

**REQUEST FOR PROPOSAL**  
**Proposal Number IS-0001-20**

**AUDIOVISUAL TECHNOLOGY DESIGN AND  
IMPLEMENTATION SERVICES FOR THE CITY  
COMMUNITY CENTER**

**CITY OF CYPRESS  
5700 ORANGE AVENUE  
CYPRESS, CA 90630**

**October 2020**



**Due Date and Time: 5:00 p.m. on Friday, November 20, 2020**

# TABLE OF CONTENTS

## **Request for Proposals**

Introduction .....	3
RFP Schedule .....	3
Instructions to Proposers .....	3
Mandatory Pre-Proposal Conference/Site Visit .....	3
RFP Questions .....	4
Response Submittal .....	4
Submittal Requirements .....	4
Overview and Scope of Services .....	6
General Requirements .....	6
Selection Process .....	7

## **Attachment I – Cost Summary Worksheet ..... 8**

## **Attachment II – Scope of Services**

Introduction .....	9
Current Community Center Configuration.....	9
Current Audiovisual Configuration .....	10
Audiovisual Technology Enhancement Objectives .....	11
Scope of Services .....	14
Technical Specifications .....	18
Appendix A – Existing Equipment List .....	19

## **Attachment III – Contract Services Agreement**

City of Cypress Agreement for Contract Services.....	20
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## ***Introduction***

The City of Cypress requests proposals for audiovisual technology design and implementation services to be installed in the Community Center at 5700 Orange Avenue, Cypress, CA 90630.

This project will replace aging audiovisual equipment at the Cypress Community Center. Enhancements will be added to allow for additional video capabilities and audio/video zoning. Current technology standards will be incorporated, and a new control system will be installed to allow control from any area of the room(s). Wireless audio/video inputs will be used to better accommodate the modular space.

The City is seeking a highly qualified firm to design, provide, and install turnkey audiovisual systems for the Community Center. The project shall include all equipment and materials, whether specifically mentioned herein or not, to ensure a complete and operating system that provides high quality audio and video within the Community Center.

This Request for Proposals (RFP) describes the general rules for preparing and submitting proposals and the City's requirements for the Community Center design and implementation services.

## ***RFP Schedule***

The following RFP Schedule represents the City's best estimate of the schedule that will be followed. The City reserves the right, at its sole discretion, to adjust this schedule, as it deems necessary.

RFP Issued	10/5/2020
Mandatory Pre-Proposal Conference/Site Visit	10/19/2020
Questions Due from Interested Parties	11/02/2020
Responses to Questions Provided	11/06/2020
Responses to RFP Due (no later than 5:00 pm)	11/20/2020
Contract Awarded to Selected Vendors	1/11/2021
Project Begins	2/08/2021

## ***Instructions to Proposers***

### ***Mandatory Pre-Proposal Conference/Site Visit***

All interested parties are required to attend the Mandatory Pre-Bid Conference/Site Visit on Monday, October 19, 2020 at 10:00 a.m. at Community Center, 5700 Orange Avenue, Cypress, CA 90630. The purpose of the conference is to provide

prospective proposers the opportunity to survey the site and to gather any additional information necessary to prepare a complete response to this RFP. Attendance at the pre-proposal conference/site visit is MANDATORY. Under no circumstances will any proposals be accepted from parties that do not attend.

#### *RFP Questions*

Any questions or other requests for clarification concerning this RFP must be submitted via email to Adrian Smith (as shown below) no later than Monday, November 02, 2020 at 5:00 p.m. Responses to all questions will be provided to all known interested parties by Friday, November 06, 2020. Unauthorized contact regarding this RFP with other employees of the City may result in disqualification.

Adrian Smith, Information Technology Manager  
Email: [asmith@cypressca.org](mailto:asmith@cypressca.org)

#### ***Response Submittal***

Interested parties shall transmit proposals via email **no later than Friday, November 20, 2020 at 5:00 p.m.** Please subject your email transmittal "Audiovisual Technology Design and Implementation Services for the City Community Center".

#### **Transmit Proposal via Email to:**

City of Cypress  
Attn: Adrian Smith, IT Manager  
[asmith@cypressca.org](mailto:asmith@cypressca.org)  
5275 Orange Avenue  
Cypress, CA 90630

**NO LATE SUBMITTALS WILL BE ACCEPTED.**

#### ***Submittal Requirements***

The intent of the RFP is to allow responders the opportunity to fully explain their proposed solution. The City requests responses be organized in a logical format with complete information relevant to the proposed solution. The responses shall also be concise, excluding excessive or irrelevant material.

#### *Personnel*

This section shall define the experience of the Project Manager, other key personnel and sub-consultants assigned to the project. The designated Project Manager shall

be the primary contact with the City during the contract period. Provide resumes of the Project Manager and other key personnel if applicable.

### *Company Background*

Include information on the company's corporate structure, headquarters and local offices, number of employees, and number of years completing similar projects, including experience working with local government agencies.

### *References*

Provide a minimum of three (3) references from clients who have completed similar audiovisual technology enhancement projects within the last three (3) years. Include a detailed description of the project, the agency names, contact names and phone numbers, and length of project schedule. Additionally, provide a list of all local government clients served in Southern California over the past 10 years.

### *Cost Summary Worksheet*

A Cost Summary Worksheet is included as Attachment I of this RFP. All submitted proposals must include a completed worksheet with pricing information for a turn-key solution including hardware, software, installation, training, one (1) year maintenance support, warranty, and acceptance testing of the project. Proposer must itemize all charges for individually identifiable components of the project. Professional Services, freight, taxes and training charges should also be listed out separately as individual line items.

The City reserves the right to purchase all servers and network equipment. If the City chooses to purchase hardware, specifications will be provided by the selected responder and the City will purchase based on the specifications or better.

### *Turn-Key Installation*

The price of the proposed solution must include all materials and professional services necessary to accomplish a turn-key installation.

### *Itemized List of Equipment*

Proposers must include an itemized list of all hardware, software, installation, training and professional services required for bidder's proposed solution.

### *Signature*

The response shall be signed by an official authorized to bind the firm, and shall contain a statement to the effect that the proposal is valid for a minimum of ninety (90) days from the due date of this RFP.

### *Proposer System Recommendations*

Proposers may include professional recommendations for optional system enhancements not included in the scope of services. Recommendations may include components and solutions installed in other similar local government projects that would provide better value, enhanced operability, and/or increased ease of use of the system.

### **Overview and Scope of Services**

This Request for Proposals is for Audiovisual Technology Design and Implementation Services for the City Community Center as set forth in Attachment II.

### **General Requirements**

The City of Cypress reserves the right to reject any or all responses, to waive any informality in any responses, and to select the bidder that best meets the City's needs.

Responses must be submitted no later than the date and time stated in the RFP schedule. Responses will be reviewed and rated as set forth in the Selection Process section of this RFP. The City will then determine which bidder best meets the City's requirements.

The City reserves the right to negotiate final pricing with the most qualified bidder. The City may invite selected bidders to meet with the evaluation team on or after November 30, 2020, at no additional cost to the City.

The City's standard Contract Services Agreement is included as Attachment III. Upon award of the contract, it is expected that the successful proposer will accept the agreement terms and conditions "as is" without modification. Any contract modifications are to be stated upfront, at the time of submittal of response to RFP.

At the discretion of the City, any or all parts of the response to the RFP shall be made a binding part of the selected firm's contract. The City reserves the right to reject in whole or in part any of the responses.

At the time the contract is awarded, the firm must be able to provide all required insurance documentation to the City. If these requirements are not met, the City reserves the right to select the next best qualified vendor.

Any costs incurred in the preparation of a response, presentation to the City, travel in conjunction with such presentations, or samples of items shall be the responsibility of the respondent. The City assumes no responsibility and no liability for costs incurred by respondents prior to issuance of a contract or purchase order.

The proposer shall furnish the City with such additional information as the City may reasonably require.

All data, documents, and other products used or developed during performance of the services will remain the property of the City.

### ***Selection Process***

Staff will review the responses and make a recommendation to the City Council for consideration of approval (tentatively scheduled for January 11, 2021). The City intends to evaluate the proposals based upon the data presented in response to the RFP. The following general selection criteria will be used to evaluate each proposal:

1. *Capability and Ability* – The feasibility of the proposal based upon the proposed scope of services to meet the City’s needs, the quality of services proposed, and the reasonableness of the total project costs and of the proposed time period over which the work will be completed.
2. *Experience* – The City will evaluate the proposer’s experience in the design, implementation, integration and support of the project, and current technologies. The City has a vested interest in partnering with a proposer who is recognized as a leader in the industry with a proven track record for solid services and financial resources. Extra weight will be given to those vendors who have a proven track record of successfully implementing similar systems for other government agencies.
3. *Service Capabilities* – Remote serviceability and technical support of the entire audiovisual installation. Ability to provide timely support on an ongoing basis.
4. *Ease of Use* – Design simplicity that provides AV presentation equipment that is an easy-to-use solution, capable of effectively accommodating users considered as an “AV novice,” and equipment that provides for a high-quality experience.
5. *Least Cost/Best Value* – The proposal with the lowest price will not necessarily be selected; however, price is a significant component of the evaluation. The City will select the proposal that is most advantageous to the City.
6. *Responsiveness* – A complete and concise response to the RFP that complies with the City’s requirements.

The City reserves the right, at its sole discretion, to request clarifications of proposals or to conduct discussions for the purpose of clarification with any or all proposers. The purpose of any such discussions shall be to ensure full understanding of the proposal. Discussions shall be limited to specific sections of the proposal identified by the City

and, if held, shall be after initial evaluation of proposals. If clarifications are made because of such discussion, the proposer shall put such clarifications in writing.



## ATTACHMENT I COST SUMMARY WORKSHEET

<u>Cost Line Item</u>	<u>Cost</u>
Project Design Services:	_____
Equipment Procurement: (Include itemized list in proposal)	_____
System Hardware:	_____
System Software:	_____
Installation Services:	_____
Configuration and Acceptance Testing:	_____
Training Services:	_____
One (1) Year Maintenance Support:	_____
Optional Ongoing Maintenance Rate:	_____
Warranty:	_____
<b>Total Base System:</b>	_____
Optional Professional Recommendations: (Attach itemized list of all recommended items)	_____
<b>Total with Recommended Options:</b>	_____

\*Additional line item detail is encouraged, but totals should flow forward to this Cost Summary Worksheet.

## ATTACHMENT II SCOPE OF SERVICES

### ***INTRODUCTION***

The City is seeking a highly qualified contractor to provide audiovisual technology design and implementation services for the City's Community Center and install turnkey audiovisual technology enhancements for the Community Center Ballroom(s) and Community Room. The project must include equipment and materials, whether specifically mentioned herein or not, to ensure a complete and operational system, including but not limited to: audio/video switching and distribution; audio/video display and transmission systems; audio/video matrixing, audio/video zoning, audio/video control system and an updated video display system.

The goals established for this project include:

- Create a high quality, high definition, state-of-the-art audiovisual system to facilitate Community Center classes, activities, meetings, presentations, and rentals.
- Create an intuitive media friendly space that will facilitate audiovisual presentations for various activities of the Cypress Community Center, its entities, and civic groups. The design should be comprehensive and incorporate requested improvements to enhance the audio and video capabilities, and presentation displays.

### ***Current Community Center Layout/Configuration***

The current community center structural configuration will **NOT** be altered and any major modification to the Community Center structure is **NOT** a part of this RFP. This RFP is set forth for the installation of audiovisual enhancements only.

The community center consists of a grand ballroom that is divisible via track mounted wall partitions to create three separate rooms (Ballroom A, Ballroom B, and Garden Room). The room is often used as one large space and as three individual spaces. The orientation of the room(s) is such that interior entrances for each separable room are located on the north wall and exterior entrances are on the south and east walls. For presentations, the south wall is considered the front or presentation wall of the room(s). There is no fixed furniture in these room(s) as the space is utilized for various events which require many different configurations.

Each divisible space of the grand ballroom has a fixed panel on the north wall for discreet lighting and audio controls. These controls allow for volume adjustment of the in-ceiling speakers and turning on/off in-ceiling and pendant lighting of that particular space.

At the center of the south wall (Ballroom B), a fixed panel allows for audiovisual connections from an external source to feed audio to the ceiling mounted speakers and video to a single ceiling mounted projector. Three control panels are also located on this wall (Ballroom B); one controls the motorized projector screen centered in the room and located above the south wall. The second control panel controls the motorized mount for the projector, which drops down from a ceiling tile roughly centered in the middle of the room (Ballroom B). The third panel controls the video switcher for powering the projector on and off, and selecting a video source. Three wireless microphone systems are utilized in this room as well.

An employee throughway/hallway is located on the west wall where the audiovisual equipment cabinet presently resides. (16) Ceiling mounted speakers, (1) ceiling mounted projector, (1) audiovisual connection on the south wall, (3) audio connections on the north wall, and (3) wireless microphone systems are all connected to the audiovisual cabinet for switching and control. A video switcher, audio mixer & amplifier, and microphone receiver are located in this cabinet. Additional audiovisual sources including a DVD player and auxiliary cable for another source such as a laptop are also located in this cabinet.

The Community Room is adjacent to the Ballroom via the throughway/hallway. There is no fixed furniture in this room aside from cabinetry located on the south wall. This room contains (1) 55" television display, (1) wireless microphone system, (2) in-ceiling speakers, and (1) amplifier/mixer which are all located or terminated to the cabinetry on the south wall.

#### *Current Audiovisual Configuration (Grand Ballroom)*

- *Microphones* – There are three (3) wireless microphones and receivers in the current system. These microphones are wireless and the receiver is located in the audiovisual cabinet. The microphone receivers are wired into the mixer and can be zoned to output to the entire ballroom or one of the three divisible spaces.
- *Audio Speakers* –The (16) loudspeakers for the Community Center Ballroom are deemed to be adequate. However, suggestions for loudspeaker enhancements or additions will be accepted. The speakers are zoned to output a source input to the entire ballroom, or one of the three divisible spaces. The current audio sources are the inputs at the equipment rack, the microphone system, the audiovisual input located at the center of the south wall, and the Community Center music system located in the staff offices. Amplifiers, mixers, and other related audio equipment are to be included in the scope of this project. As well, the current sound system should be integrated into the new control system included in the scope of this project.
- *Lights* – The lighting in the Community Center Ballroom is deemed to be adequate. However, review of the lighting system should be performed to ensure optimal performance and comfort. The lighting is currently controlled individually in each

of the three divisible spaces of the ballroom.

- *Video Display* – A single (1) projector in a power retractable in ceiling mount is used for video display. The (1) projector screen is on the south wall of the Community Center Ballroom. The projector is wired back to the audiovisual cabinet.
- *AV Equipment* – A listing of all current system equipment will be provided at the mandatory pre-proposal conference/site visit.

#### *Current Audiovisual Configuration (Community Room)*

- *Microphones* – There is one (1) wireless microphone and receiver in the current system. This microphone is wireless and the receiver is located in the audiovisual cabinet. The microphone receiver is wired into the amp/mixer for distribution to the speakers in this room.
- *Audio Speakers* –The (2) loudspeakers for the Community Room are deemed to be adequate. However, suggestions for loudspeaker enhancements or additions will be accepted. The current audio sources are the aux inputs at the amp/mixer, the wireless microphone system, and the Community Center music system located in the staff offices.
- *Lights* – The lighting in the Community Room is deemed adequate. However, review of the lighting system should be performed to ensure optimal performance and comfort. The lighting is currently controlled via a light switch panel on the north wall.
- *Video Display* – A 55" television display has been purchased for this space but has not yet been installed. The Display will be mounted to the south wall. The TV will be connected to a DVD player located in the cabinetry. It is desired for the audio for this TV and DVD player to be routed through the amp/mixer for distribution to the in-ceiling speakers.
- *AV Equipment* – A listing of all current system equipment will be provided at the mandatory pre-proposal conference/site visit.

### **AUDIOVISUAL TECHNOLOGY ENHANCEMENT OBJECTIVES**

#### ***System Enhancements (Grand Ballroom)***

- Zoning for Audio/Video in ballroom "A", "B", and "Garden" as one room as well as in each separate room.
- Ability for all projectors in "A", "B", and "Garden" to show the same or separate image/video simultaneously

- HDMI/VGA/Stereo wall inputs in each room
- Audiovisual wiring with HDMI/VGA/Stereo in all ballroom zones (3)
- Retain Community Center Music System as an audio source
- Remove wireless microphone dead spots-replace antennas in ballroom
- Ability to use Microphone when music is playing
- Ability to use a laptop wirelessly in all ballrooms (i.e. Barco Clickshare)
- Streaming Media Player (i.e. Apple TV)
- Replace DVD/Blu-ray Player
- Audio Input for music source (3.5mm Stereo)
- Install Confidence monitor(s) in AV rack for each zone
- Incorporate system control for configuration at AV rack and from each space
- Allow for (3) source inputs at AV rack for various AV source components
- Replace all existing AV cabinet components:
  - Amplifiers
  - Mixers
  - Switchers
  - Power distribution unit

### ***Room Enhancements***

- Ballroom A
  - Add ceiling mounted projector (HD, Widescreen, HDMI)
  - Install inputs on south wall (1) VGA, (1) HDMI, (1) 3.5mm audio
  - Replace Wireless handheld and lavalier Microphones
- Ballroom B
  - Run HDMI to current projector and/or install new projector (optional) that is the same as the others
  - Replace inputs on south wall (1) VGA, (1) HDMI, (1) 3.5mm audio
  - Replace wireless handheld and lavalier microphones
- Garden Room (Ballroom C)
  - Install ceiling mounted projector (HD, Widescreen, HDMI)
  - Install inputs on south wall (1) VGA, (1) HDMI, (1) 3.5mm audio
  - Replace wireless handheld and lavalier microphones
- Community Room
  - Install television display
  - Audiovisual wiring of television to DVD player and amplifier/mixer
  - Replace amplifier/mixer
  - Replace wireless microphone system
  - Install audio wall plate near cabinetry for volume control and 3.5mm aux stereo input
  - Retain input audio source from Community Center music system

## **SCOPE OF SERVICES**

The scope of services is an outline of the services which the City anticipates the successful proposer to perform. The precise scope of services to be incorporated into the Contract Services Agreement will be based upon the submitted proposal and may be the subject of negotiations between the City and the successful proposer. A copy of a Contract Services Agreement is included in the Request for Proposal as Attachment II.

Based upon the City's outline of services, the proposer shall prepare a complete description of the scope of services, which the proposer intends to perform in order to complete the project. The proposer may identify services in its proposal that differ from the outline of the services described in this RFP if the proposer believes the changes will assist the City in more efficiently and effectively completing the project.

The following is a high-level outline of the scope of services for the project.

### *Proposal Acceptance*

After the City's acceptance of the proposal, the selected proposer shall submit technical specifications and photographs of specified equipment; wiring diagrams; installation/project timetables; interoperability specifications for equipment, lighting, sound, and software/hardware systems; design layout; and any and all specifications, designs, layouts, and other requirements related to the successful installation of the project defined herein.

### *Equipment Removal*

The selected proposer shall disassemble, remove, relocate, package and/or accept as trade-in all existing AV equipment currently in use. Credit will be given for trade-in equipment, when applicable.

### *Equipment Installation*

The selected proposer shall provide and install equipment and any related accessories, cabling, and mounting kits specified and agreed to by the City as part of the project defined herein. Installation shall include acquisition, unpacking, mounting, installing, configuring, and integrating all equipment, hardware/software, materials, and supplies, and the removal of all packing materials and facility cleanup. Additionally, all equipment must be tested to ensure its usability for the purposes described herein.

### *Installation Coordination*

The selected proposer shall coordinate its installation and integration services to the satisfaction of City staff and with other contractors who may be working in City facilities

in a related capacity at the time of installation and integration.

#### *Electrical Conduits, Junction Boxes and Outlets*

The selected proposer shall be responsible for connecting all equipment to existing electrical service and wiring/cabling, and providing and installing additional conduits, junction boxes, outlets, wiring, cabling and other materials and supplies necessary for completion of the project described herein. All conduits, junction boxes, wiring, and cabling installed by the selected proposer shall not be exposed to view unless approved by the City. All electrical work related to this project shall be performed by a licensed electrician and shall be properly inspected.

#### *Computers/Components*

The selected proposer must include computer/component specifications in the proposal. The City reserves the right to purchase all computers/components required for the completion of the project and will purchase based on specifications or better.

#### *Project Completion*

The selected proposer shall substantially complete the requirements of this project by a date mutually agreed upon by the selected proposer and the City. The selected proposer shall provide a full one-year warranty on the entire system and work as indicated to commence on completion and delivery of the finished project to the City.

#### *System Acceptance Tests*

System acceptance tests shall not be performed until the initial system checkout and the initial testing and tuning have been completed by the selected proposer. The system acceptance tests consist of the following:

- Take a physical inventory of equipment on site.
- Demonstrate the operation of system equipment.
- Perform both subjective and objective tests to determine compliance with the specifications.
- Provide test equipment specified for these tests.
- Provide final “as built” drawings, run sheets, manuals, and other required documents as detailed.

If the need for further adjustments becomes evident during the demonstration and testing, work will continue until the installation operates properly. If acceptance of the system is delayed because of defective equipment or because the equipment does not fulfill this specification, the selected proposer shall reimburse the City for time and expenses for these tests during extensions of the acceptance testing period.

The control system and digital signal processing programmers (if they are not the

same person) shall attend at least one regular City Community Center event to judge the performance of the systems. If corrective action is required, the changes should be made as appropriate, and then the person(s) shall attend the next event to confirm proper system performance.

### *Documentation*

- *Drawings:* All electronic drawings shall be original drawings by the selected proposer.
- *Prior to Assembly and Installation:*
  - Provide system functional drawings for video, audio, and control systems, including equipment names and model numbers. Label each item of equipment shown on the drawing with the manufacturer's terminal number or input/output designation. Show all connectors on each piece of equipment even if they are not used. Clearly show at each terminal point, the type of connector to be used and include typical wiring details of each connector. Note where shields are connected and where they will float to ensure the integrity of the grounding system. Call out wire types and color codes where appropriate. Assign wire numbers to every wire in the drawing.
  - Provide proposed touch screen display layouts for the remote control systems, submitted in JPG file format and hard copy to be reviewed by and approved by the City before the processor code is written. Provide a general description of the function of each element of each page.
  - Drawings should include panels, plates and designation strips with details and samples relating to terminology, engraving, finish, and color.
  - Provide scaled equipment rack drawings with rack elevations and proposed labeling. Labeling on the functional diagrams, rack elevations, and the equipment controls shall be consistent and uniform.
  - Provide full scale drawings of custom plates and panels indicating exact lettering, critical dimensions, and finish.
  - Provide a list of test equipment including manufacturer, description, and model number of equipment that is expected to be employed in the test and adjustment of the systems specified.
- *At Completion of Installation:*
  - Provide written notification to the City when initial checkout is complete, normal settings are documented, as-built and operational documentation is complete, and systems are available for final acceptance tests.



- Submit a system operation and maintenance manual. Assume the reader of this manual to be technically competent, but unfamiliar with this particular facility.
  - Describe typical procedures necessary to activate each system to provide for the functional requirements as listed in the Audiovisual Technology Enhancement Objectives section of the RFP. Include operation descriptions for non-technical operators for system power on/off, source selection, volume control, lighting selection, etc.
  - Include normal settings for equalizer, amplifier, signal processing, and user-operated controls (as established during system check-out) in tabular or pictorial form.
  - Provide a recommended maintenance schedule with reference to the applicable pages in the manufacturer's maintenance manuals. Where inadequate information is provided by the manufacturer, provide the information necessary for proper maintenance.
  - Provide a list of necessary and recommended replacement parts for a normal maintenance period of one year.
- Submit equipment manufacturer's operation and maintenance manuals for each piece of equipment.
- Submit "as-built" drawings. Provide reduced size but readable as-built functional diagrams for the complete system. Frame with acrylic cover, or laminate drawings, and mount on a location as directed by the City.

### *Training*

The selected proposer shall provide on-the-job training by a suitably qualified instructor to City personnel in the complete operation and maintenance of the installed AV systems. The selected proposer shall arrange for competent instruction at no additional cost in the event qualified instructors are not available on proposer's staff for certain sophisticated equipment. The first training shall be scheduled after the systems are operational. As required by City staff, up to two (2) additional training sessions shall be provided during the one-year period after the date of acceptance of the installed system. Training shall be scheduled to accommodate City staff's schedules.

## **TECHNICAL SPECIFICATIONS**

### *Equipment Listing*

The selected proposer is to provide a list to the City of the necessary equipment to accomplish the above stated goals and objectives.

### *Warranty*

The selected Bidder shall guarantee the entire system and all work, and craftsmanship for a minimum of one year from the date of City's acceptance. Component warranties shall be honored for the term established by the manufacturer, but not less than one year from the date of installation. Selected Bidder-modified equipment normally voids manufacturer's warranties – as such, the selected Bidder shall give the City a warranty equivalent to that of the original equipment, but not less than one year from the date of installation. For the first year of the installed system, the selected Bidder will include in the warranty quarterly site visits to check and adjust equipment to restore systems to original performance standards. The selected Bidder shall also propose an annual maintenance component for ongoing maintenance upon warranty expiration.

## Appendix A

### Community Center Equipment List

#### Existing Equipment List

<u>Qty:</u>	<u>Model</u>	<u>Description</u>
<b><u>Ballroom</u></b>		
1	Extron MLS 304MA	Four Input Switcher with Mono Audio Amplifier
1	Extron M1LC 104IP Plus	MediaLink Controller with Ethernet Control
16	JBL	6.5" Two-Way Ceiling Speaker
3	Shure	Wireless Handheld & Lavier Mic System
1	RDL	Room Combining System Controller
3	RDL	Room Controller Wall Plate
3	Crown	80w 70v Amplifier
1	Sony	DVD Player
1	Epson PowerLite 5530U	LCD Projector
1	Chief	Projector Ceiling Mount
1	GCFE	9x12 Projection Screen
1	Middle Atlantic	18U Rack
1	Middle Atlantic	Power Distribution Unit
1	Middle Atlantic	Power Strip
<b><u>Community Room</u></b>		
2	JBL	6.5" Two-way Ceiling Speaker
1	Shure	Wireless Handheld & Lavier Mic System
1	Crown	Mixer/Amplifier

**ATTACHMENT III**  
**AGREEMENT FOR CONTRACT SERVICES**  
**BY AND BETWEEN THE CITY OF CYPRESS AND**

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THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2020 by and between the City of Cypress, a California municipal corporation (“City”) and \_\_\_\_\_, \_\_\_\_\_ (“Contractor”). City and Contractor are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

**RECITALS**

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Cypress’s Charter and Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

**ARTICLE 1. SERVICES OF CONSULTANT**

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good

quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

## 1.2 Contractor’s Proposal.

The Scope of Service shall include the Contractor’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

## 1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

## 1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

## 1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor’s risk until written instructions are received from the Contract Officer.

## 1.6 Care of Work.

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

### 1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

### 1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

### 1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

## **ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.**

### 2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

## 2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

## 2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

## 2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City for any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

## 2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

## **ARTICLE 3. PERFORMANCE SCHEDULE**

### **3.1 Time of Essence.**

Time is of the essence in the performance of this Agreement.

### **3.2 Schedule of Performance.**

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

### **3.3 Force Majeure.**

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

### **3.4 Term.**

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

## **ARTICLE 4. COORDINATION OF WORK**

### **4.1 Representatives and Personnel of Contractor.**

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:



(Name)	(Title)
(Name)	(Title)
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

#### 4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

#### 4.3 Contract Officer.

The Contract Officer shall be [\_\_\_\_\_ or] such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

#### 4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except

as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

#### 4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

### **ARTICLE 5. INSURANCE AND INDEMNIFICATION**

#### 5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor’s services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit “B”.

## 5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Contractor’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following “cancellation” notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

\_\_\_\_\_  
Contractor Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

**5.3 Indemnification.**

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors'

reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorney's fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorney's fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

#### 5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

## **ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION**

### **6.1 Records.**

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the “books and records”), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor’s business, custody of the books and records may be given to City, and access shall be provided by Contractor’s successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

### **6.2 Reports.**

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

### **6.3 Ownership of Documents.**

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”), including any electronic documents and materials, prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City in a format of the City’s choice upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City’s sole risk and without liability to Contractor, and Contractor’s guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor

shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

#### 6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Contractor’s conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

### **ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION**

#### 7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District

Court, venue shall lie exclusively in the Central District of California, in the County of Orange, State of California.

#### 7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

#### 7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

#### 7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

#### 7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party



of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

#### 7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

#### 7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon written notice to Contractor. In addition, the Contractor may terminate this Contract for cause, upon sixty (60) days' advance written notice to City. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

#### 7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

#### 7.9 Attorney's Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs

the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

## **ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION**

### **8.1     Non-liability of City Officers and Employees.**

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

### **8.2     Conflict of Interest.**

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

### **8.3     Covenant Against Discrimination.**

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

### **8.4     Unauthorized Aliens.**

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorney's fees, incurred by City.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

### **9.1     Notices.**

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Cypress, 5275 Orange Avenue, Cypress, California 90630 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

### **9.2     Interpretation.**

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

### **9.3     Counterparts.**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

### **9.4     Integration; Amendment.**

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

### **9.5     Severability.**

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of “financial interest” shall be consistent with State law and shall not include interests found to be “remote” or “noninterests” pursuant to Government Code Sections 1091 or 1091.5.

Nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation, including but not limited to the Political Reform Act (Government Code Sections 81000, *et seq.*)

Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor’s Authorized Initials \_\_\_\_\_

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

**[SIGNATURES ON FOLLOWING PAGE]**

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement on the date and year first-above written.

**CITY:**

City of Cypress, a municipal corporation

\_\_\_\_\_

\_\_\_\_\_, Mayor

**ATTEST:**

\_\_\_\_\_

\_\_\_\_\_  
Alisha Farnell, City Clerk

**APPROVED AS TO FORM:**  
ALESHIRE & WYNDER, LLP

\_\_\_\_\_

\_\_\_\_\_  
Anthony R. Taylor, City Attorney

**CONSULTANT:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

Name:

Title:

By:

\_\_\_\_\_

Name:

Title:

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

## CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that

COUNTY OF ORANGE

On \_\_\_\_\_, 2020 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

#### CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL  
☐ CORPORATE  
 OFFICER

\_\_\_\_\_  
 \_\_\_\_\_

TITLE(S)

☐ PARTNER(S) ☐  
 LIMITED

☐

GENERAL

☐ ATTORNEY-IN-  
 FACT

☐ TRUSTEE(S)

#### DESCRIPTION OF ATTACHED DOCUMENT

\_\_\_\_\_  
 TITLE OR TYPE OF DOCUMENT

☐

GUARDIAN/CONSERVA  
TOR

☐

OTHER \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SIGNER IS**

**REPRESENTING:**

(NAME OF PERSON(S)  
OR ENTITY(IES))

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
NUMBER OF PAGES

\_\_\_\_\_  
DATE OF DOCUMENT

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

### CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that

STATE OF CALIFORNIA

COUNTY OF ORANGE

On \_\_\_\_\_, 2020 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

#### OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

☐ INDIVIDUAL  
☐ CORPORATE  
OFFICER

\_\_\_\_\_  
TITLE OR TYPE OF DOCUMENT

\_\_\_\_\_  
TITLE(S)

☐ PARTNER(S) ☐  
LIMITED

\_\_\_\_\_  
NUMBER OF PAGES

☐  
GENERAL

☐ ATTORNEY-IN-  
FACT

\_\_\_\_\_  
DATE OF DOCUMENT

☐ TRUSTEE(S)

☐  
GUARDIAN/CONSERVA  
TOR

\_\_\_\_\_  
SIGNER(S) OTHER THAN NAMED ABOVE

☐  
OTHER \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SIGNER IS**  
**REPRESENTING:**  
(NAME OF PERSON(S)  
OR ENTITY(IES))

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT “A”**  
**SCOPE OF SERVICES**

**EXHIBIT “B”**  
**SPECIAL REQUIREMENTS**  
**(Superseding Contract Boilerplate)**

- I. [When applicable] **The title of Article 5 shall read as follows:**

“INSURANCE, INDEMNIFICATION, AND BONDS”

- II. [When applicable] **Section 5.1(d) shall be amended to read as follows:**

“Professional Liability. Professional liability insurance appropriate to the provision of design services. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor’s services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.”

- III. [When applicable] **Section 5.4 shall be amended to read as follows:**

“Performance Bond. Concurrently with execution of this Agreement, Contractor shall deliver to City a performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement, unless such requirement is waived by the Contract Officer. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his or her power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement.”

- IV. [When applicable] **Section 5.5 shall be added as follows:**

“Sufficiency of Insurer or Surety. Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best’s Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. In the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased

or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by this Section 5 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager.”

V. [When applicable] **Section 5.6 shall be added as follows:**

“Payment Bond for contracts over \$25,000.→ Concurrently with the execution of their Agreement, if the contract sum specified in Section 2.1 of this Agreement is in excess of twenty-five thousand dollars (\$25,000), Contractor shall deliver to City a payment bond in the sum specified below, in the form provided by the City Clerk, which secures payments to subcontractors and suppliers in the event of default by Contractor. The payment bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The payment bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor completely and faithfully pays all subcontractors and suppliers that have been approved in writing pursuant to Section 4.3 of this Agreement to perform in whole or part the services required herein.

The payment bond shall be in a sum not less than that prescribed by law under California Civil Code § 3248, such that the bond shall be in the sum of:

- (a) One hundred percent (100%) of the total amount payable by the terms of this Agreement if the total amount payable does not equal or exceed five million dollars (\$5,000,000); or
- (b) Fifty percent (50%) of the total amount payable by the terms of this Agreement if the total amount payable is not less than five million dollars (\$5,000,000) and does not exceed ten million dollars (\$10,000,000); or
- (c) Twenty five percent (25%) of the total amount payable by the terms of this Agreement if the Agreement exceeds ten million dollars (\$10,000,000).

If Contractor is the provider of architectural, engineering, and land surveying services pursuant to an existing contract with City for a public work, Contractor shall not be required to post or deliver a payment bond. Further, if the sum of the payment bond as required under California Civil Code § 3248 is different than the sum required under this Agreement, the sum specified in California Civil Code § 3248 is controlling.

VI. [When applicable] **Section 5.7 shall be added as follows:**

“Sufficiency of Insurer or Surety for Payment Bond. If Contractor must deliver a payment bond pursuant to Section 5.5 of this Agreement, Contractor shall deliver, concurrently with the execution of this Agreement and delivery of said payment bond, to City the following documents:

- (a) A certified copy of the Certificate of Authority of the Insurer or Surety issued by the Insurance Commissioner, which authorizes the Insurer or Surety to transact insurance in the State of California;
- (b) A certificate from the Clerk of the County of Orange that the Certificate of Authority of the Insurer or Surety has not been surrendered, revoked, canceled, annulled, or suspended; or, in the event the Certificate of Authority of the Insurer or Surety has been suspended, that renewed authority has been granted; and
- (c) True and correct copies of the Insurer’s or Surety’s most recent annual statement and quarterly statement filed with the Department of Insurance.

Failure of Contractor to deliver these documents by the time of execution of this Agreement shall require City to refrain from entering the Agreement, as Contractor will be deemed to have failed to ensure the sufficiency of the Insurer or Surety to the satisfaction of City, as required by the provisions of the Bond and Undertaking Law, Code of Civil Procedure § 995.660.”

**EXHIBIT “C”**  
**SCHEDULE OF COMPENSATION**

**EXHIBIT “D”**  
**SCHEDULE OF PERFORMANCE**