REQUEST FOR PROPOSALS

RECREATION FACILITIES
NEEDS ASSESSMENT

Issued by:

City of Laguna Hills
24035 El Toro Road
Laguna Hills, California 92653

August 25, 2017

Proposals Due: October 6, 2017
I. INTRODUCTION AND SCHEDULE

The City of Laguna Hills ("City") is seeking proposals from qualified consulting firms ("Proposer(s)") to conduct a citywide recreation needs assessment ("Needs Assessment" or "Project"). The Scope of Work for the Project is listed in Section IV of this RFP document. Proposals from qualified firms will be due by 4:00 p.m. on Friday, October 6, 2017.

The tentative schedule for this procurement process is as follows:

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<th>Action</th>
<th>Date</th>
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<tbody>
<tr>
<td>RFP Issued</td>
<td>August 25, 2017</td>
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<tr>
<td>Proposals Due</td>
<td>October 6, 2017</td>
</tr>
<tr>
<td>Award of Contract</td>
<td>November 14, 2017</td>
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<tr>
<td>Final Needs Assessment Report Presentation to City Council</td>
<td>By June 12, 2018</td>
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II. BACKGROUND

The City of Laguna Hills has a population of 30,681. The City occupies 6.6 square miles and is 99.9% built-out. A total of approximately 65 acres of public park land is located in the City of Laguna Hills. This includes an 18 acre Community Center and Sports Complex, a nine acre sports park, and 12 neighborhood public parks. In addition to these developed public parks, a 2.5 acre open space area ("Aliso Hills") is also located within Laguna Hills and is designated as a future public park. The City of Laguna Hills also has 15 private parks, three elementary public schools, and one high school. A non-profit senior citizen center, operated by South County Senior Services, is also located within the City.

The Community Services Department is responsible for providing recreation classes, special events, excursions, camps, athletic programs, and disability services for the community. The Public Services Department is responsible for the design, construction, and maintenance of public facilities including the City’s parks.

The City Council adopted the City’s first Master Plan of Parks and Recreation in May of 1993. This was a 20 year Master Plan. The City annexed the 756 acre North Laguna Hills area consisting of a mix of residential and office/retail uses on July 1, 1996. The Master Plan was updated in 1996 with a new Field Use Survey to account for the 1996 Annexation, already completed capital improvement projects, and the planned Community Center and Sports Complex. The City successfully annexed the “Westside” of the City on September 18, 2000, which added 149 acres of residential land including the Aliso Viejo Community Association’s private Sheep Hills Park.
There are two joint use agreements between the City and Saddleback Unified School District ("District") that were executed for the purposes of establishing mutual cooperation in providing recreational facilities for Laguna Hills students and residents. The first agreement was originally signed by both parties in 1994, and was a fifteen-year joint use agreement for the shared use of the “upper field” at Laguna Hills High School. Pursuant to this agreement, the City funded the installation of lights on a softball field and partial soccer field and, in return, District provided field use times in the fall and spring for City scheduled recreation programs. This agreement was extended for multiple one-year extensions when the fifteen (15) year term ended, until a new agreement was executed in 2014. The new joint use agreement was entered into by both parties on May 27, 2014, and is a ten (10) year agreement for, again, the joint use of the Laguna Hills High School upper field. In addition, the City agreed, as part of the terms of the agreement, to assist District in the installation of an artificial turf field in the upper field location for increased use of this field by the City. This agreement will expire in 2024 unless it is extended by mutual written consent of the parties.

Another joint use agreement addressed the six (6) acres of undevelopable land on the Laguna Hills High School campus that was located adjacent to the twelve (12) acres of undeveloped City property. For the purposes of developing the total eighteen (18) acres of undeveloped land for recreational purposes, the District and the City approved and executed a Joint Use Agreement in 1997. Pursuant to the 1997 Joint Use Agreement, the District allowed the City to develop on its six (6) acres of undeveloped land for recreation purposes. This area is now a part of the Laguna Hills Community Center and Sports Complex and is currently developed with a parking lot, a skateboard park, and a roller hockey rink. The Community Center houses the City’s Community Services Department and includes banquet room facilities, classrooms and a gymnasium. In addition to the skateboard park and the roller hockey rink, the Sports Complex also includes soccer fields, a baseball field, a softball field, picnic shelters, and a playground. The District can use the Community Center and Sports Complex for school meetings, soccer practices, volleyball practices, basketball practices, and other agreed upon uses. The 1997 Joint Use Agreement’s term is in perpetuity as long as the District property is used for recreational purposes.

In 2008, the City hired a consulting firm to conduct a facility recreation needs assessment. In the final report presented to the City Council in March 2009, the consulting firm proposed the following priorities based on public input, facility demand analysis, deficit/surplus analysis, benchmarking analysis, and survey results:

### Highest Priorities
- Trails
- Picnicking in developed sites
- Re-establishing a new partnership agreement with Laguna Hills High School

### Medium Priorities
- Lighting at appropriate outdoor sports fields and courts
- Inline skating rink (1 covered)
• Softball/baseball fields (1 additional)
• Outdoor basketball court (1 additional)

Lower Priorities
• Soccer/Multi-use fields (1 additional)
• Aquatic center/Splashpad (1 additional)

The City updated its General Plan in 2009 which includes several community goals such as the goal to “Expand and maintain the City’s integrated parks, recreation, and trails system to meet the needs of residents of all ages.” Several General Plan policies fall under this goal including:

• Investigate the need for additional community facilities in Laguna Hills, such as community centers, swimming pools, parks, sports fields, a library, and/or an amphitheater.
• Provide recreation opportunities at the Community Center in response to the changing needs of the community.
• Expand and improve the network of trails that provides interesting and safe access to parks, schools, neighborhood commercial areas, activity centers, and regional recreation opportunities.
• Maintain unique and diverse open space for purposes of protecting scenic resources, passive recreation, and habitat protection.
• Determine the need for special facilities for seniors and the disabled to increase enjoyment and accessibility to parks and trails.
• Promote special facilities and activities for youths and teens that focus on educational enrichment and skills training.
• Continue to investigate joint use opportunities with SVUSD, private schools, and other organizations.

In March 2016, the City Council approved the site development permit for the Five Lagunas project. This project is the renovation of the Laguna Hills Mall which was first established in 1973, and much of the development focuses on reusing significant portions of the former mall. The project also includes three planned residential buildings, which will include a total of 988 multifamily dwelling units. The City anticipates receipt of approximately $15.5M in Quimby Act fees from the residential portions of this project in the next three to five years. These funds will be used within the City to develop new or rehabilitate existing neighborhood or community park or recreation facilities that serve the subdivision from which the fees are collected.

III. PURPOSE AND OBJECTIVES

With the anticipation of the City receiving a substantial amount of Quimby Act fees within the next several years, it is imperative that the City determine the community’s recreation facility needs and demands in order to spend these funds wisely. Therefore, a recreation facility needs assessment is timely, and the City anticipates that this Project should accomplish, at a minimum, the following objectives:
1. Produce a Needs Assessment document that clearly defines the recreation facility needs of the community and identifies surpluses and deficiencies with existing facilities.
2. Compare the City of Laguna Hills’ recreation to industry benchmark standards.
3. Prioritize current and future recreation needs.
4. Effectively engage the public to elicit community recreation facility demands.
5. Present the final Needs Assessment report to the City Council by June 2018.

IV. SCOPE OF WORK

Listed below is the City’s expectations for the Scope of Work for this Project. The City’s requested work efforts for Proposer are organized into three primary task groups: Needs Assessment Analysis, Community Outreach and Participation, and Needs Assessment Report & Presentation. Proposers are encouraged to expand on this list if deemed necessary, based on its experience, to provide the City with a comprehensive Needs Assessment study.

Recreation program services (i.e. recreation classes/activities) assessment is not a part of this Project’s scope of work. The determination of recreation facility refurbishment needs, including maintenance needs, is not a part of this Project’s scope of work.

Proposer shall periodically meet with City staff to discuss Project status and to set mutual expectations. A kickoff meeting shall be scheduled to review Project objectives, approach, and schedule.

A. NEEDS ASSESSMENT ANALYSIS

Provide detailed analysis and research of existing facilities, population and industry trends, current recreation facility demands, and project future recreation facility demands. The following is the City’s expectations for the Project’s analysis and research.

- **Recreation Facilities Inventory** - Update the City’s recreation facilities inventory of existing public and private parks, trails, open spaces, aquatic facilities, community and senior centers, and other recreation amenities. An inventory of park amenities such as playgrounds, exercise equipment, parking lots, bocce ball & Pickle Ball courts, etc. should also be noted. School district property should also be included in this inventory. Proposer should note if private recreation facilities are open and available to the general public. An inventory that was produced during 2008/2009 recreation facility needs assessment is attached as *(Exhibit 1)*. This exhibit was centered on sport fields and facilities and Proposers’ inventory should expand on this list as requested above.
• **Facility Needs Ratios** – Proposer will update the City’s Facility Needs Ratio as presented in **(Exhibit II)** based on current City population. An analysis should also be included on future population growth as requested under “Trends” in this section within the final report. This data should be compared to NRPA’s ratio per population standards or equivalent standards and include all recreation facilities discussed and contemplated during this Project.

• **Supply and Demand** – Proposer shall perform supply and demand analysis based on inventory research and public input needs and provide recommendations. Supply and demand research should also be projected out for future facility recreation needs.

• **Gap Analysis** – Proposer shall conduct gap analysis of recreation facilities with the purpose of identifying underserved and overserved neighborhoods and demographics. Proposer shall make recommendations to address any current and future gaps in recreation facility offerings.

• **Skateboard Park Use** – As part of this analysis, Proposer will determine the current percentage of residential use of the City’s public skateboard park. Survey of ages and type of use should also be recorded. Proposer shall also compile a listing of other private/public skateboard parks in the **southern California area** and what activities (i.e. skateboarding, scootering, bicycling, etc.) are allowed at the park. In addition, this research should also include if private/public skateboard parks are supervised or unsupervised facilities and if a fee is charged for its use. A listing of what fees are charged should be included in Proposer’s research results.

• **Roller Hockey Rink** – Proposer shall also compile a listing of other private/public roller hockey rinks in the **southern California area**. Proposer should identify if other facilities are not being used for roller hockey, and if the private/public facilities are not being used for roller hockey, Proposer should list the other uses (i.e. arena soccer, pickle ball, roller derby, etc.).

• **Survey of Sports Organizations** - Survey and identify the current field/facility usage and needs of sports organizations and clubs (i.e. AYSO, YMCA, Laguna Hills Jr. Basketball, Laguna Hills Little League, etc.) that conduct sport programs within the City of Laguna Hills. This includes School District property within Laguna Hills. Identify what sports organizations are using school district fields within the City of Laguna Hills.
Identify the facility needs for lights for practice and games during the survey of the sports organizations. The final report to City should distinguish between the needs for facilities with lights and facilities without lights.

- **Trends** – Proposer shall look at the key trends and impacts of demographics on recreation activity in general. In addition, Proposer shall analyze demographic trends specific to the City that may impact or affect recreation and park needs for the next ten (10) years. Use the most recent census data to project population and demographic distribution (the future Five Lagunas apartment buildings and other known housing projects must be included in this analysis). This will also include an analysis of how demographic changes will affect youth sports within the City and Proposer should also project youth sports participation rates for the next ten (10) years.

- **Benchmark/Comparison** – Include a comparison of the City’s facilities to industry benchmark standards such as CPRS and/or NRPA (or other equivalent standards).

- **Document Review** - Review all City documents that will assist in the formation of the Needs Assessment document. Documents include, but are not limited to:
  1. 2009 Recreation Facilities Needs Assessment
  2. 2009 General Plan
  3. 2017 – 2019 Biennial Budget’s Six Year Capital Improvement Program
  4. Staff reports
  5. 2001 Bikeways, Trails & Open Space Master Plan
  6. Joint Use Agreements
  7. Community Services Brochures, etc.

B. **COMMUNITY OUTREACH AND PUBLIC PARTICIPATION**

The community outreach process for this Project will be critical in engaging the community on recreation facility needs. The Proposer shall determine satisfaction levels of current recreation facilities and identify unmet demands in the community. A Strength, Weaknesses, Opportunities, and Threats (SWOT) analysis may be considered to facilitate discussions. The following is the City’s expectations for community outreach and public participation.

- **Focus Groups/Interviews** – Proposer shall host a minimum of two (2) focus group meetings to discuss satisfaction levels with current recreation facilities and the need for additional recreation facilities. City will work with Proposer to identify appropriate focus group meeting attendees. In addition, Proposer will be required to conduct individual interviews as required. It is anticipated that the following stakeholders and user groups
will be interviewed and/or attend a focus group meeting. Proposer and City will work on a final list of individuals and groups that need to be interviewed.

1. City Staff
2. City Council Members
3. Parks and Recreation Commissioners
4. Youth Sports Organizations (both non-profit and club)
5. Boy Scouts, Girl Scouts
6. School District staff
7. Laguna Hills High School staff
8. PTAs
9. Adult sport leagues
10. HOAs
11. Nellie Gail Gators Swim Club
12. Groups that rent City recreation facilities
13. Recreation Contract Instructors

- **Reata Town Hall Meeting** – Conduct a town hall meeting at the Reata Oakbrook Village Apartments to elicit the recreation facility needs of this apartment community. This is an important aspect of this study considering that the demographics of the Reata Oakbrook Village Apartments, more than likely, are expected to be similar to the three multifamily residential buildings that will be constructed at the Five Lagunas project site (as mentioned in the Background section of this document).

- **Public Workshop Meetings** – Conduct two (2) public workshop meetings, hosted by the Parks and Recreation Commission, to elicit broad-based community recreation needs input. Presentations to the Parks and Recreation Commission will be required as part of these public workshops.

- **Survey** – Develop a series of questions to include in a City-wide survey to determine citizen interests, needs, customer satisfaction, etc. in regards to recreation facilities within the City of Laguna Hills. Proposer shall advise the City, based on its experience, the best way to conduct a survey (i.e. phone, mail, social media, other website tools).

Proposer will be responsible for formatting, delivering, and administering the survey, compiling the survey results and analyzing the data.
C. NEEDS ASSESSMENT REPORT & PRESENTATION

Proposer shall compile all research and public input data into a comprehensive report and summarize Project findings in a presentation to the City Council. The following is the City’s expectations for the final report and presentations to the City Council.

- **Draft Report** – A preliminary Needs Assessment report shall be submitted to City staff for review prior to any presentations to the City Council.

- **Final Report** – The final report shall consist of all analysis, research, public input, maps and illustrations if necessary, recommendations, and exhibits. Proposer shall submit ten (10) copies of the final report and also submit a PDF version of the report. At a minimum the report shall include:
  1. The latest recreation trends
  2. Demographic trends, recreation needs and demands, and projections
  3. Survey results/data analysis
  4. Proposer prioritized recommendations (current needs/future needs)
  5. Recreation facility surpluses and deficiencies (supply/demand and gap analysis)
  6. Summary of all community outreach and stakeholder input
  7. Facility inventories and ratios
  8. Sport organizations use and needs
  9. Skateboard park and Roller Hockey Rink use and analysis

- **City Council Presentations** – two (2) presentations to the City Council by Proposer will also be required during this Project. It is anticipated that the first presentation will be to summarize Needs Assessment findings and recommendations in order to elicit comments from the City Council to assist in the completion of the final report. The second presentation to the City Council will be of the final Needs Assessment report.

V. PROPOSAL SUBMISSION REQUIREMENTS AND RESPONSE FORMAT

The Proposer is responsible for preparing an effective, clear, well-organized and concise formal written proposal. In order to be considered for selection, consultant firms must submit a complete response to this RFP that includes the following mandatory information and/or requirements in the following format. Failure to provide any of the information requested below may be cause for the proposal to be rejected.

1. **Transmittal Letter.** A transmittal letter introducing the firm and the individual who will be the primary contact person.
2. **Executive Summary.** An executive summary.

3. **Firm Background Information.** Background information including specific qualifications and experience in conducting related studies for similar governmental, educational, or public sector entities. The information below must be included:

   a. Describe the firm’s organizational structure and explain how the firm is qualified to be responsive to the specific requirements of this RFP.

   b. Describe the firm’s qualifications and experience providing similar services as required in this RFP.

   c. Provide proof of financial stability enabling the firm to be capable of meeting the requirements of this RFP.

   d. Provide one (1) copy of Recreation Facility Needs Assessment Study, or comparable report, the firm has completed that is closely related to the scope of work contemplated in this RFP.

   e. Provide a project staffing organizational chart listing proposed personnel assigned to this project. Include assigned duties, and comprehensive resumes for each individual listed. Resumes must list education, training, professional work experience, and a listing of work performed comparable to that described within this RFP.

   f. References: Provide a list of at least three (3) clients for whom you have conducted and completed a Needs Assessment within the last three (3) years comparable to that described within this RFP. Indicate client organization name, contact person, and phone number.

4. **Summary of RFP Requirements.** Provide on no more than one (1) printed page the firm’s understanding of the requirements stated in this RFP.

5. **Approach to Scope of Work.** Provide a detailed description of the steps that will be taken to complete the required tasks identified in Section IV of this RFP. Include a detailed discussion of any methodologies used or approaches taken for each task.

6. **Schedule of Performance.** Provide a proposed Schedule of Performance, including a time line for project completion:

   a. Provide a project schedule identifying start and end dates for each phase of the project - include milestones, submittal of deliverables,
and each task required for the successful and timely completion of each phase of the Project.

b. Indicate the earliest date the firm would be able to commence work on this project.

7. **Use of Sub-Contractors or Sub-Consultants.** Indicate in the firm’s proposal any portion of work that would be performed by a sub-contractor. Provide information on all sub-contractors as required in Section 3 above.

8. **Schedule of Compensation/Fees.** Provide a separate sealed proposed Schedule of Compensation/Fees to perform all work identified under Section IV, Scope of Work. Include all proposed incidental or professional hourly fees/rates. Only one (1) sealed Schedule of Compensation/Fees is required.

9. **Non-Discrimination.** A certificate of non-discrimination regarding nondiscrimination by the firm (See, **Exhibit III**)

10. **Financial Interests.** A certificate, signed under penalty of perjury, regarding disclosure of financial interests of City/District officials or employees with the firm (See, **Exhibit IV**).

11. **Professional Services Agreement.** Proposer shall affirmatively state that they have reviewed and are ready to execute the City’s standard form Professional Services Agreement, including providing the required proof of insurance coverages described therein. (See, **Exhibit V**).

12. **Authorized Signatory.** The name, title and signature of a corporate officer that is authorized to contractually bind the firm. Please include a corporate resolution evidencing authorized signatory. The proposal must be a firm offer valid for a 60-day period.

13. **Proposal Copies.** Submit one (1) original and three (3) copies of the proposal. Also include one copy in PDF format via e-mail.

**VI. Selection Process**

Each proposal received will be evaluated and reviewed to determine if it meets the stated requirements set forth in this RFP. The top finalists will be invited to make an oral presentation to an evaluation team.

Proposals timely submitted will be evaluated using the criteria listed below:

- Demonstrated understanding of the professional services requested.
• Prior experience in performing similar projects.
• Qualifications of the firm and assigned project consultants.
• Overall project design and methodology.
• Time line for project completion / proposed schedule.
• Professional Fees/Hourly Rates/Cost.
• Reference Checks.

Selection by the City for professional services shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, and shall not be awarded solely on the basis of cost. Selection will be made to ensure that such services are engaged on the basis of demonstrated competence and qualifications for the types of services to be performed and at fair and reasonable prices to the City. The City shall consider total compensation after the City is satisfied that the would-be person, company, corporation, contractor, consultant, or firm has demonstrated the competence and professional qualifications necessary for the satisfactory performance of the services required.

All questions concerning this RFP are to be made via email, or phone, and directed to:

David Reynolds
Deputy City Manager
City of Laguna Hills
25555 Alicia Pkwy.
Laguna Hills, CA  92653
949-707-2685
dreynolds@lagunahillsca.gov

Proposals must be received by the City of Laguna Hills City Clerk by **4:00 p.m., FRIDAY, OCTOBER 6, 2017.** The Proposer must submit one (1) original, three (3) printed copies, and one (1) copy in PDF format via email.

VII. General Information

The City of Laguna Hills reserves the right to reject any or all proposals and will not be liable for any costs incurred by responding firms relating to the preparation of proposals or making of presentations.

• Costs for developing responses to this RFP or for attending bidder's meetings prior to the award of the contract are entirely the responsibility of the Proposer and shall not be chargeable to the City.

• Proposals must be valid for a minimum of 60 days.

• The City reserves the right to expand or diminish the Scope of Work subject to negotiation with the successful Proposer.
• The City is not required to select the proposal that may indicate the lowest price or costs. The City may reject all proposals when, in its sole discretion and opinion, none of them meet the requirements or specifications of this RFP, the benefits derived will be less than anticipated or desired, or the rejection is in the best interest of the City. If all proposals are rejected, the City may or may not request additional proposals.

• In the event it becomes necessary to revise any part of this RFP, addenda will be provided in writing to all Proposers.

Thank you very much for taking your valuable time to respond to this RFP.

Exhibits
Exhibit I  - Park Recreation Facility Inventory (sports fields/facility).
Exhibit II  - Quantity and population ratios for all outdoor facilities.
Exhibit III - Certificate of Non-Discrimination.
Exhibit V   - City’s Sample Draft Professional Services Agreement.
### EXHIBIT I

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<th>Adult Baseball field</th>
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### HOA Parks

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<th>Space shared with another field</th>
<th>Backstop, Practice</th>
<th>Adult Baseball field</th>
<th>Youth Baseball field</th>
<th>Basketball, outdoor</th>
<th>Basketball, indoor</th>
<th>In-line Hockey</th>
<th>M-Purpose Field, Large</th>
<th>M-Purpose Field, Medium</th>
<th>M-Purpose Field, Small</th>
<th>Softball field</th>
<th>Game or Practice</th>
<th>Lights possible</th>
<th>Parking</th>
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<tr>
<td>Aliso Meadows</td>
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<tr>
<td>Space shared with another field</td>
<td>Backstop, Practice</td>
<td>Adult Baseball field</td>
<td>Youth Baseball field</td>
<td>Basketball, outdoor</td>
<td>Basketball, indoor</td>
<td>In-line Hockey</td>
<td>M-Purpose Field, Large</td>
<td>M-Purpose Field, Medium</td>
<td>M-Purpose Field, Small</td>
<td>Softball field</td>
<td>Game or Practice</td>
<td>Lights possible</td>
<td>Parking</td>
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### Schools

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<th>6</th>
<th>4</th>
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<th>2</th>
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<tr>
<td>Laguna Hills High School</td>
<td></td>
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**GRAND TOTAL**

5 1 9 28 6 1 10 8 3 3
## Exhibit II

### Quantity and population ratios for all outdoor facilities

<table>
<thead>
<tr>
<th>Activity</th>
<th>Laguna Hills Facilities</th>
<th>Private Park Facilities</th>
<th>School Facilities</th>
<th>Total Facilities</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>Quantity</td>
<td>current per population ratio</td>
<td>Quantity</td>
<td>current per population ratio</td>
</tr>
<tr>
<td>Pool swimming</td>
<td>0</td>
<td></td>
<td>5</td>
<td>1/6,684</td>
</tr>
<tr>
<td>Using open turf areas</td>
<td>13</td>
<td>1/2,571</td>
<td>10</td>
<td>1/3,342</td>
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<tr>
<td>Using play equipment, tot-lots</td>
<td>14</td>
<td>1/2,387</td>
<td>9</td>
<td>1/3,713</td>
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<tr>
<td>Picnicking in developed sites (# of tables)</td>
<td>65</td>
<td>1/514</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Softball and baseball</td>
<td>5</td>
<td>1/6,684</td>
<td>1</td>
<td>1/33,421</td>
</tr>
<tr>
<td>Soccer, football or rugby</td>
<td>13</td>
<td>1/2,571</td>
<td>2</td>
<td>1/16,711</td>
</tr>
<tr>
<td>Basketball</td>
<td>2.5</td>
<td>1/13,368</td>
<td>5</td>
<td>1/6,684</td>
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<tr>
<td>Equestrian facilities</td>
<td>0</td>
<td></td>
<td>8</td>
<td>1/4,177</td>
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<tr>
<td>Volleyball (outdoor)</td>
<td>4</td>
<td>1/8,355</td>
<td>2</td>
<td>1/16</td>
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<tr>
<td>Tennis</td>
<td>4</td>
<td>1/8,355</td>
<td>15</td>
<td>1/2,228</td>
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<td>In-line skating</td>
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<td>1/33,421</td>
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</tr>
<tr>
<td>Skateboarding</td>
<td>1</td>
<td>1/33,421</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
CITY OF LAGUNA HILLS
CERTIFICATE OF NON-DISCRIMINATION

I hereby certify on behalf of __________________________ that all persons employed by _____________________ are, and shall be treated fairly without regard to race, creed, color, national origin, political affiliation, marital status, sex, age, or disability, and in compliance with all Federal and State laws prohibiting discrimination in employment, including, but not limited to, the Civil rights Act of 1964, the Unruh Civil Rights Acts, and the Americans With Disabilities Act.

Name: ______________________________
Signature: ___________________________
Title: _______________________________
CITY OF LAGUNA HILLS
CERTIFICATE OF
EMPLOYMENT RELATIONSHIPS
AND FINANCIAL INTERESTS

NAME OF ENTITY: _____________________________________________________

EMPLOYMENT RELATIONSHIPS WITH CITY OFFICIALS OR CITY EMPLOYEES:
______________________________________________________________________

FINANCIAL INTERESTS OF CITY OFFICIALS OR CITY EMPLOYEES IN THE ENTITY:
(If known and applicable, please state the percentage ownership interest)

I declare, under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Signed this ________ day of ___________________________, 2017, at ________________________________, California.

Name: ______________________________
Signature: ___________________________
Title: _______________________________
PROFESSIONAL SERVICES AGREEMENT

[__________________________, Inc.

Citywide Recreation Facilities Needs Assessment]

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter “Agreement”) is made and entered into, to be effective this ___ day of November 2017, by and between the CITY OF LAGUNA HILLS, a municipal corporation organized and existing under the laws of the State of California, (hereinafter referred to as “City”) and ____________________________(hereinafter referred to as “Consultant”). City and Consultant are sometimes hereinafter individually referred to as “Party” and are hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has determined that there is a need to retain the professional services of a qualified consulting services firm for the purpose of conducting and preparing a Citywide Recreation Facilities Needs Assessment evaluation and study, including but not limited to the preparation of a recreation facilities needs assessment analysis, community outreach and participation, and preparation of a needs assessment report and public presentation, as well as a full range of other as-needed citywide recreation facilities planning and feasibility, analysis, and support services that may be required on an on-call basis (the “Project”).

B. In response to City’s formal Request for Proposals (RFP), dated August 25, 2017, Consultant has submitted to City a proposal, dated __________, 2017, to provide professional consulting services to City for the purpose of conducting and preparing a Citywide Recreation Facilities Needs Assessment evaluation and study to City for the Project pursuant to the terms of this Agreement.

C. Consultant represents and maintains that it is uniquely qualified by virtue of its experience, training, education, reputation, and expertise to provide these professional services to City for the Project and has agreed to provide such services as provided herein. City does not have the personnel, training, or specialized technical expertise able to perform the work or services contracted for herein.

D. City desires to retain Consultant to provide such professional services for the Project.

NOW, THEREFORE, in consideration of the promises and mutual obligations, covenants, and conditions contained herein, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT
1. SERVICES OF CONSULTANT

1.1 Scope of Services and Standard of Performance. In compliance with all terms and conditions of this Agreement, Consultant agrees to provide and perform the professional Citywide Recreation Facilities Needs Assessment consulting services to City for the Project as set forth in the Proposal/Scope of Work, dated ______________, 2017, which is attached hereto as Exhibit “A” and is incorporated herein by reference (hereinafter referred to as the “Scope of Services,” the “Services” or “Work”). As a material inducement to the City entering into this Agreement, Consultant acknowledges and understands that the Services and Work contracted for under this Agreement require specialized skills and abilities and that, consistent with this understanding, Consultant’s Services and Work shall be performed in a skillful and competent manner and shall be held to a standard of quality and workmanship prevalent in the industry for such Services and Work and with the standards recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and warrants that it is skilled in the professional discipline necessary to perform the Services and Work and that it holds the necessary skills and abilities to satisfy the standard of work as set forth in this Agreement. Consultant represents and warrants that it and all of its employees, subconsultants and subcontractors providing any Work or Services under this Agreement shall have sufficient skill and experience to perform the Services and Work assigned to them. All Services and Work shall be completed to the reasonable satisfaction of the City.

1.2 Contract Documents. The Agreement between the Parties shall consist of the following: (1) this Agreement; and, (2) the Consultant’s signed, original ______________, 2017 proposal submitted to the City (“Consultant’s Proposal”), which shall all be referred to collectively hereinafter as the “Contract Documents.” The Consultant’s Proposal, attached hereto as Exhibit “A,” is hereby incorporated by reference and is made a part of this Agreement. All provisions of the Contract Documents shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined in the following order of priority: (1st) the terms of this Agreement; and, (2nd) the provisions of the Consultant’s Proposal.

OPTION/ALTERNATIVE -- LANGUAGE FOR INCLUSION OF CITY’S RFP
The Agreement between the Parties shall consist of the following: (1) this Agreement; (2) the Consultant’s signed, original Proposal/Scope of Work dated ______________ (“Consultant’s Proposal”) and submitted to City; and, (3) the City’s Request for Proposals dated ______________, which shall all be referred to collectively hereinafter as the “Contract Documents.” The Consultant’s Proposal and the City’s Request for Proposals, which are both attached hereto as Exhibits “A” and “B,” respectively, are hereby incorporated by reference and are made a part of this Agreement. All provisions of this Agreement, the Consultant’s Proposal, and the City’s Request for Proposals shall be binding on the Parties. Should any conflict or inconsistency exist in the Contract Documents, the conflict or inconsistency shall be resolved by applying the provisions in the highest priority document, which shall be determined...
in the following order of priority: (1st) the terms and conditions of this Agreement; (2nd) the provisions of the City’s Request for Proposals (Exhibit “B”); and (3rd) the provisions of the Consultant’s Proposal (Exhibit “A”).

1.3 Compliance with Law. Consultant shall comply at all times during the term of this Agreement with all applicable federal, state, and local laws, statutes, and ordinances and all lawful orders, rules, and regulations promulgated thereunder, including without limitation all applicable fair labor standards and Cal/OSHA requirements. 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 Work and 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 performing the Work and Services. If Consultant performs any Work or Services in violation of such laws, rules, and regulations, Consultant shall be solely responsible for all penalties and costs arising therefrom. Consultant shall defend, indemnify, and hold City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

1.4 Licenses, Permits, Fees, and Assessments. Prior to performing any Services or Work hereunder Consultant shall obtain all licenses, permits, qualifications, and approvals of whatever nature that are legally required to practice its profession and perform the Work and Services required by this Agreement. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement and any extension, any license, permit, qualification, or approval that is legally required for Consultant to perform the Work and Services under this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the Work and Services required by this Agreement, and shall defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from and against any claim or liability arising out of any failure or alleged failure to obtain such license, permits, and approvals of whatever nature that are legally required to perform the Work or Services.

1.5 Familiarity with Work. By executing this Agreement, Consultant represents and warrants that it (a) has thoroughly investigated and considered the Scope of Work or Services to be performed, (b) has carefully considered how the Services should be performed and has carefully examined the location or locations at or with respect to where such Services or Work is to be performed, and (c) fully understands the facilities, difficulties, and restrictions attending performance of the Services under this Agreement. If the Services involve work upon any site, Consultant represents and maintains that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of any Services hereunder. Should the Consultant discover any latent or unknown conditions that will materially affect the performance of the Services hereunder, Consultant shall immediately inform the City
of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City.

1.6 Care of Work. Consultant shall adopt reasonable methods during the term of the Agreement to furnish continuous protection to the Work and the equipment, materials, papers, documents, plans, studies, and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the Work by the City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties. Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement.

1.8 Additional Services. City shall have the right at any time during the performance of the Services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services (Exhibit “A”) or make changes by altering, adding to, or deducting from such Work. No such extra work may be undertaken unless a written order is first given by the City to the Consultant, incorporating therein any adjustment in (i) the Maximum Contract Amount, as defined below, and/or (ii) the time to perform this Agreement, which adjustments are subject to the written approval of the Consultant. It is expressly understood by Consultant that the provisions of this section shall not apply to the Work and Services specifically set forth in the Scope of Services or reasonably contemplated therein, regardless of whether the time or materials required to complete any Work or Service identified in the Scope of Services exceeds any time or material amounts or estimates provided therein.

1.9 Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other contractors, consultants, or vendors for services similar to the services that are the subject of this Agreement. Consultant further acknowledges that City may have its own employees perform services similar to the services that are the subject of this Agreement.

2. COMPENSATION

2.1 Maximum Contract Amount. For the Services and Work rendered pursuant to this Agreement, Consultant shall be compensated by City for the services performed, including authorized reimbursements, on a time and materials basis in accordance with the professional hourly rates and charges set forth in the Schedule of Compensation/Fees, which is attached hereto as Exhibit “A” and is incorporated herein by reference, but not exceeding the total maximum contract amount of ____________________($_________) (hereinafter referred to as the "Maximum Contract Amount"), except as may be provided pursuant to Section 1.8 above. The method of compensation shall be as set forth in Exhibit “A”. Compensation for necessary expenditures for reproduction costs, telephone expenses, and transportation expenses must be approved in advance by the Contract Officer designated pursuant to Section 4.2 and will only be
approved if such expenses are also specified in the Schedule of Compensation/Fees. The maximum amount of City’s payment obligation under this Agreement is the amount specified in this section.

OPTIONAL LANGUAGE – SERVICES SHALL NOT EXCEED A FIXED AMOUNT FOR COMPLETION OF THE SUBJECT PROJECT:

The Maximum Contract Amount shall include the attendance of Consultant at all Project meetings reasonably deemed necessary by the City. Consultant shall not be entitled to any increase in the Maximum Contract Amount for attending these meetings. Consultant hereby acknowledges that it accepts the risk that the services identified in the Scope of Services may be more costly and/or time-consuming than Consultant anticipates, that Consultant shall not be entitled to additional compensation therefore, and that the provisions of Section 1.8 shall not be applicable to the services identified in the Scope of Services. The maximum amount of City’s payment obligation under this Agreement is the amount specified in this section. If the City’s maximum payment obligation is reached before the Consultant’s Services under this Agreement are completed, Consultant shall nevertheless complete the Work without liability on the City’s part for further payment beyond the Maximum Contract Amount.

2.2. **Method of Payment.** Unless some other method of payment is specified in the Schedule of Compensation/Fees (Exhibit “A”), in any month in which Consultant wishes to receive payment, no later than the tenth (10th) working day of such month, Consultant shall submit to the City, in a form approved by the City’s Finance Manager, an invoice for services rendered prior to the date of the invoice. Such requests shall be based upon the amount and value of the services performed by Consultant and accompanied by such reporting data including an itemized breakdown of all costs incurred and tasks performed during the period covered by the invoice, as may be required by the City. City shall use reasonable efforts to make payments to Consultant within forty-five (45) days after receipt of the invoice or a soon thereafter as is reasonably practical.

2.3 **Changes in Scope.** In the event any change or changes in the Scope of Services is requested by the City, the Parties shall execute a written amendment to this Agreement, setting forth with particularity all terms of such amendment, including, but not limited to, any additional professional fees. An amendment may be entered into: (a) to provide for revisions or modifications to documents or other work product or work when documents or other work product or work is required by the enactment or revision of law subsequent to the preparation of any documents, other work product, or work; and/or (b) to provide for additional services not included in this Agreement or not customarily furnished in accordance with generally accepted practice in Consultant’s profession.

2.4 **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefore by the Laguna Hills City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the City.
3. **SCHEDULE OF PERFORMANCE**

3.1 **Time of Essence.** Time is of the essence in the performance of this Agreement. The time for completion of the services to be performed by Consultant is an essential condition of this Agreement. Consultant shall prosecute regularly and diligently the Work of this Agreement according to the agreed upon Schedule of Performance.

3.2 **Schedule of Performance.** Consultant shall commence the Services pursuant to this Agreement upon receipt of a written notice to proceed, or on each task order, if applicable, and shall perform all Services within the time period(s) established in the Schedule of Performance, which is attached hereto as Exhibit “A” and is incorporated herein by reference. When requested by Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer; however, the City shall not be obligated to grant such an extension.

3.3 **Force Majeure.** The time period(s) specified in the Schedule of Performance for performance of the Services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant (financial inability excepted), including, but not limited to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, and/or acts of any governmental agency, including the City, if Consultant, within ten (10) days of the commencement of such delay, notifies the City Manager in writing of the causes of the delay. The City Manager shall ascertain the facts and the extent of delay, and extend the time for performing the Services for the period of the enforced delay when and if in the judgment of the City Manager such delay is justified. The City Manager's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this section.

3.4 **Term.** Unless earlier terminated as provided elsewhere in this Agreement, this Agreement shall commence upon the effective date of this Agreement and shall continue in full force and effect for a period of ____ ( ) ____, commencing on __________ and ending on __________, unless extended by mutual written agreement of the Parties.

3.5 **Task Orders.** Consultant hereby agrees and acknowledges that any and all Services or Work performed pursuant to this Agreement shall be based upon the prior issuance of a written project task order by the City. Furthermore, Consultant hereby agrees and acknowledges that execution of this Agreement by the City does not in any way guarantee that a task order will be issued to Consultant. Moreover, execution of this Agreement by the City shall not entitle Consultant to any form of payment or compensation from the City without City first having issued a project task order.
4. COORDINATION OF WORK

4.1 Representative of Consultant. The following principal of Consultant is hereby designated as being the principal and representative of Consultant authorized to act in its behalf with respect to the Services to be performed under this Agreement and to make all decisions in connection therewith: _______________________. It is expressly understood that the experience, knowledge, education, capability, expertise, and reputation of the foregoing principal is a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principal shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the Work or Services performed hereunder. The foregoing principal may not be changed by Consultant without prior written approval of the Contract Officer.

4.2 Contract Officer. The Contract Officer shall be such person as may be designated by the City Manager of City, and is subject to change by the City Manager. It shall be the Consultant's responsibility to ensure that the Contract Officer is kept fully informed of the progress of the performance of the Services, and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.3 Prohibition Against Subcontracting or Assignments. The experience, knowledge, capability, expertise, and reputation of Consultant, its principals and employees, were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, voluntarily or by operation of law, without the prior written consent of City. Consultant shall not contract with any other entity to perform the Services required without prior written consent of City. If Consultant is permitted to subcontract any part of this Agreement by City, Consultant shall be responsible to City for the acts and omissions of its subcontractor(s) in the same manner as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and City. All persons engaged in the Work will be considered employees of Consultant. City will deal directly with and will make all payments to Consultant. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written consent of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Consultant or any surety of Consultant from any liability hereunder without the express written consent of City.

4.4 Independent Contractor.
A. The legal relationship between the Parties is that of an independent contractor, and nothing herein shall be deemed to make Consultant a City employee. During the performance of this Agreement, Consultant and its officers, employees, and agents shall act in an independent capacity and shall not act as City officers or employees. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant’s exclusive direction and control. Neither City nor any of its officials, officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of its officers, employees, or agents, except as set forth in this Agreement. Consultant, its officers, employees or agents, shall not maintain a permanent office or fixed business location at City’s offices. City shall have no voice in the selection, discharge, supervision, or control of Consultant’s officers, employees, representatives or agents or in fixing their number, compensation, or hours of service. Consultant shall pay all wages, salaries, and other amounts due its employees in connection with the performance of Services under this Agreement and shall be responsible for all reports and obligations respecting them, including but not limited to social security income tax withholding, unemployment compensation, workers’ compensation, and other similar matters. City shall not in any way or for any purpose be deemed to be a partner of Consultant in its business or otherwise a joint venturer or a member of any joint enterprise with Consultant.

B. Consultant shall not incur or have the power to incur any debt, obligation, or liability against City, or bind City in any manner.

C. No City benefits shall be available to Consultant, its officers, employees, or agents, in connection with the performance of any Work or Services under this Agreement. Except for professional fees paid to Consultant as provided for in this Agreement, City shall not pay salaries, wages, or other compensation to Consultant for the performance of any Work or Services under this Agreement. City shall not be liable for compensation or indemnification to Consultant, its officers, employees, or agents, for injury or sickness arising out of performing any Work or Services hereunder. If for any reason any court or governmental agency determines that the City has financial obligations, other than pursuant to Section 2 and Subsection 1.8 herein, of any nature relating to salary, taxes, or benefits of Consultant’s officers, employees, representatives, agents, or subconsultants or subcontractors, Consultant shall defend, indemnify, and hold harmless City from and against all such financial obligations.

4.5 PERS Eligibility Indemnification

A. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing any Work or Services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employee 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 the City.

B. 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 any Work or Services 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.

5. INSURANCE

5.1 Compliance with Insurance Requirements. Consultant shall obtain, maintain, and keep in full force and effect during the term of this Agreement, at its sole cost and expense, and in a form and content satisfactory to City, all insurance required under this section. Consultant shall not commence any Work or Services under this Agreement unless and until it has provided evidence satisfactory to City that it has secured all insurance required under this section. If Consultant’s existing insurance policies do not meet the insurance requirements set forth herein, Consultant agrees to amend, supplement or endorse the policies to do so.

5.2 Types of Insurance Required. As a condition precedent to the effectiveness of this Agreement, and without limiting the indemnity provisions set forth in this Agreement, Consultant shall obtain and maintain in full force and effect during the term of this Agreement, including any extension thereof, the following policies of insurance:

A. Commercial General Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Commercial General Liability Insurance written on an occurrence basis with limits of at least one million dollars ($1,000,000.00) per occurrence, two million dollars ($2,000,000.00) in the general aggregate, and one million dollars ($1,000,000.00) for products and completed operations. Defense costs shall be paid in addition to the limits. The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; or (3) contain any other exclusion contrary to the Agreement.

B. Automobile Liability Insurance. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Automobile Liability Insurance written on a per occurrence basis with limits of at least one million dollars ($1,000,000.00) combined limit for each occurrence covering bodily injury and property damage. The policy shall specifically include coverage for owned, non-owned, leased, and hired automobiles.
C. **Workers’ Compensation Insurance.** Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Workers’ Compensation Insurance in at least the minimum statutory amounts, and in compliance with all other statutory requirements, as required by the State of California. Consultant agrees to waive and obtain endorsements from its workers’ compensation insurer waiving all subrogation rights under its workers’ compensation insurance policy against the City, its officials, officers, employees, agents and volunteers, and to require each of its subconsultants and subcontractors, if any, to do likewise under their workers’ compensation insurance policies. Consultant shall obtain and maintain, in full force and effect throughout the term of this Agreement, a policy of Employer’s Liability Insurance written on a per occurrence basis with limits of at least one million dollars ($1,000,000.00) per accident for bodily injury or disease.

D. **Professional Liability (Errors & Omissions) Insurance.** Consultant shall obtain and maintain in full force and effect throughout the term of this Agreement, a policy of Professional Liability or Errors and Omissions Insurance appropriate to Consultant’s profession with limits of at least two million dollars ($2,000,000.00). Covered professional services shall specifically include all Work or Services to be performed under the Agreement and delete any exclusions that may potentially affect the Work or Services to be performed under this Agreement.

1. The policy shall be endorsed to provide the following: Contractual Liability Exclusion Deleted: This insurance shall include contractual liability applicable to this Agreement. The policy must “pay on behalf of” the insured and include a provision establishing the insurer’s duty to defend.

2. If the policy of insurance is written on a “claims-made” basis, the City may require that the policy be continued in full force and effect at all times during the term of this Agreement, and for a period of three (3) years from the date of the completion of the Work or Services provided hereunder. In the event of termination of the policy during this period, Consultant shall obtain continuing insurance coverage for the prior acts or omissions of Consultant during the course of performing the Work or Services under the terms of this Agreement. The coverage shall be evidenced by either a new policy evidencing no gap in coverage, or by obtaining separate extended “tail” coverage with the present or new carrier or other insurance arrangements providing for complete coverage, either of which shall be subject to the written approval by the City.

3. In the event the policy of insurance is written on an “occurrence” basis, the policy shall be continued in full force and effect during the term of this Agreement, or until completion of the Work or Services provided for in this Agreement, whichever is later. In the event of termination of the policy during this period, new coverage shall immediately be obtained to ensure coverage during the entire course of performing the Work or Services under the terms of this Agreement.
5.3 **Acceptability of Insurers.** Insurance required by this section shall be issued by a licensed company authorized to transact business in the state by the Department of Insurance for the State of California with a current rating of A-:VII or better (if an admitted carrier), or a current rating of A:X or better (if offered by a non-admitted insurer listed on the State of California List of Approved Surplus Lines Insurers (LASLI), by the latest edition of A.M. Best’s Key Rating Guide, except that the City will accept workers’ compensation insurance from the State Compensation Fund. In the event the City determines that the Work or Services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the City. Consultant shall immediately substitute any insurer whose A.M. Best rating drops below the levels specified herein.

5.4 **Insurance Endorsements.** Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. Required insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms approved by the City to add the following provisions to the insurance policies:

A. The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to provide the following:

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

2. Additional Insured Endorsements: Additional insured endorsements shall not (1) be restricted to “ongoing operations”, (2) exclude “contractual liability”, (3) restrict coverage to “sole” liability of Consultant, or (4) contain any other exclusions contrary to the Agreement; and, the coverage shall contain no special limitations on the scope of protection afforded to additional insureds.

3. Notice: The policy or policies of insurance required by this section for Commercial General Liability and Automobile Liability Insurance shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or modified, or reduced in coverage or in limits, except after thirty (30) days prior written notice by First Class U.S. Mail, postage-prepaid, has been provided to the City. Notwithstanding the foregoing, if coverage is to be suspended, voided, or cancelled because of Consultant’s failure to pay the insurance premium, the notice provided to City shall be by ten (10) days prior written notice.

B. For all policies of Commercial General Liability Insurance, Consultant shall provide endorsements for ongoing operations and completed operations to effectuate this requirement.
5.5 **Deductibles and Self-Insured Retentions.** Any deductible or self-insured retention must be approved in writing by the City in advance and shall protect the City, its officials, officers, employees, agents and volunteers, in the same manner and to the same extent as they would have been protected had the policy or policies not contained a deductible or self-insured retention.

5.6 **Primary and Non-Contributing Insurance.** All policies of Commercial General Liability Insurance and Automobile Liability Insurance shall be primary and any other insurance, deductible, or self-insurance maintained by the City, its officials, officers, employees, agents or volunteers, shall not contribute with this primary insurance. Policies shall contain or be endorsed to contain such provisions.

5.7 **Waiver of Subrogation.** All policies of Commercial General Liability and Automobile Liability Insurance shall contain or be endorsed to waive subrogation against the City, its officials, officers, employees, agents and volunteers, or shall specifically allow Consultant or others providing insurance evidence in compliance with the requirements set forth in this section to waive their right to recovery prior to a loss. Consultant hereby agrees to waive its own right of recovery against the City, its officials, officers, employees, agents and volunteers, and Consultant hereby agrees to require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

5.8 **Evidence of Coverage.** Concurrently with the execution of the Agreement, Consultant shall deliver certificates of insurance together with original endorsements affecting each of the insurance policies required by this section. Required insurance policies shall not be in compliance if they include any limiting provision or endorsement that has not been submitted to the City for written approval. The certificates of insurance and original endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf. At least fifteen (15) days prior to the expiration of any such policy, evidence of insurance showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or reduced and not replaced immediately so as to avoid a lapse in the required coverage, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. Consultant shall promptly furnish, at City’s request, copies of actual policies including all declaration pages, endorsements, exclusions and any other policy documents City requires to verify coverage.

5.9 **Requirements Not Limiting.** Requirement of specific coverage or minimum limits contained in this section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Nothing in this section shall be construed as limiting in any way the indemnification provision contained in this
Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

5.10 Enforcement of Agreement (Non-Estoppel). Consultant acknowledges and agrees that actual or alleged failure on the part of the City to inform Consultant of any non-compliance with any of the insurance requirements set forth in this section imposes no additional obligation on the City nor does it waive any rights hereunder.

5.11 Insurance for Subconsultants. Consultant shall either: (1) include all subconsultants or subcontractors engaged in any Work or Services for Consultant relating to this Agreement as additional named insureds under the Consultant’s insurance policies; or (2) Consultant shall be responsible for causing its subconsultants or subcontractors to procure and maintain the appropriate insurance in compliance with the terms of the insurance requirements set forth in this section, including adding the City, its officials, officers, employees, agents and volunteers, as additional insureds to their respective policies. All policies of Commercial General Liability Insurance provided by Consultant’s subconsultants or subcontractors performing any Work or Services related to this Agreement shall be endorsed to name the City, its officials, officers, employees, agents and volunteers, as additional insureds. Consultant shall not allow any subconsultant or subcontractor to commence any Work or Services relating to this Agreement unless and until it has provided evidence satisfactory to City that the subconsultant or subcontractor has secured all insurance required under this section.

5.12 Other Insurance Requirements. The following terms and conditions shall apply to the insurance policies required of Consultant pursuant to this Agreement:

A. Consultant shall provide immediate written notice to City if (1) any of the insurance policies required herein are terminated, cancelled or suspended, (2) the limits of any of the insurance coverages required herein are reduced, or (3) the deductible or self-insured retention is increased.

B. All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to each insured, including additional insureds, against whom a claim is made or suit is brought to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations shall limit the application of such insurance coverage.

C. None of the insurance coverages required herein will be in compliance with the requirements of this section if they include any limiting endorsement which substantially impairs the coverages set forth herein (e.g., elimination of contractual liability or reduction of discovery period), unless the endorsement has first been submitted to the City and approved in writing.
D. Certificates of insurance will not be accepted in lieu of required endorsements, and submittal of certificates without required endorsements may delay commencement of the Project. It is Consultant’s obligation to ensure timely compliance with all insurance submittal requirements as provided herein.

E. Consultant agrees to ensure that subconsultants and subcontractors, if any, and any other parties involved with the Project who are brought onto or involved in the Project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the Project will be submitted to the City for review.

F. Consultant agrees to provide immediate written notice to City of any claim, demand or loss against Consultant arising out of the Work or Services performed under this Agreement and for any other claim, demand or loss which may reduce the insurance available to pay claims, demands or losses arising out of this Agreement.

6. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend (at Consultant’s sole cost and expense with legal counsel reasonably acceptable to City), indemnify and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from any and all claims, demands, orders, causes of action, costs, expenses, liabilities, losses, penalties, judgments, arbitration awards, settlements, damages or injuries of any kind, in law or in equity, including but not limited to property or persons, including wrongful death, (collectively “Claims”) in any manner arising out of, pertaining to, related to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officers, directors, employees, subcontractors, consultants or agents, in connection with Consultant’s performance under this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys’ fees and other related costs and expenses. Notwithstanding the foregoing, to the extent that the Work or Services performed by Consultant are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Under no circumstances shall the insurance requirements and limits set forth in this Agreement be construed to limit Consultant’s indemnification obligation or other liability hereunder. Notwithstanding the foregoing, such obligation to defend, hold harmless and indemnify the City, its officials, officers, employees, agents and volunteers, shall not apply to the extent that such Claims are caused in part by the sole active negligence or willful misconduct of the City.

7. REPORTS AND RECORDS
7.1 **Accounting Records.** Consultant shall keep complete, accurate, and detailed accounts of all time, costs, expenses, and expenditures pertaining in any way to this Agreement. Consultant shall keep such books and records as shall be necessary to properly perform the Services required by this Agreement and to enable the Contract Officer to evaluate the performance of such Services. The Contract Officer shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

7.2 **Reports.** Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the Services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of the Work and Services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the Work or Services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of such fact, circumstance, technique, or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

7.3 **Ownership of Documents.** All drawings, specifications, reports, records, documents, memoranda, correspondence, computations, and other materials prepared by Consultant, its employees, subconsultants, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be promptly delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of the documents and materials hereunder. Consultant may retain copies of such documents for its own use. Consultant shall have an unrestricted right to use the concepts embodied therein. Consultant shall ensure that all of its subconsultants and subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

7.4 **Release of Documents.** All drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officer. All information gained by Consultant in the performance of this Agreement shall be considered confidential and shall not be released by Consultant without City’s prior written authorization.

7.5 **Audit and Inspection of Records.** After receipt of reasonable notice and during the regular business hours of City, Consultant shall provide City, or other agents of City, such access to Consultant’s books, records, payroll documents, and facilities as City deems necessary
to examine, copy, audit, and inspect all accounting books, records, work data, documents, and activities directly related to Consultant’s performance under this Agreement. Consultant shall maintain such books, records, data, and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during the term of this Agreement and for a period of three (3) years from the date of final payment by City hereunder.

8. ENFORCEMENT OF AGREEMENT

8.1 California Law and Venue. This Agreement shall be construed and interpreted both as to validity and as to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such County, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

8.2 Interpretation. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives and purposes of the Parties. The terms of this Agreement are contractual and the result of negotiation between the Parties. Accordingly, any rule of construction of contracts (including, without limitation, California Civil Code Section 1654) that ambiguities are to be construed against the drafting party, shall not be employed in the interpretation of this Agreement. The caption headings of the various sections and paragraphs of this Agreement are for convenience and identification purposes only and shall not be deemed to limit, expand, or define the contents of the respective sections or paragraphs.

8.3 Termination. City may terminate this Agreement for any reason, with or without cause, upon giving Consultant thirty (30) days written notice. Upon such notice, City shall pay Consultant for Services performed through the date of termination. Upon receipt of such notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. Thereafter, Consultant shall have no further claims against the City under this Agreement. Upon termination of the Agreement pursuant to this section, Consultant shall submit to the City an invoice for work and services performed prior to the date of termination. In addition, Consultant reserves the right to terminate this Agreement at any time upon sixty (60) days written notice to the City, except that where termination is due to material default by the City, the period of notice may be such shorter time as the Consultant may determine.

8.4 Default of Consultant.

A. Consultant’s failure to comply with any provision of this Agreement shall constitute a default.

B. If the City Manager, or City Manager’s designee, determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement,
he/she shall notify Consultant in writing of such default. Consultant shall have ten (10) days, or such longer period as City may designate, to cure the default by rendering satisfactory performance. In the event Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice of any remedy to which City may be entitled at law, in equity, or under this Agreement. Consultant shall be liable for any and all reasonable costs incurred by City as a result of such default. Compliance with the provisions of this section shall not constitute a waiver of any City right to take legal action in the event that the dispute is not cured, provided that nothing herein shall limit City’s right to terminate this Agreement without cause pursuant to Section 8.3.

C. If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8.4(B), take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the Services required hereunder exceeds the Maximum Contract Amount (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated. The withholding or failure to withhold payments to Consultant shall not limit Consultant’s liability for completion of the Services as provided herein.

8.5 Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. Any waiver by the Parties of any default or breach of any covenant, condition, or term contained in this Agreement, shall not be construed to be a waiver of any subsequent or other default or breach, nor shall failure by the Parties to require exact, full, and complete compliance with any of the covenants, conditions, or terms contained in this Agreement be construed as changing the terms of this Agreement in any manner or preventing the Parties from enforcing the full provisions hereof.

8.6 Rights and Remedies Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

8.7 Legal Action. In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

8.8 Attorneys’ Fees. In the event any dispute between the Parties with respect to this Agreement results in litigation or any non-judicial proceeding, the prevailing Party shall be
entitled, in addition to such other relief as may be granted, to recover from the non-prevailing Party all reasonable costs and expenses, including but not limited to reasonable attorneys’ fees, expert witness fees, court costs and all fees, costs, and expenses incurred in any appeal or in collection of any judgment entered in such proceeding. To the extent authorized by law, in the event of a dismissal by the plaintiff or petitioner of the litigation or non-judicial proceeding within thirty (30) days of the date set for trial or hearing, the other Party shall be deemed to be the prevailing Party in such litigation or proceeding.

9. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

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

9.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership, or association in which they are, directly or indirectly, interested in violation of any state statute or regulation. Consultant represents and warrants that it has not paid or given and will not pay or give any third party any money or other consideration in exchange for obtaining this Agreement.

9.3 Covenant Against Discrimination. In connection with its performance under this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Consultant shall ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, disability, medical condition, religion, color, sex, sexual orientation, age, marital status, ancestry, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

10. MISCELLANEOUS PROVISIONS

10.1 Patent and Copyright Infringement.

A. To the fullest extent permitted by law, and in lieu of any other warranty by City or Consultant against patent or copyright infringement, statutory or otherwise, it is agreed that Consultant shall defend at its expense any claim or suit against City on account of any allegation that any item furnished under this Agreement, or the normal use or sale thereof arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters
Consultant shall have sole control of the defense of any such claim or suit and all negotiations for settlement thereof, Consultant shall not be obligated to indemnify City under any settlement made without Consultant’s consent or in the event City fails to cooperate in the defense of any suit or claim, provided, however, that such defense shall be at Consultant’s expense. If the use or sale of such item is enjoined as a result of the suit or claim, Consultant, at no expense to City, shall obtain for City the right to use and sell the item, or shall substitute an equivalent item acceptable to City and extend this patent and copyright indemnity thereto.

10.2 Notices. All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) five (5) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Notices or other communications shall be addressed as follows:

To City:  
City of Laguna Hills  
Attention: City Manager  
24035 El Toro Road  
Laguna Hills, California 92653  
Telephone: (949) 707-2600  
Facsimile: (949) 707-2633

To Consultant:

10.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior negotiations, arrangements, agreements, representations, and
understandings, if any, made by or among the Parties with respect to the subject matter hereof. No amendments or other modifications of this Agreement shall be binding unless executed in writing by both Parties hereto, or their respective successors, assigns, or grantees.

10.4 **Severability.** Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be determined to be invalid by a final judgment or decree of a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the reminder of that provision, or the remaining provisions of this Agreement unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

10.5 **Successors in Interest.** This Agreement shall be binding upon and inure to the benefit of the Parties’ successors and assignees.

10.6 **Third Party Beneficiary.** Nothing contained in this Agreement is intended to confer, nor shall this Agreement be construed as conferring, any rights, including, without limitation, any rights as a third-party beneficiary or otherwise, upon any entity or person not a party hereto.

10.7 **Recitals.** The above-referenced Recitals are hereby incorporated into the Agreement as though fully set forth herein and each Party acknowledges and agrees that such Party is bound, for purposes of this Agreement, by the same.

10.8 **Corporate Authority.** Each of the undersigned represents and warrants that (i) the Party for which he/she is executing this Agreement is duly authorized and existing, (ii) he/she is duly authorized to execute and deliver this Agreement on behalf of the Party for which he/she is signing, (iii) by so executing this Agreement, the Party for which he/she is signing is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which the Party for which he/she is signing is bound.

10.9 **Prevailing Wages.** Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”). Consultant agrees to fully comply with all applicable federal and state labor laws (including, without limitation, if applicable, the Prevailing Wage Laws). It is agreed by the Parties that, in connection with the Work or Services provided pursuant to this Agreement, Consultant shall bear all risks of payment or non-payment of prevailing wages under California law, and Consultant hereby agrees to defend, indemnify, and hold the City, its officials, officers, employees, agents and volunteers, free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. The foregoing indemnity shall survive termination of this Agreement.
10.10 **Counterparts.** This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON NEXT PAGE]
SIGNATURE REQUIREMENTS --

For Consultants that are a corporation, two (2) Corporate Officers must sign and staff may request that a copy of their corporate resolution confirming the names and titles of their authorized signatories be provided to the City in advance for review and approval, and the signature requirements are as follows:

1) One signature by the Chairman of the Board, the President, or the Vice President,
   -And-

2) One signature by the Secretary, any Assistant Secretary, the Chief Financial Officer or an Assistant Treasurer.

For Consultants that are not a corporation, signature requirements are as follows: the person who has authority to bind the business entity must sign.
IN WITNESS WHEREOF, the Parties have executed and entered into this Agreement as of the date first written above.

“CITY”
City of Laguna Hills,
a California municipal corporation

__________________________________________
Mayor

ATTEST:

_________________________________________
(SEAL)
MELISSA AU-YEUNG,
Assistant to the City Manager/ City Clerk

APPROVED AS TO FORM:

________________________________________
GREGORY E. SIMONIAN,
City Attorney

“CONSULTANT”

By: ________________________________

By: ________________________________
EXHIBIT “A”

CONSULTANT’S PROPOSAL/ SCOPE OF WORK

DATED: __________ , 2017

SCOPE OF SERVICES FOR PROJECT

INCLUDING,

SCHEDULE OF PERFORMANCE

AND

SCHEDULE OF COMPENSATION/ FEES