

CITY OF TEMPLE CITY
NOTICE INVITING REQUEST FOR QUALIFICATIONS (RFQ)
FOR

**GENERAL PLANNING & COMMUNITY
DEVELOPMENT SERVICES
“ON CALL” OR CONTRACT SERVICES FOR
CURRENT AND ADVANCED PLANNING
RELATED SERVICES**



DELIVERY ADDRESS

City of Temple City
Community Development Department
9701 Las Tunas Drive
Temple City, CA 91780
Attn: Robert Sahagun, Community
Preservation Supervisor

QUALIFICATIONS SUBMITTAL

5 copies & 1 reproducible electronic
copy

QUALIFICATIONS DUE

December 15, 2011
6:00 p.m.

CONTACT INFORMATION

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Development
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smasura@templecity.us

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CITY OF TEMPLE CITY
REQUEST FOR QUALIFICATIONS (RFQ)
GENERAL PLANNING SERVICES

INTRODUCTION:

The City of Temple City (City) is centrally located in the west San Gabriel Valley approximately five miles southeast of Pasadena and 13 miles east of downtown Los Angeles. The City is approximately 3.85 square miles and is surrounded by the cities of Arcadia, San Gabriel, El Monte, Rosemead, and unincorporated portions of Los Angeles County. The 2010 U.S. Census Bureau indicates a total population of 35,558. Temple City is predominantly a residential community with over 10,000 residential parcels.

The City is establishing an on-going pool of pre-qualified consulting firms to provide planning services to the Community Development Department. The City has identified the need to supplement staff time and expertise for current/long range planning and related community development programs and services.

Temple City is experiencing positive economic development and residential growth and is implementing an ambitious City Council directed two-year work plan. The Community Development Department's work plan includes many policy, program, and operational improvement initiatives that will be better facilitated with the requested consultant services. For example, the City has started three major planning initiatives: a Comprehensive Downtown Parking Study and Strategic Plan; a Citywide Traffic Calming Study and Master Plan; and a Citywide Historic Resources Survey. Next year the City plans to begin work on a civic center master plan, a parks and recreation master plan, and a general plan update. The City also participates in regional planning efforts through the Southern California Association of Governments (SCAG) and the San Gabriel Valley Council of Governments (SGVCOG). Currently underway is the Energy Efficiency Climate Action Plan project that the SGVCOG is coordinating with all the San Gabriel Valley cities. The City is also aggressively pursuing grant funds at all levels as they become available for planning and other City projects and services.

SCOPE OF SERVICES:

The scope of services includes general planning and community development services as noted herein on an as-needed or case by case basis as determined by the Community Development Director or the City Manager. One or more consultants may be selected to enter into agreements as needed for either general planning services or for specific project related services as determined by the City. The City has identified the initial need to supplement staff time and expertise for current/long range planning and related community development services.

The scope of services may include any of the following: current planning analysis (zoning amendments, special use permits, tentative maps, conditional use permits, variances); Planning Commission and building permit application review and processing; geographic information systems; business license review; urban design; site plan and design review including architectural review; economic analysis; project management; zoning code analysis; capital improvement projects planning assistance; California Environmental Quality Act compliance; and other Community Development Department related services as needed. For reference see the City/Department Organizational Chart in Attachment 1 and the City and Community Development Department website pages at www.templecity.us.

It is intended that City staff will determine the most qualified firms and to establish a list of qualified consultants from which one or more consultants will be selected to enter into a consultant services agreement with the City. The list will be maintained to consider additional consultant services if deemed necessary. The agreements may be for general on-call services or for specified scope of services as may be negotiated by the City Manager to generally meet the City's needs. Any agreement will indicate the requirements for specific task or project cost proposal procedures or limits. The time frame for the requested services will be determined on a case by case basis or may be for a six month to one year period with annual renewals at the discretion of the City.

If there are any services that the submitting firm does not have in-house expertise, they may optionally include any sub-consultants they would use (including all the sub-consultant qualifications as well) – for example architectural peer review services, economic analysis, etc.

NECESSARY QUALIFICATIONS:

In the consultant selection process, Temple City seeks the following:

1. **Experience.** The selected firm or their principal in charge must have demonstrated relevant experience in providing the services described under the Scope of Services. Substantiation must be provided regarding the nature of services provided to the client cities or agencies. A comprehensive list of references of cities served must be provided. Cite examples of qualifying projects with dates, contact persons, and scope of work performed. The submittal shall clearly state the number and type of programs or services performed. If any previous work was audited and found to be in non-compliance with a funding source, this must be cited.
2. **Staff Qualifications.** Staff assigned to complete the Scope of Services must have relevant experience in providing the necessary services as described under the Scope of Services. All personnel assigned to the work must possess appropriate certifications or registrations as required by State agencies, if any.

3. **Contact Person.** The selected firm will be required to identify the person who will be the Project Manager and primary contact person who is authorized to assign the firm's staff to specific projects or tasks. Other staff or sub-contractors may be identified as the specialist in the specific areas or for specific tasks. These individuals must, within reasonable limitations, be accessible to City staff during business hours. The City shall be notified in writing before a change of personnel occurs by the consultant. All such personnel changes must be approved by the City.
4. **Organization and Staffing.** Proposing firms shall provide a description of the Project Manager, other key staff and sub-contractors, if any, and their relationship with City operations. Specifically show how the proposed organization and staffing will provide the City with the quantity and quality of service needed to meet the City's needs. Provide resumes for Project Manager and key staff to clearly demonstrate they possess the adequate skill level and experience to accomplish the required tasks. Provide a Table of Organization indicating the staff hierarchy and responsibilities as it would pertain to the scope of work in this document.

GENERAL CONDITIONS:

1. The City of Temple City shall not be liable for any pre-contractual expenses incurred by any consultant, nor shall any firm include such expenses as part of the proposed cost. Pre-contractual expenses include any expense incurred by a qualification and negotiating any terms with the City.
2. The City reserves the right to withdraw this RFQ at any time without prior notice and to reject any and all qualifications submitted without indicating any reasons. Any award of contract for services will be made to the firm best qualified and responsive in the opinion of the City.
3. Qualifications may, at the City's option, be rejected if they contain any alterations, additions, conditional or alternatives, are incomplete, or contain erasures or irregularities of any kind. The City reserves the right to reject any and all qualifications. The City expressly reserves the right to postpone submittal opening for its own convenience and to reject any and all submittals responding to this Request for Qualifications.
4. The selected firm must agree to indemnify, hold harmless and defend the City, its officers, agents and assigns from any and all liability or loss resulting from any suits, claims or actions brought against the City which result directly or indirectly from the wrongful or negligent actions of the consultant in the performance of the contract.

5. The selected firm, shall at its own cost and expense, procure and maintain general liability insurance in an amount not less than one million dollars (\$1,000,000) per occurrence and annual aggregate, one million dollars (\$1,000,000) per person and two hundred thousand dollars (\$200,000) property damage. Consultants shall also obtain professional liability insurance in the amount of one million dollars (\$1,000,000) per occurrence and annual aggregate. Such insurance shall be procured from an insurer authorized to do business in California and approved in writing by the City. The City shall be named as an additional insured. In addition, the consultant and sub-contractors, if any, shall obtain workers' compensation insurance covering all its employees as required by law. Throughout the term of the contract, the consultant shall deliver to the City satisfactory evidence that the insurance has been renewed and that the required premiums have been paid. Insurance covering liability arising from any error, omission or negligent act of the consultant, its officers, or employees with a limit of liability of not less than One Million Dollars (\$1,000,000) per occurrence, and Two Million Dollars (\$2,000,000) in aggregate.
6. The selected firm will be required to comply with all existing State and Federal labor laws including those applicable to equal opportunity employment provisions.
7. Consultant/Contractor is required to have in full force and affect all licenses and permits required by all applicable laws. Consultant shall obtain a Temple City Business License during the term of the contract.
8. Contractor shall at all times conduct his/her services with the utmost respect to the public. All employees of the Contractor shall wear clean clothing in the performance of their duties and equipment shall be cleaned and maintained in a safe operating manner. All equipment shall be subject to inspection by the City at any time. All personnel shall wear appropriate safety gear at all times while working in Temple City. Consultant shall provide satisfactory warning devices that meet the requirements of the California Occupational Safety and Health Act (Cal-OSHA) for protection of workers when and where required at all times in the performance of this contract.
9. Consultant , its agents, and employees shall comply with all laws, ordinances, rules and regulations of the Federal, State, the County of Los Angeles, the City of Temple City and all governing bodies having jurisdiction applying to work done under the agreement.
10. The City reserves the right to negotiate special requirements and proposed service levels using the selected qualification as a basis. Compensation for services will be negotiated with the selected firm.

11. The selected firm shall not sublet any portion of the agreement with the City without express written permission of the City Manager or his or designated representative.
12. No discrimination shall be made in the employment of persons because of the race, color, or religion of such persons and every bidder in violation of this section is subject to all penalties imposed for a violation of Chapter 1 of Part VII, Division 2 of the Labor Code, in accordance with the provisions of Section 1753 thereof.
13. The City reserves the right to review and approve the qualifications of subcontracting firms or persons. Substitutions, which are not approved, are considered sufficient grounds for termination of contract.
14. The City, or any of its duly authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, time and work records, employment records or other records relating to employment. Such material, including all pertinent cost accounting, financial records and proprietary data, will be kept and maintained by the firm for a period of at least four years after completion of a firm's performance unless the City's written permission is given to dispose of same prior to that time.
15. All responses to this Request for Qualifications (RFQ) shall become the property of the City of Temple City and will be retained or disposed of accordingly.
16. No amendments, additions, or alternates shall be accepted after the submission date and time.
17. All documents, records, designs, and specifications developed by the selected firm in the course of providing services for the City of Temple City shall be the property of the City. Anything considered to be proprietary should be so designated by the firm.
18. Acceptance by the City of any qualification submitted pursuant to this Request for Qualification shall not constitute any implied intent to enter into a contract for services.
19. The City reserves the right to issue written notice to all participating firms of any change in the qualification submission schedule should the City determine, in its sole discretion, that such changes are necessary.

SUBMITTAL FORMAT AND CONTENT:

1. The submittal should be typed and as brief as possible while adequately describing the qualifications of the firm.

2. All qualifications are to be submitted in a sealed package, clearly marked with the firm's name, address and phone number and the words "RFQ – General Planning Services". Only one submittal per firm will be considered.
3. The proposing firm shall submit the following information with the package, including the same information on subcontractors, in the following format:
 - a. **Cover Letter.** In no more than two (2) pages, the firm should provide the name, address and phone number of the consultant, the primary contact name and phone number, any qualifying statements or comments regarding the submittal and identification of any sub-consultants and their responsibilities. The signed letter should also include a paragraph stating that the firm is unaware of any conflict of interest in performing the proposed work.
 - b. **Qualifications.** This portion should include a description of the qualifications of the assigned staff and sub-contractors, relevant experience, and the availability of the staff for the services provided.

Resumes must be provided for the Project Manager and any other key staff members as necessary. In firms with multiple offices, the office location of all key staff must be identified. After selection of a firm by the City, no substitution of key staff or sub-contractors may occur without the written approval of the City.

A list of related projects should be included with the name of the contact person and the telephone number for which the firm has recently or currently provides services as outlined under the Scope of Work.

- c. **Fees.** Proposing firms must submit a qualification that includes a schedule of time and materials/reimbursable rates including relevant hourly rates for all levels of staff to be utilized, including sub-contractors if any. Firms may also provide alternative rate or fee proposals such as retainers and per case specific fees or ranges. Examples of fee structures for similar client work would be helpful.
- d. **Acceptance of Conditions.** This section will be a statement offering the firm's acceptance of all conditions listed in the Request for Qualification document. Any exceptions or suggested changes to the RFQ or any contractual obligations, including the suggested change, the reasons therefore and the impact it may have on cost or other considerations on the firm's behalf must be stated in the submittal. Unless specifically noted by the firm, the City will assume that the qualification is in compliance with all aspects of the RFQ.

EVALUATION AND SELECTION PROCESS:

Selection will follow these steps:

1. **Qualification Review:** Each qualification will be reviewed to determine if it meets the RFQ requirements. Failure to meet the requirements of the RFQ will be cause for rejection.
2. **Interview:** A list of most qualified firms may be interviewed by an oral board.
3. **Consultant Services Agreement:** The City Manager will request a consultant services agreement subject to negotiation of a specified work program or scope of services, terms of payment and other City requirements from the firm found most qualified. Nothing in this RFQ should imply a contractual obligation for employment.
4. **Contract Approval and Execution:** The agreement may be presented to the City Council for approval and execution by the City Manager.

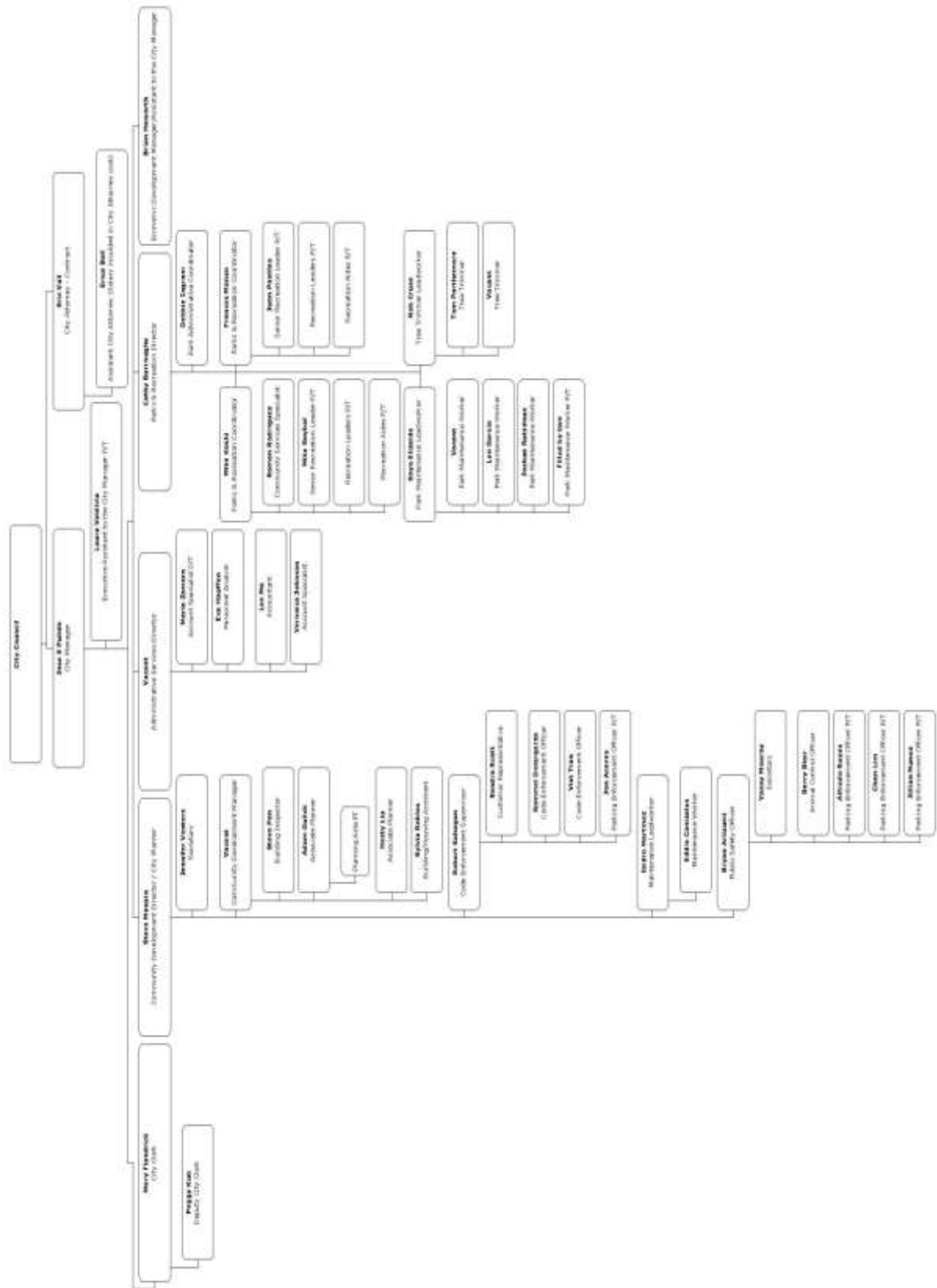
Please submit **five (5) copies** and one reproducible electronic copy of the qualification no later than **6:00 p.m. on Thursday, December 15, 2011** to:

City of Temple City
c/o: Community Development Department
9701 Las Tunas Drive
Temple City, CA 91780
Attn: Robert Sahagun, Community Preservation Supervisor

If you have any questions regarding this RFQ, please contact Steve Masura, Community Development Director at 626.285.2171, or smasura@templecity.us or any of the contacts listed on the cover of this RFQ.

Postmarks will not be accepted.

Attachment 1



CONSULTANT SERVICES AGREEMENT

By and Between

**THE CITY OF TEMPLE CITY,
A municipal corporation**

and

**AGREEMENT FOR CONSULTANT SERVICES
BETWEEN
THE CITY OF TEMPLE CITY, CALIFORNIA
AND**

This Agreement for Consultant Services (“Agreement”) is entered into as of this ____ day of _____, 2011 by and between the City of Temple City, a municipal corporation (“City”) and _____, a _____ (“Consultant”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, by issuance of a Request for Qualifications or Invitation for Bids, the performance of the services defined and described particularly in Section 2 of this Agreement.

B. Consultant, following submission of a qualification or bid for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Temple City’s Municipal Code, City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

Subject to the provisions of Section 20 “Termination of Agreement” of this Agreement, the scope of services set forth in Exhibit “A” “Scope of Services” shall be completed pursuant to the schedule specified in Exhibit “A.” Should the scope of services not be completed pursuant to that schedule, the Consultant shall be deemed to be in Default of this Agreement pursuant to Section 21 of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Consultant to continue performing the scope of services until such services are complete.

SECTION 2. SCOPE OF SERVICES.

Consultant agrees to perform the services set forth in Exhibit “A” “Scope of Services” and made a part of this Agreement.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to or outside of those set forth in this Agreement or listed in Exhibit “A” “Scope of Services,” unless such additional services are authorized in advance and in writing by the City Council or City Manager of City. Consultant shall be compensated for any such additional services in the amounts and in the manner agreed to by the City Council or City Manager.

SECTION 4. COMPENSATION AND METHOD OF PAYMENT.

(a) Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in Exhibit “B” “Compensation” and made a part of this Agreement. The total compensation, including reimbursement for actual expenses, shall not exceed _____ dollars (\$_____), unless additional compensation is approved in writing by the City Council or City Manager.

(b) Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-consultant contracts. Sub-consultant charges shall be detailed by the following categories: labor, travel, materials, equipment and supplies. City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. In the event that no charges or expenses are disputed, the invoice shall be approved and paid according to the terms set forth in subsection (c). In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission.

(c) Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant’s correct and undisputed invoice.

(d) Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5. INSPECTION AND FINAL ACCEPTANCE.

City may inspect and accept or reject any of Consultant’s work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant’s work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Consultant’s work shall be deemed to have been accepted. City’s acceptance shall be conclusive as to such work except with respect to latent defects, fraud and

such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, sections 16 and 17, pertaining to indemnification and insurance, respectively.

SECTION 6. OWNERSHIP OF DOCUMENTS.

All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warrants related to Standard of Performance and found in Section 9 of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 7. CONSULTANT'S BOOKS AND RECORDS.

(a) Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of services pursuant to this Agreement. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three years from the date of execution of this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

(b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement.

(c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City and that such documents and records be maintained by the

requesting party. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 8. STATUS OF CONSULTANT.

(a) Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority 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 under this AGREEMENT or is otherwise expressly conferred in writing by City.

(b) The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City.

(c) Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 9. STANDARD OF PERFORMANCE.

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement, Consultant's guarantees and warranties related to Standard of Performance shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 10. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 11. PREVAILING WAGE LAWS

It is the understanding of City and Consultant that California prevailing wage laws do not apply to this Agreement because the Agreement does not involve any of the following services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder: Construction, alteration, demolition, installation, or repair work performed on public buildings, facilities, streets or sewers done under contract and paid for in whole or in part out of public funds. In this context, “construction” includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.

SECTION 12. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 13. UNAUTHORIZED ALIENS.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, et seq., as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys’ fees, incurred by City.

SECTION 14. CONFLICTS OF INTEREST.

(a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant’s performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at

all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

(b) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

(c) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the scope of work under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.

SECTION 15. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

SECTION 16. INDEMNIFICATION.

(a) Indemnification for Professional Liability. Where the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error or omission of Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(b) Indemnification for Other than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or sub-contractors of Consultant.

(c) General Indemnification Provisions. Consultant agrees to obtain executed indemnity Agreements with provisions identical to those set forth here in this section from each and every sub-contractor 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 here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(d) Limitation of Indemnification. Notwithstanding any provision of this Section 16 [Indemnification] to the contrary, design professionals are required to defend and indemnify the City only to the extent permitted by Civil Code Section 2782.8, which limits the liability of a design professional to claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the design professional. The term "design professional," as defined in Section 2782.8, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(e) The provisions of this section do not apply to claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 17. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 18. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City Council. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 19. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

SECTION 20. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

(b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.

(c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

(d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 4 of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 4 of this Agreement.

SECTION 21. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 20. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 22. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 23. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit "A" "Scope of Services," shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 24. NOTICES.

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

To City: City of Temple City
Attn: City Manager
9701 Las Tunas Drive
Temple City, CA 91780

To Consultant: _____

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 25. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 26. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

SECTION 27. MODIFICATION OF AGREEMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

SECTION 28. WAIVER.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 29. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Los Angeles.

SECTION 30. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 31. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other Agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other Agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding. No amendment to this Agreement shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 32. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY OF TEMPLE CITY

By: _____
_____, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM

By: _____

City Attorney

By: _____

Its: _____

By: _____

Its: _____

**NOTE: CONSULTANT’S SIGNATURES SHALL BE DULY NOTARIZED, AND
APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE
REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR
OTHER RULES OR REGULATIONS APPLICABLE TO DEVELOPER’S
BUSINESS ENTITY.**

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF _____

On _____, ____ before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

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

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
☐ INDIVIDUAL		_____
☐ CORPORATE OFFICER		TITLE OR TYPE OF DOCUMENT
_____	TITLE(S)	
☐ PARTNER(S)	☐ LIMITED	_____
	☐ GENERAL	NUMBER OF PAGES
☐ ATTORNEY-IN-FACT		_____
☐ TRUSTEE(S)		DATE OF DOCUMENT
☐ GUARDIAN/CONSERVATOR		
☐ OTHER _____		

SIGNER IS REPRESENTING:		
(NAME OF PERSON(S) OR ENTITY(IES))		_____
_____		SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

COUNTY OF _____

On _____, ____ before me, _____, personally appeared _____,

☐ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SIGNATURE OF NOTARY)

OPTIONAL

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

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☐ PARTNER(S)	☐ LIMITED	_____
	☐ GENERAL	NUMBER OF PAGES
☐ ATTORNEY-IN-FACT		
☐ TRUSTEE(S)		_____
☐ GUARDIAN/CONSERVATOR		DATE OF DOCUMENT
☐ OTHER _____		
SIGNER IS REPRESENTING:		
(NAME OF PERSON(S) OR ENTITY(IES))		SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT “A”
SCOPE OF SERVICES

I. Consultant will perform the following Services:

- A.
- B.
- C.
- D.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

- A.
- B.
- C.
- D.

III. During performance of the Services, Consultant will keep the City apprised of the status of performance by delivering the following status reports:

- A.
- B.
- C.
- D.

IV. The tangible work products and status reports will be delivered to the City pursuant to the following schedule:

- A.
- B.
- C.
- D.

V. Consultant will utilize the following personnel to accomplish the Services:

A.

B.

C.

D.

VI. Consultant will utilize the following subcontractors to accomplish the Services:

A.

B.

C.

D.

VII. AMENDMENT

The Scope of Services, including services, work products, and personnel, are subject to change by mutual Agreement. In the absence of mutual Agreement regarding the need to change any aspects of performance, Consultant shall comply with the Scope of Services as indicated above.

**EXHIBIT “B”
COMPENSATION**

I. Consultant shall use the following rates of pay in the performance of the Services:

- | | |
|----------|---------------|
| A. _____ | _____ |
| [job] | [hourly rate] |
| | |
| B. _____ | _____ |
| [job] | [hourly rate] |
| | |
| C. _____ | _____ |
| [job] | [hourly rate] |
| | |
| D. _____ | _____ |
| [job] | [hourly rate] |
| | |
| E. _____ | _____ |
| [job] | [hourly rate] |

II. Consultant may utilize subcontractors as indicated in this Agreement. The hourly rate for any subcontractor is not to exceed \$_____ per hour without written authorization from the City Manager or his designee.

III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- B. Line items for all supplies properly charged to the Services.
- C. Line items for all travel properly charged to the Services.
- D. Line items for all equipment properly charged to the Services.
- E. Line items for all materials properly charged to the Services.
- F. Line items for all subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

IV. The total compensation for the Services shall not exceed \$_____, as provided in Section 4 of this Agreement.

**EXHIBIT “C”
INSURANCE**

A. Insurance Requirements. Consultant shall provide and maintain insurance, acceptable to the City Manager or City Counsel, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A:VII. Consultant shall provide the following scope and limits of insurance:

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 - (1) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).
 - (2) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 “any auto” and endorsement CA 0025, or equivalent forms subject to the written approval of the City.
 - (3) Workers’ Compensation insurance as required by the Labor Code of State of California and Employer’s Liability insurance and covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement.
 - (4) Professional liability insurance appropriate to the Consultant’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 3 consecutive years following the completion of Consultant’s services or the termination of this Agreement. During this additional 3-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.
2. Minimum Limits of Insurance. Consultant shall maintain limits of insurance no less than:
 - (1) General Liability: \$1,000,000 general aggregate for bodily injury, personal injury and property damage.
 - (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage. A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits set forth above.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of not less than \$1,000,000 per accident.

(4) Professional Liability: \$1,000,000 per occurrence.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

1. All Policies. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to City.

2. General Liability and Automobile Liability Coverages.

(1) City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant ; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.

(2) Consultant's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Consultant's insurance.

(3) Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(4) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

3. Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Consultant.

C. Other Requirements. Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that

Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

1. Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.
2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.
3. The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.