution of incidents.

Assistance with De-escalation and Crisis Intervention During Mental Health Crises

- Deliver crisis intervention services to individuals in mental health crises.
- Accompany officers on calls involving individuals experiencing mental health crises between the hours of 8:00 am to 6:00 pm, Monday through Friday, holidays excluded.
- Provide assistance and guidance to officers at calls for service in de-escalating situations and reducing violent encounters, particularly those individuals experiencing a mental health crisis.

Follow-Up and Case Management

- Provide support for individuals and families referred to the agency by law enforcement personnel outside of normal business hours.
- Conduct thorough assessments and develop individualized crisis intervention plans.
- Provide follow-up case management to ensure individuals receive continued support and access to mental health care services.
Maintain detailed records of interactions and follow-up activities to monitor progress and outcomes.

Marketing and Community Engagement

- Conduct outreach activities in collaboration with the Police Department, Community Development Department, Los Angeles Family Housing, Los Angeles County Department of Mental Health, and other related agencies, as designated by the City, in order to connect individuals with appropriate mental health resources.
- Participate in community events and forums to raise awareness of mental health and support services available to community stakeholders.
- Build and maintain relationships with local mental health service providers and community organizations to enhance service delivery.

- Assist with the development and implementation of a marketing and education campaign raising awareness about mental health and associated services.
- Create and distribute informational materials, such as brochures, flyers, and digital content, which raise awareness about mental health and associated services.
- Utilize social media and other communication channels to engage the community and disseminate information about mental health initiatives and events.
- Coordinate with local media outlets to highlight the work of the City in addressing mental health issues and promote positive community-police relations.
- Work closely with the SFPD's Community Engagement Detective to identify and address community mental health needs. Provider(s) will be expected to attend evening or weekend community engagement events and meetings.

Monthly Reports

- Prepare and submit detailed monthly reports to the Police Department summarizing all activities, interventions, and outcomes.
- Include data on the number and type of mental health-related calls responded to, training hours conducted and subjects covered, crisis interventions performed, and follow-up case management activities.
- Provide analysis and recommendations based on the reported data to help the City improve its mental health response strategies.
- Participate in monthly meetings with the City to discuss report findings and plan for upcoming activities.

Agreements with selected firm(s) will be for a one-year term, under the provisions of a Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA) Grant. Optional extensions are at the discretion of the City.

A list of the scope of services is provided herein. Firm(s) responding to this proposal must indicate the skills, ability, and/or services which distinguish the consulting professionals or firms from other consulting professionals or firms to make the proposal the best choice for the City.

Please note the City reserves the right to add supplementary criteria during the submission of the monthly reports.

The selected service provider(s) will not be allowed to perform work in excess of the described services in the Professional Services Agreement without the prior, written approval of the City. Before any Extra Work it is initiated, the firm must identify the kind and estimated quantities of the Extra Work to be done. Approval of additional funding may also be required. Any increase in compensation or contract amendment must be authorized and funded in advance. No compensation for Extra Work or any other change in the contract will be allowed unless the Extra Work or change has been authorized in writing by the City, and the compensation or method of determining such compensation is set in such written authority. All requests for Extra Work must

be in a written Change Order submitted to the City prior to the commencement of such work. The foregoing terms should be included (i.e. abridged) in the Firm's response to the RFP. Omission does not immediately result in disqualification, but will be contractually exercised one way or other, unless alternative compliance is proposed that is mutually agreed to by both parties prior to contract execution and notice to proceed.

PROPOSED TERM OF CONTRACT

The proposed term of the contract is **one year, with options for extensions at the City's discretion.**

SCHEDULE FOR SELECTION

RFP Available:	August 1, 2024
Deadline for submittal of Questions:	August 8, 2024
Response to Questions:	August 13, 2024
Deadline for submittal of Proposal:	August 29, 2024
Interviews (if necessary)	September 4, 2024
Agreement Presented to Council for Review & Approval:	September 16, 2024

METHOD OF SELECTION AND NOTICES

The Chief of Police and staff will evaluate the information provided in the submitted proposals using the following rubric and weighted point scale system, rated between 1-5, as a guideline. Submissions should include responses to the following bullet points:

- Completeness and Comprehensiveness. (10%)
- Geographic Proximity to the City. (10%)
- Estimated Response time to calls for service during business hours. (20%)
- Estimated Response Time Between Referral and Follow Up. (10%)
- Proposed training schedule, including topics, for City personnel. (10%)
- Previous service delivery experience, prior successes, capacity to fulfill required services, and qualified personnel. (10%)
- Cost effectiveness. (20%)
- Quality of proposed staff. (10%)

INFORMATION TO BE SUBMITTED

1. Cover sheet

The proposal shall include a cover sheet that identifies who will be the contact with their contact information for this proposal.

2. Program and Model of Service Delivery

Describe the program and which service(s) you are proposing, including how services proposed align with the services described in this RFP. Ensure that you provide all detail requested to explain the services that will be offered and how the program will be structured.

Additionally, please detail:

- Implementation and start-up plan to begin services. It is the expectation that services will begin no later than 30 days from the date the agreement is approved by the City Council.

2. Staffing Plan

Describe the staffing plan for the proposed services, including:

- Staff person responsible for all reporting requirements.
- A list of positions/personnel that will be involved, their full time equivalent (FTE) for the program, and the roles and responsibilities of each staff.
- Which staff (or position) will provide which aspects of mental health clinician services (training, assistance with de-escalation, crisis intervention and case management, outreach and collaboration, crisis counseling, marketing and community awareness, and monthly reporting).
- Staff position(s) that will be responsible for staff supervision, program oversight, complying with tracking and reporting project performance outcomes, creating and implementing procedures and policies, and monitoring procedures and policies to ensure consistent application and high levels of customer service.
- Initial and ongoing training that staff will receive.
- Provide a statement of the service(s) that differentiate your firm from other respondents.
- Proposed schedule of services/hours of operation, including if and to what extent the program will provide services outside of business hours (outside of Monday-Friday, 8:00am-6:00pm).

Provider is expected at a minimum to be available during City Hall hours of Monday to Friday from 8:00 am to 6:00 pm for staff or residents to communicate in person. Provider is also expected to attend evening or weekend meetings, or events as required. Verify ability to fulfill availability and identify any restrictions or considerations to having staff available.

3. Budget and Budget Narrative

In this section, 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 any other services that are considered optional additions.

- Attach a detailed Program Budget specific to each proposed service. Please be clear regarding amount requested per service and the total request, including staffing costs (salaries and benefits).
- Provide a budget narrative that describes and justifies budgeted line items.

4. Agency Qualifications, Experience, Capacity, and Outcomes

Provide a statement of qualifications for your organization, including:

- Size of your organization (number and FTE of staff, delineating between employees and consultants),
- Organizational structure, including 501(c)(3) status, for-profit status, or other status, size and membership of governing board, and office/program locations,
- Completed and signed W-9 form. See attachment A for the form template.
- Description of services provided by your organization.
- Your organization's experience providing the services requested in this RFP or similar services, specific target populations you have served through existing programs, and the results achieved. If you have not provided related services, please describe other programs you have operated that have similar features, and include the population serviced and program results.
- Organization's experience administering contracts for funding, including the types of contracts your organization received (funder, amount, term, program, etc.).
- Provide a description of said experience with other public/governmental agencies (maximum of four) that includes a summary of the work performed, pricing structure, the period over which services were provided, and the name, title, and phone number of participants to be contacted for references. References should be located within California. Give a brief statement of the Organization's adherence to the scope and budget for services. Additionally, this section shall include a listing of any lawsuit and the result of that action resulting from (a) any public project undertaken by the Organization 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 Organization or its insurers within the last five years.

Data, Performance Measures, and Quality Improvement

If you operate mental health programs currently, describe the program scale and budget. List key outcomes for the past three fiscal years, including the number of clients served by outreach, the number of clients served who received mental health services and any other key outcomes. If your agency does not currently operate mental health programs,

please list key performance measures and outcomes of any similar services or programs your agency provides.

Describe your agency's experience ensuring complete and timely data entry into a data management system. Describe how your agency uses data to identify the following:

- Agency performance measures and results
- Areas of need
- Outcomes and impacts of service

Describe your agency's ongoing quality assurance and quality improvement processes, and how your agency ensures high quality services and consistent implementation of all policies, procedures, and tools.

****The City may elect to interview a short list of qualified firms or interview only the top 3 rated firms based upon this RFP.***



2024

PROFESSIONAL SERVICES AGREEMENT
(Engagement: MENTAL HEALTH CLINICIAN)
(Parties: INSERT NAME)

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter, "Agreement") is made and entered into this ____ day of _____, 2024 (hereinafter, the "Effective Date") by and between the CITY OF SAN FERNANDO, a municipal corporation (hereinafter, "CITY") **INSERT 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 psychological evaluation consulting services; and

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

WHEREAS, the execution of this Agreement was approved by the San Fernando City Council at its Regular Meeting of _____, 2024 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 SCOPE OF WORK:

- A. Subject to the terms and conditions of this Agreement, CONSULTANT agrees to provide the services and tasks described in that certain Request for Qualifications of CITY entitled "REQUEST FOR QUALIFICATIONS: PSYCHOLOGISTS", (hereinafter, "CITY RFQ") and the written proposal of CONSULTANT entitled "**INSERT TITLE OF PROPOSAL**" (hereinafter, the "CONSULTANT Proposal") dated **INSERT DATE OF PROPOSAL**. The CITY RFP and the CONSULTANT Proposal are attached and incorporated hereto as **Exhibit "A" and "B"** respectively. The term "Scope of Work" shall be a collective reference to the CITY RFP and the CONSULTANT PROPOSAL. The capitalized term "Work" shall be a collective reference to all the various services and tasks referenced in the Scope of Work. 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 Work and the provisions of this Agreement to which the Scope of Work is attached, the provisions of this Agreement shall govern and control.

1.2 PROSECUTION OF WORK:

- A. Time is of the essence of this Agreement and each and every provision contained herein. The Work shall be commenced within three (3) calendar days of CITY's issuance of a Notice to Proceed. CONSULTANT shall complete the various tasks identified in the Scope of Work within the timeframes set forth in the Scope of Work and shall complete all of the Work by or before **INSERT COMPLETION DATE** (the "Completion Date");
- B. CONSULTANT shall cooperate with CITY and in no manner interfere with the work of CITY, its employees or other consultants, contractors or agents;
- C. 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;
- D. CONSULTANT shall at all times enforce strict discipline and good order among CONSULTANT's employees; and
- E. CONSULTANT, at its sole expense, shall pay all sales, consumer, use or other similar taxes required by law.

1.3 COMPENSATION: CONSULTANT shall perform the Work in accordance with **“INSERT TITLE OF COMPENSATION DOCUMENT”** (hereinafter, the "COMPENSATION RATE"). The foregoing notwithstanding, CONSULTANT's total compensation for the performance of all Work contemplated under this Agreement, will not exceed the total budgeted aggregate sum of **INSERT WRITTEN AMOUNT (\$ INSERT NUMBER)** (hereinafter, the "Not-to-Exceed Sum") during the prosecution of this Agreement, unless such added expenditure is first approved by the City Council. In the event CONSULTANT's charges are projected to exceed the 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 Not-to-Exceed Sum or any other CITY approved amendment to the compensation terms of this Agreement.

1.4 PAYMENT OF COMPENSATION: Following the conclusion of the work requested in Section 1.1, CONSULTANT shall 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 the reimbursable out-of-pocket expenses incurred. If

the amount of CONSULTANT's compensation is a function of hours worked by CONSULTANT's personnel, the invoice should indicate the number of hours worked, the persons responsible for performing the Work, 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.

1.5 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.

1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work 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 Work, 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, tasks and other Work 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 their 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 their 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 their designee will supervise and direct the performance of the Work, using their best skill and attention, and will be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory

coordination of all portions of the Work 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 Work 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 their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES:

CONSULTANT represents, acknowledges and agrees to the following:

- A. CONSULTANT will perform all Work skillfully, competently and to the highest standards of CONSULTANT's profession;
- 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 Work 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 Section 1090 and the Political Reform Act (Government Code Section 81000 et seq.). CONSULTANT shall be liable for all violations of such laws and regulations in connection with 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 Work 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 will be completed within seven (7) calendar 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 Work skillfully, competently and to the highest standards of CONSULTANT's profession.

- 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 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 AND**

TITLE].

- 2.7 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR:** The Work will be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work 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 Work 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 Work 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 to 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.
- 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 Work 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 Work.
- 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 Work. CONSULTANT's compliance with applicable laws will include, without limitation, compliance with all applicable Cal/OSHA requirements and applicable regulations of the Federal 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.

III.
INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE:** Prior to the beginning of and throughout the duration of the Work, 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: 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 shall 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 Work 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.

- 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 critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that it will furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on 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. All certificates of insurance and endorsements will be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any Work. Upon CITY's written

request, CONSULTANT will also provide CITY with certified copies of all required insurance policies and endorsements.

- 3.7 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 CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, CITY may cancel this Agreement effective upon notice.
- 3.8 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.

IV. INDEMNIFICATION

- 4.1** The Parties agree that CITY and 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.

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 Work. 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 Event of Default 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 Work; (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; (v) CONSULTANT's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) 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 1.4, 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 Work 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., Section 3789 et seq. and the California False Claims Act, Government Code Section 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: INSERT CONTACT NAME

Phone: INSERT PHONE NUMBER

CITY:

City of San Fernando

117 Macneil Street

San Fernando, CA 91340

Attn: INSERT DEPARTMENT

Phone: (818) 898-1212

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 portion of the Work required by 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 contractors in connection with the various projects worked upon by CONSULTANT.
- 6.8 PROHIBITED INTERESTS:** 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.
- 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 will 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 Date shall 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, if the 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: _____

APPROVED AS TO FORM

Date: _____

By: _____
Richard Padilla, Assistant City Attorney

Date: _____

EXHIBIT "A"
CITY REQUEST FOR PROPOSAL

EXHIBIT "B"
CONSULTANT PROPOSAL