



CITY OF
Los Alamitos
California

3191 Katella Avenue
Los Alamitos, CA 90720-5600
Telephone: (562) 431-3538
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www.cityoflosalamitos.org

DATE: May 16, 2017
TO: Invited Parties
FROM: Jason Al-Imam
SUBJECT: City Attorney Services

The City of Los Alamitos (the City) invites qualified law firms to submit proposals for **City Attorney Services**.

The Request for Proposal (attached) is set out in the following format:

SECTION I BACKGROUND, PROPOSED TIME SCHEDULE & PROCEDURES FOR SUBMITTAL
SECTION II SCOPE OF SERVICES
SECTION III PROPOSAL REQUIREMENTS
SECTION IV EVALUATION PROCEDURES
SECTION V INQUIRIES
SECTION VI ADOPTED BUDGETS & COMPREHENSIVE ANNUAL FINANCIAL REPORTS
EXHIBIT A SAMPLE PROFESSIONAL SERVICES AGREEMENT

If your firm would like to consider this engagement, responses are to be delivered in a sealed package(s) to the address below by 1:00 p.m. June 13, 2017:

Jason Al-Imam, Administrative Services Director
City of Los Alamitos
3191 Katella Ave.
Los Alamitos, CA 90720

It is the responsibility of the Offeror to ensure timely delivery is made and that the Proposal is received by the City (not postmarked) by 1:00 p.m. June 13, 2017.

All requests for information, questions and correspondence should be directed to Jason Al-Imam at (562) 431-3538 ext. 222 or emailed to jalimam@cityoflosalamitos.org.

CITY OF LOS ALAMITOS
REQUEST FOR PROPOSAL
CITY ATTORNEY SERVICES



Submittal Deadline:
1:00 p.m.
June 13, 2017

RFP Prepared by and Proposals to be provided to:

Jason Al-Imam
Administrative Services Director
3191 Katella Avenue
Los Alamitos, California 90720
(562) 431-3538, ext. 222
jalimam@cityoflosalamitos.org

**CITY OF LOS ALAMITOS
REQUEST FOR PROPOSAL**

I. BACKGROUND, PROPOSED TIME SCHEDULE & PROCEDURES FOR SUBMITTAL

A. Background

The City of Los Alamitos invites qualified law firms to submit proposals for City Attorney Services. The successful proposer will enter into a contract, designate a City Attorney for the City of Los Alamitos and provide legal advice and expertise in areas such as general municipal law, land use, labor and personnel law, Brown Act provisions, conflict of interest, and election law to the City. Over the last three fiscal years, the average contract value was approximately \$120,000 per year excluding reimbursable legal costs paid by third parties.

The City is considering a contract with a five (5) year term, terminable by the City upon five (5) days' notice by the City. Upon mutual written agreement of the parties, the contract may be extended for three (3) additional two-year terms.

The City of Los Alamitos, which has a population of 11,729 and is 4.3 square miles, is located in the northwest section of Orange County. The City of Los Alamitos is a Charter City and was incorporated in 1960. The City has a Council-Manager form of government. The City Council is comprised of five members elected bi-annually to four-year alternating terms. The City Council annually elects a Mayor from its members. The City Council appoints the City Manager, who is responsible for the day-to-day administration and management of City business within all City departments. The City employs a staff of approximately fifty full-time employees. The City government is divided into the following departments: City Manager/City Clerk; Administrative Services; Police; Development Services; and Recreation and Community Services.

The City provides many services, including police protection, construction and maintenance of streets and other infrastructure, public improvements, planning and zoning, recreational activities and cultural events, and general administrative and support services. The City contracts with the Orange County Fire Authority for fire protection services.

The City Attorney is appointed by the City Council. The contract for the City Attorney will be supervised by the City Manager. The City Attorney will receive direction from both the City Council and City Manager, but general supervision and direction will be provided by the City Manager.

For more information about the City, please visit the City website at <http://cityoflosalamitos.org>. Regular scheduled Council meetings occur once a month generally on the third Monday. An assigned attorney must also attend West Cities Police Communications ("West-Comm") meetings quarterly and the Planning Commission meetings once a month. It is common for the Council to have special meetings as needed.

Wallin, Kress, Reisman & Kranitz, LLP has provided City Attorney services to the City on a contract basis since 2013.

B. Proposed Time Schedule

<u>Activity</u>	<u>Date*</u>
Initial distribution of RFP package	May16, 2017
Pre-Proposal Conference (Optional)	May 30, 2017 ¹
Proposal closing date and time of 1:00 P.M.	June 13, 2017
Ad Hoc Committee to Interview Top Firms	July18, 2017
City Council to Interview Top Firms	August7, 2017
Ad Hoc Committee Negotiation of Agreement	August14, 2017
City Council Award of Agreement	September18, 2017
Targeted effective date	October1, 2017

*The City reserves the right to modify the proposed tentative time schedule.

¹ There will be an optional pre-proposal conference on May 30, 2017 at 2:00 p.m. in the City Hall Council Chambers to provide an overview of the RFP and address any questions consultants may have. Those that cannot attend the optional pre-proposal conference in person may call (712) 770-4035 (access code: 584473) to participate in the optional pre-proposal conference.

C. Procedures for Submittal

The Proposer is expected to provide all the materials and services that will fulfill or exceed the requirements and conditions as set forth in this RFP. **Responses, consisting of ten copies, are to be delivered in a sealed package(s) to the address below by 1:00 p.m. June 13, 2017:**

Jason Al-Imam, Administrative Services Director
City of Los Alamitos
3191 Katella Ave.
Los Alamitos, CA 90720

It is the responsibility of the Proposer to ensure timely delivery is made and that the Proposal is received by the City (not postmarked) by 1:00 p.m. June 13, 2017. Proposals must be valid for a period of 120 calendar days from the Closing Date and Time of Receipt of Proposals.

II. SCOPE OF SERVICES

The City is requesting full-service law firms with experience advising and representing California municipalities to submit proposals to provide legal services to the City of Los Alamitos. An individual from the firm will be designated as the City Attorney, with other firm attorneys to be available as appropriate. The firm must possess a broad knowledge of municipal law with particular strength in contract law, planning and land use and property acquisition. Familiarity with labor law, tort defense and prosecution is also expected, although the City retains the right to continue retaining specialized counsel.

A. Basic Services Requested

Basic services, for the purpose of this proposal, shall include those legal services generally understood within the field of municipal law to fall within the category of “general counsel” work, and shall include, but not necessarily limited to, the following:

1. Routine legal advice, counsel services, consultation and opinions to City Council, City Manager, Department Heads and/or authorized representatives.
2. Attendance at all City Council meetings including closed sessions. Currently, regular City Council meetings are held on the third Monday of each month.
3. Attendance at City Council Special Meetings and Study Sessions, as required.
4. Attendance at all Planning Commission meetings, including special meetings and study sessions. Currently, regular Planning Commission meetings are held on the fourth Wednesday of each month.
5. Attendance at City staff meetings with the City Manager and Department Heads, as needed.
6. Assistance in the preparation and review of staff reports, ordinances, resolutions, orders, agreements, forms, notices, declarations, certificates, deeds, leases, and other documents required by the City.
7. Serve as legal counsel to bodies as may be created and represented by or for the City and which meet regularly or periodically or on an as-needed basis including, but not limited to, West Cities Police Communications (“West-Comm”) and the Los Alamitos Public Facilities Corporation.
8. Enforcement of city codes, zoning regulations, and building standards through administrative and judicial actions.
9. Assistance with issues related to land use and general and master plan updates.
10. Work with and provide guidance to the City Clerk in carrying out the functions of that office.
11. Monitor pending and current State and Federal legislation, regulations, and case law, as appropriate. Inform City Council and staff and recommend changes to City ordinances and practices, as needed.

12. Ensure that current and future City ordinances, policies, procedures and practices comply with applicable law.
13. Provide training and assist City Council, City Manager and City staff to understand statutes, regulations, ordinances and codes that apply to their respective offices and to assist in ensuring compliance.
14. As requested by the City Manager or City Council, provide litigation support (including monitoring litigation matters affecting the City), or representation in actions, suits, or proceeding in which the City is a party or is legally interested in, as requested.
15. As requested by the City Manager or City Council, provide guidance on City personnel matters, including employee disciplinary and grievance matters.
16. Perform legal work pertaining to property acquisitions, property disposals, public improvements, easements and rights of way.
17. Perform legal work pertaining to the negotiation and preparation of Development Agreements.
18. Provide Mayor and City Council with guidance relative to “Roberts Rules”, “Rosenberg’s Rules”, open meetings, Brown Act, public records, and other related procedural matters.
19. Coordinate the work of outside legal counsel as needed and as directed by the City Council and/or City Manager.

B. Special Services

The law firm selected by the City will also be required to furnish special legal services on an “as needed” basis when directed by the City Manager. The City retains the right to use the services of separate legal counsel for special services as it has historically. Special services may include, but are not limited to employment and personnel matters, training, prosecution services, tort defense, public financing, litigation, etc.

III. PROPOSAL REQUIREMENTS

A. General Requirements

Inquiries concerning this request for proposal must be made to:

Jason Al-Imam
Administrative Services Director
3191 Katella Ave. Los Alamitos, CA 90720
(562) 431-3538, ext. 222
jalimam@cityoflosalamitos.org

B. Proposal Requirements

All Proposals shall include the following information:

I. Transmittal Letter

Please include a brief introduction and history of your firm. Explain why you believe your firm is best qualified to perform City Attorney and legal services to the City of Los Alamitos. A letter to be signed by a member of the firm having the authority to negotiate and execute contracts on behalf of the organization.

II. Company Data and Other Required Information

Please submit the following information:

1. Official firm name and address.
2. Name, telephone number and email address of the proposer's point of contact.
3. Indicate type of entity (partnership, limited liability company, etc.).
4. Federal Employer I.D. Number
5. A detailed statement indicating whether Proposer is totally or partially owned by another business organization or individual.
6. Number of years proposer has been in business under the present business name.
7. Overall capabilities, qualifications, training, and areas of expertise for each of the partners/principals and associates that may be assigned to work with the City, including but not limited to:
 - a. Name of individual(s) with resumes;
 - b. Length of employment with your firm;
 - c. Legal training;
 - d. Scholastic honors and professional affiliations;
 - e. Date of admission to California Bar;
 - f. Years of practice;
 - g. Municipal public sector experience with other cities or entities.
8. Identify the individual that you propose for appointment as City Attorney and indicate the number of years of experience serving as a City Attorney, Assistant City Attorney or comparable position.
9. Identify the individual(s) that you propose as Assistant City Attorney and/or who would be designated as a backup legal representative for the City, in the event of the absence or unavailability of the City Attorney. Please indicate the number of years of experience serving as a City Attorney, Assistant City Attorney or comparable position.
10. Identify the location of the office(s) serving the City. If office hours at City Hall are necessary, please specify the day(s) of week and hours you would be available.

11. Describe the systems/methods that would be utilized to ensure timely responses to the City Council, City Manager and City staff.
12. Identify the types of in-service training (such as AB 1234, commission roles and responsibilities, how to conduct performance evaluations, harassment, etc.) your firm is capable of providing to municipalities.
13. If the firm, or any of the attorneys employed by the firm, have ever been successfully sued for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, please provide the case number(s), information on the nature of the incident, the date on which the matter began and was concluded, and the results of the situation.
14. Prior to commencement of work, the selected party shall provide evidence of insurance in accordance with the required insurance coverage as set forth in Section IV of this RFP titled "INSURANCE REQUIREMENTS". Proposer shall indicate willingness and ability to submit proof of the required insurance coverage prior to execution of the contract.
15. Describe up to three of your firm's most significant and complex accomplishments.
16. The City is a member of West-Comm, a Joint Powers Authority ("JPA"). An assigned attorney will serve as legal counsel to West-Comm. Please describe experience in offering representation for a JPA.

III. Known Conflicts of Interest

The City is involved in various legal matters that may involve other government entities, private businesses, development and construction contracts and other legal firms. Please address the following:

1. Proposer is expected to list all known or potential conflicts of interest that may impact the services provided to the City of Los Alamitos.
2. List any political contributions of money, in-kind services, or loans made to any member of a City Council of any City within the last three years by the applicant law firm and all of its attorneys, (including the attorney being proposed to represent the City of Los Alamitos).
3. List all public agency clients for which you or your firm currently provide services, or are under retainer.
4. List all public agency clients for which you or your firm previously provided services for over the last three years.
5. List all current or former clients residing in, having an interest in a business or owning an interest in property within the City of Los Alamitos within the past three years.

IV. References

Provide three (3) references for which Proposer has provided similar services as set forth in the RFP within the last five (5) years. Include scope of work, when the services were performed and name and telephone number of the principal client contact.

V. Compensation and Reimbursement

Provide a fee schedule for providing legal services within the scope of work as outlined in the proposal and beyond. The fee schedule should include the following:

1. Basic services, for the purpose of this proposal, shall include those legal services generally understood within the field of municipal law to fall within the category of "general counsel" work as described in the Basic Services section above. The firm is expected to provide a system wherein basic services are provided under a fixed monthly retainer.
2. It is expected that special services will be billed at an hourly rate. Special services will include projects where the City Attorney and the City Manager agree the scope of work to be performed requires more than 10 hours to complete. (It is expected that such services would include non-routine services requiring extraordinary research and/or preparation that would be in excess of those covered by the retainer.) Provide hourly rates for these non-routine services as well as hourly rates for prosecution services, Pitchess motion defense, and other litigation.
3. Define the type and unit rates for reimbursement of expenses; for example, rate for mileage, reproduction of documents or word processing charges, and unit costs for telephone costs if any.

VI. Addenda

The City may modify, clarify or interpret the Request for Proposals by sending an addendum to each Firm/Individual(s) that has been issued a proposal package or notified the City of an interest in submitting a proposal. Any such addendum shall become part of the package and of any contract awarded. The City is not responsible for any other explanation or interpretation. A signed copy of the addendum shall be attached to the proposal and submitted as part of the package. Failure to do so may result in a non-responsive submittal.

VII. Agreement

The successful firm will be required to enter into an agreement which will include the requirements of this RFP as well as other requirements. A sample professional services agreement specifying the City's terms and conditions, including insurance requirements, is attached (**Exhibit A**). **Insurance certificates and endorsements must be received by**

the City prior to the consideration of award of contract. Any objections or exceptions to the agreement must be stated in the proposal. Any submission of a proposal without objection to the agreement indicates understanding and intention to comply with the agreement. If there is a term or condition in the agreement that the firm intends to negotiate, it must be stated in the proposal. The successful firm will not be entitled to any changes or modifications unless they were first stated in the proposal. The City reserves the right to reject any proposal(s) containing exceptions or modifications to the agreement. The City may revise the stated terms and conditions prior to execution.

IV. EVALUATION PROCEDURES

Proposals will be screened and ranked by an Ad Hoc Committee appointed by the City Council. The qualifications for the top candidates will be verified and references will be checked. In reviewing the proposals, the following factors will be weighed:

- a) Depth and breadth of experience and expertise in the practice of law, most specifically in those areas most often encountered in municipal government operations;
- b) Capability to perform legal services promptly and in a manner that permits the City Council and staff to meet established deadlines and to operate in an effective and efficient manner;
- c) Degree of availability for quick response to inquiries that arise out of day-to-day operating questions or problems;
- d) Cost of services; and
- e) Other qualifications/criteria as deemed appropriate by the City Council.

Proposals will be screened and ranked by the Ad Hoc Committee. During the evaluation process, the City reserves the right, where it may serve the City's best interest, to request additional information or clarification from proposing firms, or to allow corrections of errors or omissions. References and qualifications of the top firms will be verified. The City Council will conduct interviews of the top candidates and make the final selection. Please note that in an effort to maintain the integrity of the interview process all proposing firms are prohibited from contact with the City Council members outside of the formal interview process.

An Ad Hoc Committee appointed by the City Council will negotiate the terms and conditions of a contract with the individual or law firm selected.

V. INQUIRIES

All requests for information, questions and correspondence should be directed to Jason Al-Imam, Administrative Services Director at (562) 431-3538 ext. 222 or emailed to jalimam@cityoflosalamitos.org. **Any communications, whether written or verbal, with any City Councilmember, City staff or City contractor other than the individual indicated above, prior to award of a contract by City Council, is strictly prohibited and the Proposer shall be disqualified from consideration.**

VI. ADOPTED ANNUAL BUDGETS AND COMPREHENSIVE ANNUAL FINANCIAL REPORTS

The City's Adopted Annual Budgets and Comprehensive Annual Financial Reports for the past eight (8) years are available on the City's website at http://cityoflosalamitos.org/?page_id=534.

ATTACHMENT:

EXHIBIT A SAMPLE PROFESSIONAL SERVICES AGREEMENT

PROFESSIONAL SERVICES AGREEMENT
(City of Los Alamitos/**Name of Consultant**)

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of Los Alamitos, a municipal corporation (“City”), and _____, a _____ (“Consultant”).

Commented [A1]: _____ [enter consultant (company's) name] a _____ [insert consultant's state of incorporation], _____ [enter consultant's legal status e.g., individual, partnership, corporation, nonprofit public benefit corporation, limited liability company]

2. RECITALS

- 2.1 City has determined that it requires the following professional services from a consultant: _____
- 2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

Commented [A2]: 2.1 _____ [insert description of consultant's services].

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

3. DEFINITIONS

- 3.1 “Scope of Services”: Such professional services as are set forth in Consultant’s _____ proposal to City attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2 “Approved Fee Schedule”: Such compensation rates as are set forth in Consultant’s _____ fee schedule to City attached hereto as Exhibit B and incorporated herein by this reference.
- 3.3 “Commencement Date”: _____.
- 3.4 “Expiration Date”: _____.

Commented [A3]: [enter consultant's proposal date]

Commented [A4]: [insert date fee schedule submitted to City]

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the parties or terminated earlier in accordance with Section 17 (“Termination”) below.

5. CONSULTANT'S SERVICES

- 5.1 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2 Consultant shall perform all work to the highest professional standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*).
- 5.3 During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) City has not consented in writing to Consultant's performance of such work.
- 5.4 Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. _____ shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.

Commented [A5]: **[enter name of project administrator]**

6. COMPENSATION

- 6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule and Section 5.1 of this Agreement above.
- 6.2 Consultant shall submit to City, an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. The invoice shall itemize the services rendered during the billing period and the amount due. Within ten business days of receipt of the invoice, City shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty calendar days of receipt of the invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant unless otherwise required by law.

7. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material (“written products” herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon use or dissemination by City. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

8. RELATIONSHIP OF PARTIES

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant’s employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.

Under no circumstances shall Consultant look to City as its employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant’s (or its principal’s) previously earned PERS retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation.

9. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data shall be returned to City upon the termination or expiration of this Agreement.

10. INDEMNIFICATION

- 10.1 The parties agree that City, its officers, agents, employees and volunteers should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, taxes, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide City with the fullest protection possible under the law. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.
- 10.2 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and when City requests with respect to a claim, provide a deposit for the defense of, and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, and injury to any property arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of City. Such costs and expenses shall include reasonable attorneys' fees due to counsel of City's choice, expert fees and all other costs and expenses of litigation.
- 10.3 City shall have the right to offset against any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly, any indemnification arising under this Section 10 and any amount due City from Consultant arising from Consultant's failure to (i) pay taxes on amounts received pursuant to this Agreement; (ii) satisfy obligations to any governmental entity, or (iii) comply with applicable workers' compensation laws.

- 10.4 The obligations of Consultant under this Section 10 are not limited by the provisions of any workers' compensation statute or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.
- 10.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations from others as required herein, or if such agreements prove to be inadequate to protect City for any reason, Consultant agrees to be fully responsible and to indemnify, hold harmless and defend City, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.
- 10.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies apply to the claim, demand, damage, liability, loss, cost or expense.

11. INSURANCE

- 11.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:
- 11.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) for each occurrence and in the aggregate for any personal injury including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, death, loss underground hazard, and explosion and collapse hazard where applicable. General Liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents, and other persons necessary or incidental to its

Professional Services Agreement
City of Los Alamitos/*Name of Consultant*

operation are insureds. Coverage shall be at least as broad as Insurance Services Office form number GL 0002 (Ed. 01/96) covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001 (Ed. 01/96).

Commented [A6]: 11.1.1
[If consultant is a limited liability company, insert “General Liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents, and other persons necessary or incidental to its operation are insureds.”]

- 11.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident. Coverage shall be at least as broad as the coverage described in Insurance Services Office Form Number CA 0001 (Ed. 12/93) covering Automobile Liability, Code 1 “any auto”, or Code 2 “owned autos” and Endorsement CA 0025. Coverage shall also include Code 8 “hired autos” and Code 9 “nonowned autos.”
- 11.1.3 Worker’s Compensation insurance if and as required by the laws of the State of California.
- 11.1.4 Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000).
- 11.2 Consultant shall require each of its subcontractors to maintain insurance coverages that meet all of the requirements of this Agreement.
- 11.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best’s Insurance Guide.
- 11.4 Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, City may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay the premium(s) thereon at Consultant’s expense.
- 11.5 At all times during the term of this Agreement, Consultant shall maintain on file with City’s Risk Manager a certificate or certificates of insurance showing that the policies required by this Agreement are in effect in the required amounts and naming City and its officers, employees, agents and volunteers as additional insureds. Consultant shall file with City’s Risk Manager such certificate(s) prior to commencement of work under this Agreement.
- 11.6 Consultant shall provide proof to City’s Risk Manager that policies of insurance required herein expiring during the term of this Agreement have been renewed or

replaced with other policies providing at least the same coverage at least two weeks prior to the expiration of the coverages.

- 11.7 The general liability and automobile policies of insurance required by this Agreement shall contain endorsements naming City and its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- 11.8 The insurance provided by Consultant shall be primary to any other coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 11.9 All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.
- 11.10 Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.
- 11.11 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 10 of this Agreement.

12. MUTUAL COOPERATION

- 12.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 12.2 If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

13. RECORDS AND INSPECTIONS

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

14. PERMITS AND APPROVALS

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.

15. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:
City of Los Alamitos
3191 Katella Ave.
Los Alamitos, CA 90720
Attn: Jason Al-Imam
Telephone: (562) 431-3538 x222
Facsimile: (562) 493-0678

If to Consultant:
Name of Consultant
Street Address or P.O. Box
City, State Zip Code
Telephone: (____) _____
Cell Phone: (____) _____

16. SURVIVING COVENANTS

The parties agree that the covenants contained in Section 9, Section 10, Paragraph 12.2 and Section 13 of this Agreement shall survive the expiration or termination of this Agreement.

17. TERMINATION

17.1. City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant may terminate this Agreement for any reason on thirty calendar days' written notice to City. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be

returned to City upon the termination or expiration of this Agreement.

- 17.2 If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

18. (N/A)

19. **GENERAL PROVISIONS**

- 19.1 Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 19.2 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability medical condition or any other unlawful basis.
- 19.3 The captions appearing at the commencement of the sections hereof, and in any sub-paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph at the head of which it appears, the section or paragraph, and not such heading, shall govern construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular and vice versa, in any place or places herein in which the context requires such substitution(s).
- 19.4 The waiver by City or Consultant of any breach of any term, covenant or condition of this Agreement shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition of this Agreement. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in a writing signed by one authorized to bind the party asserted to have consented to the waiver.
- 19.5 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

- 19.6 Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. If legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether or not reduced to judgment, shall be entitled to its reasonable court costs, including any accountants' and attorneys' fees incurred in such action. The venue for any litigation shall be Orange County, California and Consultant hereby consents to jurisdiction in Orange County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.
- 19.7 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.
- 19.8 This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 19.9 All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between the parties with respect to the transactions contemplated herein. No prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Consultant.

Professional Services Agreement
City of Los Alamitos/**Name of Consultant**

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Los Alamitos

“Consultant”
Name of Consultant or Consultant Company

By: _____
Name and title of individual

By: _____
Name and title of individual

Date: _____

Date: _____

By: _____
Name and title of individual

Date: _____

Commented [A7]:
Note that it takes two signatures to bind a corporation. If a Consultant does not wish to provide a second signature, the City can accept one signature and a resolution of the Board of Directors of the corporation, with two signatures on the resolution, authorizing the person who signed the agreement to sign for and bind the corporation.

Attest:

By: _____
Windmera Quintanar, CMC, City Clerk

Date: _____

Approved as to form:

By: _____
Cary S. Reisman, City Attorney

Date: _____

EXHIBIT A
SCOPE OF WORK

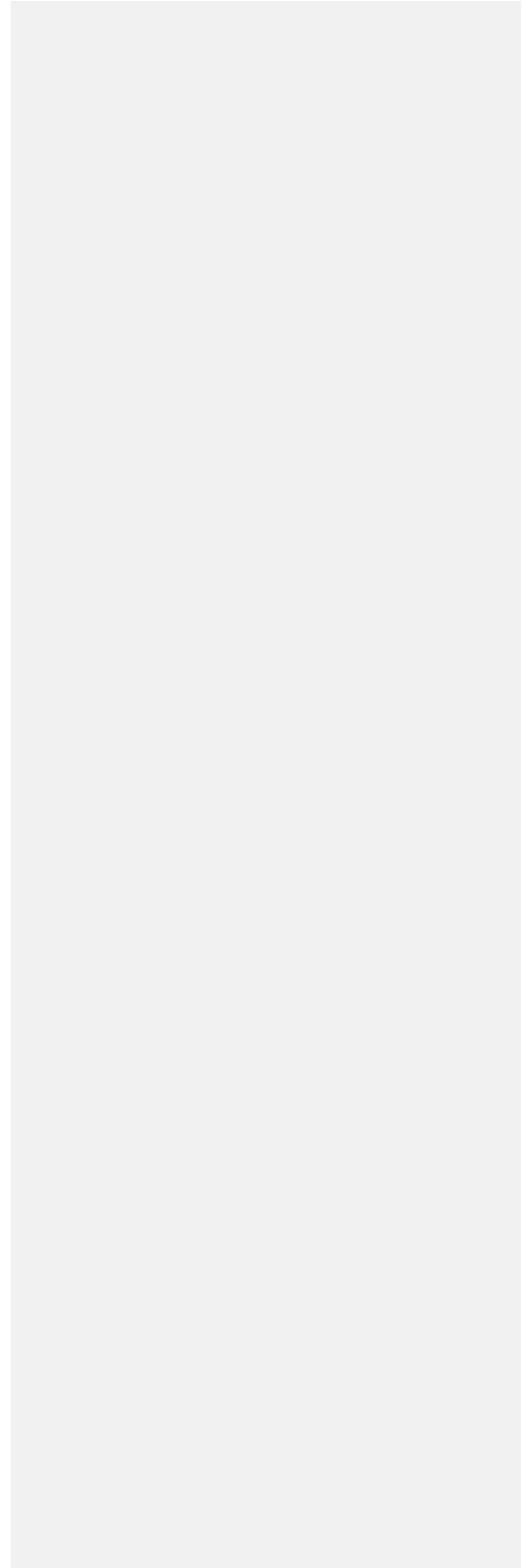


EXHIBIT B
APPROVED FEE SCHEDULE

