

# **REQUEST FOR PROPOSAL**

**FOR**

**A COMPREHENSIVE UPDATE TO THE  
CITY OF ONTARIO'S  
ANALYSIS OF IMPEDIMENTS (AI)  
TO FAIR HOUSING CHOICE**



**SUBMISSION DEADLINE:  
December 18, 2009**

# CITY OF ONTARIO REQUEST FOR PROPOSALS

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# **REQUEST FOR PROPOSALS**

## **City of Ontario Housing and Neighborhood Revitalization Agency Ontario, CA**

### **ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE PLAN**

#### **I. Introduction**

The City of Ontario Housing and Neighborhood Revitalization Agency (“City”) is soliciting responses to a Request for Proposals (RFP) from qualified consulting firms that are experts in the development of the Analysis of Impediments to Fair Housing Plans for submission to the U.S. Department of Housing and Urban Development (HUD).

#### **II. Overview**

Regulations for the consolidated submission for Community Planning and Development programs establish significant requirements for all localities receiving federal assistance to affirmatively further fair housing. These regulations require entitlement jurisdictions, to engage in fair housing planning. Under these requirements, the jurisdictions’ fair housing obligation is as follow:

- Conduct an Analysis of Impediments to Fair Housing choice at the beginning of each five-year cycle (2010-2014).
- Plan and carry out actions to overcome the effects of identified impediments.
- Maintain records and make available information and reports, including the Analysis of Impediments (AI), and document actions undertaken or to be undertaken to eliminate identified impediments.

The U.S. Department of Housing and Urban Development has encouraged jurisdictions to review their fair housing needs both as an individual jurisdiction and within the context of a regional approach to developing the AI which should encompass the regional needs analysis in addition to the local needs analysis. In an effort to produce a superior analysis, the City of Ontario Housing and Neighborhood Revitalization Agency is seeking responses from qualified agencies, fair housing organizations, consultants and individuals, to develop a jurisdictional AI containing data, analysis, and audits for the City of Ontario.

### **III. Scope of Services**

#### Analysis of Impediments to Fair Housing

The City's existing Analysis of Impediments to Fair Housing was updated in May 2005 and must be updated to reflect any current impediments to fair housing choice in the private and public housing sectors and recommend steps and/or remedies to overcome these impediments within the City.

The qualified agency, fair housing organization, consultant, or individual (contractor), selected to develop the AI document shall agree upon a work program that shall include (at a minimum), the following tasks:

1. Comprehensively review the City's 2005 Analysis of Impediments (AI) Document
2. Work cooperatively with fair housing organizations in San Bernardino County in the implementation of audits (fair housing testing); the collection of data, and any necessary information necessary to complete the AI.
3. Work cooperatively with the City of Ontario, regional agencies, regional taskforces, and participating jurisdiction to collect and analyze data.
4. Involve the general public, community-based organizations, housing providers, realtors, lenders, community planning officials, and any other participants necessary to produce the AI.
5. Inclusion and if necessary, development of tabular data maps indicating concentrations of minority residents, residents living in poverty, availability of public transportation, lending rates (HMDA data), Section 8 rental assistance, public housing, group homes, and other information required in the "Fair Housing Planning Guide" issued by HUD.
6. Development and inclusion of conclusions and recommendations for a proposed Action Plan.
7. Information and analysis of the effects of:
  - a. Building, occupancy and health and safety codes on housing choice, and the use of accessibility standards in local construction.
  - b. Applicable zoning and land use laws and policies that place restrictions on group homes.
  - c. Policies concerning the application of local neighborhood or site standards on new construction especially assisted housing development.
  - d. Policies and practices that connect transportation and available social services with housing opportunities.

- e. Policies and practices that affect the equal provision of governmental services.
- f. Policies concerning activities causing displacement, which may affect opportunities to select housing inside and outside areas of minority concentration, or housing which is accessible.
- g. Policies and practices that affect the representation of minorities and the disabled on planning and/or zoning boards and commissions.
- h. Policies and practices of public housing agencies and other housing assistance providers with respect to tenant selection and assignment, reasonable accommodation, delivery of services and maintenance and accessibility.
- i. Policies and practices regarding the sale and rental of real estate, such as steering or “blockbusting,” “all adult” issues, deed restrictions, inaccessible design, local occupancy standards and practices, local lending practices, real estate appraisal practices, insurance underwriting practices, and segregated housing conditions.

#### Public Meetings

The selected Consultant will be required to conduct public meetings as deemed necessary to complete the AI. Currently, the City is proposing a minimum of two community forums/public hearings.

#### HUD Meetings

The selected consultant will be required to attend HUD meetings as deemed necessary and provide support services for any questions that HUD may have in reviewing the AI.

#### Submission of the Plan to HUD

The successful consulting firm will be required to deliver a final original and four copies of the AI to the City of Ontario no later than May 10, 2010. In addition, the selected Consultant shall provide an electronic version of the AI to the City.

#### **IV. Submission of Proposals**

**Proposals (an original and three copies) must be submitted to the following address no later than 5:00 p.m. on Friday, December 18, 2009:**

**City of Ontario  
Housing & Neighborhood Revitalization Agency  
208 W. Emporia Street  
Ontario, CA 91762  
Attn: Jamie Richardson, Project Coordinator  
Reference: Request for Proposal – Comprehensive Update to the  
City of Ontario’s Analysis of Impediments (AI) to Fair Housing Choice**

To be considered a completed proposal, the following items should be included:

- A Work Plan, including an itemized timeline projecting key project benchmarks, individual responsibilities and work products. Proposed structure of AI, complying and potentially exceeding HUD requirements.
- A Budget, including itemized estimated costs. Costs associated with attendance at meetings and/or presentations should be included in the budget.
- A list of key staff that will be working on this project. This list shall also include individual responsibilities for this project. Resumes shall also be included along with an organization chart of key staff that will be assigned to the City of Ontario. Please note that designated individuals shall not be changed without prior authorization by the City of Ontario.
- A list of subcontractors (if any) that will be working on this project. Please note that subcontractors shall not be changed without prior authorization by the City of Ontario.
- Resource identification, including but not limited to map production, data analysis, and data collection.
- A brief outline of the terms and conditions proposed for both the data and testing portion of the AI.
- A brief summary of similar projects your firm has successfully completed. Please provide samples of documents prepared for other jurisdictions and a list of at least three references.
- Evidence of \$1,000,000 of general liability insurance per occurrence, \$1,000,000 in professional liability insurance per claim, \$1,000,000 in automobile liability, and \$1,000,000 in Workers' Compensation and Employer Liability. If general liability insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to the Professional Services Agreement or the general aggregate limit shall be twice the required occurrence limit.
- Evidence of financial capability.

It is the responsibility of the respondent to see that any information sent to the City has been received by the specified date and time. Telegraphic, telephonic or facsimile (fax) proposals will not be accepted.

The response to the RFP is the document that will be used by the City to make its initial assessment regarding the respondent's qualifications, understanding of the project's scope and objectives, and developer's/team's ability to complete the project.

The City reserves the right to reject any and all proposals in part or in whole, to waive any and all informalities and to disregard all non-conforming, non-responsive or conditional proposals.

## V. SELECTION PROCESS

### 1. SEPARATE SEALED FEE SCHEDULE

A separate, sealed envelope should contain a proposed fee schedule for services and include a list of other categories of out-of-pocket expenses which are expected to be paid by the City and a basis for any addition compensation which are expected to be paid by the City and a basis for any additional compensation which would be requested by your firm.

### 2. EVALUATION PROCESS

Evaluation of proposals will be conducted on the following:

- a. Responsiveness to the Request for Proposal format, content and scope of work.
- b. Experience and qualifications of the firm and the assigned individual(s).
- c. Fees

### 3. THE SELECTION PROCESS

The selection of the Consultant shall be based on the following criteria:

- a. The Consultant's experience in successfully performing similar work for a government entity. The Consultant must demonstrate a broad knowledge of the Federal requirements associated with these Plans and must have the ability to work cooperatively with various organizations and the public in the preparation of the Plans.
- b. The ability of the Consultant, with the assistance of City staff, to accomplish all tasks expressed and implied in the Scope of Work.
- c. The background and experience of the Consultant's key staff that will be assigned to prepare the Plans and their availability.
- d. Proposals will be reviewed for completeness and responsiveness.
- e. The Consultant's experience in obtaining governmental approval for similar documents. The Consultant's ability, availability, and willingness to respond to questions from the public, City staff, and the City Council concerning the implementation of the planning process.
- f. The proposed allocation of time to structure and encourage citizen participation and to prepare the document, and the Consultant's demonstrated ability to defend their work product, if challenged judicially or otherwise.
- g. References and samples, as submitted by Consultant as part of the proposal.
- h. Consultant's proposed charge for performing the Scope of Work expressed as an hourly rate for a specified number of hours, and as broken out by specific work products.

The City reserves the right to accept or reject any and all of the responses, in whole or in part; to alter the selection process in any way; to postpone or cancel the selection process for its own convenience at any time; to waive any defects/informalities; to disregard all non-conforming, non-responsive or conditional responses; and/or to issue a new RFP at any time.

This RFP and the selection process shall in no way be deemed to create a binding contract or agreement of any kind between the City and respondent.

All legal rights and obligations between the successful Consultant, if any, and the City will come into existence only when an agreement is fully executed by the parties, and the legal rights and obligations of each party shall at that time be only those rights and obligations which are set forth in the agreement and/or any other document superficially referred to in that agreement and executed by the parties.

Each consulting firm submitting a response to this RFP agrees that the costs of all materials are at the respondent's sole cost and expense. The City shall not, under any circumstances, be responsible for any costs or expenses incurred by a respondent in preparing a proposal. Each respondent agrees that all documentation and materials submitted with a proposal shall remain the property of the City.

## **VI. Procedures**

There will be no official bid opening. The City of Ontario will enter into a Professional Services Agreement with the successful Consultant. While cost is a consideration, the City is not limited to selecting the lowest bid. However, if there is a major difference in bids from one bidder to the next, then cost will be weighted accordingly.

Prior to the opening of proposals, a potential Consultant may submit, in writing, a request for interpretation or correction of the Request for Proposals documents. These requests will be directed to the Housing Director. Any interpretation or correction of the Request for Proposals documents shall be made available, in a timely manner to all other potential respondents who have obtained a Request for Proposals from the City.

To be considered, an original and three (3) copies of a proposal must be received at the City of Ontario Housing and Neighborhood Revitalization Agency no later than 5:00 p.m. on Friday, December 18, 2009. Proposals received after 5:00 p.m. will be returned unopened to the bidder. The bidder shall be bound to the terms of the proposal for a period of sixty (60) days following the bid deadline.

## **VII. Payment of Services**

For preparation of the documents, the City shall pay the Consultant, upon completion of each specific work product, an amount to be mutually agreed upon between the City and the Consultant. Consultant shall bill the City on a monthly basis as specified in the Professional Services Agreement.

### **VIII. Copies of Existing Plans**

Copies of the City's current Consolidated Plan, FY 2009-2010 One-Year Action Plan, and the Analysis of Impediments to Fair Housing are available for review upon request.

### **IX. Questions**

All inquiries regarding this RFP shall be directed to Jamie Richardson, Project Coordinator, at the City of Ontario Housing and Neighborhood Revitalization Agency at (909) 395-2298.

**City of Ontario  
Analysis of Impediments  
RFP Review**

**Firm Name:** \_\_\_\_\_

	<b>Points</b>
1. <u>Experience of Firm</u> – In preparing Consolidated Plans (Maximum Points – 20)	
2. <u>Proposed Timeline</u> – Are the proposed benchmarks realistic to submit the Consolidated Plan to HUD by the May 15 <sup>th</sup> deadline (Maximum Points – 20)	
3. <u>Budget</u> – (Maximum Points – 15)	
4. <u>Key Staff</u> – Experience of key staff assigned to prepare the Consolidated Plan (Maximum Points – 20)	
5. <u>Quality of Application</u> – Overall writing style and detail of the application (Maximum Points – 25)	
<b>TOTAL</b>	

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Notes:

The proposed activity is to be funded with HUD funds in accordance with federal laws and regulations which require that all contracts with consultants for activities utilizing HUD funds adhere to all applicable requirements, including but not limited to non-discrimination, equal employment opportunity, training and business opportunity and non-segregated facilities.

The selected contractor shall certify that they meet the above federal requirements. (See Appendix A)

Minority and Women Owned businesses are encouraged to apply.

In the event of a HUD audit or review of the completed AI document, the City shall require the successful contractor to act as an interface with HUD to justify the accuracy of the finished document, the techniques of data collection and to ensure that the AI document complies with all HUD requirements.

\*At the completion of the project and prior to final payments, the contractor shall provide to the City 10 bound copies of the completed Analysis of Impediments document. All research data, maps and other materials produced during the period of the contract shall be provided to the City on CD formatted for Microsoft Word clearly marked on each disc as to the contents of the disc.

## **APPENDIX A**

1. Non-Collusion Affidavit – To be executed by the proposer and submitted with proposal.
2. Equal Opportunity Compliance Certification
3. Minority Business/Women Owned Business Participation Certification
4. City of Ontario Sample Professional Service Agreement

NON-COLLUSION AFFIDAVIT

Project Number \_\_\_\_\_

Project Name \_\_\_\_\_

TO BE EXECUTED BY EACH AWARDEE OF A CONTRACT AND SUBCONTRACT.

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

I, \_\_\_\_\_, being first duly sworn, deposes and says that he/she is \_\_\_\_\_ (Sole owner, a partner, president, etc.) of \_\_\_\_\_, the party making the foregoing bid.

That such bid is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation, that such bid is genuine and not collusive or sham, that said bidder has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or that anyone shall refrain from bidding, that said bidder has not in any manner, directly or indirectly sought by agreement, communication or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in such bid are true, and further, that said bidder has not, directly or indirectly submitted his bid price, or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership company, association, Organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

The provisions of this Affidavit shall not be held as disqualifying a person, firm or corporation who has submitted a sub-bid to one Bidder from submitting separate sub-bids or quoting prices for material or work to other Bidders.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**CERTIFICATION OF BIDDER REGARDING  
EQUAL EMPLOYMENT OPPORTUNITY**

The (bidder) \_\_\_\_\_, Hereby certifies that he/she **has or has not** participated in a previous contract or subcontract subject to the equal opportunity clause as required by Executive Orders 10925, 11114 or 11246, and that he/she has or has not filed with the Joint Reporting Committee, The Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering City or the former President's Committee on Equal Opportunity Employment, all reports due under the applicable filing requirements.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b) (1)) and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontract which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. Generally, only contracts or subcontracts of \$10,000 or under are exempt.

Currently, Standard Form 100 (EEO-1) is the only report required by Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontracts subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7 (b) (1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

**CERTIFICATION OF BIDDER REGARDING  
EQUAL EMPLOYMENT OPPORTUNITY**

This certification is required pursuant to Executive Order 11246 (30 F.R. 1231925). The implementing rules and regulation provide that any bidder or prospective contractor, or any of their proposed subcontractors, shall state as an initial part of the bid or negotiations of the contract, whether it has participated in any previous contract or subcontract subject to the equal opportunity clause; and, if so, whether it has filed all compliance reports due under applicable instructions.

Where the certification indicates that the bidder has not filed a compliance report due under applicable instruction, such bidder shall be required to submit a compliance report within seven calendar days after bid opening, No contract shall be awarded unless such report is submitted.

**CERTIFICATION BY BIDDER**

Bidder's Name: \_\_\_\_\_

Address/City/Zip Code: \_\_\_\_\_

1. Bidder has participated in a previous contract or subcontract subject to the Equal Opportunity Clause?       YES       NO  
If yes, identify the most recent contract: \_\_\_\_\_
  
2. Compliance reports were required to be filled in connection with such contract or subcontract:       YES       NO  
If yes, identify the most recent contract: \_\_\_\_\_
  
3. Bidder has filed all compliance reports due under applicable instructions, including SF 100:       YES       NO       NONE REQUIRED
  
4. If the answer to question #3 is "No", please explain in detail on reverse side of this certification.
  
5. Bidder has developed and has on file at each establishment affirmative action programs pursuant to 41 CFR Part 60-2:       YES       NO      If yes, attach a copy to this certification.

CERTIFICATION – The information above is true and complete to the best of my knowledge and belief.

Name and Title of Signer:

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DATE

**MINORITY AND WOMEN OWNED BUSINESS**  
**ENTERPRISE PARTICIPATION**

This form is designed to assist the City of Ontario in assessing and reporting the proportion and amounts of contracts and subcontracts awarded to Minority and Women Owned Business Enterprises (MBWBE's) for the project named below. Include information on all subcontractors and suppliers if the total bid amount exceeds \$10,000.

“Minority owned or controlled” means that 51% or more of the company’s ownership or controlling interest in the company is held by one or more Black Americans, Native Americans (including American Indians, Eskimos, Aleuts, and Native Hawaiians), Hispanic Americans, or Asian/Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia and Taiwan), or any other group of natural persons identified as minorities in the project specifications by the City.

“Female owned or controlled” means that 51% or more of the company’s ownership or controlling interest in the company is held by one or more female persons.

**PROJECT**

Project Name	Project Name
\$ _____ Federally funded or assisted <input type="checkbox"/> YES <input type="checkbox"/> NO	

**CONTRACTOR**

Contractor Name	Federal ID Number
Address	City/State/Zip Code
Minority owned or controlled? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Female owned or controlled? <input type="checkbox"/> YES <input type="checkbox"/> NO	
\$ _____	
Portion of bid amount to be performed by contractor	

**MINORITY AND WOMEN OWNED BUSINESS**  
**ENTERPRISE PARTICIPATION**  
(continued)

**SUBCONTRACTORS:**

1. \_\_\_\_\_  
Subcontractor Name Federal ID Number
- \_\_\_\_\_  
Address City/State/Zip
- Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO
- \$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor
2. \_\_\_\_\_  
Subcontractor Name Federal ID Number
- \_\_\_\_\_  
Address City/State/Zip
- Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO
- \$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor
3. \_\_\_\_\_  
Subcontractor Name Federal ID Number
- \_\_\_\_\_  
Address City/State/Zip
- Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO
- \$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor

(Use additional copies of this form if needed to provide information on all subcontractors)

**MINORITY AND WOMEN OWNED BUSINESS**  
**ENTERPRISE PARTICIPATION**

(continued)

4. \_\_\_\_\_  
Subcontractor Name Federal ID Number

\_\_\_\_\_

Address City/State/Zip

Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO

\$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor

5. \_\_\_\_\_  
Subcontractor Name Federal ID Number

\_\_\_\_\_

Address City/State/Zip

Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO

\$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor

6. \_\_\_\_\_  
Subcontractor Name Federal ID Number

\_\_\_\_\_

Address City/State/Zip

Minority owned or controlled?  YES  NO  
Female owned or controlled?  YES  NO

\$ \_\_\_\_\_  
Portion of bid amount to be performed by subcontractor

(Use additional copies of this form if needed to provide information on all subcontractors)

**MINORITY AND WOMEN OWNED BUSINESS**  
**ENTERPRISE PARTICIPATION**

(continued)

**CITY OF ONTARIO MWBE POLICY AND GOALS**

To receive the contract award as the lowest responsible bidder, the contractor must either: 1) meet the goals and requirements established by the city relating to participation in the contract by MBE's; or 2) produce information to document a good faith effort, made by the bidder prior to the bid opening, to comply with those goals and requirement. Refer to the Public Contracts Code, Section 2000 which specifies the actions required for a good faith effort; and refer to the federal regulations at 24 CFR Part 85, 36 (e), Contracting with Small and Minority Firms, Women's Business Enterprise and Labor Surplus Area Firms, for a listing of good faith effort actions required for federally funded or assisted projects.

In compliance with the City's goals of achieving 15% participation of Minority Business Enterprise (MBE) and 5% participation of Women's Business Enterprise (WBE), the following analysis calls for information needed to assess the levels of participation provided by your bid. A copy of the Policy and Goals is available from the City contracting department.

**MWBE PARTICIPATION ANALYSIS**

\$ \_\_\_\_\_ Divided by \$ \_\_\_\_\_ Multiplied by 100= \_\_\_\_\_  
(MBE Portion of Total Bid) (Total Bid Amount) (Percentage of MBE Participation)

\$ \_\_\_\_\_ Divided by \$ \_\_\_\_\_ Multiplied by 100= \_\_\_\_\_  
(WBE Portion of Total Bid) (Total Bid Amount) (Percentage of WBE Participation)

If the percentage of MBE participation is less than 15% or the percentage of WBE participation is less than 5%, document the actions you took prior to the bid opening in making a good faith effort and submit to the City a statement and supporting documentation as part of your bid submittal.

Certification – The information above is true and complete to the best of my knowledge and belief:

\_\_\_\_\_  
Name of Signer

\_\_\_\_\_  
Title of Signer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**(Note: Failure to complete and sign this form is cause for rejection of bid)**

**[MODEL AGREEMENT– REMOVE THIS TITLE WHEN USED]**

**CITY OF ONTARIO  
PROFESSIONAL SERVICES AGREEMENT**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the City of Ontario, a municipal organization organized under the laws of the State of California with its principal place of business at 303 East “B” Street, Ontario, California 91764-4196 (“City”) and [\_\_INSERT NAME\_\_], a [\_\_INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY\_\_] with its principal place of business at [\_\_INSERT ADDRESS\_\_] (“Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties.”

**2. RECITALS.**

2.1 City. City is a municipal corporation organized under the laws of the State of California, with power to contract for services necessary to achieve its purpose.

2.2 Consultant. Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing [\_\_INSERT TYPE OF SERVICES\_\_] services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.3 Project. City desires to engage Consultant to render such services for the [\_\_INSERT NAME OF PROJECT\_\_] project (“Project”) as set forth in this Agreement.

**3. TERMS.**

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional [\_\_INSERT TYPE OF SERVICES\_\_] consulting services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from [\_\_INSERT START DATE\_\_] to [\_\_INSERT ENDING DATE\_\_], unless earlier terminated as

provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. **\*\*\*INSERT IF DESIRED BY CITY:** City alone (not the Consultant) shall have the option to extend the term of this Agreement for two (2) successive one (1) year periods (individually, “Subsequent Term” and collectively, “Subsequent Terms”) on the same terms and conditions as set forth in this Agreement (including, without limitation, the rates set forth in the Compensation Schedule attached hereto as Exhibit “C” and incorporated by reference herein); provided however, that the amount of the total compensation, including authorized reimbursements, for any Services rendered in any Subsequent term(s) (if such Subsequent Term(s) is desired by City), shall not exceed the amount required to be appropriated by City, in its sole and absolute discretion. Such extension(s) shall be made by City providing written notice to Consultant. Consultant shall complete the Services within the applicable Term of the Agreement, and shall meet any other established schedules and deadlines as may be set by City staff on an on-call and as-needed basis from time to time.\*\*\*]

### 3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant’s exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit “B” attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant’s conformance with the Schedule, City shall respond to Consultant’s submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant

cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: [\_\_\_INSERT NAMES\_\_\_].

3.2.5 City's Representative. The City hereby designates [\_\_\_INSERT NAME OR TITLE\_\_\_], or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates [\_\_\_INSERT NAME OR TITLE\_\_\_], or his or her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10 Insurance.

3.2.10.1 Time for Compliance. Consultant shall not commence the Services under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

3.2.10.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability*: One Million Dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: One Million Dollars (\$1,000,000) per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. **[NOTE: IF THE SCOPE OF A PROJECT IS OF SUCH A VALUE THAT MORE THAN A MINIMUM INSURANCE OF ONE MILLION**

**DOLLARS APPEARS NECESSARY, PLEASE CHECK WITH THE CITY'S RISK MANAGER.]**

3.2.10.3 Professional Liability. **[INCLUDE ONLY IF APPLICABLE - DELETE OTHERWISE]** Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Services, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 **[INCREASE IF NECESSARY - OTHERWISE LEAVE AS IS AND DELETE THIS NOTE]** per claim, and shall be endorsed to include contractual liability.

3.2.10.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the Services or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(B) Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

(C) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other

provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents and volunteers.

3.2.10.5 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents and volunteers.

3.2.10.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.10.7 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City.

3.2.10.8 Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

### 3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed [\_\_\_INSERT WRITTEN DOLLAR AMOUNT\_\_\_] (\$[\_\_\_INSERT

**NUMERICAL DOLLAR AMOUNT**\_\_\_\_]) without written approval of City's [\_\_\_\_INSERT TITLE\_\_\_\_]. Extra Work may be authorized, as described below; and if authorized, said Extra Work will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within forty-five (45) days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Consultant is aware of the requirements of California Labor Code Sections 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. [\_\_\_\_INSERT "IF" OR "SINCE" AS APPLICABLE\_\_\_\_] the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and [\_\_\_\_INSERT "IF" OR "SINCE" AS APPLICABLE\_\_\_\_] the total compensation is One Thousand Dollars (\$1,000) or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees, volunteers and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

### 3.4 Accounting Records.

3.4.1 Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all

work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.5 General Provisions.

3.5.1 Termination of Agreement.

3.5.1.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.5.1.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.5.1.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5.2 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

<u>City</u>	<u>Consultant</u>
City of Ontario	[__INSERT NAME__]
303 East "B" Street	[__INSERT ADDRESS__]
Ontario, CA 91764-4196	[__INSERT ADDRESS__]
Attn: [INSERT NAME]	Attn: [__INSERT NAME__]

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.5.3 Ownership of Materials and Confidentiality.

3.5.3.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data

magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents & Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City’s sole risk.

3.5.3.2 Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City’s name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.5.4 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.5.5 Attorney’s Fees. If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney’s fees and all other costs of such action.

3.5.6 Indemnification. Consultant shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any negligent acts or omissions or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant’s own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any such judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal

proceeding. Consultant shall reimburse City and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials, officers, employees, agents or volunteers.

3.5.7 Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both Parties.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in San Bernardino County.

3.5.9 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.5.10 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.5.11 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties.

3.5.12 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.5.13 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.5.14 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.5.15 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit,

privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.5.18 Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.5.19 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of any City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.5.20 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.5.21 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.5.22 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6 Subcontracting.

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**[SIGNATURES ON FOLLOWING PAGE.]**

**CITY OF ONTARIO**

**[INSERT CONSULTANT'S NAME]**

By: \_\_\_\_\_  
Gregory C. Devereaux  
City Manager

By: \_\_\_\_\_  
**[INSERT NAME]**  
**[INSERT TITLE]**

*Attest:*

By: \_\_\_\_\_  
City Clerk

*Approved as to Form:*

\*\*\*\*Approved Form\*\*\*\*  
Best Best & Krieger LLP  
City Attorney

**EXHIBIT “A”**  
**SCOPE OF SERVICES**  
**[INSERT SCOPE]**

**EXHIBIT “B”**  
**SCHEDULE OF SERVICES**  
**[INSERT SCHEDULE]**

**EXHIBIT B**

**EXHIBIT “C”**

**COMPENSATION**

**[INSERT RATES & AUTHORIZED REIMBURSABLE EXPENSES]**