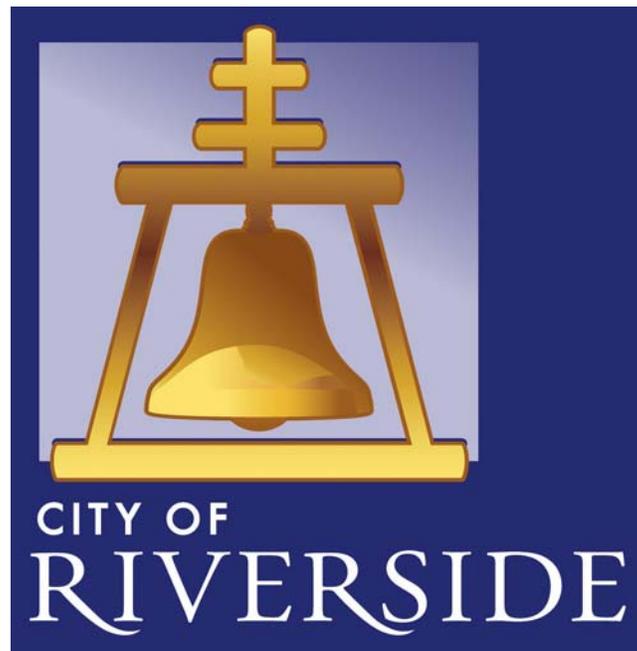


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***REQUEST FOR PROPOSAL***

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***Employee Assistance Program  
Human Resources Department's Benefits Division***



***HUMAN RESOURCES DEPARTMENT  
3900 MAIN STREET  
RIVERSIDE, CA 92522***

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***PROPOSAL DUE: September 12, 2014***

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**CITY OF RIVERSIDE  
REQUEST FOR PROPOSALS**

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**CITY OF RIVERSIDE  
REQUEST FOR PROPOSAL (RFP)**

**HUMAN RESOURCES DEPARTMENT  
EMPLOYEE ASSISTANCE PROGRAM  
AUGUST 2014**

**SECTION 1: INTRODUCTION**

The Human Resources Department, hereafter referred to as "Department," of the City of Riverside, hereafter referred to as "City," is soliciting proposals from qualified firms to provide Employee Assistance Program (EAP) professional services to eligible City employees and their dependents (excludes Police Department employees). The EAP program should offer assessment, short term counseling and referral services along with crisis counseling in a variety of areas including but not limited to stress, abuse, aging, legal, financial, marital, parent-child, health and wellness, and substance abuse. The vendor will also assist and participate with various health and wellness events along with attending Health and Benefits Committee (HBC) meetings. The City desires to maintain and ensure that its EAP services are being serviced at the highest level of quality.

**SECTION 2: GENERAL BACKGROUND AND DESCRIPTION**

The City provides a full range of services which include general government, public safety (police, fire, disaster preparedness, and building inspection), construction and maintenance of highways and streets, economic development, culture and recreation, electric, water, airport, refuse, sewer, and senior citizen/handicap transportation. The City has 1,556 active benefited employees (this bid excludes Police Department employees who are under a separate contract and non-benefited who are not offered this benefit) who are eligible for EAP benefits as follows:

1528 - Permanent Full Time

27 - Permanent Three-Quarter Time

31 - Permanent Half Time

Of primary importance to the City of Riverside is a quality EAP capable of providing a full range of services. The successful EAP vendor must demonstrate a proven track record of being able to assist or advise a large employer in managing work related issues such as absences, turnover, tardiness and workers' compensation costs commonly related to the diseases of alcoholism and drug abuse and assist employees with other personal problems that negatively impact effective job performance. The City expects regular and ongoing communication with the service vendor regarding City made referrals to the extent that laws protecting confidentiality permit.

The successful EAP vendor must be able to provide, as part of the selection process, performance data that indicate actual and projected cost savings realized by current clients as a result of utilizing its services and must be able to demonstrate a history of financial stability at all levels of its operation.

The successful EAP vendor must fully detail as part of its response the security system designed to protect unauthorized access to files and other confidential materials.

**SECTION 3: SCOPE OF SERVICES**

The service provided shall consist of two components:

**A. EAP Services, to include the following:**

1. Five Assessment Sessions per employee/dependent per each type of problem per year, if necessary, to evaluate future course of action and make appropriate referral(s).
2. Training as necessary to City Supervisors, Managers or Department Heads related to dealing with resolving or improving employee/work related issues, concerns or conflicts.
3. 24/7 day a week access to services for employees and their immediate family members.
4. Attend and/or present at the Annual Spring Health and Wellness Fair, at annual Fall Open Enrollment event(s), HBC meetings and various wellness seminars throughout the year. Assist City staff in contracting and coordinating vendor participation in a variety of events.

**B. Communications, to include the following:**

1. Management Summary Report – A quarterly report must be delivered in duplicate to the Human Resources Director and/or designee no later than thirty (30) days after the end of each quarter containing the following information:
  - A. Data regarding the number of employees/dependents referred and/or voluntarily seeking services and the types of issues and/or problems for which employees/dependents are receiving counseling, and
  - B. Any other information that confidentiality laws permit and would be useful in resolving or anticipating employee relations problems and concerns.
2. Services Manual – A detailed description of services offered in the following areas:
  - A. Alcohol abuse counseling/referral
  - B. Marital and family counseling
  - C. Stress management seminars for employees
  - D. Post traumatic incident intervention and aftercare
  - E. Services offered to members of the employee's family
  - F. Drug abuse counseling/referral
  - G. Ongoing in-service training in employee assistance matters of management and supervisory personnel and regularly scheduled updates on subject material
  - H. New employee orientation
  - I. New supervisory EAP services training
  - J. Peer support group training
  - K. Career counseling
  - L. Health and Wellness
  - M. Other services

Provide a list of contracted EAP Counselors or advisors that would be providing services listed above.

3. Forms and Materials – The selected EAP firm must provide all forms, posters, brochures, mailers, and cover all printing and mailing costs. The City reserves the right to review all printed materials prior to their distribution.

5. Program Implementation – The City's chosen EAP vendor, working with the Human Resources Department, will submit a written plan for implementation that addresses the following areas:
  - A. Policy Statement, including administrative and management approach (includes program evaluation, training of staff, usage of methods and techniques to increase utilization)
  - B. Summary of Services, Tools and Resources Provided
  - C. Marketing and Communication Strategy
  - D. Training/Orientation of Management, Supervisors and Employees
6. Program Evaluation – The selected EAP vendor will agree to extend its cooperation to the City or its designated representative(s) in periodic evaluations or audits. The time for such audits will be determined by the City of Riverside, but will not be scheduled in such a manner that will place an unreasonable hardship on the EAP vendor.

#### **SECTION 4: COMPLIANCE WITH THE LAW**

The agency agrees to conduct its operation in full compliance with all applicable local, state and federal laws, rules and regulations governing such operations in effect at the time the Agreement is executed and as amended during the period the Agreement is in effect. The agency agrees to keep the City and its officers notified with respect to applicable changes or pending changes in those areas of law, regulations or case law which may affect the services provided by the agency as soon as information on such changes becomes available.

#### **SECTION 5: INSURANCE REQUIREMENTS**

The City of Riverside requires all vendors and contractors to submit proof of insurance coverage before beginning any jobs on City property.

The Insurance Certificate must show the dates of coverage, and the coverage amounts for Liability, Automobile, and Workers Compensation. The City requires minimum coverage amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate. The form should also show the City of Riverside as the Certificate Holder, at the bottom of the page. The City address shall be shown as 3900 Main Street, Riverside, CA. 92522. It is not necessary to list any names of City officials.

In addition to the Certificate of Insurance, the City requires an "Additional Endorsement," whereby the City of Riverside is named as an additional insured.

During the life of the contract, the agency shall purchase and maintain insurance coverage with carriers who are authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher. Failure to furnish acceptable evidence of insurance or lapse in the policy will be considered a material breach and grounds for termination of the contract.

The City requires that copies of the current Certificate of Insurance and Additional Endorsement forms, naming the City as the Certificate Holder and additional insured be provided with your bid package. Subsequent insurance changes/renewals should be sent directly to the Purchasing Office.

Detailed insurance requirements can be found under Section 12 of the attached Agreement (Exhibit A).

#### **SECTION 6: PERMITS AND LICENSES**

Upon acceptance of the bid, the agency shall provide proof of the following:

- A. The agency has a valid Business Tax Registration and City Business License obtained from the City.

- B. Agents, servants, representatives, and employees of the agency who are to perform services for the City have valid licenses, permits, certificates, or other qualifications as required by law.

## **SECTION 7: PROPOSAL REQUIREMENTS**

The vendor shall provide their written proposal with the following information. Any additional information deemed pertinent may also be included. Vendors must be thorough in their written proposals, and should include samples of communication materials suggested for use. The City may submit exceptions or alternative options to these specifications for consideration. Proposals should follow the sequence outlined herein.

### **A. Company Information**

1. An introduction of your firm and statement of professional qualifications.
2. Background of the organization.
3. Location of Consultant's principal office and the office that will handle the contract.
4. The name and qualifications of the key individuals(s) that is/are responsible for providing the required services, stating his/her/their proposed function and relevant experience.
5. Firm qualifications - experience with similar contracts, particularly with governmental agencies.
6. Professional References, including a listing of local and/or public sector clients for which similar programs have been developed and administered, including dates of performance, addresses, telephone numbers, and names of contact persons. A minimum of three (3) references must be provided
7. List additional services that may be available through your organization outside of the basic contract.
8. List the various functions and support staff available to the City via your company. Please indicate whether these functions are provided in-house or by contract. Please list types of services that are available to the City.
9. Any additional information or description of resources supporting your firm's qualifications for the proposed program.
10. A fee schedule as described hereinafter.

### **B. Scope of Services**

Provide information in narrative form on your firm's approach to accomplishing the work cited in Section 3, Scope of Services, items A, (1 through 3) and B, (1 through 5), should be provided in the order they appear in the Request For Proposal.

### **C. Pricing**

1. Program cost for all services outlined herein.
2. Program cost for all services and post-traumatic incident intervention/aftercare.
3. Method of payment for services provided. (1. Fee for Service, 2. Per Capita)

**D. Additional Items**

1. Five (5) typed copies (1 original and 4 copies) of the Proposal must be submitted to the office listed below no later than 4 p.m. on September 12, 2014.
2. If awarded contract:
  - Copy of Riverside business license
  - Copy of Insurance Certificate for \$1,000,000 per occurrence and \$2,000,000 aggregate
  - Copy of Additional Insured Endorsement
  - Copy of Errors and Omissions Insurance Certificate

**SECTION 8: PROPOSAL SCHEDULE**

- |                                 |   |                                                                                                                           |
|---------------------------------|---|---------------------------------------------------------------------------------------------------------------------------|
| Week of August 11, 2014         | - | Post RFP to allow interested firms to apply                                                                               |
| September 12, 2014              | - | Proposals must be submitted by interested firms by 4:00 p.m.                                                              |
| Sept. 29, 2014 to Oct. 10, 2014 | - | City staff reviews proposals and <b>may</b> invite finalist for finalist presentations, interviews, and/or demonstrations |
| Week of December 1, 2014        | - | City Council approval and award of contract                                                                               |
| January 1, 2015                 | - | Contracted work begins                                                                                                    |

**SECTION 9: INSTRUCTIONS FOR SUBMISSION OF PROPOSAL**

The proposer shall provide an original, along with four (4) copies of the proposal to the Human Resources Department no later than 4:00 p.m. on September 12, 2014. Faxed or e-mailed proposals will not be accepted. This date and time will close the proposal period. This date and time is fixed and no extensions will be granted. All interested parties are encouraged to email Lori Meyers, Human Resources Analyst, at [lmeyers@riversideca.gov](mailto:lmeyers@riversideca.gov) with any questions not addressed in this request. Each proposal will be considered binding for ninety (90) days following the proposal date. In addition to the paperbound proposal a CD copy of proposal is highly desirable. Proposals are to be mailed or delivered to:

Miriana Gonzalez, Principal Human Resources Analyst  
Human Resources Department  
City of Riverside  
3900 Main Street, 5<sup>th</sup> Floor  
Riverside, CA 92522  
Tel: (951)826-2366  
[mgonzalez@riversideca.gov](mailto:mgonzalez@riversideca.gov)

The City reserves the right to reject all proposals without qualification. The City reserves the right to revise or amend the request for proposal up to the submittal deadline. Any revisions or amendments, if any, shall be announced by amendments to this solicitation.

**SECTION 10: SELECTION PROCESS**

- A. Following the close of the proposal period, proposals will be reviewed by City staff.
- B. The selection of the proposer for this project will be based on a variety of factors which may include at a minimum the proposer's qualifications as presented in its proposal, overall price, the experience and success of the proposer in completing similar projects, the quality and presentation of the proposal, and the firm's ability to provide the services outlined in Section 3 of the RFP.
- C. Finalists **may** be invited to make a presentation to a selection committee at no cost to the City.
- D. Following a comprehensive review of the submitted proposals, City staff will select the successful vendor. All those who participated will be notified of their status in the selection process.
- E. The City reserves the right to award the contract in full or in part, or reject all proposals without qualification, whichever proves to be in the City's best interest.
- F. All proposals and related materials become the property of the City and may be returned only at its option.
- G. The City is not obligated to accept any proposal or to negotiate with any respondent. All transactions are subject to the final approval of the City who reserves the right to reject any or all proposals without cause or liability.

**SECTION 11: GENERAL TERMS AND CONDITIONS**

- A. The City shall not be liable for any expenses incurred by any proposer prior to issuing the contract.
- B. The proposal shall be signed by an official authorized to bind the firm. It should also include the name, title, address and telephone numbers of individuals with authority to negotiate and contractually bind the firm, and who may be contracted during the period of proposal evaluation.
- C. This RFP does not commit the City of Riverside to award a contract or to pay any costs incurred in the preparation of a proposal in response to this RFP. The City of Riverside reserves the right to negotiate the scope of services and the proposed contract price with the firm, or to cancel in part or in its entirety this RFP.
- D. The EAP provider, by submitting the proposal, waives all rights to protest or seek any legal remedy whatsoever regarding any aspect of the RFP, the selection process, the City of Riverside's review of the proposal, and any agreement that the City may enter into as a result of the proposal submitted.
- E. The proposal shall be considered binding for ninety (90) days after the proposal due date to allow for staff's evaluation and recommendation for award.
- F. The City's Human Resources Director, or designated representative, shall administer the Agreement on behalf of the City of Riverside.

- G. The selected firm shall at all times during its performance of services be considered an independent contractor. The firm's employees shall under no circumstances be considered or held to be employees or agents of the City of Riverside.
- H. During its performance of the required services, the firm shall not discriminate on the grounds of race, color, religion, national origin, sex, sexual orientation or disability, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any conditions related thereto, in the selection or retention of employees and sub-consultants and the procurement of materials and equipment.
- I. The selected EAP vendor will agree to contract language which expressly prohibits the use of counseling student interns interacting with City of Riverside employees in a counseling setting, and/or counseling telephone sessions.
- J. Referrals – The selected EAP vendor will agree to contract language or amendments which prohibit referrals to in-patient rehabilitation facilities which are in any way associated with the EAP provider.
- K. Staff Qualifications – The chosen vendor must be able to successfully demonstrate, throughout the length of the contract, that the counseling staff who will be interacting with City of Riverside employees exhibit the highest level of professional experience and capability necessary to provide consistently high quality EAP services. Said counselors will hold in good standing a valid Ph.D. degree, be a Ph.D. candidate, medical doctor, licensed Marriage & Family Child Counselor (MFCC) and/or Licensed Clinician Social Worker (LCSW).  
  
The successful EAP provider will submit a current list of individual profiles on its counseling staff.
- L. The selected provider will be required to sign and be bound by a Professional Consultant Services Agreement (“Agreement”). Proposer must meet all requirements in the sample Agreement (Exhibit A). All terms and conditions of the Agreement are non-negotiable.
- M. The term of the contract will be from date the contract is executed through June, 30 2018, with an option for two, one (1) year annual renewals thereafter upon mutual agreement of both parties for a total possible contract term through June 30, 2020.

## **SECTION 12: PUBLIC RECORDS**

All Proposals submitted in response to this RFP become the property of the City and under the Public Records Act (Government Code § 6250 et. seq.) are public records, and as such may be subject to public review. However, the Proposals shall not be disclosed until negotiations are complete and a recommendation for selection and award is made to the City Council.

If a proposer claims a privilege against public disclosure for trade secret or other proprietary information, such information must be clearly identified in the proposal. Note that under California law, price proposal to a public agency is not a trade secret.

EXHIBIT A  
Sample Professional Consultant Service Agreement

PROFESSIONAL CONSULTANT SERVICES AGREEMENT

[\*\*Enter CONSULTANT'S Name\*\*]

[\*\*Enter in Description of Services\*\*]

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (“Effective Date”), by and between the CITY OF RIVERSIDE (“City”), a California charter city and municipal corporation and [\*\*Enter in CONSULTANT'S NAME\*\*], a [\*\*Enter in entity, for example: a California corporation, a limited partnership, a limited liability company, etc.\*\*] (“Consultant”).

1. **Scope of Services.** City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services more particularly described in Exhibit “A,” “Scope of Services” (“Services”), attached hereto and incorporated herein by reference, in conjunction with [\*\*Enter in Name of Project\*\*] (“Project”).

2. **Term.** This Agreement shall be effective on the date first written above and shall remain in effect until [\*\*Enter in: termination date, for example: May, 3, 2012\*\*], unless otherwise terminated pursuant to the provisions herein.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed [\*\*Enter in written dollar amount, for example: Two Thousand Five Hundred Dollars\*\*] [\*\*Enter in numeric dollar amount: for example: (\$2,500)\*\*] payable in accordance with the terms set forth in Exhibit “B.” Said payment shall be made in accordance with City’s usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof.

4. **Notices.** Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

[\*\*Enter in Department\*\*]  
City of Riverside  
Attn: [\*\*City Representative\*\*]  
[\*\*Address\*\*]  
Riverside, CA [\*\*ZIP\*\*]

To Consultant

[\*\*Name of Consultant or Company\*\*]  
Attn: [\*\*Name of Representative\*\*]  
[\*\*Address\*\*]  
[\*\*City, STATE, ZIP\*\*]

5. **Prevailing Wage.** If applicable, Consultant and all subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside. The Director's determination is available on-line at [www.dir.ca.gov/dlsr/DPreWageDetermination.htm](http://www.dir.ca.gov/dlsr/DPreWageDetermination.htm) and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

6. **Contract Administration.** A designee of the City will be appointed in writing by the City Manager or Department Director to administer this Agreement on behalf of City and shall be referred to herein as Contract Administrator.

7. **Standard of Performance.** While performing the Services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

8. **Personnel.** Consultant shall furnish all personnel necessary to perform the Services and shall be responsible for their performance and compensation. Consultant recognizes that the qualifications and experience of the personnel to be used are vital to professional and timely completion of the Services. The key personnel listed in Exhibit "C" attached hereto and incorporated herein by this reference and assigned to perform portions of the Services shall remain assigned through completion of the Services, unless otherwise mutually agreed by the parties in writing, or caused by hardship or resignation in which case substitutes shall be subject to City approval.

9. **Assignment and Subcontracting.** Neither party shall assign any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party. In any event, no assignment shall be made unless the assignee expressly assumes the obligations of assignor under this Agreement, in a writing satisfactory to the parties. Consultant acknowledges that any assignment may, at the City's sole discretion, require City Manager and/or City Council approval. Consultant shall not subcontract any portion of the work required by this Agreement without prior written approval by the responsible City Contract Administrator. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including without limitation, the insurance obligations set forth in Section 12. The Consultant acknowledges and agrees that the City is an intended beneficiary of any work performed by any subcontractor for purposes of establishing a duty of care between any subcontractor and the City.

10. **Independent Contractor.** In the performance of this Agreement, Consultant, and Consultant's employees, subcontractors and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Consultant acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Consultant, or to Consultant's employees, subcontractors and agents. Consultant, as an independent contractor, shall be responsible for any and all taxes that apply to Consultant as an employer.

## 11. **Indemnification.**

11.1 **Design Professional Defined.** For purposes of this Agreement, “Design Professional” includes the following:

- A. An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.
- B. An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.
- C. An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.
- D. An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

11.2 **Defense Obligation For Design Professional Liability.** Consultant agrees, at its cost and expense, to promptly defend the City, and the City’s employees, officers, managers, agents and council members (collectively the “Parties to be Defended”) from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings to the extent the same arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant’s Services under this Agreement.

11.3 **Indemnity For Design Professional Liability.** When the law establishes a professional standard of care for Consultant’s services, to the fullest extent permitted by law, Consultant shall indemnify, protect and hold harmless the City and the City’s employees, officers, managers, agents, and Council Members (“Indemnified Parties”) from and against any and all claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fines and penalties, liabilities or losses of any kind or nature whatsoever to the extent the same arise out of, pertain to, or

relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party.

**11.4 Defense Obligation For Other Than Design Professional Liability.**

Consultant agrees, at its cost and expense, to promptly defend the City, and the City's employees, officers, managers, agents and council members (collectively the "Parties to be Defended") from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings which arise out of, or relate to, or are in any way connected with: 1) the Services, work, activities, operations, or duties of the Consultant, or of anyone employed by or working under the Consultant, or 2) any breach of the Agreement by the Consultant.

This duty to defend shall apply whether or not such claims, allegations, lawsuits or proceedings have merit or are meritless, or which involve claims or allegations that any or all of the Parties to be Defended were actively, passively, or concurrently negligent, or which otherwise assert that the Parties to be Defended are responsible, in whole or in part, for any loss, damage or injury. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant's Services under this Agreement.

**11.5 Indemnity For Other Than Design Professional Liability.** Except as to the sole negligence or willful misconduct of the City, Consultant agrees to indemnify, protect and hold harmless the Indemnified Parties from and against any claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fine and penalties, liabilities or losses of any kind or nature whatsoever whether actual, threatened or alleged, which arise out of, pertain to, or relate to, or are a consequence of, or are attributable to, or are in any manner connected with the performance of the Services, work, activities, operations or duties of the Consultant, or anyone employed by or working under the Consultant or for services rendered to Consultant in the performance of this Agreement, notwithstanding that the City may have benefited from its work or services. This indemnification provision shall apply to any acts, omissions, negligence, recklessness, or willful misconduct, whether active or passive, on the part of the Consultant or anyone employed or working under the Consultant.

**12. Insurance.**

**12.1 General Provisions.** Prior to the City's execution of this Agreement, Consultant shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

**12.1.1 Limitations.** These minimum amounts of coverage shall not constitute any limitation or cap on Consultant's indemnification obligations under Section 11 hereof.

12.1.2 **Ratings.** Any insurance policy or coverage provided by Consultant or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

12.1.3 **Cancellation.** The policies shall not be canceled unless thirty (30) days prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

12.1.4 **Adequacy.** The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Consultant pursuant to this Agreement are adequate to protect Consultant. If Consultant believes that any required insurance coverage is inadequate, Consultant will obtain such additional insurance coverage as Consultant deems adequate, at Consultant's sole expense.

12.2 **Workers' Compensation Insurance.** By executing this Agreement, Consultant certifies that Consultant is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Consultant shall carry the insurance or provide for self-insurance required by California law to protect said Consultant from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Consultant shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that Consultant is self-insured for such coverage, or 2) a certified statement that Consultant has no employees, and acknowledging that if Consultant does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days prior written notice before modification or cancellation thereof.

12.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Consultant against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Consultant. The City, and its officers, employees and agents, shall be named as additional insureds under the Consultant's insurance policies.

12.3.1 Consultant's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

12.3.2 Consultant's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of

not less than \$1,000,000. All of Consultant's automobile and/or commercial general liability insurance policies shall cover all vehicles used in connection with Consultant's performance of this Agreement, which vehicles shall include, but are not limited to, Consultant owned vehicles, Consultant leased vehicles, Consultant's employee vehicles, non-Consultant owned vehicles and hired vehicles.

12.3.3 Prior to City's execution of this Agreement, copies of insurance policies or original certificates along with additional insured endorsements acceptable to the City evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

12.3.4 The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the City and its sub-consultants, employees, officers and agents for services performed under this Agreement.
- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.
- c. The policy shall specify that the insurance provided by Consultant will be considered primary and not contributory to any other insurance available to the City and Endorsement No. CG 20010413 shall be provided to the City.

12.4 **Errors and Omissions Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the City from claims resulting from the Consultant's activities.

12.5 **Subcontractors' Insurance.** Consultant shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon City's request, Consultant shall provide City with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

13. **Business Tax.** Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

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

15. **City's Right to Employ Other Consultants.** City reserves the right to employ other Consultants in connection with the Project. If the City is required to employ another consultant to complete Consultant's work, due to the failure of the Consultant to perform, or due to the breach of any of the provisions of this Agreement, the City reserves the right to seek reimbursement from Consultant.

16. **Accounting Records.** Consultant shall maintain complete and accurate records with respect to costs 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.

17. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the 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, website, or other similar medium without the prior written consent of the City.

18. **Ownership of Documents.** All reports, maps, drawings and other contract deliverables prepared under this Agreement by Consultant shall be and remain the property of City. Consultant shall not release to others information furnished by City without prior express written approval of City.

19. **Copyrights.** Consultant agrees that any work prepared for City which is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If any such work is deemed for any reason not to be a work made for hire, Consultant assigns all right, title and interest in the copyright in such work, and all extensions and renewals thereof, to City, and agrees to provide all assistance reasonably requested by City in the establishment, preservation and enforcement of its copyright in such work, such assistance to be provided at City's expense but without any additional compensation to Consultant. Consultant agrees to waive all moral rights relating to the work developed or produced, including without limitation any and all rights of

identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications.

20. **Conflict of Interest.** Consultant, for itself and on behalf of the individuals listed in Exhibit “C”, represents and warrants that by the execution of this Agreement, they have no interest, present or contemplated, in the Project affected by the above-described Services. Consultant further warrants that neither Consultant, nor the individuals listed in Exhibit “C” have any real property, business interests or income interests that will be affected by this project or, alternatively, that Consultant will file with the City an affidavit disclosing any such interest.

21. **Solicitation.** Consultant warrants that Consultant has not employed or retained any person or agency to solicit or secure this Agreement, nor has it entered into any agreement or understanding for a commission, percentage, brokerage, or contingent fee to be paid to secure this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement without liability and pay Consultant only for the value of work Consultant has actually performed, or, in its sole discretion, to deduct from the Agreement price or otherwise recover from Consultant the full amount of such commission, percentage, brokerage or commission fee. The remedies specified in this section shall be in addition to and not in lieu of those remedies otherwise specified in this Agreement.

22. **General Compliance With Laws.** Consultant shall keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of services by Consultant pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws, ordinances and regulations, and shall be solely responsible for any failure to comply with all applicable laws, ordinances and regulations. Consultant represents and warrants that Consultant has obtained all necessary licenses to perform the Scope of Services and that such licenses are in good standing. Consultant further represents and warrants that the services provided herein shall conform to all ordinances, policies and practices of the City of Riverside.

23. **Waiver.** No action or failure to act by the City shall constitute a waiver of any right or duty afforded City under this Agreement, nor shall any such action or failure to act constitute approval of or acquiescence in any breach thereunder, except as may be specifically, provided in this Agreement or as may be otherwise agreed in writing.

24. **Amendments.** This Agreement may be modified or amended only by a written agreement and/or change order executed by the Consultant and City.

25. **Termination.** City, by notifying Consultant in writing, shall have the right to terminate any or all of Consultant’s services and work covered by this Agreement at any time. In the event of such termination, Consultant may submit Consultant’s final written statement of the amount of Consultant’s services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete, subject to the City’s rights under Sections 15 and 25 hereof. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and other documents only after delivered to City.

25.1 Other than as stated below, City shall give Consultant thirty (30) days prior written notice prior to termination.

25.2 City may terminate this Agreement upon fifteen (15) days written notice to Consultant, in the event:

25.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

25.2.2 City decides to abandon or postpone the Project.

26. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset, shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

27. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

28. **Venue and Attorneys' Fees.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that the prevailing party in such action shall recover all costs thereof, including reasonable attorneys' fees. However, the recovery of attorneys' fees by the prevailing party is limited to individual actions or proceedings in which the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fee. In no action shall an award of attorneys' fees to the prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

29. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression, or sexual orientation, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

30. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

31. **Authority.** The individuals executing this Agreement and the instruments referenced herein on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions hereof and thereof.

32. **Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

33. **Interpretation.** City and Consultant acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this Agreement.

33.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers, are to sections in the Agreement unless expressly stated otherwise.

33.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

33.3 In the event of a conflict between the body of this Agreement and Exhibit "A" - Scope of Services hereto, the terms contained in Exhibit "A" shall be controlling.

34. **Exhibits.** The following exhibits attached hereto are incorporated herein to this Agreement by this reference:

Exhibit "A" - Scope of Services

Exhibit "B" - Compensation

Exhibit "C" - Key Personnel

IN WITNESS WHEREOF, City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE, a California  
charter city and municipal corporation  
a California corporation

[\*\*CONSULTANT’S NAME\*\*],

By: \_\_\_\_\_  
City Manager

By: \_\_\_\_\_  
\_\_\_\_\_  
[Printed Name]

Attest: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
[Title]

Certified as to Availability of Funds:

By: \_\_\_\_\_  
\_\_\_\_\_  
[Printed Name]

By: \_\_\_\_\_  
Finance Director

\_\_\_\_\_  
[Title]

Approved as to Form:

By: \_\_\_\_\_  
Deputy City Attorney