

**Request for Proposals (RFP) for  
City Attorney and Legal Services**



City of Grand Terrace  
City Manager's Office  
Attention: Cynthia A. Fortune,  
Assistant City Manager  
22795 Barton Road  
Grand Terrace, California, 92313-5295

(951) 824-6621 x216

(951) 824-6623 FAX

## **I. Introduction**

### **A. The Community**

The City of Grand Terrace is located in San Bernardino County, five miles south of the City of San Bernardino, and seven miles northeast of the City of Riverside. Grand Terrace is a city that provides a wide range of services to its approximately 13,000 residents. Grand Terrace is an exceptionally safe and well managed City, known for its natural beauty and recreational opportunities, a vibrant and diverse local economy; a place where residents enjoy an outstanding quality of life that fosters pride and an engaged community, encouraging families to come and remain for generations. It is home to two elementary schools, one middle school and its recently added high school. Grand Terrace enjoys a low level of crime through public safety services provided by the San Bernardino Sheriff's Department and abiding citizenry. Grand Terrace embodies the best qualities of a charming small town while maintaining access to the broader amenities of city life being in the center of the Inland Empire. Access to shopping centers, movie theaters and a wide range of restaurants are only a few minutes away.

### **B. The City Organization**

The City of Grand Terrace is a general law City, governed by a five-member City Council elected at-large by the citizens of Grand Terrace and serve staggered four-year terms. The Mayor is separately elected at-large. Each year, the City Council elects a Mayor Pro-tem. The City Council sets policy for the City and operates under the Council/City Manager form of government. The Grand Terrace City Council meets on the second and fourth Tuesdays of each month beginning at 6:00pm.

The City Council is responsible for passing City ordinances, resolutions, adopting an annual budget, appointing commissions and committees, and setting policy, among other things. The City Council appoints the City Manager. The City Manager appoints the heads of the various departments and other City Staff. The City has approximately 20 full-time employees. City Hall operating hours are Monday through Friday from 8:00am to 5:00pm.

## **II. City Attorney and Scope of Services**

### **A. General Description**

The City of Grand Terrace is soliciting proposals from qualified attorneys and/or law firms interested in providing City Attorney services. The selected attorney or law firm will be expected to provide a wide range of services to the City. In addition to general counsel, the City is seeking specialized services in the following areas: personnel matters, redevelopment dissolution, land use, CEQA, environmental/regulatory issues associated with water and wastewater operations and litigation. The City will consider proposals ranging from individual attorneys offering general counsel coupled with outsourced specialized services to law firms capable of providing general and specialized legal services. The City reserves the right to continue the use of specialized legal services at its sole and entire discretion as it deems appropriate.

The City Attorney is selected by and serves at the pleasure of the City Council. The City Attorney is expected to work closely with the City Council, City Manager and staff.

## **B. Scope of Services**

The successful attorney will be expected to provide services including but not limited to the following:

1. Represent and advise the City Council, City Manager and officers in all matters of law pertaining to their office. Give advice and opinions on the legality of all matters under consideration by the City Council or by any of the boards, commissions or officers of the City.
2. Act as legal counsel to agencies, commissions and boards for which the City Council serves as governing body, including the Successor Agency to the former Redevelopment Agency of the City of Grand Terrace and its Oversight Board, the City's Planning Commission, the Housing Successor Agency and the Grand Terrace Public Finance Authority.
3. Attend and represent the City's legal interests at City Council meetings, commission meetings, workshops and other meetings as specified by the City. The City Attorney will attend two council meetings per month, Planning Commission meetings and other meetings as needed. Regular council meetings are held the second and fourth Tuesdays of the month at 6:00 p.m.
4. Provide legal opinions, advice, assistance and consultation to the City Council, City Manager and city staff. The range of services routinely requested of the City Attorney include, but are not limited to, the following areas of municipal law:
  - a. the Brown Act;
  - b. the Public Records Act;
  - c. conflicts of interest;
  - d. election law;
  - e. contracts and franchises;
  - f. acquisition, disposal, and resolution of real estate, easements, rights-of-way, leases, licenses, and other property transactions;
  - g. land use, development and environmental law (CEQA);
  - h. public works/capital contracts and related requirements of the California Uniform Construction Cost Accounting Code;
  - i. personnel and disability laws;
  - j. employee relations and labor negotiations;
  - k. water, wastewater and storm-water regulations and mandates;
  - m. fee collection, cost recovery, and rate-making governed by:
    - Propositions 26 (Supermajority to Pass New Taxes and Fees Act);
    - Proposition 218 (Right to Vote on Taxes Act); and
    - other State and Federal requirements;
  - n. code enforcement;
  - o. pending and current state and federal legislation and court decisions;
  - p. tort liability and risk management;
  - q. fees, taxes and assessments;
  - r. New Market Tax Credits;

- s. Enhanced Infrastructure Financing District (EIFD);
  - t. redevelopment dissolution;
  - u. legal matters related to the purchase agreements, water sales, compliance instruments, and other products or instruments required by the City.
5. Provide training and advice to the City Council, appointed commissioners and staff related to the Brown Act, AB1234, conflicts of interest and other legal requirements imposed by statute.
  6. Review, approve and prepare ordinances, resolutions, staff reports, contracts, deeds, leases and other legal documents required by the City.
  7. Represent the City in civil litigation brought on behalf of or against the City as necessary and directed by the City Council.
  8. Perform such other legal duties as may be required to complete the performance of the functions mentioned above.

### **III. Submittal Guidelines and Required Information**

#### **A. General Information**

Attorneys or firms interested in submitting proposals for City Attorney services shall submit six (6) paper copies and one digital copy of the complete proposal to:

City of Grand Terrace  
Attention: Cynthia A. Fortune, Assistant City Manager  
22795 Barton Road  
Grand Terrace, CA 92313-5295

Proposals may be submitted in person at Grand Terrace City Hall or by mail, but must be received in the City Manager's Office by **Friday, April 13, 2018**. All proposals will be retained by the City of Grand Terrace.

The City reserves the right to reject all proposals, to request additional information concerning any proposal for purposes of clarification, to accept or negotiate modifications to any proposal following the deadline for receipt, and to waive any irregularities if such would serve the best interest of the City, as determined by the City.

Proposals will not be opened publicly; the City will endeavor to keep the proposals confidential until a preferred service provider is identified by the City Council for final consideration. The original copy of each proposal will be retained and will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law.

The City requires all proposers to comply with all applicable federal and state laws including but not limited to equal employment opportunity. Contracts are open to all persons without regard to race, religion, color, national origin, sex, age, marital status, handicap or political affiliation.

Pre-submittal questions about the RFP and City's current and/or future legal services will be accepted until **Friday, March 23, 2018**. Such inquiries should be directed to and sent via e-mail to:

Cynthia A. Fortune, Assistant City Manager  
E-mail: [cfortune@grandterrace-ca.gov](mailto:cfortune@grandterrace-ca.gov).

Responses to all questions will be confidentially emailed to all individuals/firms that have indicated that they will be responding to the RFP as of March 20, 2018.

### **B. Proposal Format and Requested Information**

All proposals must contain specific and succinct answers to all questions and requests for information. Please answer the questions in the format and order presented. Note: resumes will not be considered responsive to any specific question.

1. Letter of Transmittal: Include a brief introduction and history of attorney and/or firm submitting the proposal. Also include your understanding of the work to be performed. State why proposer is qualified to perform the services requested.
2. Title page: Include the attorney or firm name, address, telephone number, principal contact and email address.
3. Table of Contents: Include clear identification of materials by section and page number.
4. Describe qualifications for serving as City Attorney and providing associated general and specialized legal services. Include in your response:
  - a. names and resumes of individuals who may be assigned work;
  - b. employment history;
  - c. specialization;
  - d. legal training;
  - e. date of admittance to the California Bar;
  - f. years of practice;
  - g. municipal or other local public-sector experience;
  - h. knowledge of and experience with California Municipal Law;
  - i. knowledge of and experience with areas of law identified in section II.B.4 above;
  - j. litigation experience and track record;
  - k. if any of the attorneys listed in the proposal have been successfully sued for malpractice, been the subject of complaints filed with the State Bar, or had discipline imposed by the State Bar, provide information on the nature of the incident, the dates on which the matter began and concluded, and results.
5. List specialty services you do not provide and detail how you propose the City to receive such services.
6. Specify the individual you propose for the appointment of City Attorney and identify the individual(s) proposed to serve in the absence of the City Attorney and why.
7. Identify the intended office location and accessibility to the City's needs,

- including proposed office hours at City Hall, if any.
8. Describe the systems/mechanisms that will be established to ensure timely responses to the City Council, City Manager and staff. Identify the response time the City can expect under your proposal.
  9. Describe the systems and procedures that will be established to report the status of projects, agenda items, inquiries, research and litigation.
  10. Provide samples of the types of reports that will be submitted to the City Council and City Manager. (You may redact sensitive information and costs if contained in the sample).
  11. Describe the staffing in your office, including permanent and temporary employees, their general duties and work schedules. Include information on any changes that will be made with the award of this contract.
  12. The City will require monthly invoices and itemized statements for all services. Describe how you will provide for this reporting. Provide a sample.
  13. Describe the types of training you are capable of providing to the City.
  14. It is anticipated the City will expect the selected proposer to provide a plan whereby "general" services are provided under a fixed monthly retainer and any additional "specialized" services are billed at pre-negotiated hourly rates. Please address the following:
    - a. Define "general" legal services. Will all general services be included in the monthly retainer?
    - b. Define "specialized" legal services and describe how these services will be billed. How are these services differentiated from general legal services?
    - c. Are there "extra" legal services? If so identify what they are and explain how these services will be billed.
  15. Provide a minimum of three municipal (preferred) or public agency references for which services have been provided within the past three years. Include the name, title, agency, telephone number and email address for each reference.
  16. Additional information may be provided and will be considered, particularly if this information distinguishes one proposer from another.
  17. How does your firm conduct performance evaluations for assigned City Attorney services? What input will the City Council have on the evaluation of the assigned City Attorney? At end of the 2<sup>nd</sup> year, should City Council determine that the assigned City Attorney needs to be replaced, what are the firm's protocols in complying/doing so?

#### **IV. Schedule and Evaluation of Proposals**

The following schedule has been established for the solicitation and review of proposals to provide legal services to the City of Grand Terrace:

<u>Description</u>	<u>Date</u>
RFP Release Date	March 9, 2018
Deadline to indicate interest in submitting a proposal	March 20, 2018

<u>Description</u>	<u>Date</u>
Deadline to Submit Questions	March 23, 2018
Proposal Submission Deadline	April 13, 2018
Review of Proposals	April 13 – May 4, 2018
Interview with Finalists	May 15, 2018
Award of Contract	June 12, 2018
Contract Effective Date	July 1, 2018

The City reserves the right to modify any of the dates in the schedule as deemed necessary.

Proposals will be evaluated on the following factors:

1. Responsiveness to the information requested in the RFP;
2. The proposed City Attorney is properly licensed to practice law in the State of California;
3. The proposed City Attorney has identified any potential conflicts of interest which may arise with regard to any work performed for the City, and has identified a viable solution for the resolution of such conflicts;
4. Understanding of the scope of services required;
5. Proposed solutions to the specific legal needs of the City of Grand Terrace;
6. Depth and breadth of experience and expertise in the practice of law, most specifically in those areas most often encountered in municipal government operations;
7. Range and quality of services provided by the proposer;
8. Capability to perform legal services promptly and in a manner that permits the City Council, City Manager and staff to meet established deadlines and to operate in an effective and efficient manner;
9. Degree of availability for quick response to inquiries that arise out of day-to-day operating questions and problems;
10. Degree to which proposer remains current through continued professional development and active communication with practitioners in the municipal law field;
11. Communication skills;
12. References; and
13. Cost of services.

The top-ranked proposers will be requested to attend a meeting with the City Council and City Manager to be interviewed. The interviews will allow the proposers an opportunity to answer any questions the Council may have regarding their proposals. Participation in the interviews will be at no cost to the City. The City Council will make the final determination of the successful attorney or firm. Please note that in an effort to maintain the integrity of the interview process, all proposers are prohibited from contacting the City Council Members outside of the formal interview process.

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 proposers, or to allow corrections of errors or omissions. In addition, qualifications and references of the top candidates will be verified. The City reserves the right to verify any information contained in

proposals, including references, resumes, etc. The City reserves the right to investigate and research proposals, including facts and opinions that could be helpful in evaluating the capabilities of proposers, whether or not they were specifically included in the proposals.

## **V. Award of Contract**

Award of contract will be to the attorney or firm whose proposal best complies with all requirements of the RFP documents and which provides the best fit for the needs of Grand Terrace. The successful proposer will be required to enter into a Professional Services Agreement with the City of Grand Terrace and meet all requirements of said agreement. The City reserves the right to negotiate the price, terms and scope of services with the proposer prior to entering into an agreement. The Agreement will contain provisions requiring the selected proposer to indemnify the City and provide that the City Attorney is an independent contractor serving at the will of the City Council. Provisions will also be included in the agreement allowing the City Council to terminate the agreement, at its sole and entire discretion, upon provision of notice.

The City is considering a contract with a term of three (3) years. Upon mutual written agreement of the parties, the contract may be extended for additional terms. Successful past performance during the initial contract period will be a critical factor in any decision to grant an extension.

## **VI. Other Proposal Information**

Acknowledgement of Amendments. Each proposer shall acknowledge receipt of any amendment to this RFP by signing and returning the amendment with the completed proposal. The acknowledgement must be received by the City of Grand Terrace at the time and place specified for receipt of proposals.

Applicable Laws Shall Apply. The contract awarded shall be governed in all respects by the laws of the State of California, and any litigation with respect thereto shall be brought in the courts of the State of California. The company awarded the contract shall comply with applicable Federal, State, and local laws and regulations.

Expenses Incurred. There is no expressed or implied obligation for the City of Grand Terrace to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt. Any language purporting to render the entire proposal confidential or proprietary will be ineffective and disregarded.

Late Submissions. Proposals received after the time specified for receipt will not be accepted or considered.



Nonconforming Terms and Conditions. Any proposal that includes terms and conditions that do not conform to the terms and conditions in this RFP is subject to rejection as non-responsive. The City of Grand Terrace reserves the right to permit the respondent to withdraw non-conforming terms and conditions from its proposal prior to action by the City of Grand Terrace City Council to award a contract.

Withdrawal of Proposal. Respondents may withdraw all or any portion of a proposal at any time during and after the review and award process, up to ratification of an agreement between the City of Grand Terrace and the proposer.

Withdrawal of Request for Proposal. The City of Grand Terrace retains at all times the right to cancel or withdraw this RFP, to refuse to accept a proposal from any respondent, and to modify or amend any portion of this RFP.

## **VI. Agreement and Insurance Requirements:**

The City's standard Professional Services Agreement and insurance requirements will be utilized. The Professional Services Agreement must be signed prior to the contract being agendized for action by the City Council.

Attachments: City of Grand Terrace Standard Professional Services Agreement

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## **AGREEMENT FOR CONSULTANT SERVICES**

THIS AGREEMENT ("Agreement") is made as of this \_\_\_\_ day of July, 2018 by and between the CITY OF GRAND TERRACE ("City") and \_\_\_\_\_ ("Consultant").

1. **CONSULTANT'S SERVICES.** Consultant agrees to perform during the term of this Agreement, the tasks, obligations, and services set forth in the "Scope of Services" attached to and incorporated into this Agreement as Exhibit "A" (the "Services").
2. **TERM OF AGREEMENT.** The initial term of this Agreement shall be for \_\_\_\_\_ years, commencing on July \_\_, 2018 and ending on June \_\_, 20\_\_, unless otherwise terminated pursuant to the provision herein. A maximum of two one-year extension terms may be granted by City Council, provided that the Scope of Services, Compensation, terms and conditions are not changed.
3. **FAMILIARITY WITH WORK.** By execution of this Agreement, Consultant warrants that
  - (1) It has thoroughly investigated and considered the work to be performed, based on all available information.
  - (2) It carefully considered how the work should be performed, and
  - (3) It fully understands the difficulties and restrictions attending the performance of the work under this Agreement.
  - (4) It has the professional and technical competency to perform the work and the production capacity to complete the work in a timely manner with respect to the schedule included in the scope of services.
4. **PAYMENT FOR SERVICES.** City shall pay for the services performed by Consultant pursuant to the terms of this Agreement, the compensation set forth in the "Schedule of Compensation" attached to and incorporated into this Agreement as Exhibit "B."
5. **TIME FOR PERFORMANCE.** Consultant shall not perform any work under this Agreement until (a) Consultant furnishes proof of insurance as required under Paragraph "8" of this Agreement. All services required by Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.
6. **DESIGNATED REPRESENTATIVE.** Consultant hereby designates \_\_\_\_\_

\_\_\_\_\_ as the City Attorney Representative, and said Representative shall be responsible for job performance, negotiations, contractual matters, and coordination with the City. Consultant's professional services shall be actually performed by, or shall be immediately supervised by, the Consultant Representative.

7. **HOLD HARMLESS; INDEMNIFICATION.** Consultant hereby agrees to protect, indemnify and hold City and its employees, officers and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees and other expenses incurred by the City arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the City, death or damages to property (including property of the City) and without limitation by enumeration, all other claims or demands of every character occurring or arising directly out of the negligent acts, recklessness or willful misconduct of Consultant in the performance of its services under this Agreement. This provision is not intended to create any cause of action in favor of any third party against Consultant, or the City or to enlarge in any way the Consultant's liability but is intended solely to provide for indemnification of the City for liability for damages or injuries to third persons or property arising from Consultant's negligent performance hereunder.
8. **INSURANCE.** Consultant shall procure and maintain at all times during the term of this Agreement insurance as set forth in Exhibit "C" attached hereto. Proof of insurance shall consist of a Certificate of Insurance provided on IOS-CGL form No. CG 0001 II 85 or 88 executed by Consultant's insurer and in a form approved by, the City's City Attorney and City's Legal Counsel.
9. **LICENSES, PERMITS, AND FEES.** Consultant shall obtain a City of Grand Terrace Business License and any and all other permits and licenses required for the services to be performed under this Agreement.
10. **INDEPENDENT CONTRACTOR STATUS.** City and Consultant agree that Consultant, in performing the Services herein specified, shall act as an independent Contractor and shall have control of all work and the manner in which it is performed. Consultant shall be free to contract for similar services to be performed for other entities while under contract with City. Consultant is not an agent or employee of City and is not entitled to participate in any pension plan, insurance, bonus or similar benefits City provides for its employees. Consultant shall be responsible to pay and hold City harmless from any and all payroll and other taxes and interest thereon and penalties, therefore, which may become due as a result of services performed hereunder.
11. **ASSIGNMENT.** This Agreement is for the specific services with Consultant as set forth herein. Any attempt by Consultant to assign the benefits or burdens of this Agreement without written approval of City is prohibited and shall be null and void;

except that Consultant may assign payments due under this Agreement to a financial institution.

12. STANDARD. Consultant agrees that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily provided by an experienced and competent professional organization rendering the same or similar services. Consultant shall re-perform any of said services, which are not in conformity with standards as determined by the City.
13. CONFIDENTIALITY. Consultant covenants that 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 written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.
14. RECORDS AND INSPECTIONS. Consultant shall maintain full and accurate records with respect to all services and matters covered under this Agreement. City shall have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings and activities. Consultant shall maintain an up-to-date list of key personnel and telephone numbers for emergency contact after normal business hours.
15. OWNERSHIP OF CONSULTANT'S WORK PRODUCT. All reports, documents, all analysis, computations, plans, correspondence, data, information, computer media, including disks or other written material developed and/or gathered by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Such Material shall not be the subject of a copyright application by Consultant. Any re-use by City of any such materials on any project other than the project for which they were prepared shall be at the sole risk of City unless City compensate Consultant for such use. Such work product shall be transmitted to City within ten (10) days after a written request therefore. Consultant may retain copies of such products.
16. NOTICES. All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

City: G. Harold Duffey, City Manager  
City of Grand Terrace  
22795 Barton Road  
Grand Terrace, CA 92313

Consultant:

If the name of the principal representative designated to receive the notices, demands or communications, or the address of such person, is changed, written notice shall be given within five (5) working days of said changes

17. TAXPAYER IDENTIFICATION NUMBER. Consultant shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W - 9, as issued by the Internal Revenue Service.
18. APPLICABLE LAWS, CODES AND REGULATIONS. Consultant shall perform all services described in accordance with all applicable laws, codes and regulations required by all authorities having jurisdiction over the Services. Consultant agrees to comply with prevailing wage requirements as specified in the California Labor Code, Sections 1770, et seq.
19. RIGHT TO UTILIZE OTHERS. City reserves the right to utilize others to perform work similar to the Services provided hereunder.
20. BENEFITS. Consultant will not be eligible for any paid benefits for federal, social security, state workers' compensation, unemployment insurance, professional insurance, medical/dental, retirement PERS or fringe benefits offered by the City of Grand Terrace.
21. PERS ELIGIBILITY INDEMNITY. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("PERS") to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

22. TRAVEL EXPENSES. Any reimbursement expenses must be pre-authorized and

shall be based upon the approved rates of the San Bernardino County Auditor Controller.

23. CONFLICT OF INTEREST. Consultant agrees that any conflict or potential conflict of interest shall be fully disclosed prior to execution of contract and Consultant shall comply with all applicable federal, state and county laws and regulations governing conflict of interest.
24. POLITICAL ACTIVITY/LOBBYING CERTIFICATION. Consultant may not conduct any activity, including any payment to any person, officer, or employee of any governmental agency or body or member of Congress in connection with the awarding of any federal contract, grant, loan, intended to influence legislation, administrative rulemaking or the election of candidates for public office during time compensated under the representation that such activity is being performed as a part of this Agreement.
25. NON-DISCRIMINATION. 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, national origin, ancestry, age physical or mental handicap, medical condition, or sexual orientation. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.
26. AUDIT OR EXAMINATION. Consultant shall keep all records of funds received from City and make them accessible for audit or examination for a period of three years after final payments are issued and other pending matters.
27. MODIFICATION OF AGREEMENT. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties.
28. WAIVER. If at any time one party shall waive any term, provision or condition of this Agreement, either before or after any breach thereof, no party shall thereafter be deemed to have consented to any future failure of full performance hereunder.
29. COVENANTS AND CONDITIONS. Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.
30. RIGHT TO TERMINATE. City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty (30) days written notice.
31. EFFECT OF TERMINATION. Upon termination as stated in Paragraph "31" of this Agreement, City shall be liable to Consultant only for work performed by

Consultant up to and including the date of termination of this Agreement, unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant shall be entitled to payment for work satisfactorily completed to date, based on proration of the monthly fees set forth in Exhibit "B" attached hereto. Such payment will be subject to City's receipt of a close-out billing.

32. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of San Bernardino. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.
34. **LITIGATION FEES.** Should litigation arise out of this Agreement for the performance thereof, the court shall award costs and expenses, including attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid and/or incurred in good faith. "Prevailing Party" shall mean the party that obtains a favorable and final judgment or order from a court of law described in paragraph "33." This paragraph shall not apply and litigation fees shall not be awarded based on an order or otherwise final judgment that results from the parties' mutual settlement, arbitration, or mediation of the dispute.
35. **SEVERABILITY.** If any provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions nevertheless will continue in full force and effect without being impaired or invalidated in any way.
36. **FORCE MAJEURE.** The respective duties and obligations of the parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.
37. **INTEGRATED AGREEMENT.** This Agreement, together with Exhibits "A," "B," and "C" supersede any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representation by any party, which is not embodied herein, nor any other agreement; statement or promise not contained in this Agreement shall be valid and binding. Any modification of the Agreement shall be effective only if it is in writing and signed by all parties.



Dated: \_\_\_\_\_

"CITY"

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
City Attorney

Dated: \_\_\_\_\_

"CONSULTANT"

By: \_\_\_\_\_  
Authorized Representative

**EXHIBIT "A"**

**SCOPE OF SERVICES**

**A. LEGAL SERVICES**

**EXHIBIT "B"**

**SCHEDULE OF COMPENSATION**

A. CONSULTANT SCHEDULE/RATES

B. BILLING

C. METHOD OF PAYMENT

## EXHIBIT "C"

The Consultant shall maintain throughout the duration of the term of the Agreement, liability insurance covering the Consultant and, with the exception of Professional Liability Insurance, designating City and City including its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants, as additional insured against any and all claims resulting in injury or damage to persons or property (both real and personal) caused by any aspect of the Consultant's work, in amounts no less than the following and with such deductibles as are ordinary and reasonable in keeping with industry standards. It shall be stated, in the Additional Insured Endorsement, that the Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage, or self-insurance maintained by the City and City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory.

Professional Liability Insurance  
\$1,000,000/\$2,000,000  
General Liability:

- |    |                                  |             |
|----|----------------------------------|-------------|
| a. | General Aggregate                | \$2,000,000 |
| b. | Products Comp/Op Aggregate       | \$2,000,000 |
| c. | Personal & Advertising Injury    | \$1,000,000 |
| d. | Each Occurrence                  | \$1,000,000 |
| e. | Fire Damage (any one fire)       | \$ 50,000   |
| f. | Medical Expense (any one person) | \$ 5,000    |

Workers' Compensation:

- |    |                            |                  |
|----|----------------------------|------------------|
| a. | Workers' Compensation      | Statutory Limits |
| b. | EL Each Accident           | \$1,000,000      |
| c. | EL Disease - Policy Limit  | \$1,000,000      |
| d. | EL Disease - Each Employee | \$1,000,000      |

Automobile Liability

- a. Any vehicle, combined single limit \$1,000,000

The Consultant shall provide thirty (30) days advance notice to City in the event of material changes or cancellation of any coverage. Certificates of insurance and additional insured endorsements shall be furnished to City thirty (30) days prior to the effective date of this Agreement. Refusal to submit such certificates shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement. If proof of insurance required under this Agreement is not delivered as required or if such insurance is canceled and not adequately replaced, City shall have the right but not the duty to obtain replacement insurance and to charge the

Consultant for any premium due for such coverage. City has the option to deduct any such premium from the sums due to the Consultant.

Insurance is to be placed with insurers authorized and admitted to write insurance in California and with a current A.M. Best's rating of A-:VII or better. Acceptance of insurance from a carrier with a rating lower than A-:VII is subject to approval by City's Risk Manager. Consultant shall immediately advise City of any litigation that may affect these insurance policies.

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