

CITY OF LAGUNA BEACH
Public Works Department
505 Forest Ave., Laguna Beach CA 92651
(949) 497-0360

REQUEST FOR PROPOSAL
FOR DESIGN SERVICES RELATED TO THE:
VILLAGE ENTRANCE PROJECT



Proposals Due:
Monday, November 3, 2014
4:00 p.m.

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I. INTRODUCTION AND OBJECTIVE

In July 2014, the City issued a request for qualifications for architectural, landscape, civil engineering, environmental and related consulting firm or design team for work related to the planning, design and construction of the Village Entrance Project. Six firms provided statements of qualifications and three firms have been selected to submit proposals for the work.

The proposal requirements and scope of work are outlined in Section IX and X, respectively.

II. INFORMATION AVAILABLE FROM THE CITY

The City will provide copies of all available record information on file at the City. Following are the items available:

- A. Access to all pertinent records maintained at the City;
- B. City standards and specifications;
- C. Assistance from in-house support staff, where appropriate;
- D. Documents related to the scope of work required to clarify issues;

Additionally, proposers are encouraged to access project information on the City's website at:

http://www.lagunabeachcity.net/cityhall/cd/planning/village_entrance_project.asp

III. CONSULTANT'S REPRESENTATIVE

The consultant will assign a responsible representative and an alternate, who both shall be identified in the proposal. The responsible representative shall act as the consultant's representative throughout the design phase of the project until the project plans and specifications are approved by the City and the project has been constructed. If the consultant's primary representative should be unable to continue with the project, then the consultant's alternate representative will become the primary representative. The City will have the right to reject other proposed changes in personnel, and may consider any other changes in responsible personnel as a breach of the contract. The City will consider the experience, education, ability to perform the work, current assigned workload, and overall qualifications of the proposed individual(s) as part of the primary consultant selection criteria.

IV. CITY'S REPRESENTATIVE

The Project Director, or his assigned designee, will be the responsible representative on behalf of the City. All questions related to the proposals and the consultant selection process should be referred to Wade Brown, Project Director at (949) 497-0360.

V. EXPENSES

The only authorized expenses are those listed below. The City will pay cost plus 10% for authorized expenses. The consultant's expenses for travel, in-house reproduction, reproductions for in-house or sub-consultant use, or any other expenses or services not listed below, will be considered as non-reimbursable, overhead expenses:

- A. Reproductions for submittals, final printing and deliveries of deliverables;
- B. Special exhibits (upon request by City);
- C. Purchase of record information; and
- D. Any other expense preauthorized by the City.

VI. SCHEDULE OF WORK

The following is the anticipated schedule of work. All consultants submitting a proposal shall include a computer-generated schedule, including the following milestones:

City Council Award of Contract	January 6, 2015
Preliminary Design Complete	July 2015
Design Development Complete	November 2015
Planning Commission Meeting	February 2016
City Council Review	March 2016
Final Design Complete	August 2016
City Council Authorize to Bid	September 2016
Construction	2016 to 2018

The consultant will not be held responsible for delays on the part of the City or any other agency, or for any other occurrences beyond the control of the consultant.

VII. INSURANCE REQUIREMENTS

The consultant shall maintain the following minimum insurance during the duration of the project:

- A. General Liability Coverage - \$1,000,000 CSL, combined single limits, per occurrence. If provided coverage is under a form that includes a designated general aggregate limit, the aggregate limit must be no less than \$1,000,000.

- B. Professional Liability Coverage - \$1,000,000 per occurrence. A "claims made" policy is acceptable.
- C. Worker's Compensation Coverage - \$100,000 bodily injury by accident, each accident; \$100,000 bodily injury by disease, each employee; \$250,000 bodily injury by disease, policy limit.

VIII. FORM OF AGREEMENT

The consultant will enter an agreement with the City based upon the contents of this RFP, the consultant's proposal, and a standard form of agreement enclosed herewith (Attachment A). The consultant should describe any exceptions to the standard form of agreement in the proposal. Any such exceptions will be considered negotiable and will not be considered in the selection process.

IX. PROPOSAL REQUIREMENTS

Proposals must be delivered to the City of Laguna Beach, Public Works Department, Attention: Wade Brown, Project Director, City Hall, 505 Forest Avenue, Laguna Beach, CA 92651, no later than November 3, 2014 at 4 PM.

The consultant's proposal shall generally be brief, concise, and free of any unnecessary marketing information. Proposals which convey the qualifications of the project team primarily and the firm qualifications secondarily are preferred. The following features should be included in the proposal:

- a) Cover letter of no more than one page;
- b) 8.5"x11", numbered, 3-hole punched, with binder;
- c) Index or table of contents;
- d) Approach to project, including the proposed project team organization, with special emphasis on the experience of the responsible representative and alternate as described in Section III.
- e) Brief resume of the person who will serve as an alternate single point of contact if the primary becomes unable to fulfill the duties;
- f) The consultant's proposed scope of work using the scope of work in this request for proposals as a starting point; and,
- g) A fee schedule that coordinates the milestone schedule and work efforts into one document.

X. SCOPE OF WORK

The RFQ provided a project description and outlined the general components of the project. The following list expands the scope of each item.

1. Design Elements

- 1.1. Prepare drawings for various bridge locations, which may also include structural engineering design for bridge transitions over the flood channel.
 1. There are three existing bridges on the project site. One has been declared structurally unsound. The design solution(s) should contemplate the reuse of the existing bridges and/or the creation of new bridges.
 2. Bridge locations should maximize the parking for the project including parking on-site and along Laguna Canyon Road while providing Caltrans compliant sight distances at the entrance and exit points to the bridge locations.
 3. Bridge designs must comply with Flood Zone requirements and the County Flood Channel standards.
- 1.2. Design a landscaped pathway from Forest Avenue to the Art Festivals.
 1. Provide a design solution that incorporates a pedestrian pathway, a bike lane, and landscaped areas. The pathway must be continuous from the intersection of the flood control channel and Forest Avenue to the northern most point of the project at 725 Laguna Canyon Road near Tivoli Too.
 2. Provide a plan identifying all utilities in the area.
 3. Provide a demolition and grading plan for the pathway improvements between Laguna Canyon Road and the flood control channel.
 4. Coordinate the grading plan with the Environmental Reports and provide a mitigation plan if needed.
 5. Provide a parking plan that provides for an aggregate of at least 397 code compliant parking spaces on site, which replaces the existing 397 paved parking spaces.
 6. Study the paving material options of asphalt, pervious paving, and pervious unit pavers and provide a cost/benefit comparison of the options.
 7. Provide a drainage plan, possibly including on-site storm water storage, which complies with the new low impact development standards for water quality.
 8. Provide landscape and irrigation plans using a native species and water conservation planting palette. The percentage of landscape coverage and shading shall comply with the municipal code.
 9. Provide a lighting plan.
- 1.3. Design a surface parking lot at 725 Laguna Canyon Road.
 1. Provide a demolition and grading plan that maximizes the surface area/parking count of the parking lot area without the use of retaining walls.

2. Provide options to maximize the parking count using retaining walls. Provide a cost-per-space comparison to a parking lot without retaining walls.
 3. Provide for a rock/debris wall above the parking lot under all configurations.
 4. Provide an option that removes the minimal number of parking spaces to eliminate the need for a rock/debris wall.
 5. Coordinate the grading plan with the Environmental Reports and provide a mitigation plan if needed.
 6. Study the paving material options of asphalt, pervious paving, and pervious unit pavers and provide a cost/benefit comparison of the options.
 7. Provide a drainage plan, possibly including on-site storm water storage, which complies with the new low impact development standards for water quality.
 8. Provide landscape and irrigation plans using a native species and water conservation planting palette. The percentage of landscape coverage and shading shall comply with the municipal code.
 9. Provide a lighting plan.
- 1.4. Design improvements within the Caltrans Right-of-Way of Laguna Canyon Road (State Route 133) near Forest Avenue as required by the EIR or as identified by any revisions made to the EIR.
1. An additional southbound turn lane from Laguna Canyon Road onto Forest Avenue which may require lane restriping and parking elimination on Forest Avenue and Laguna Canyon Road.
 2. Lane restriping on Forest Avenue from Laguna Canyon Road to Third Street to accommodate the additional southbound turn lane onto Forest Ave.
 3. An extension of the southbound turn lane pocket at the traffic signal to the Forest/Laguna Lot to approximately 300 feet in length.
 4. Modifications necessary for a northbound U-Turn at the traffic signal to the Forest/Laguna Lot.
 5. An option for a bus turnout northerly of the traffic signal entry to the parking lot.
 6. Provide a plan for any traffic signal pole or control box relocations required by any of the proposed improvements.
- 1.5. Prepare drawings for the renovation of the historic digester building.
1. Prepare designs for a renovation of the exterior only of the digester building that complies with all regulations related to this historic facility.
 2. The interior of the building will continue to be used for Police storage.
- 1.6. Prepare drawings for the renovation of the median on Laguna Canyon Road. The anticipated length of median runs from the intersection of Forest Avenue and Laguna Canyon Road to the intersection of Canyon Acres Drive and Laguna Canyon Road.
1. The curbs on the existing medians are too low to meet Caltrans requirements if larger caliper trees are planted. All designs must incorporate current Caltrans safety requirements.

2. Provide landscape and irrigation plans using a native species and water conservation planting palette.
 3. Landscape designs should be complementary to Festival of the Arts site.
- 1.7. Evaluate options for carport structure.
1. Determine if the existing metal carport should be retained and renovated, removed completely, or removed and replaced with new screening based on the best use of the area.
 2. With City approval of the recommendation above, develop drawings of the carport/screening design solution. This solution should also retain the fueling station with necessary support utilities and operations such as fuel truck turning radius for deliveries to and from the station.
- 1.8. Prepare drawings for storage buildings to be constructed behind City Hall to house Police support services and evidence storage.
- 1.9. Other Considerations of Note (not all inclusive)
1. An existing sewer lift station (approx. 1 million gallons per day) that must remain accessible and operational at all times.
 2. Coordinate and include the space requirements for the odor control installation of the SOCWA sewer lift station.
 3. A steep hillside at the easterly edge of the site limits the usable area for the project, which will also require design consideration for debris and drainage.
 4. Shallow ground water beneath the site.
 5. Additional environmental site investigations may be required, at City's expense.

2. Design Services

2.1. Conceptual Design

1. Meet with City staff to review the project and determine requirements and procedures for design, on-going review, coordination, and meetings. Generate a letter outlining the preliminary design principles and criteria.
2. Perform preliminary field review. Assemble and review all available information regarding the project, including record drawings for existing improvements for all City utilities adjacent to project locations that could affect the design and construction of the project.
3. Conduct an initial evaluation of the existing site. Prepare an evaluation report for submittal to the City.
4. Develop conceptual site plan
5. Produce a rough order of magnitude cost estimate for City review and approval. The City's current project budget is \$7.8 MM.
6. All plans to be submitted in a PDF format for City review.
7. Conduct at least two (2), 4-hour community workshops to gather public input on design concepts. Consultant may be asked to conduct additional workshops or other forums to gather input.

Schematic Design

1. Develop Schematic Design drawings with preliminary engineering information including:
 - a. Structural system concepts
 - b. Electrical design solutions for lighting, power service and distribution, security, fire suppression, and another other special electrical systems.
 - c. Civil engineering solutions for drainage system, grading plan, stormwater management, parking lot layouts, fire department access, demolition plans, and curb and gutter treatments.
 - d. Landscape design solutions including hardscape areas and materials, plant palette and tree forms, planting plan, and grading.
2. Develop an itemized schematic-level cost estimate in a City-approved format and submit them to the City for review and comment.
3. All plans to be submitted in PDF format for City review.

2.2. Design Development

1. Develop Design Development drawings with precise vertical and horizontal control information.
2. Develop color exhibits with material and color selections.
3. Develop computer generated graphics and photo-renderings of the proposed project.
4. Revise and refine the itemized project cost estimate.
5. Prepare the Design Development drawings, exhibits, graphics, and cost estimate in a City-approved format and submit them to the City for review and comment.
6. Prepare submittal documents as per the Design Review submittal guidelines.
7. Prepare for and present the project at two public workshops, two Planning Commission meetings, and one City Council meeting.

2.3. Construction Documents

1. Prepare Construction Documents based on City comments and the Planning Commission approval. The construction documents shall include all drawings necessary to complete the project objectives and a construction coordination plan to allow access to temporary parking areas throughout construction.
2. Revise the itemized project cost estimate for review.
3. Develop project specifications in Construction Specifications Institute (CSI) layout and submit in Microsoft Word-format.
4. Submittal Schedule:
 - b. Construction Documents 25%
 - i. Format: Submit in PDF
 - ii. All sheets for all sub-consultant designs that verify coordination between the disciplines.

- iii. Sub-Consultants must stamp and sign each sheet prepared by their office. “Not for Construction, Design Development 25% submittal”
- iv. Prime Consultant must review and stamp and sign all sheets prepared by their office and by their sub-consultants. “Not for Construction, Design Development 25% submittal”
- c. Construction Documents 75%
 - i. Format: Submit in PDF
 - ii. All sheets for all sub-consultant designs that verify coordination between the disciplines and include all detail sheets.
 - iii. Project Specifications
 - iv. Sub-Consultants must stamp and sign each sheet prepared by their office. “Not for Construction, Design Development 75% submittal.”
 - v. Prime Consultant must review and stamp and sign all sheets prepared by their office and by their sub-consultants. “Not for Construction, Design Development 75% submittal.”
- d. Construction Documents 90%
 - i. Format: Submit in PDF
 - ii. All sheets for all trades required for Bidding and Construction, including all detail sheets.
 - iii. Project Specifications
 - iv. Sub-Consultants must stamp and sign each sheet prepared by their office. “Not for Construction, Design Development 90% submittal.”
 - vi. Prime Consultant must review and stamp and sign all sheets prepared by their office and by their sub-consultants. “Not for Construction, Design Development 90% submittal.”
- e. Construction Documents 100%
 - i. Format: If electronic submit in both PDF and Paper.
 - ii. All sheets for all trades required for Bidding and Construction, including all detail sheets.
 - iii. Project Specifications
 - iv. Sub-Consultants must stamp and sign each sheet prepared by their office.
 - v. Prime Consultant must review and stamp and sign all sheets prepared by their office and by their sub-consultants.

2.4. Construction Administration

1. Bidding Coordination

- a. Consultant shall be available to answer questions and inquires during the bidding process.
- b. Addenda services consisting of preparation and distribution of supplementary drawings, specifications, instructions, or notice(s) of change in the bidding schedule and procedure.

2. Administration

- a. Permitting Coordination
- b. Initial attendance at pre-construction conference followed by periodic construction field observations
- c. Process submittals, including receipt, review of, and appropriate action on shop drawings, product data, samples, and other submittals by the Contract Documents
 - i. Shop drawings and submittals review to be reviewed and returned within fifteen (15) days.
 - ii. RFI's to be reviewed and returned within three (3) days
 - iii. Maintenance of master file of submittals
- d. Change order services
 - i. Preparation, reproduction, and distribution of drawings and specifications to describe work to be added, deleted, or modified.
 - ii. Assist in the preparation of appropriate modifications of the contract(s) for construction.
- e. Project closeout
 - i. Review contract documents with City's designated representative to verify conformity of contractor(s) list of items to be completed or corrected.
 - ii. Issuance of certificate(s) of substantial completion
 - iii. Review upon notice by the contractor(s) that the work is ready for final review and acceptance.
 - iv. Notification to the City and contractor(s) of deficiencies (punch-list) found in follow-up review, if any
 - v. Final review with the City's representative to verify final completion of work

4. CEQA Documents and Entitlements

4.1. Prepare CEQA documents for the new parking lot at 725 Laguna Canyon Road.

1. Determine the most efficient course through the CEQA process using an amendment to the existing EIR or a separate new process for the new parking area.

4.2. Work with the City, Cal-trans, County Flood Control and other agencies as required to obtain entitlements for the project.

XI. FEE

The consultant shall submit a proposed fee in separate envelope associated with the scope of work at the same time and date the proposal is due. The proposed fee shall be in a spreadsheet format with the number of hours and hourly rates related to each task identified in the scope of work. The consultant shall also include a separate hourly rate schedule, which may be used if City should extend the contract to other work tasks outside the identified scope.

XII. SELECTION PROCESS

Proposals

Proposals submitted will be evaluated primarily by the experience and qualifications of the responsible representative and alternate, and their experience with similar types of projects. As part of the evaluation process, the City may request one, some, or all, of the firms to make oral presentations. There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in making an oral presentation.

Interviews

During the evaluation process, the City may request any one, some, or all firms to attend an interview. The interview process will primarily focus on the responsible representative's grasp of the design issues involved with the project, the site, and the review process of the City of Laguna Beach.

XIII. ANTICIPATED PROPOSAL SCHEDULE

Issue RFP	October 3, 2014
Project Overview Meeting	October 6, 2014, 3 p.m., City Hall
Proposals Due	November 3, 2014
Panel Interviews	November 11-14, 2014
Finalize Agreement with Top Firm	December 1, 2014
City Council Award of Contract	January 6, 2015

ATTACHMENT A
SAMPLE AGREEMENT WITH GENERAL PROVISIONS

CONSULTANT SERVICES AGREEMENT

FOR
[PROJECT]

THIS AGREEMENT is made and entered into this _____ day of , 2___ by and between the City of Laguna Beach, a Municipal Corporation, hereinafter referred to as the “CITY,” and _____, hereinafter referred to as “CONSULTANT.”

RECITALS

WHEREAS, the CITY desires to engage CONSULTANT to render certain professional services as more fully identified in Appendix A, Scope of Services, attached hereto and included herein;

WHEREAS, CONSULTANT is qualified and agreeable to render the professional services desired by the CITY;

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises hereinafter expressed and intending to be bound hereby, the parties hereto do mutually agree as follows:

PART I

FUNDAMENTAL TERMS

Article 1. Engagement of CONSULTANT

The CITY hereby agrees to engage CONSULTANT to perform the professional services as hereinafter set forth, and CONSULTANT agrees to perform those services in accordance with the terms and conditions of this Agreement.

Article 2. Scope of Services

In compliance with all terms and conditions of this Agreement, CONSULTANT shall perform all work necessary to complete, in a manner satisfactory to the CITY, the services described and set forth in Appendix A, Scope of Services, attached hereto and by reference incorporated herein and made a part hereof.

Article 3. Time of Performance

The services of CONSULTANT are to commence within _____() days after this Agreement has been approved by the CITY and the CITY has authorized work to start by the written issuance of a Notice to Proceed. The services of CONSULTANT shall be completed by _____.

Article 4. Payment and Limitation of Cost

The CITY shall compensate CONSULTANT for services performed under Article 2, as further defined in Appendix A, in accordance with the following schedule:

In order to receive payments, CONSULTANT shall submit to the CITY an invoice. The invoice will delineate the services performed with specificity, the amount invoiced to date, and such other documentation as may be necessary or requested by the CITY to demonstrate that appropriate progress has been made toward completion of the services.

Adjustments of total cost of services by up to 10% of the original contract amount will be permitted when CONSULTANT establishes, and the CITY agrees in writing, that there has been, or is to be, a significant change in:

- a. The scope, complexity or character of the services to be performed;
- b. the conditions under which the work is required to be performed; or
- c. the duration of work if the change from the time period specified in this Agreement for completion of the work warrants such adjustment in accordance with Part II, Section 3, Paragraph 3.13, Extension of Time for Delay.

Article 5. Attachments

The provision set forth in Part II, General Provisions, and Appendix A, "Scope of Services," are by reference incorporated herein and made a part hereof.

Article 6. Integration

This Agreement represents the entire understanding of the CITY and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with regard to those matters covered by this Agreement. This Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties, and none shall be used to interpret this Agreement.

IN WITNESS WHEREOF, persons executing this Agreement warrant and represent that they are authorized to do the same on behalf of the parties hereto and are authorized to bind those parties to the terms and conditions of this Agreement.

CITY OF LAGUNA BEACH

By _____

John Pietig, City Manager

ATTEST:

Lisette Chel-Walker, City Clerk

CONSULTANT

By _____

Title _____

Address _____

PART II

GENERAL PROVISIONS

SECTION ONE: SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, CONSULTANT shall perform all work necessary covered by this Agreement in a manner satisfactory to the CITY. This Agreement includes the services described and set forth in Appendix A, Scope of Services, attached hereto and by reference incorporated herein and made a part hereof, which may be referred to as “services.”

1.2 Changes and Additions to Scope of Services. The CITY shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra services beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said services. No payment for extra services caused by a change in scope or complexity of work shall be made, unless and until such extra services and a price therefore have been authorized in writing and approved by the CITY. Such written approval shall set forth the changes of work, extension of time for preparation, and adjustment of the fee to be paid by the CITY to CONSULTANT. No claim for said additional work shall be made unless such additional work has been specifically authorized in writing by the CITY.

1.3 Specifications. All specifications, manuals, or standards, either attached to this Agreement or incorporated herein by reference, are deemed to be the version in effect as of the date of this Agreement and are binding as to the performance of the work in this Agreement unless they are changed by written amendment and this Agreement is modified in writing to incorporate such changes. Any changes are subject to CITY approval.

1.4 Standard of Performance. CONSULTANT hereby represents and warrants that it has the experience necessary to undertake the services to be provided herein. In light of such status and experience, CONSULTANT hereby covenants that it shall follow customary good professional standards in performing all services required hereunder and shall perform all work in a manner reasonably satisfactory to the CITY. CONSULTANT shall be responsible to ensure that all work performed, including by its employees if any, is performed to the standards set forth in this Agreement and that such work complies with the requirements of appropriate governmental agencies and applicable laws ordinances, codes and regulations of the federal, state and local governments in effect at the time such services are performed.

Notwithstanding any other provision herein, CONSULTANT agrees to perform all work to the satisfaction of the CITY within the time specified. If the CITY reasonably determines that the work is not satisfactory, the CITY shall have the right to take appropriate action, including but not limited to: (i) meeting with CONSULTANT to review the quality of the work and resolve matters of concern; (ii) requiring CONSULTANT to repeat unsatisfactory work at no additional charge until it is satisfactory; (iii) suspending the delivery of work to CONSULTANT for an indefinite time; (iv) withholding payment; and (v) terminating this Agreement as hereinafter set forth.

1.5 Licenses, Permits, Fees and Assessments. CONSULTANT shall obtain at its sole cost and expense all licenses, permits, and approvals that may be required by law for the performance of the services required by this Agreement. CONSULTANT shall have the sole obligation to pay any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for CONSULTANT's performance of the services required by this Agreement, and shall indemnify, defend, and hold harmless the CITY against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against the CITY thereunder.

1.6 Personnel. CONSULTANT represents that it employs, or will employ, at its own expense, personnel required in performing the services required under this Agreement. All of the services required hereunder will be performed by CONSULTANT and all personnel engaged in the work shall be fully qualified and be authorized or permitted under state and local law to perform such services. This Agreement contemplates the personal services of CONSULTANT and CONSULTANT's employees, and it is recognized by the parties hereto that a substantial inducement to the CITY for entering into this Agreement was, and is, the professional reputation and competence of CONSULTANT and CONSULTANT's employees. Neither this Agreement nor any interest therein may be assigned by CONSULTANT, except upon written consent of the CITY.

1.7 Prohibition Against Subcontracting or Assignment. CONSULTANT shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the CITY, and excepting any services identified in Appendix A, Scope of Services, and excepting minor incidental services including, but not limited to couriers and reprographics services. In addition, neither the Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the CITY. In the event of any unapproved transfer, the CITY may void the Agreement at the CITY's option in its sole and absolute discretion.

SECTION TWO: INSURANCE

2.1 Insurance. Without limiting CONSULTANT's indemnification obligations, CONSULTANT shall procure and maintain, at its sole cost and for the duration of this Agreement, insurance coverage as provided below, against all claims for injuries against persons or damages to property which may arise from or in connection with the performance of the work hereunder by CONSULTANT, its agents, representatives, employees, and/or subconsultants. In the event that CONSULTANT subcontracts any portion of the work in compliance with this Agreement, the contract between CONSULTANT and such subconsultant shall require the subconsultant to maintain the same policies of insurance that CONSULTANT is required to maintain pursuant to this Section 2.1. If the existing policies do not meet the Insurance Requirements set forth herein, CONSULTANT agrees to amend, supplement or endorse the policies to do so.

2.1.1 Insurance Coverage Required. The policies and amounts of insurance required hereunder shall be as follows:

(1) General Liability Insurance. Commercial General Liability Insurance which affords coverage at least as broad as Insurance Services Office "occurrence" form CG 00 01 including completed operations, with limits of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for liability arising out of CONSULTANT's performance of this Agreement. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage, then the limits combined with the primary will equal the minimum limits set forth above. If written with an aggregate, then the aggregate shall be double the each occurrence limit.

(2) Automobile Liability Insurance. Automobile Liability Insurance with a limit of liability of not less than \$1,000,000 each occurrence and \$1,000,000 annual aggregate. The limits shall be provided by either a single primary policy or combination of policies. If limits are provided with excess and/or umbrella coverage, then the limits combined with the primary will equal the minimum limits set above. Such insurance shall include coverage for all "owned," "hired" and "non-owned" vehicles, or coverage for "any auto."

(3) Workers' Compensation Insurance. Workers' Compensation Insurance, as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 each accident for bodily injury and \$1,000,000 each employee for bodily injury by disease. Said insurance shall cover all employees of CONSULTANT providing any service in the performance of this agreement. A statement on an insurance certificate will not be accepted in lieu of the actual endorsement unless CONSULTANT's insurance carrier is the State of California Insurance Fund (SCIF) and the endorsement numbers 2570 and 2065 are referenced on the certificate of insurance.

Workers' Compensation is not required for sole proprietors or a partnership with no employees. However, for sole proprietors or a partnership, CONSULTANT must complete a "Workers' Compensation Declaration." This form may be obtained from the CITY staff.

(4) Professional Liability Insurance. Professional Liability Insurance with minimum limits of \$1,000,000 each claim. Covered professional services shall include all work performed under this Agreement and delete any exclusion that may potentially affect the work to be performed.

2.1.2 Evidence of Insurance. CONSULTANT, concurrently with the execution of the Agreement, and as a condition precedent to the effectiveness thereof, shall deliver either certified copies of the required policies, or original certificates and endorsements on forms approved by the CITY. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the CITY. If such coverage is cancelled or reduced, CONSULTANT shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the CITY evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies.

Original, signed insurance certificates and endorsements must be sent via email from CONSULTANT's insurance broker/agent to the CITY.

The CITY project title or description MUST be included in the "Description of Operations" box on the certificate.

Certificate Holder:

City of Laguna Beach, California

2.2 Endorsements.

Insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been approved by the City in writing.

2.2.1 The insurance coverage required by Section 2.1.1 Commercial General Liability shall contain the following provisions or be endorsed to provide the following:

Additional Insured: The CITY, its elected officials, officers, employees, volunteers, boards, agents and representatives shall be additional insureds with regard to liability and defense of suits or claims arising out of the performance of the Agreement.

Additional Insured Endorsements shall not:

1. Exclude "Contractual Liability;"
2. Restrict coverage to the "Sole" liability of CONSULTANT;
3. Exclude "Third-Party-Over-Actions;" and
4. Contain any other exclusions contrary to the Agreement.

Primary Insurance: This insurance shall be primary and any other insurance whether primary, excess, umbrella or contingent insurance, including deductible, or self-insurance available to the insureds added by endorsement shall be in excess of and shall not contribute with this insurance.

A statement on an insurance certificate will not be accepted in lieu of the actual endorsement.

2.2.2 The policy or policies of insurance required by Section 2.1.3 Workers' Compensation shall be endorsed as follows:

Waiver of Subrogation: A waiver of subrogation stating that the insurer waives all rights of subrogation against the indemnified parties.

2.2.3 Any deductible in excess of \$50,000 and/or Self-Insured Retentions must be approved in writing by the CITY.

2.2.4 Acceptable Insurance. Each policy shall be from a company with current A.M. Best's rating of A VII or higher and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus lines brokers under applicable

provisions of the California Insurance Code or any federal law. Any other rating must be approved in writing by the CITY.

2.2.5 Insurance of Subconsultants. CONSULTANT shall be responsible for causing subconsultants to maintain the same types and limits of coverage in compliance with this Agreement, including naming the CITY as an additional insured to the subconsultants' policies.

2.3 Notice of Cancellation. Required insurance policies shall not be cancelled or the coverage reduced until a thirty (30) day written notice of cancellation has been served upon the CITY; except twelve (12) days written notice of cancellation shall be provided for non-payment of premium.

2.4 Other Insurance. Such other policies of insurance as may be required in the Special Provisions attached hereto.

2.5 Contractual Liability. Notwithstanding any other provision herein, the coverage provided shall also apply to the obligations assumed by CONSULTANT under the indemnity provisions of this Agreement.

2.6 Claims Made Policies "aka: Tail Coverage." If coverage is written on a claims-made basis, the retroactive date on such insurance and all subsequent insurance shall coincide or precede the effective date of the initial Agreement with the CITY and continuous coverage shall be maintained or an extended reporting period shall be exercised for a period of at least three (3) years from termination or expiration of this Agreement. Upon expiration or termination of coverage of required insurance, CONSULTANT shall procure and submit to the CITY evidence of "tail" coverage or an extended reporting coverage period endorsement for the period of at least three (3) years from the time that all work under this Agreement is completed.

2.7 Waiver of Subrogation. Required insurance coverages shall not prohibit CONSULTANT from waiving the right of subrogation prior to a loss. CONSULTANT shall waive all rights of subrogation against the indemnified parties and policies required under this Agreement shall contain or be endorsed to contain such a provision.

2.8 Failure to Maintain Coverage. CONSULTANT agrees to suspend and cease all operations hereunder during such period of time as the required insurance coverage is not in effect and evidence of insurance has not been furnished to the CITY and provide the CITY written notice of the same within 24 hours of suspending and ceasing all operations. The CITY shall have the right to withhold any payment due CONSULTANT until CONSULTANT has fully complied with the insurance provisions of this Agreement.

In the event that CONSULTANT'S operations are suspended for failure to maintain required insurance coverage, CONSULTANT shall not be entitled to an extension of time for completion of the Work because of production lost during suspension. Failure to maintain the required insurance coverage shall constitute good cause for termination.

SECTION THREE: INDEMNIFICATION

3.1 Indemnification. To the full extent allowed by law, CONSULTANT shall indemnify, defend with counsel acceptable to the CITY, and hold harmless the CITY and its officers, officials, employees, agents and volunteers (“Indemnitees”) from and against any and all liability, loss, damage, claims, suits, actions, arbitrations proceedings, administrative proceedings, regulatory proceedings, civil penalties and fines, expenses and costs (including, without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature, whether actual, alleged or threatened, arising out of or in connection with CONSULTANT's performance of the services provided under this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of the CITY.

3.1.1 CONSULTANT's obligation to defend and indemnify shall not be excused because of CONSULTANT's inability to evaluate Liability or because CONSULTANT evaluates Liability and determines that CONSULTANT is not liable to the claimant. CONSULTANT must respond within 30 days to the tender of any claim for defense and indemnity by the CITY, unless this time has been extended by the CITY. If CONSULTANT fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due CONSULTANT under and by virtue of this Agreement as shall reasonably be considered necessary by the CITY, may be retained by the CITY until disposition has been made of the claim or suit for damages, or until CONSULTANT accepts or rejects the tender of defense, whichever occurs first.

3.1.2 With respect to third party claims against CONSULTANT, CONSULTANT waives any and all rights of any type to express or implied indemnity against the Indemnitees.

3.1.3 Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2783, as may be amended from time to time, such duties of CONSULTANT to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

3.1.4 Notwithstanding the foregoing, to the extent that this Agreement includes design professional services under Civil Code Section 2782.8, as may be amended from time to time, such duties of CONSULTANT to indemnify shall only be to the full extent permitted by Civil Code Section 2782.8.

3.1.5 If any term of portion of this Section 2.9 is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, said section shall be interpreted to allow the broadest indemnity permitted by law.

SECTION FOUR: LEGAL RELATIONS AND RESPONSIBILITIES

4.1 Independent Consultant. It is expressly understood that in the performance of the services under the Agreement, CONSULTANT shall be, and is, an independent CONSULTANT, and is not an agent or employee of the CITY. The CITY shall not in any way or for any purpose become or be deemed to be a partner of CONSULTANT in its business or otherwise, or a joint venturer, or a member of any joint enterprise with CONSULTANT. CONSULTANT shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of the CITY. CONSULTANT has and shall retain the right

to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting CONSULTANT in the performance of required services. CONSULTANT shall be solely responsible and hold the CITY harmless for all matters relating to the payment of CONSULTANT's employees, including compliance with Social Security withholdings and all other regulations governing such matters. Neither CONSULTANT nor any of CONSULTANT's employees shall, at any time, or in any way, be entitled to any sick leave, vacation, retirement or other fringe benefits from the CITY; and neither the CITY nor any of its employees shall be paid by the CITY time and one-half for working in excess of forty (40) hours in any one week. Neither CONSULTANT nor any of CONSULTANT's employees shall be included in the competitive service, have any property right to any position, or any of the rights an employee may have in the event of termination of this Agreement.

4.2 Non-Discrimination and Equal Employment Opportunity. During its performance under this Agreement, CONSULTANT agrees as follows:

4.2.1 Equal Employment Opportunity. In connection with its performance under this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, marital status, sexual orientation, AIDS or AIDS-related symptoms (including HIV positive findings), physical disability, mental disability, mental condition, family care leave, sexual orientation, ancestry or national origin. Actions encompassed by this prohibition shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, or recruitment advertising; layoff or termination; rate of pay, or other forms of compensation; and selection for training, including apprenticeship.

4.2.2 Sanctions for Noncompliance. In the event of CONSULTANT's noncompliance with the non-discrimination provisions of this Agreement, CONSULTANT agrees that the CITY shall be authorized to impose such sanctions or penalties as the CITY may determine to be appropriate, including, but not limited to 1) withholding of payments to CONSULTANT hereunder until CONSULTANT complies with all applicable requirements and obligations, and/or 2) cancellation, termination or suspension of the Agreement, in whole or in part.

4.3 Proprietary Information. No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of CONSULTANT. All proprietary information developed specifically for the CITY by CONSULTANT in connection with, or resulting from, this Agreement, including but not limited to inventions, discoveries, improvements, copyrights, patents, maps, reports, textual material or software programs, but not including CONSULTANT's underlying materials, software, or know-how, shall be the sole and exclusive property of the CITY, and are confidential and shall not be made available to any person or entity without the prior written approval of the CITY. CONSULTANT agrees that the compensation to be paid pursuant to this Agreement includes adequate and sufficient compensation for any proprietary information developed in connection with or resulting from the performance of CONSULTANT's services under this Agreement. CONSULTANT further understands and agrees that full disclosure of all proprietary information developed in connection with, or resulting from, the performances of services by CONSULTANT under this Agreement shall be made to the CITY, and that CONSULTANT shall do all things necessary and proper to perfect and maintain ownership of such proprietary information by the CITY.

4.4 Use of Patented Materials. CONSULTANT shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to equipment, devices, processes, and software programs, used or incorporated in the services or work performed by CONSULTANT under this Agreement. CONSULTANT shall indemnify, defend, and save the CITY harmless from any and all suits, actions, or proceedings of every nature for or on account of the use of any patented or copyrighted materials.

4.5 Retention of Funds. CONSULTANT hereby authorizes the CITY to deduct from any amount payable to CONSULTANT (where arising out of the Agreement or otherwise) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate the CITY for any losses, costs, liabilities or damages suffered by the CITY, and all amounts for which the CITY may be liable to third parties, by reason of CONSULTANT's negligent acts, errors, or omissions, or willful misconduct in performing or failing to perform CONSULTANT's obligations under this Agreement. The CITY in its sole and absolute discretion, may withhold from any payment due to CONSULTANT, without liability for interest, an amount sufficient to cover such claim or any lien. The failure of the CITY to exercise such right to deduct or withhold shall not act as a waiver of CONSULTANT's obligation to pay the CITY any sums CONSULTANT owes the CITY.

4.6 Termination for Convenience of the CITY. The CITY may terminate this Agreement at any time by giving written notice of CONSULTANT of such termination. In that event, all finished or unfinished documents and other materials shall, at the option of the CITY, become the CITY's property. If this Agreement is terminated by the CITY as provided herein, then CONSULTANT will be paid an amount which bears the same ratio to the total compensation as the services actually performed bear to the total services of CONSULTANT covered by this Agreement, less payments of compensation previously made.

4.7 Termination of Agreement for Cause. In addition to the CITY's rights under Section 3.6, the CITY may, subject to the provisions of Paragraph 3.7.2, by written notice to CONSULTANT, terminate the whole or any part of this Agreement in any of the following circumstances: (1) if CONSULTANT fails to perform the services called for by this Agreement within the time(s) specified herein or any extension thereof; or (2) if CONSULTANT fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not correct such failure within a period of ten (10) days (or such longer period as the CITY may authorize in writing) after receipt of notice from the CITY specifying such failure.

4.7.1 In the event the CITY terminates this Agreement in whole or in part as provided in this section, the CITY may procure, upon such terms and such manner as it may determine appropriate, services similar to those described in this Agreement.

4.7.2 Except with respect to defaults of subconsultants, CONSULTANT shall not be liable for any excess costs if the failure to perform this Agreement arises out of causes beyond the control and without the fault or negligence of CONSULTANT. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes and

unusually severe weather; but in every case, the failure to perform must be beyond the control of, and without the fault or negligence of CONSULTANT.

4.7.3 Upon receipt of notice of termination from the CITY, CONSULTANT shall immediately stop its services, unless otherwise directed, and deliver to the CITY all data, drawing, reports, estimates, summaries and such other information and materials as may have been accumulated by CONSULTANT in the performance of this Agreement, whether completed or in process. Upon termination, CONSULTANT shall be paid the value of the work performed, less payments of compensation previously made.

4.8 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing.

4.9 Legal Actions. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted or maintained in the Municipal and Superior Courts of the State of California in the County of Orange, or in any other appropriate court with jurisdiction in such County, and CONSULTANT agrees to submit to the personal jurisdiction of the court. If any claims related to the performance hereunder be asserted against either party hereto, then the party claimed against shall receive reasonable assistance from the other.

4.10 Rights and Remedies are Cumulative. The rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any rights or remedies for the same default or any other default by the other party.

4.11 Attorneys' Fees. In any action between the parties hereto seeking enforcement of any of the terms of provisions of this Agreement or in connection with the performance of the work hereunder, the party prevailing in the final judgment in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to have and recover from the other party its reasonable costs and expenses, including, but not limited to, reasonable attorneys' fees, expert witness fees and courts costs. If either party to this Agreement is required to initiate or defend litigation with a third party because of the violation of any term or provision of this Agreement by the other party, then the party so litigating shall be entitled to its reasonable attorneys' fees and costs from the other party to this Agreement.

4.12 Jurisdiction. This Agreement shall be interpreted in accordance with the statutes and laws of the State of California, the City of Laguna Beach and any other government agency applicable to the subject of this Agreement and the performance hereunder.

4.13 Non-liability of City Officers and Employees. No officer, official, employee, agent, representative, or volunteer of the CITY shall be personally liable to CONSULTANT, or any successor in interest, in the event of any default or breach by the CITY, or for any amount which may become due to the CITY or its successor, or for breach of any obligation of terms of this Agreement.

4.14 Extension of Time for Delay.

4.14.1 If the work is delayed at any time by reason of a suspension ordered by the CITY or because of any other act of the CITY, or because of neglect by the CITY without contributory fault or neglect on the part of CONSULTANT, or if the work should be delayed at any time by reason of strikes, acts of God, the public enemy, acts of the CITY, fire, floods, epidemics, quarantine restrictions, freight embargoes, abnormal force, violence of the elements, or for any other unforeseen cause beyond the control and without the fault or negligence of CONSULTANT, or for any other reason which in the opinion of CONSULTANT is proper justification for such delay, then CONSULTANT shall be entitled to an extension of time equivalent to the time actually lost by such delay.

4.14.2 CONSULTANT shall file a written request with the CITY for extension of time within ten (10) days following the beginning of such delay, and failure to do so shall constitute a waiver thereof, provided that in case of a continuing cause of delay, only one claim will be necessary. The CITY shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the CITY such delay is justified. The CITY's determination shall be in writing and be final and conclusive upon the parties to this Agreement.

4.14.3 A request for an extension of time or the granting of an extension of time shall not constitute a basis for any claim against the CITY for additional compensation. CONSULTANT shall be deemed to have waived any claims for additional compensation and does hereby so waive any such claims unless he shall, at the time of filing a request for an extension of time, likewise file a claim for additional compensation on account of such delay.

4.15 Interests of Members of the CITY and Others. To the extent prohibited by applicable law, no officer, member or employee of the CITY and no member of its governing body nor other public official of the governing body of the locality or localities in which the work pursuant to this Agreement is being carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the aforesaid work, shall (1) participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she has, directly or indirectly, any interest; or (2) have any interest, direct or indirect, in this Agreement or the proceeds thereof during his or her tenure or for one year thereafter.

4.16 Interest of CONSULTANT. CONSULTANT hereby covenants that it has, at the time of the execution of this Agreement, no interest, and that it shall not acquire any interest in the future, direct or indirect which would conflict in any manner or degree or be inconsistent with the performance of services required to be performed pursuant to this Agreement. CONSULTANT further covenants that in the performance of this work no person having any such interest shall be employed.

4.17 Covenant Against Contingent Fees. CONSULTANT warrants that it has not employed or retained any company or person to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the making of this Agreement. In the event of a breach or violation of this warranty, the CITY shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the compensation or consideration due CONSULTANT, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gifts or contingent fee.

4.18 Compliance with California Unemployment Insurance Code Section 1088.8. If CONSULTANT is a Sole Proprietor, then prior to signing the Agreement, CONSULTANT shall provide to the CITY a completed and signed form W-9, Request for Taxpayer Identification Number and Certification. CONSULTANT understands that pursuant to California Unemployment Insurance Code Section 1088.8, the CITY will report the information from Form W-9 to the State of California Unemployment Development Department, and that the information may be used for the purposes of establishing, modifying, or enforcing child support obligations, including collections, or reported to the Franchise Tax Board for tax enforcement purposes.

SECTION FIVE: MISCELLANEOUS PROVISIONS

5.1 Records and Audits. CONSULTANT shall maintain complete and accurate records with respect to services performed (including, but not limited to, the identity of the person doing the work, a description by date and person of the work performed, and the amount of time expended on such work) and costs incurred under this Agreement. CONSULTANT shall also maintain its records supporting its cost proposals used and relied on to enter into this Agreement. CONSULTANT shall maintain records to show actual time and allowable costs with respect to each task set forth in the "Scopes of Services." All such records shall be maintained on a generally accepted accounting basis and shall be clearly identifiable. CONSULTANT shall submit to the CITY such progress reports and final reports in the manner and time set forth in Appendix B attached hereto and by reference incorporated herein. The final report and CONSULTANT's work product shall become the property of the CITY. All records required to be maintained hereunder shall be maintained by CONSULTANT for a period of five (5) years.

5.2 Access to Records. The CITY shall have access, upon reasonable notice, to the books and records of CONSULTANT related to CONSULTANT's performance of this Agreement in the event any audit is required. CONSULTANT shall allow inspection of all work data, documents, proceedings and activities related to the Agreement, and CONSULTANT's performance hereunder, for a period of one (1) year from the date of final payment under this Agreement.

5.3 Ownership of Records. All drawings, original documents, methodological explanations, computer programs, designs and reports and other materials prepared by CONSULTANT in this performance of this Agreement (i) shall be the property of the CITY and shall be delivered at no cost to the CITY upon request of the CITY or upon the termination of this Agreement in accordance with accepted standards relating to public contracts, and (ii) are confidential and shall not be made available to any individual or entity without prior written approval of the CITY. Any additional copies will be the responsibility of the CITY.

5.4 Notices. Unless otherwise provided herein, any notices required to be given under the Agreement shall be in writing with copies as directed herein and shall be personally delivered, or delivered by United States mail, prepaid, certified, return receipt requested, or by reputable document delivery service that provides a receipt showing date and time of delivery. Notices personally delivered or delivered by a mail document delivery service shall be effective upon receipt. Any notice given by mail shall be deemed to have been given when deposited in the United States mails certified and postage prepaid, addressed to the party to be served as follows:

To CITY: City of Laguna Beach

Attn: _____

505 Forest Avenue

Laguna Beach, CA 92651

Notices to CONSULTANT shall be delivered to the address set forth below CONSULTANT's signature on Part I of this Agreement. Changes in the address to be used for receipt of notices shall be effected in accordance with this Section 4.4.

5.5 Severability. Each provision of this Agreement shall be severable from the whole. If any provision of this Agreement shall be found contrary to law, then the remainder of this Agreement shall continue in full force.

5.6 Authority. The person(s) executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

5.7 Construction and Amendment. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply. The headings of sections and paragraphs of this Agreement are for convenience or reference only, and shall not be construed to limit or extend the meaning of the terms, covenants and conditions of this Agreement. This Agreement may only be amended by the mutual consent of the parties by an instrument in writing.

5.8 Extent of Agreement. This Agreement represents the entire integrated agreement between the CITY and CONSULTANT and supersedes all prior negotiations, representations of agreements, either written or oral. This Agreement may not be modified or amended except by a writing signed by both the CITY and CONSULTANT.

5.9 Special Provisions. Any additional or supplementary provisions or modifications or alterations of these General Provisions shall be set forth in Part III of this Agreement ("Special Provisions").

5.10 Precedence. In the event of any discrepancy between Part I (“Fundamental Terms”) and Part II (“General Provisions”), Part II shall take precedence and prevail over Part I. Part III shall take precedence and prevail over Part I and Part II.

5.11 Compliance with Laws. CONSULTANT warrants and represents to CITY that it shall comply with all applicable statutes, standards, rules, and regulation required by Federal, State, and local agencies, including compliance with CAL/OSHA requirements as may be applicable.