

**REQUEST FOR PROPOSALS**

**FOR CODE ENFORCEMENT OFFICER**

**Release Date: October 17, 2022**

**Deadline for Submission: November 10, 2022 at 4:00 p.m.**

**Submit Proposals to:**

**City of Lomita**

**Kathleen Gregory, City Clerk**

[**k.gregory@lomitacity.com**](mailto:k.gregory@lomitacity.com)

**Refer questions to:**

**Sheri Repp Loadman,**

**Community & Economic Development Department**

**City of Lomita**

**24300 Narbonne Avenue**

**Lomita, CA 90717**

**(310) 325-7110**

**s.repp@lomitacity.com**

**REQUEST FOR PROPOSALS**

**I. OBJECTIVE**

The City of Lomita is seeking written proposals from qualified firms to provide On-Call Code Enforcement Services. The selected firm will be primarily dedicated to code enforcement related to massage establishments and practitioners. The City anticipates entering into a two-year agreement with the selected firm, with the option to extend for an additional year. The need for on-call services will vary and will be mutually agreed based upon changing circumstances.

This RFP describes the required scope of services and the minimum information that must be included in the proposal. Failure to submit information in accordance with the RFP requirements may be cause for disqualification.

**II. GENERAL INFORMATION**

Located in the South Bay area of Los Angeles County, the City of Lomita is a suburban community with a population just under 21,000 residents. The City of Lomita has a need to contract with a qualified firm to provide Code Enforcement Officers with experience for on-call code enforcement services to augment the Department’s staff during periods of high workloads, subject to funding availability and proper delegation of authority by the City. The Community and Economic Development Department currently employs one Code Enforcement Officer II to enforce the municipal code. The City is specifically seeking assistance to ensure massage establishments are in compliance with regulations as forth under the Lomita Municipal Code. The City of Lomita currently has 22 massage establishments with active business licenses and massage registration certificates.

The selected firm, and assigned personnel, will have the experience and knowledge to independently receive complaints, verify violations, and work with the property owner or business to gain resolution. The assigned personnel should also have excellent communication and conflict resolution skills in order to provide a high level of customer service.

**III. SCOPE OF SERVICES**

The selected firm shall provide the following services upon the request of the Department:

1. Inspections – Provide qualified personnel to perform code enforcement inspections in a lawful manner that respects the reasonable expectations of privacy and security of persons and their properties. The inspections conducted by the selected firm will determine if conditions on the properties being inspected are in compliance with the Lomita Municipal Code and other applicable regulations. The selected firm shall be qualified to do the following:

* Perform inspections for violations of building codes and ordinances as adopted by the City
* Research properties for prior approvals, permits, and general information relating to violations
* Investigate and take necessary action when a violation of Lomita Municipal Code or other applicable codes exists
* Maintain files, databases, and records related to citations and violations.
* Confer and coordinate code enforcement activities and inspections with other departments and agencies
* Assist in the preparation of detailed inspection reports, inspection warrants, and other reports: prepare a variety of written reports, memoranda, and correspondence: submit statistical data for monthly reports and other correspondence
* Coordinate and conduct follow-up abatement or revocation procedures including preparation of additional correspondence and administrative records
* Notify the responsible parties of other agency approvals as required and when necessary, prior to closing a code enforcement action
* Meet with members of the general public and City staff on a regular basis as needed
* Performing other related duties in support of code enforcement program objectives.

1. Enforcement – Selected firm personnel shall have the experience in working cooperatively with property owners and other responsible parties to bring properties, businesses and/or conditions into compliance with applicable bodies of law. Selected firm shall be able to determine when voluntary compliance is not forthcoming from property owners, business owners or responsible parties. Selected firm personnel shall have experience in using administrative processes including the issuance of administrative citations to credibly establish at the administrative level that violations of law exist on a property. Selected firm shall have some understanding of criminal citations and in working with legal counsel to assist in the successful prosecution of code enforcement cases utilizing a hearing officer or in criminal or civil court when necessary.
2. Professional Qualifications – Selected firm personnel shall possess valid certification from CACEO or equivalent certification acceptable to the Community & Economic Development Director and a minimum of two years of qualifying experience performing code enforcement services for a local jurisdiction. Selected firm personnel shall also possess a current PC832 certification.

**IV.**  **PROPOSAL SCHEDULE**

|  |  |
| --- | --- |
| **TASK** | **DATE** |
| RFP issued | October 17, 2022 |
| Proposals due | November 10, 2022, 4:00 p.m |
| Review of Proposals/Interviews | November 2022 |
| Contract Approval and Notice to Proceed | December 2022 |

**V. Proposal Requirements**

Submitted proposals shall contain the following elements:

1. A cover letter providing general background of the firm and the firm’s experience providing similar services to public agencies. Include the title and signature of the firm’s contact person for the proposal. The signatory shall be a person with official authority to bind the company.
2. A narrative presenting your firm’s approach for addressing the needs described in Sections III of this RFP. Include a discussion on the range of tasks and services provided by the firm
3. A brief narrative which indicates the management structure of the firm, tenure of management, and ownership of the firm.
4. A list of similar projects the firm has completed for other public agency clients. Include the firm’s specific role in the project and key personnel that worked on each project. Provide the name of the agency, contact name, contact email, and contact phone number for reference purposes.
5. The resumes of professional personnel who will be working on this project and their specific responsibilities. The Consultant's project manager, who will be responsible for managing the contract, must be identified and committed to the project. The City must approve changes to key personnel committed to work on the project subsequent to award of contract.
6. A list of proposed sub-consultants, if any, including their qualifications pertinent to this project.
7. Proposed hourly compensation rates for project personnel.

8. The selected firm will be required to enter into a Professional Services Agreement with the City (see Attachment A). All proposals must include a statement that the firm has reviewed the Agreement and finds the terms acceptable. If your firm has concerns with the Professional Services Agreement, please note the specific concerns in your proposal.

**VII. Evaluation Criteria and Selection Process**

It is the City’s intent to select the firm with the best combination of qualifications and cost proposal. Proposals will be ranked based upon the materials submitted by the proposing firms. The City may request firm(s) to submit additional information pertinent to the RFP. The City also reserves the right to investigate and rely upon information from other available sources in addition to any documents or information submitted by the Bidder. The City retains the sole discretion to determine issues of compliance and to determine whether a bidder is responsive and responsible.

Proposals will be considered only from firms normally engaged in providing the types of services specified herein. Proposals will be evaluated based on the firm’s ability to successfully perform all requirements of the Program, including, but not limited to, the following factors:

1. Past Performance Record. Experience in work of similar complexity and scale. Experience in projects completed for public agencies.
2. Staffing Capabilities / Technical Competence. Ability to provide an appropriate level of staffing. Training and proven expertise in the area of work required, including:
3. Familiarity with common code enforcement techniques and ability to read and interpret local ordinances.
4. Effective and clear written and oral communication skills. Ability to take detailed case notes and create clear and error-free external communications, including Notices of Violation and other official documents.

3. Approach to Work. Proposed approach for implementing the day-to-day activities of the City’s code enforcement program.

**VIII. Submission DEADLINE AND Requirements**

One electronic copy, in pdf format, of the complete proposal must be received no later than **4:00 p.m. on Thursday, November 10, 2022**. Proposals received after the stated deadline shall not be accepted. Hard copies are not required. Proposals should be submitted via email to:

Kathleen Horn Gregory, City Clerk

[k.gregory@lomitacity.com](mailto:k.gregory@lomitacity.com)

Responses to this RFP must include completion of the Proposed Project Cost Schedule (Exhibit B).

*Other Requirements:*

1. The proposal shall be signed by an authorized official of your firm.
2. The proposal shall be valid for a minimum of 90 days.
3. The City reserves the right to reject any and all proposals, to modify the RFP, or to cancel the RFP.
4. The terms and scope of the contract will be arrived at on the basis of professional negotiations between the City and the Consultant. If the City and the Consultant fail to reach a contractual agreement, the City may renegotiate with any other top selected Consultant.

**X. QUESTIONS**

For answers to questions regarding this RFP, interested parties may contact:

Sheri Repp Loadman,

Community & Economic Development Department

City of Lomita

24300 Narbonne Avenue

Lomita, CA 90717

(310) 325-7110

[s.repp@lomitacity.com](mailto:s.repp@lomitacity.com)

**XI. Limitations**

1. All reports and pertinent data or materials shall become the sole property of the City.
2. The City reserves the right to request additional information from any and all consultants.
3. The Request for Proposals does not commit the City to award a contract, to pay any costs incurred in preparation of the proposal or to procure or contract for services or supplies. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel in part or in its entirety this Request for Proposals, if it is in the best interests of the City to do so. The City may require the proposer selected to participate in negotiations, and to submit such price, technical, or other revisions of their proposals as may result from such negotiations.

**EXHIBITS**

1. City of Lomita Professional Services Agreement Template

A picture containing logo

Description automatically generated

**CONTRACT FOR PROFESSIONAL SERVICES**

**BETWEEN**

**THE CITY OF LOMITA AND**

This AGREEMENT for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is entered into this by and between the CITY OF LOMITA, a general law city and municipal corporation (“CITY”) and .

**R E C I T A L S**

1. CITY does not have the personnel able and/or available to perform the services required under this agreement.
2. Therefore, CITY desires to contract out for .
3. CONSULTANT warrants to CITY that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.
4. CITY desires to contract with CONSULTANT to perform the services as described in **Exhibit A** of this Agreement.

**NOW, THEREFORE**, based on the foregoing recitals, CITY and CONSULTANT agree as follows:

**CONSIDERATION AND COMPENSATION.**

As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, attached as **Exhibit A**;

As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;

As additional consideration, CITY agrees to pay CONSULTANT an amount not to exceed $     , for CONSULTANT’s services, unless otherwise specified by written amendment to this Agreement.

No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager or his designee.

CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. CITY shall pay CONSULTANT all uncontested amounts set forth in the CONSULTANT'S bill within 30 days after it is received.

**SCOPE OF SERVICES.**

CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICES attached hereto as **Exhibit A** and incorporated herein by this reference. If any part of **Exhibit A** is inconsistent with the terms of this Agreement, the terms of this Agreement shall control.

Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

**PAYMENTS**. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

**TIME OF PERFORMANCE**. The services of CONSULTANT are to commence upon receipt of a notice to proceed from CITY and shall continue until all authorized work is completed to CITY’s reasonable satisfaction, in accordance with the schedule incorporated in **“Exhibit A**,” unless extended in writing by CITY.

**FAMILIARITY WITH WORK.** By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

**KEY PERSONNEL**. CONSULTANT’s key person assigned to perform work under this Agreement is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of CITY.

**TERM OF AGREEMENT**. The term of this Agreement shall commence upon execution by both parties and shall expire on , unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties.

**CHANGES**. CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

**TAXPAYER IDENTIFICATION NUMBER**. CONSULTANT will provide CITY with a Taxpayer Identification Number.

**PERMITS AND LICENSES**. CONSULTANT will obtain and maintain during the term of this Agreement all permits, licenses, and certificates that may be required by local, state and federal laws in connection with the performance of services under this Agreement, including a business license as specified in Title VI, Chapter 2 of the Lomita Municipal Code.

**Laws and Regulations; Employee/Labor Certification**. CONSULTANT shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. CONSULTANT shall be liable for all violations of such laws and regulations in connection with the Services and this Agreement. All violations of such laws and regulations shall be grounds for CITY to terminate the Agreement for cause.

**TERMINATION.**

1. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.
2. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.
3. In the event of such termination, CONSULTANT shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY’s option, become CITY’s property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.
4. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

**INDEMNIFICATION**.

CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY’S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of CITY. Should CITY in its sole discretion find CONSULTANT’S legal counsel unacceptable, then CONSULTANT shall reimburse CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. CONSULTANT shall promptly pay any final judgment rendered against CITY (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by Section 17, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

**ASSIGNABILITY**. This Agreement is for CONSULTANT’s professional services. CONSULTANT’s attempts to assign the benefits or burdens of this Agreement without CITY’s written approval are prohibited and will be null and void.

**INDEPENDENT CONSULTANT**. CITY and CONSULTANT agree that CONSULTANT will act as an independent CONSULTANT and will have control of all work and the manner in which it is performed. CONSULTANT will be free to contract for similar service to be performed for other employers 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. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

**AUDIT OF RECORDS.**

CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

**CORRECTIVE MEASURES**. CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by CITY to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

**INSURANCE REQUIREMENTS.**

A. CONSULTANT, at CONSULTANT’s own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. CONSULTANT shall require all subconsultants similarly to provide such compensation insurance for their respective employees. Any notice of cancellation or non-renewal of all Workers’ Compensation policies must be received by CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against CITY, its officers, agents, employees, and volunteers for losses arising from work performed by CONSULTANT for CITY.

2. General Liability Coverage. CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from CONSULTANT’S operations under this Agreement, whether such operations be by CONSULTANT or by its employees, subconsultants, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a “claims made basis,” CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability, automobile liability and professional liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by CITY, and shall be endorsed as follows. CONSULTANT also agrees to require all CONSULTANTs, and subconsultants to do likewise.

1. “The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations.”

2. This policy shall be considered primary insurance as respects CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance maintained by CITY, including any self-insured retention CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to CITY, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days’ written notice has been received by CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against CONSULTANT arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by CITY. At CITY’s option, CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. CONSULTANT shall provide certificates of insurance with original endorsements to CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with CITY at all times during the term of this Agreement.

* 1. Failure on the part of CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which CITY may terminate this Agreement pursuant to Section 11 above.
  2. The commercial general and automobile liability policies required by this Agreement shall allow CITY, as additional insured, to satisfy the self-insured retention (“SIR”) and/or deductible of the policy in lieu of the CONSULTANT (as the named insured) should CONSULTANT fail to pay the SIR or deductible requirements. The amount of the SIR or deductible shall be subject to the approval of the City Attorney and the Finance Director. CONSULTANT understands and agrees that satisfaction of this requirement is an express condition precedent to the effectiveness of this Agreement. Failure by CONSULTANT as primary insured to pay its SIR or deductible constitutes a material breach of this Agreement. Should CITY pay the SIR or deductible on CONSULTANT’S behalf upon CONSULTANT’S failure or refusal to do so in order to secure defense and indemnification as an additional insured under the policy, CITY may include such amounts as damages in any action against CONSULTANT for breach of this Agreement in addition to any other damages incurred by CITY due to the breach.

**USE OF OTHER CONSULTANTS**. CONSULTANT must obtain CITY’s prior written approval to use any CONSULTANTs while performing any portion of this Agreement. Such approval must include approval of the proposed CONSULTANT and the terms of compensation.

**FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE**. The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT’S work or services. Acceptance of payment shall be any negotiation of CITY’S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by CITY shall not constitute, nor be deemed, a release of the responsibility and liability of CONSULTANT, its employees, sub-CONSULTANTs and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by CITY for any defect or error in the work prepared by CONSULTANT, its employees, sub-CONSULTANTs and agents.

**CORRECTIONS**. In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during CITY’S review of CONSULTANT’S report or plans. Should the CONSULTANT fail to make such correction in a reasonably timely manner, such correction shall be made by CITY, and the cost thereof shall be charged to CONSULTANT. In addition to all other available remedies, CITY may deduct the cost of such correction from any retention amount held by CITY or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

**NON-APPROPRIATION OF FUNDS.** Payments to be made to CONSULTANT by CITY for services preformed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT’S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT’S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

**NOTICES**. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

|  |  |
| --- | --- |
| CITY | CONSULTANT |
| City of Lomita  24300 Narbonne Avenue  Lomita, CA 90717  ATTN: City Manager | ATTN: |

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

1. **SOLICITATION**. CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT’s bona fide employee, to solicit or secure this Agreement. Further, CONSULTANT warrants that it has not paid nor has it agreed to pay any company or person, other than CONSULTANT’s bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.
2. **THIRD PARTY BENEFICIARIES**. This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT’s or CITY’s obligations under this Agreement.
3. **INTERPRETATION**. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.
4. **ENTIRE AGREEMENT**. This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.
5. **RULES OF CONSTRUCTION**. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.
6. **AUTHORITY/MODIFICATION**. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY’s city administrator, or designee, may execute any such amendment on behalf of CITY.

**ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES**. The Parties agree that this Agreement will be considered signed when the signature of a party is delivered by facsimile transmission, scanned and delivered via electronic mail, or delivered using digital signature technology approved by CITY. Such facsimile or electronic signatures will be treated in all respects as having the same effect as an original signature.

1. **FORCE MAJEURE.** Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties’ control, then the Agreement will immediately terminate without obligation of either party to the other.

**TIME IS OF ESSENCE**. Time is of the essence to comply with dates and schedules to be provided.

1. **ATTORNEY’S FEES.** The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

**STATEMENT OF EXPERIENCE.** By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private CONSULTANTs, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

**DISCLOSURE REQUIRED**. (CITY and CONSULTANT initials required at one of the following paragraphs)

By their respective initials next to this paragraph, CITY and CONSULTANT hereby acknowledge that CONSULTANT is a “CONSULTANT” for the purposes of the California Political Reform Act because CONSULTANT’S duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18700.3(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were CONSULTANT employed by CITY. CONSULTANT hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the CITY’S Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to CONSULTANT commencing services hereunder, the City’s Manager shall prepare and deliver to CONSULTANT a memorandum detailing the extent of CONSULTANT’S disclosure obligations in accordance with the CITY’S Conflict of Interest Code.

City Initials \_\_\_\_\_\_

CONSULTANT Initials \_\_\_\_\_\_

**OR**

By their initials next to this paragraph, CITY and CONSULTANT hereby acknowledge that CONSULTANT is not a “CONSULTANT” for the purpose of the California Political Reform Act because CONSULTANT’S duties and responsibilities are not within the scope of the definition of CONSULTANT in Fair Political Practice Commission Regulation 18700.3(a)(2) and is otherwise not serving in staff capacity in accordance with CITY’S Conflict of Interest Code.

City Initials \_\_\_\_\_\_

CONSULTANT Initials \_\_\_\_\_\_

**IN WITNESS WHEREOF** the parties hereto have executed this contract the day and year first hereinabove written.

|  |  |  |
| --- | --- | --- |
| CITY OF LOMITA |  | CONSULTANT |
|  |  |  |
|  |  |  |
| Ryan Smoot, City Manager | By: | TITLE |
|  |  |  |
|  |  |  |
| ATTEST: |  |  |
|  |  |  |
|  |  |  |
| Kathleen Horn Gregory, City Clerk |  | Taxpayer ID No. |
|  |  |  |
|  |  |  |
|  |  |  |
| APPROVED AS TO FORM: |  |  |
|  |  |  |
|  |  |  |
| City Attorney |  |  |