

TABLE OF CONTENTS

CITY OF BURBANK REQUEST FOR PROPOSAL

**Professional Services for
HUD Five-Year Consolidated Plan, First-Year Annual Plan, and Analysis of Impediments to Fair
Housing Choice**

<u>Section</u>	<u>Page #</u>
Statement of Purpose	1
General Requirements to Bidders.....	1
General Notifications to Bidders.....	3
Statement of Work and Format.....	5
Deliverables	9
Proposal Requirements.....	11
Evaluation of Proposal	13
References Form	15
City of Burbank Agreement.....	16

CITY OF BURBANK REQUEST FOR PROPOSALS

Professional Services for HUD Five-Year Consolidated Plan, First-Year Annual Plan, and Analysis of Impediments to Fair Housing Choice

Statement of Purpose:

With this Request for Proposal (RFP), the City of Burbank (City) is searching to secure professional services to develop a Five-Year Strategic Plan (Consolidated Plan) for the City for HUD Program Years 2020-2024, which includes the requirement of completing an Analysis of Impediments to Fair Housing Choice. The time period for the Plan is July 1, 2020 – June 30, 2025.

I. General Requirements

1. Proposals must be submitted as a hard copy before 5:00 p.m. on September 27, 2019. Proposals shall be delivered to:

Marcos Gonzalez
Housing Development Manager
Community Development Department of the City of Burbank
150 N. 3rd Street
Burbank, CA 91502

2. The Professional Services for HUD Five-Year Consolidated Plan, First-Year Annual Plan, and Analysis of Impediments to Fair Housing Choice Request for Funding Proposal may be viewed at:

<https://www.burbankca.gov/what-s-new/current-bids-rfps>

3. All interested respondents (consultants) are required to register with the City in order to receive updates, addenda, or any additional information required. The City is not responsible for any failure to register. Registration will be at:
4. Questions and clarifications regarding the Request for Proposal or the content therein must be made via e-mail and must be received prior to 5:00 p.m. on September 17, 2019. Questions should be submitted **electronically** to:

Marcos Gonzalez
mgonzalez@burbankca.gov

Any questions regarding the Request for Proposal will be handled within 24 hours. If a question requires only clarification of instructions or specifications, it will be handled via e-mail. If any question results in a substantive change or addition to the Request for Proposal, the change or addition will be forwarded to all registered consultants as quickly as possible in an addendum.

5. Proposer shall honor proposal prices for One Hundred Twenty (120) days or for the stated contract period, whichever is longer.
6. Proposals must include this Proposal form and be signed by the contractor's authorized representative. This signature acknowledges the proposer has read and understands the requirements contained on this RFP.

PROPOSER TO READ

I have, read, understood, and agree to the terms and conditions on all pages of this proposal. The undersigned agrees to furnish the commodity or service stipulated on this proposal as stated above.

Company: _____	Address: _____
Name (Print): _____	Signature: _____
Company Phone No.: _____	Title of Person Signing Bid: _____

CITY OF BURBANK REQUEST FOR PROPOSALS

Professional Services for HUD Five-Year Consolidated Plan, First-Year Annual Plan, and Analysis of Impediments to Fair Housing Choice

II. General Notifications

1. Sub-contractors. The Proposer must list any subcontractors that will be used, the work to be performed by them, and total number of hours or percentage of time they will spend on the project.
2. Bonds. ***No bonds are necessary for this Request For Proposal.***
3. Insurance. For contracts involving services the City requires insurance. Proof of insurance shall be provided by using an ACORD certificate of insurance and shall be provided prior to contract signing. Insurance shall be "Primary and Non-Contributory" and must name the "City of Burbank" as an additional insured. The certificate shall list coverage for General Liability (limit of \$1,000,000 CSL or \$1,000,000 per occurrence with a \$2,000,000 aggregate), Auto Liability (limit of \$1,000,000), and Worker's Compensation (statutory requirement). For professional services, Professional Liability with a limit of \$1,000,000 may also be required. Insurance shall not be cancelable or subject to reduction except upon thirty (30) days prior written notice to the City. Specific insurance requirements will be set forth in any contract awarded to a proposer.
4. Proposal Rejection. The City reserves the right to reject any or all proposals and to waive any informality in any proposal. The City may reject the proposal of any proposer who has previously failed to perform properly, or complete on time, contracts of a similar nature, or to reject the proposal of a proposer who is not in a position to perform such a contract satisfactorily. The City may reject the proposal of any proposer who is in default of the payment of taxes, licenses or other monies due to the City of Burbank. The City reserves the right to reject any or all proposals and to waive any informality in any proposal.
5. Addenda. The City will not accept responsibility for incomplete packages or missing addenda. It is the proposer's responsibility to contact the project manager prior to submission of the proposal to make certain the package is complete and all required addenda are included.
6. Price Reductions. If at any time during the life of this contract, the successful proposer reduces his price or prices to others purchasing approximately the same quantities as contemplated by this contract, the contract prices must be reduced accordingly, and the contractor/vendor will immediately notify the Purchasing Agent, City of Burbank.

7. Contract Pricing. Except as otherwise provided, price proposals must remain consistent through the term of this contract. The City does not pay “surcharges” of any type unless identified in the response to this proposal. All costs will be included in the pricing provided to the City.
8. Non-Appropriation of Funds. The City’s obligation is payable only and solely from funds appropriated for the purpose of this agreement. All funds for payment after June 30 of the current fiscal year are subject to City’s budget appropriation for this purpose. In the event the governing body appropriating funds does not allocate sufficient funds for the next succeeding fiscal year’s payments. Then the affected deliveries/services may be (1) terminated without penalty in their entirety, or (2) reduced in accordance with available funding as deemed necessary by the City. The City shall notify the Contractor in writing of any such non-allocation of funds at the earliest possible date.
9. Renewal. Contracts entered into pursuant to this Invitation to Bid may be renewed annually, one-time, in accordance with the terms of the contract.
10. Right to Modify RFP. The City also notifies all respondents that the City has the right to modify the RFP and the requirements herein, to request modified proposals from respondents, and to negotiate with the selected respondent on price and other contract terms, as necessary to meet the City’s objectives.
11. Although it is the City’s intent to choose only the most qualified respondents, the City reserves the right to choose any number of qualified finalists for interview and/or for final selection. At the discretion of the City, one or more respondents may be invited to be interviewed for purposes of clarification or discussion of the proposal.
12. The RFP does not commit the City to pay any costs incurred in the preparation of proposals, or in submission of a proposal, or the costs incurred in making necessary studies and designs for preparation thereof, or to contract for services or supplies necessary to respond. Any expenses incurred by the respondent(s) in appearing for an interview or in any way in providing additional information as part of the response to this RFP are solely the responsibility of the respondent.

III. Statement of Work and Format

The City of Burbank (City) requests proposals for the following purpose according to the terms and conditions attached. In the preparation of this Request for Proposal the words "Bidder", "Contractor", and "Consultant" are used interchangeably.

1. Purpose: The City intends to hire a Consultant to develop a new five-year Consolidated Plan (Con Plan), including the Year One Annual Action Plan, and a new Analysis of Impediments to Fair Housing Choice (AI). Both documents will cover the years of 2020-21 through 2024-25, and be submitted to the Department of Housing and Urban Development (HUD) no later than May 15, 2020.
3. Introduction/Background: In late 1994, the U.S. Department of Housing and Urban Development (HUD), created the requirement of the Consolidated Plan, a local government comprehensive planning document required for application for funding under any of HUD's formula grant programs. The formula grant programs received by the City of Burbank are the Community Development Block Grant (CDBG) Program and the HOME Investment partnership Program (HOME).

The City has been a CDBG Entitlement Community since the 1970s and a HOME Participating Jurisdiction since the early 1990s. Burbank receives approximately one million dollars in CDBG funds and over \$500,000 in HOME funds annually.

The Consolidated Plan is designed to be a collaborative process whereby a community establishes a unified vision for affordable housing and community development actions. The Consolidated Plan must identify a jurisdiction's housing and community development needs, set priorities, and describe how HUD and other resources will be used for activities designed to meet needs. The Consolidated Plan also creates the opportunity for strategic planning and citizen participation to take place in a comprehensive context.

The development of the Consolidated Plan will also include an Analysis of Impediments to Fair Housing Choice. It is the City's intent to award a single contract to one Consultant for the development of both documents. All submissions must contain proposals for both documents. Proposals for only one of the two documents will not be considered.

4. Objective(s)/Work Products: There are two parts to the required work product, as described below:

Part I - Consolidated Plan (including Year One Annual Action Plan)

The development of a Con Plan and Year One Annual Action Plan that meets HUD statutory and regulatory requirements, including but not limited to the items listed below:

- a) Executive Summary

Citizen Participation and Consultation

- b) Housing and Homeless Needs Assessment (24 CFR 91.205)
- c) Housing Market Analysis (24 CFR 91.210)
- d) Homeless Needs Assessment
- e) Non-Homeless Special Needs Assessment
- f) Community Development Needs
- g) Identify Potential Funding Sources
- h) Housing and Community Development Strategic Plan (24 CFR 91.215)
- i) Monitoring Standards and Procedures (24 CFR 91.230)
- j) Certifications (24 CFR 91.225)
- k) Year One (2019-2020) Annual Action Plan

The Con Plan is envisioned as a big-picture analysis and strategic planning document that illustrates the current status of services available to low- and moderate-income residents of the City, as well as identifying current and future needs. The Con Plan must contain information and data that will be used to develop the Housing Element of the City's General Plan.

The final result of the Con Plan process should be a ranking of the five-year Con Plan priorities and an explanation of the specific activities that will take place to address those priorities in 2020-2021 in the form of a Year One Annual Action Plan.

The Consultant will be required to develop the Con Plan using HUD's eCon Planning Suite and all related resources, including the expanded planning data, CPD maps, and data mapping tool. The Con Plan should be prepared in the electronic submission template.

Part II - Analysis of Impediments to Fair Housing Choice

The development of the AI consisting of, but not limited to, the elements below:

- a) Executive Summary
- b) Community profile
- c) Fair housing profile
- d) Identification of impediments to fair housing in the public and private sector
- e) Findings, and recommended actions

The AI produced should meet all requirements set forth at 24CFR Part 570.601, as outlined in the most recent Fair Housing Planning Guide available from HUD, and other HUD guidance as available. The result of the AI process should be a set of findings and recommended actions to guide the City's fair housing efforts. The AI should be consistent with all applicable guidelines, laws, and regulations as declared by HUD, and with the Housing Element of the City's General Plan.

The Consultant will be responsible for the development of the necessary narrative, tables, and charts based on research, public input, and City staff input. Research-related portions

of the AI, such as Community Profile, Fair Housing Profile and Identification of Impediments will be completed by the Consultant with limited City staff participation. The development of Findings and Recommended Actions portion of the document will be completed in close consultation with City staff to ensure that they are consistent with other City documents and plans, and with the City's long-term goals.

5. Work Statement – Consolidated Plan and Analysis of Impediments to Fair Housing Choice as noted below.

Part I - Consolidated Plan (including Year One Annual Action Plan)

Conduct public outreach, needs meetings, research and analysis necessary to develop the City's Consolidated Plan and Year One Annual Action Plan. Specific required outcomes include, but are not limited to the development of the following:

- A) Housing and Homeless Needs Assessment, including:
 - 1. City's estimated five-year housing needs
 - 2. Type and number of families in need of housing
 - 3. Identifying potential sites for housing development for streamlining Burbank Regional Housing Needs Assessment (RHNA)
 - 4. Nature and extent of homelessness
 - 5. Needs of the homeless
 - 6. Need for supportive housing
 - 7. Lead-based paint hazards

- B) Housing Market Analysis, including:
 - 1. Characteristics of the housing market
 - 2. Number and condition of public and assisted housing units
 - 3. Inventory of facilities and services for the homeless
 - 4. Inventory of facilities and services for those with special needs
 - 5. Barriers to affordable housing

- C) Strategic Plan, including:
 - 1. Identification and ranking of Consolidated Plan Priorities
 - 2. Priorities for geographic funding allocations
 - 3. Allocation priorities for extremely low-, low-, and moderate-income households
 - 4. Identification of obstacles to meeting underserved needs
 - 5. Specific objectives to be accomplished during the five-year plan
 - 6. Specific goals and objectives for the development of affordable housing
 - 7. Rationale for housing allocation priorities
 - 8. Assessment of the needs of those in public housing
 - 9. Development of a homeless Priority Needs Table
 - 10. Housing and supportive service needs of special needs population
 - 11. Summary of the non-housing community development needs

12. Identification of strategies to remove regulatory barriers to affordable housing
13. Identification of actions to evaluate and remove lead-based paint hazards
14. Development of anti-poverty strategy
15. Development of strategy to overcome gaps in institutional structure
16. Summary of activities to enhance coordination between agencies

D) Monitoring standards, procedures, and activities

E) Consolidated Plan Certifications

F) Year One Annual Action Plan, including required tables and narratives related to:

1. Expected resources
2. Annual goals and objectives
3. Projects and activities to be undertaken
4. Geographic distribution of resources
5. Affordable housing and public housing
6. Homeless and other special needs activities
7. Barriers to affordable housing
8. Program specific requirements

Part II - Analysis of Impediments to Fair Housing Choice

Conduct public outreach, research, and analysis necessary to develop the City's Analysis of Impediments to Fair Housing Choice. Specific outcomes include, but are not limited to the development of the following:

A) Community profile, including:

1. Demographic profile
2. Household profile
3. Income profile
4. Housing profile
5. Public and assisted housing
6. Residential care facilities
7. Transportation profile
8. Employment profile
9. Community facilities

B) Fair Housing Profile, including:

1. Fair housing services
2. Landlord-tenant services

C) Review of potential impediments, including:

1. Public sector impediments:
 - Local zoning, building and occupancy codes

- Policies concerning housing activities
 - Growth management policies
 - Development fees/assessments
 - Community representation
 - 2. Private Sector Impediments:
 - Real estate associations and practices
 - Apartment associations
 - Mortgage lending practices
 - Covenants, conditions, and restrictions
- D) Findings, recommendations, and actions, including:
1. Summary of Conclusions/Findings:
 - Community profile
 - Fair housing profile
 - Review of potential impediments
 2. Recommendations for addressing impediments, including:
 - Education and outreach activities
 - Enforcement activities
 - Monitoring
 - Investigative testing and audits
 - Land use policies
 - Increasing geographic choice

IV. Deliverables:

- A. The products, reports, and plans to be delivered (due dates are shown under the section: Deadlines for Deliverables) to the City will include, but are not limited to:
1. Develop a detailed calendar for completion of the work.
 2. Statistical and informational data collection and preparation of charts and narrative to prepare a housing and homeless needs assessment (24 CFR 91.205) and housing market analysis (91.210).
 3. Consultation with public and private agencies as outlined in 24 CFR 91.100, including those that provide: affordable/subsidized housing; health and public/human/social services; state or local health and child welfare agencies regarding lead-based paint hazards; adjacent units of local government, including planning agencies; public Housing Authorities; and agencies receiving HOPWA funds within the eligible City of Burbank area.
 4. Citizen participation activities such as publishing information; surveys; coordinating meetings, focus groups and hearings; and summarizing. Such activities must be carried out consistent with HUD guidance regarding providing meaningful language access and must respond to public comments as outlined in 24 CFR 91.100.
 5. Using needs information obtained through data collection, consultation, and citizen participation to make recommendations for a Strategic Plan as outlined in 91.215 and for

any associated policy issues.

6. Presentation materials for stakeholder meetings, public meetings, and City Council.
7. Attend the Council Meeting(s) for the Consolidated Plan and Analysis of Impediments
8. Part A: The production of a Draft Five-Year Consolidated Plan, and Final Five-Year Consolidated Plan for submittal to HUD.
9. Part B: the production of a Draft First Year Annual Action Plan and a Final Annual Action Plan for submittal to HUD.
10. Part C: The production of a Draft Analysis of Impediments to Fair Housing Choice (AI), and a Final AI for submittal to HUD.

B. The consultant will be responsible for providing the following products:

1. Part A: Consolidated Plan - One original Word copy and one electronic copy submittal in HUD's required eCon Planning Suite web-based format. The Word document shall be prepared and compatible to the web-based eCon Planning Suite format.
2. Part B: Annual Action Plan - One original Word copy and one electronic copy submittal in HUD's required eCon Planning Suite web-based format. The Word document shall be prepared and compatible to the web-based eCon Planning Suite format.
3. Part C: Analysis of Impediments – One original Word copy in HUD's required format.

C. HUD Final Approval

Should HUD not grant Final Approval of any of the documents, the consultant must revise in consultation with City staff each document to an acceptable level within the HUD-designated time frame.

1. Part A: Five Year Consolidated Plan
2. Part B: First Year Annual Action Plan
3. Part C: Analysis of Impediments to Fair Housing Choice

D. Deadlines for Deliverables:

The following is an estimated time schedule for activities and work products for both documents after the proposal award. Specific dates will be developed as part of a scope of work after a Consultant has been selected.

Part A: Consolidated Plan Schedule	
Hold (3) Public Meetings for Needs Assessment	Mid-October – Mid-November 2019
Begin Draft Consolidated Plan for Staff Review	December 1, 2019

Draft Consolidated Plan for 30 Day Public Review	January 30 – February 28, 2020
Public Hearing for Draft Consolidated Plan	Tentative April 2, 2020
Consolidated Plan Complete	Tentative April 9, 2020
Submittal of Consolidated Plan to HUD	Tentative April 12, 2020

Part B: Annual Action Plan	
Draft first Year Annual Action Plan for staff review	February 15, 2020
Draft First Year Annual Action Plan Ready for 30-day Public Comment Period	March 2 – April 1, 2020
Draft First Year Annual Action Plan Public hearing	Tentative April 2, 2020
First Year Annual Action Plan Complete	Tentative April 9, 2020
Submittal of First Year Annual Action Plan to HUD	Tentative April 12, 2020

Part C: Analysis of Impediments to Fair Housing Choice	
Draft AI for staff review	November 15, 2019
Draft AI Ready for 30 day public comment period	January 1 – 31, 2020
Consultant Preparation of Final AI	February 15, 2020
Public Hearing for AI	Tentative April 2, 2020
AI Complete	Tentative April 9, 2020
Submittal of AI to HUD	Tentative April 12, 2020

V. Proposal Requirements

To be considered, interested respondents should submit or address the following:

- A. One unbound original and five bound copies of the proposal.
- B. All respondents are required to include the following information in the submittal as a minimum. Respondents are to number and name each section as follows:
 - 1. Method and Approach – Describe the methodology and techniques to be employed in data gathering and analysis, public outreach, and public needs assessment when relevant. Provide an outline (i.e.: timeline) of your anticipated schedule for completing consultant tasks.
 - 2. Scope of Work Deliverables – In a narrative format, describe the work or tasks to be performed, including sequence of work activities, dependencies, and significant completion dates for major work products.

3. Qualifications and Experience – Provide relevant information regarding previous experience related to developing similar plans and services to the ones listed under our deliverable above:
 - a. Number of year in the business
 - b. Overview of services offered, qualifications
 - c. Names and location of similar projects. Three references of such projects, to include:
 - d. Service provided
 - e. Date of service
 - f. Client organization
 - g. Contact name and title, phone, and e-mail address of public agency reference(s) overseeing the planning effort
 - h. It is imperative that the awarded Consultant show experience with and proficiency in the web-based Econ Planning Suite format for HUD.
4. Identify the principals having primary responsibility for implementing the proposal. Discuss their professional and academic backgrounds.
5. Project Management – Describe the proposed management structure, organization of contracting group, and facilities available.
6. Subcontractors – If subcontractors are to be used, identify each of them in the proposal. Describe the work to be performed by them and the number of hours or the percentage of time they will devote to the project. Provide a list of their assigned staff, their qualifications, and their relationship to project management, schedule, costs, and hourly rates.
7. Consultant Capability and References – Provide a summary of the firm's relevant background experience. Discuss the applicability of such experience to this RFP. Provide at least three references from organizations similar to the City for which similar projects have been completed – see attached references form. Include contact names and phone numbers. Provide at least one sample work product from each of those organizations.
8. Include a breakdown by the following categories:
 - a. Labor – List and hourly labor rate;
 - b. Subcontractor Costs - Identify subcontractors by name, list their cost per hour or day, and the estimated number of hours or days their services will be used;
 - c. Travel Costs – Identify estimated travel costs, including the number of trips required, destinations, and approximate cost of travel. Travel costs are reimbursed at prevailing rates for the contracting company or City rates, whichever is lower, unless negotiated otherwise; and
 - d. Miscellaneous Costs.

Charges for supplies, equipment, and subcontractors will be paid at cost. It is expected that general, overhead, and administrative costs are included in the hourly rate for labor. Bids submitted will be held to the total cost given in the response quote. It will be assumed that all contingencies and/or anticipated escalations are included. No additional funds will be paid above and beyond the original quote given by the selected bidder.

VI. Evaluation of Proposals.

An evaluation panel comprised of City Staff will evaluate all proposals to determine responsiveness to the RFP. The panel will recommend the selection of a contractor to the City Council for final approval and negotiation of a contract.

Proposals will be evaluated on the following criteria:

Points	Qualification	Standard
20	Scope of Proposal	Does the proposal show an understanding of the project objective, methodology to be used and results that are desired from the project?
40	Firm Capability and Assigned Personnel	Does the firm have the support capabilities the assigned personnel require? Has the firm done previous projects of this type and scope? Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project?
25	Availability	Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as required by the scope of work?
15	Cost and Work Hours	Do the proposed cost and work hours compare favorably with the Project Manager's estimate? Are the work hours presented reasonable for the effort required in each project task or phase?

Reference Evaluation (Top firms ranked)

The Project Manager will check references using the following criteria.

Qualification	Standard
Overall Performance	Would you hire this Professional again? Did they show the skills required by this project?
Adherence to Schedules and Deadlines	Was the original scope of work completed within the specified time? Were interim deadlines met in a timely manner?
Completeness	Was the Professional responsive to client needs? Did the Professional anticipate problems? Were problems solved quickly and effectively?
Budget	Was the original scope of work completed within the project budget?
Job Knowledge	If a study was completed, did it meet the scope of work?

VIII. City of Burbank Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

by and between

THE CITY OF BURBANK

and

[INSERT CONSULTANT LEGAL NAME]

dated as of [Insert Effective Date from Next Page]

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”), is made and entered into this [<day>] day of [<month>], [<year>] (the “Effective Date”), by and between **THE CITY OF BURBANK**, a municipal corporation (the “City”) and [<CONSULTANT LEGAL NAME>] (the “Consultant”). The City and the Consultant are herein referred to, individually, as a “Party”, and, collectively, as the “Parties”.

City and Consultant agree as follows:

1.0 Services. Consultant, as an independent contractor, agrees to perform during the term of this Agreement, each and every service described in the “Scope of Services” set forth on Exhibit A to this Agreement (the “Scope of Services”). The initiation of service by the Consultant should not commence until all of the following conditions have been satisfied:

- (a) Consultant has furnished all of the insurance documents required by Section 10.0 below; and
- (b) Consultant has furnished any required supporting documentation required by Sections 16.0 below.
- (c) To the extent that the Scope of Services involves more than one service, Consultant shall perform the services only to the extent of the authorization provided by the City Project Manager. The services of the Consultant shall include the making of all investigations, studies, and analysis required by the conditions involved in each request of the City Project Manager. The Scope of Services shall not be modified without an amendment executed by the authorized representatives of each Party.

1.1 Extra Services

Unless City and Consultant have agreed in writing before the performance of extra services that are beyond the Scope of Services, City shall have no liability for such extra services and Consultant shall have no right to claim compensation for such extra services or expenses. The applicable hourly rates for authorized extra services shall be at the hourly rates set forth in the Schedule of Compensation (Exhibit B) unless otherwise agreed to by the parties in writing.

2.0 Term of Agreement; Termination.

2.1 Term. The term of this Agreement is from the Effective Date until [Insert End]

Date]; provided, however, that the term of this Agreement may be extended by written amendment executed by authorized representatives of each of the Parties or may be earlier terminated as provided in Section 2.2 below (the “Term”).

2.2 Termination by City. The City may terminate any or all of the services agreed to be performed under this Agreement without cause, at any time during the Term by giving the Consultant thirty (30) days’ notice in writing. Either party may terminate this Agreement with cause, immediately upon giving the other party written notice of such default or breach of this Agreement that is the basis for the termination.

2.3 Effect of Termination. In the event of termination, Consultant shall have the right and obligation to immediately assemble work in progress for the purpose of closing out the job. All compensation for actual work performed and charges outstanding at the time of termination shall be payable by City to Consultant within thirty (30) days following submission and approval of a final invoice by Consultant unless termination is for cause. In the event that such termination was for cause, Consultant shall be compensated only to the extent required by law.

3.0 Compensation and Schedule of Compensation. The total compensation (including, but not limited to all fees, expenses, reimbursements or other costs) payable by the City to the Consultant under this Agreement shall not exceed the sum of **\$[<Amount of Cost of Service >]** (the “Cost of Services”). The Cost of Services shall not be increased without a written amendment executed by the authorized representatives of each Party. Consultant shall earn the compensation set forth in the Cost of Services in accordance with the “Schedule of Compensation” as attached to this Agreement as Exhibit B. No payment for expenses, labor or any other cost shall be paid to Consultant unless it is within the Scope of Services (Exhibit A).

3.1 If this Agreement has been directly approved by the City Council, the City Council hereby authorizes the Designated Official to increase the Cost of Services in an amount not to exceed [Contingency Amount]. [**NOTE: PLEASE DELETE THIS SECTION 3.1 FOR PSAs NOT DIRECTLY APPROVED BY CITY COUNCIL**]

4.0 Personnel.

4.1 The staff person designated by Consultant to be the primary point of contact (the “Representative”) for day-to-day performance of this Agreement shall be:

- [<Representative Name>]
- [<Representative Title>]
- [<Representative Address>]
- [<Representative Telephone>]
- [<Representative E-mail Address>]

Representative shall be a key member of Consultant’s firm, and shall be directly involved in performing, supervising or assisting in the performance of the Scope of Services under this Agreement. The Representative shall be the key person to communicate with, and periodically report to, City on the progress of the work. The Consultant may, from time to time, remove or replace the Representative designated in this Agreement only with prior written consent by the City’s Designated Official.

- 4.2 The services to be performed by Consultant shall be accomplished under the general direction of, and coordination with, the staff person designated by the City serving as the project manager (the “City Project Manager”). The City Project Manager designated by the City for day-to-day administration of this Agreement shall be:

[<City Project Manager Name>]
[<City Project Manager Title>]
[<City Project Manager Address>]
[<City Project Manager Telephone>]
[<City Project Manager E-mail Address>]

The City may, from time to time, remove or replace the City Project Manager designated in this Agreement by written notice to Consultant. The City Project Manager has no authority to execute any amendments, consents or waivers on behalf of the City.

- 4.3 With respect to matters that extend beyond the day-to-day administration of this Agreement, the City designates the [<Department Head’s Name and Title>, <Name of Department>] (the “Designated Official”) to handle such matters.

[<Designated Official Telephone>]
[<Designated Official E-mail Address>]

5.0 Invoicing and Payment. Consultant shall provide City with written verification of the actual compensation earned, which written verification shall be in a form reasonably satisfactory to the City Project Manager. Invoices shall be made no more frequently than on a monthly basis and no less frequently than every 60 days, and shall describe in reasonable detail the work performed (including a list of hours worked by personnel classification) together with any receipts, invoices or other documentable expenses that are reimbursable under the Schedule of Compensation. All payments shall be made within thirty (30) days after City’s approval of such invoice.

6.0 Standard of Skill. Consultant, and Consultant's officers, employees and agents, if any, are skilled in the professional calling necessary to perform the work agreed to be done pursuant to this Agreement. The work performed by Consultant shall be with the degree of skill and diligence normally practiced in the industry for which Consultant is being retained by the City. To the extent that Consultant’s industry is subject to guidelines, rules or other standards,

Consultant shall ensure that it complies with such guidelines, rules or other standards. The acceptance of Consultant's work by the City shall not operate as a release of the Consultant from such standard of care and workmanship.

7.0 Independent Contractor. Consultant is retained and engaged by the City only to the extent set forth in this Agreement, and the Consultant's relationship to the City is that of an independent contractor. Consultant shall be free to dispose of all portions of Consultant's time and activities which Consultant is not obligated to devote to the City in such a manner and to such persons, firms, or corporations as the Consultant sees fit except as expressly provided in this Agreement. Consultant shall not be considered to have the status of an employee under this Agreement or be entitled to participate in any insurance, medical care, vacation, sick leave, or other benefits provided for City's officers or employees. Consultant shall be solely responsible for any workers compensation insurance, withholding taxes, unemployment insurance, and any other employer obligations associated with the performance by the Consultant (including any of its officers, employees or other agents) of its obligations under this Agreement. Consultant has no authority to bind City in any manner or 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 the City.

8.0 Hold Harmless and Indemnity. Consultant shall fully and promptly undertake its obligations as set forth below:

8.1 Hold Harmless. To the fullest extent provided by law, Consultant holds City, its elected officials, officers, agents, and employees, harmless from all of Consultant's claims, demands, lawsuits, judgments, damages, losses, injuries or liability to Consultant, to Consultant's employees, to Consultant's contractors or subcontractors, or to the owners of Consultant's firm, which damages, losses, injuries or liability occur during the work required under this Agreement, or occur while Consultant is on City property, or which are connected, directly or indirectly, with Consultant's performance of any activity or work required under this Agreement.

8.2 Defense and Indemnity. Consultant shall investigate, defend, and indemnify City, its elected officials, officers, agents, and employees, from any claims, lawsuits, demands, judgments, and all liability including, but not limited to, monetary or property damage, lost profit, personal injury, wrongful death, general liability, automobile, infringement of any intellectual property rights (including, copyright, patent and trademark), or professional errors and omissions arising out of, directly or indirectly, any error, negligence, recklessness, or omission of Consultant or any of Consultant's officers, agents, employees, representatives, sub-consultants, or subcontractors, or the willful misconduct of Consultant or any of Consultant's officers, agents, employees, representatives, sub-consultants, or subcontractors, in performing the services described in, or normally associated with, the work required under this Agreement, or breach by Consultant of this Agreement. The duty to defend

shall include any suits or actions concerning any activity, product or work required under this Agreement, and also include the payment of all court costs, attorney fees, expert witness costs, investigation costs, claims adjusting costs and any other costs required for and related thereto.

- 8.3 No Waiver. City does not waive, nor shall be deemed to have waived, any indemnity, defense or hold harmless rights under this section because of the acceptance by City, or the deposit with City, of any insurance certificates or policies described in Section 10.0 below.

9.0 Correction or Re-Performance of Work. If City believes that any of the work performed under this Agreement does not comply with the terms of this Agreement, City may deliver notice to Consultant. Such City's notice shall describe how the work performed, including any deliverables resulting from such work, does not meet the requirements of this Agreement, including failure to meet the applicable standard of care set forth in Section 6.0 and, upon City's sole discretion, may also make a request for Consultant to re-perform the services. If City requests Consultant to re-perform services, Consultant shall promptly re-perform the services at no additional cost to City in a reasonably timely manner. Should Consultant fail to make such correction or re-performance, the cost thereof shall be withheld from any funds due to Consultant hereunder or charged to Consultant with such amounts to be paid by Consultant within thirty (30) days of receipt of such invoice.

10.0 Insurance.

- 10.1 Insurance Coverage. Consultant shall maintain, throughout the Term, the insurance coverage set forth in the "Insurance Requirements" as attached to this Agreement as Exhibit C.
- 10.2 Delivery of Certificates of Insurance and Endorsements. Prior to the commencement of any work by Consultant under this Agreement, Consultant shall provide the City with copies of certificates (on an Accord form as modified per City direction) for all policies together with the appropriate endorsements required in Exhibit C. At the request of the City, Consultant shall deliver a copy of its insurance policies.
- 10.3 Failure to Maintain Insurance. If Consultant receives a cancellation notice of any insurance required by this Agreement, Consultant shall, within one day of receipt, forward said notice to City Project Manager. If Consultant at any time during the Term of this Agreement, should fail to secure or maintain any insurance required under this Agreement, the City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the cost of the insurance premiums at the maximum rate permitted by law computed from the date written notice is received that the premiums have been paid. Such costs can be assessed by deducting such costs from any amounts due and payable to the Consultant as compensation under the terms of this Agreement.

11.0 Work Product.

- 11.1 Deliverables. Consultant shall deliver to the City the studies, plans, specifications, drawings, photographs, maps, videos, records, designs, data, reports, documents or other work products as are identified in the Scope of Services (“Work Product”). The City may also request, and Consultant shall provide to City, copies of all other information developed in the course of the Consultant’s performance of this Agreement. Consultant shall, in such time and in such form as the City may require, furnish reports concerning the status of services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all Work Product produced by the Consultant. Consultant represents and warrants that upon delivery of the Work Product, such Work Product shall be free of all liens, security interests or any other encumbrances.
- 11.2 Ownership. Each and every item that constitutes Work Product produced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.

12.0 Confidentiality.

- 12.1 Non-Disclosure Exemptions. Consultant may be granted access to information that is exempt from disclosure to the public and may contain “trade secrets” when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in the California Public Records Act.
- 12.2 Confidentiality Obligation. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the Term of this Agreement without the prior written consent of the Designated Official during the Term of this Agreement and this obligation shall survive for a period of two (2) years after the termination of this Agreement. Notwithstanding the foregoing, the confidentiality obligations imposed by this Agreement shall survive as to any of the following information (a) a trade secret under applicable law for so long as such information constitutes a trade secret thereunder, (b) each utility customer’s “data” under applicable law unless Consultant has secured such customer’s express, written consent to release of such customer’s information, (c) any information classified by City as “critical infrastructure information” or “protected critical infrastructure information” or “protected system,” or (d) any other documentation that has been identified as confidential by City until City has advised Consultant in writing that such information may be released.

- 13.0 Acceptance of Final Payment by Consultant.** The acceptance by Consultant of the final payment made under this Agreement shall release City from all claims and liabilities for compensation to or for the benefit of Consultant for anything done, furnished, or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within 10 calendar days of the receipt of that check; provided, however, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, agents, subcontractors and subconsultants for the satisfactory performance, accuracy and/or competency of the information provided and/or work performed by Consultant; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, agents, subcontractors and subconsultants.
- 14.0 Records.** Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by the City, the Designated Official or the City Project Manager. Consultant shall maintain adequate records on services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide access to the Designated Official or designees at all proper times to such books and records, and gives the Designated Official or designees the right to examine and audit such books and records and to make transcripts as necessary, and to allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Consultant shall maintain such records for at least four years after the termination or final payment under this Agreement, whichever is later.
- 15.0 Conflict of Interest.** Consultant agrees to be familiar with and comply with all applicable federal, state and local conflict of interest laws (including 2 CFR 200.318, if federal money is funding any part of this Agreement). Consultant represents and warrants that it is unaware of any City employee or official that has a financial interest in Consultant's business. During the Term of this Agreement and/or as a result of being awarded this Agreement, Consultant shall not offer or accept any financial interest in Consultant's business by any City employee or official.
- 16.0 Payee Registration Form.** City shall provide a Payee Registration Form to Consultant and Consultant shall deliver a completed registration form to the City. Consultant acknowledges that this form is necessary for the City to process any payment for services hereunder.
- 17.0 Non-Appropriation of Funds.** Payments due and payable to Consultant for current services are within the current annual budget and within an available, unexhausted and unencumbered appropriation of City funds. In the event City has not appropriated sufficient funds for payment of Consultant services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year.
- 18.0 Compliance with Laws.** Consultant agrees to perform all of its obligations under this Agreement in accordance with all applicable federal, state and local laws, rules and

regulations. This obligation shall include, but is not limited to, the following requirements set forth below:

18.1 Permits and Licenses. Consultant, at its sole expense, shall obtain and maintain during the Term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

18.2 Anti-Terrorism Laws; Sanctions. The Consultant represents and warrants that:

- (1) it is not a person described or designated in the Specially Designated Nationals and Blocked Persons List of the Office of Foreign Assets Control, United States Department of the Treasury or in Section 1 of Executive Order No. 13,224, 66 Fed. Reg. 49,079 (2001), issued by the President of the United States of America (Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism);
- (2) it does not engage in any dealings or transactions with any such persons described above; and
- (3) is not otherwise blocked, subject to sanctions under or engaged in any activity in violation of other United States economic sanctions, including but not limited to, Trading with the Enemy Act, the International Emergency Economic Powers Act, Accountability and Divestment Act or any other similar law or regulation with respect to any country, the Sudan Accountability and Divestment Act, any OFAC Sanctions Program, or any economic sanctions regulations administered and enforced by the United States or any enabling legislation or executive order relating to any of the foregoing.

19.0 Meet and Confer. The Parties agree to meet and confer concerning all claims, disputes or other matters in question between the Parties arising out of or relating to this Agreement or breach thereof prior to the institution of any litigation.

20.0 Waiver; Remedies Cumulative. Failure by a Party to insist upon the strict performance of any of the provisions of this Agreement by the other Party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such Party's right to demand strict performance by such other Party in the future. No waiver by a Party of a default or breach of the other Party shall be effective or binding upon such Party unless made in writing by such Party, and no such waiver shall be implied from any omissions by a Party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a Party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not

constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

- 21.0 Integrated Agreement; Construction.** This Agreement, including any exhibit, schedule or addendum attached hereto, supersedes any other agreements, either oral or in writing, between the parties hereto with respect to the rendering of services hereunder, and contains all of the covenants and agreements between the Parties with respect to said services. The provisions of this Agreement shall be construed as a whole according to its common meaning of purposes of providing a public benefit and not strictly for or against any Party. No verbal agreement or implied covenant shall be held to vary the provisions of this Agreement. In the event an inconsistency arises between any attachments (including any exhibit, schedule or addendum) and any term of this Agreement, the terms of this Agreement shall prevail. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent permitted successors and assigns.
- 22.0 Amendment; Modification.** This Agreement may only be amended or otherwise modified upon written mutual agreement of each of the authorized representatives of the Parties.
- 23.0 Assignment.** This Agreement is personal to the Consultant and may not be assigned without the prior written approval of the Designated Official. Notwithstanding the foregoing, any assignment in violation of this Section by the Consultant is voidable in the City's sole discretion.
- 24.0 Use of the Term "City."** Reference to "City" in this Agreement includes City Manager or any authorized representative acting on behalf of City.
- 25.0 Severability.** If any part, term, or provision of this Agreement shall be held illegal, unenforceable, or in conflict with any law of a federal, state, or local governmental entity having jurisdiction over this Agreement, the validity of the remaining portions or provisions shall not be affected by such holding.
- 26.0 Execution Counterparts.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the Parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the Parties hereto. Facsimile transmission and/or validated electronic transmission to one Party of a true copy of a counterpart duly executed by the other Party shall constitute valid delivery of such counterpart.
- 27.0 Governing Law.** The terms of this Agreement shall be interpreted according to the laws of the State of California. The Parties agree and consent to the jurisdiction of the state and federal courts of competent jurisdiction exclusively in the County of Los Angeles, California.
- 28.0 Survival.** The provisions of Sections 8, 9, 10 and 12.0, shall survive for a period of four years

following the termination or expiration of this Agreement, whichever is later.

29.0 Notices. Any written notice required by this Agreement shall be given by depositing such notice in the United States mail, postage prepaid or by personal delivery, and addressed as follows:

TO CITY:

The City of Burbank
[<Department>]
Attention: [<City Project Manager Name>]
[<Mailing Address>]
[<E-Mail Address>]

With a copy to:

The City of Burbank
[<Department>]
Attention: [<Designated Official Name>]
[<Mailing Address>]
[<E-Mail Address>]

TO CONSULTANT:

[<Consultant Name>]
Attention: [<Contact Person>]
[<Mailing Address>]
[<E-Mail Address>]

All notices shall be effective upon deposit in the mail, as specified above, or personal delivery.

Either Party may change the specified person or address at which it is to receive notices by so advising the other Party in writing.

30.0 Safety Requirement. To the extent that Consultant performs any work on premises owned or leased by the City, the Consultant agrees that it shall comply with this Section. All work under this Agreement shall be performed in such a manner as to provide safety to the public and to meet or exceed the safety standards outlined by CAL-OSHA. The City reserves the right to issue restraint or cease and desist orders to the Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The Consultant shall maintain the work sites free of hazards to persons and property resulting from its operations. Any hazardous condition noted by the Consultant, which is not the result of his operations, should immediately be reported to the City Project Manager.

31.0 Copyright. In the event Consultant creates an original work product as part of the Scope of Services (“work product”), Consultant agrees that work product is a work made for hire. Consultant acknowledges that he/she received consideration for this work product and has no copyright interest in any of the work product, or in any copyright related to the work product. For example work product may involve: illustrations and graphic design services, digital and print branding services, photographs, Meta Tags, text, photographs whether edited or not, and other graphic images, appearing on the web sites or other applicable medium, domain names, log-in credentials for social media and other on-line electronic platforms. Further, if this Agreement is found by any court or other jurisdiction to not be a work-for-hire as defined in 17 U.S.C. 101, then Consultant hereby transfers any and all interest of the copyright(s) in the work product to City. This transfer and assignment are irrevocable and in perpetuity.

Further, Consultant represents and warrants: 1) that all work product shall be original and not subject to any other ownership claims by third parties, and 2) if applicable, that consent by individuals depicted in any work product have been obtained and written releases will be delivered to City prior to the completion of the Scope of Services. Consultant indemnifies and defends City as to any damages arising out of or relating to a breach of this warranty and representation.

If applicable, Consultant agrees to provide all log-in credentials for social media and other on-line electronic platforms to City within ten (10) days of establishing same, which shall allow City at any time with the ability to access, utilize and maintain the social media account or electronic on-line platform, should City choose to do so. In any event, upon the conclusion of Consultant’s services, Consultant shall no longer utilize any log-in credentials or electronic on-line platforms.

32.0 Prevailing Wages. To the extent that the Consultant performs any work described in California Labor Code Section 1720(a)(1), including, but not limited to, inspection and land surveying work Consultant agrees that it shall comply with this Section. The Consultant, and any subcontractor or subconsultant working on behalf of the Consultant with respect to this Agreement, is required to pay not less than the established prevailing rates of wages to all workers employed in the execution of this Agreement, and Consultant shall comply with all other requirements applicable to Public Works Construction as specified in the California

Labor Code and/or Davis Bacon Act, if federal money is funding any part of this Agreement. Furthermore, Consultant must register as a public works contractor with the California Department of Industrial Relations, if the compensation under this Agreement is greater than \$25,000.

[Signature Page on the Following Page]

In recognition of the obligations stated in this Agreement, the Parties have executed this Agreement on the date indicated above.

"CONSULTANT"
[Insert Consultant Name]

"CITY"
City of Burbank

Signature

Signature

Name (Please Print)

Name (Please Print)

Title

Title

If Consultant is a corporation or LLC, a second signature is required:

ATTEST:
Office of the City Clerk

Signature

Name (Please Print)

Title

Zizette Mullins, MMC, City Clerk

Approved as to Form
Burbank City Attorney's Office
July 2017

By: _____
Signature

<Insert Name>

<Insert Title>

EXHIBIT A
SCOPE OF SERVICES

Consultant shall perform the following services for the benefit of the City:

DESCRIPTION OF SERVICE AND DELIVERABLE	DELIVERABLE DATE
1.	
2.	
3.	
4.	
5.	
6.	
7.	

All deliverables provided under this Agreement shall be in form and substance reasonably satisfactory to City.

EXHIBIT B
SCHEDULE OF COMPENSATION

The total compensation (including, any reasonable costs, expenses or reimbursements) payable by the City to the Consultant shall not exceed the Cost of Services as set forth in Section 3.0.

To the extent that the Schedule of Compensation includes any travel, hotel or other reimbursable expenses, such expenses shall be for actual and reasonable expenses incurred in the performance of the Scope of Services.

The Consultant and the City agree that the Consultant shall earn its compensation according to the following method:1

- **Lump Sum:** The City shall pay for the services on a lump-sum basis. Consultant shall invoice the City after all of the services set forth in Exhibit A have been fully performed and all deliverables have been accepted by the City.

- **Time and Materials:** The City shall pay for the services on a time-and-material basis. Consultant shall invoice the City for all actual hours of work performed in accordance with this Agreement at the following rates:

[Insert Hourly Rate Table, and Schedule of Tasks, if available]

- **Milestone Basis:** The City shall pay for the services on a milestone basis. Consultant shall invoice the City the applicable milestone amount upon the achievement of the following deliverable date set forth below:

DESCRIPTION OF SERVICE	DELIVERABLE DATE	MILESTONE AMOUNT
1.		\$
2.		\$
3.		\$
4.		\$

EXHIBIT C
INSURANCE REQUIREMENTS

Consultant shall procure and maintain, for the Term of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

- 1. Commercial General Liability:** Insurance Services Office Form CG 00 01 covering commercial general liability insurance (“CGL”) on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be at least **\$2,000,000**.
- 2. Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
- 3. Workers’ Compensation:** as required by the State of California, with statutory limits, and employer’s liability insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
- 4. Professional Liability or Errors and Omissions:** Errors and Omissions insurance appropriate to the Consultant’s profession (“E&O Insurance”), with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by Consultant.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Consultant’s insurance (at least as broad as ISO Form CG 20 10 11 85 or

both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this Agreement, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide an endorsement that they are not subject to cancellation without thirty (30) days' prior written notice to the City or ten (10) days' prior written notice for non-payment of premium.

Waiver of Subrogation

Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Consultant to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Such insurers shall be licensed to provide insurance under California state law.

Claims Made Policies. For the E&O Insurance Policy and any other insurance providing claims-made coverage (e.g., pollution liability insurance, if applicable):

1. The "Retroactive Date" must be shown, and must be before the Effective Date.
2. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the work required under the Agreement.*
3. If coverage is canceled or non-renewed, and not replaced *with another claims-made policy form with a Retroactive Date prior to the Agreement Effective Date,* the Consultant must purchase "extended reporting" coverage for a minimum of

three (3) years after completion of work.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Cyber Liability Insurance

Technology Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limits not less than **\$2,000,000** per occurrence or claim, **\$2,000,000** aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. **City shall inform Consultant if such insurance is required.**

Contractors Pollution Liability and/or Asbestos Pollution Liability

If Consultant's Scope of Services includes the handling or transportation of hazardous materials, Consultant shall maintain pollution liability and/or asbestos pollution liability applicable to the work being performed, with a limit no less than **\$1,000,000** per claim or occurrence and **\$2,000,000** aggregate per policy period of one year. **City shall inform Consultant if such insurance is required.**

