



## **REQUEST FOR PROPOSAL**

**INFORMATION TECHNOLOGY (IT)  
HELP DESK SERVICES  
RELEASE DATE: JUNE 20, 2018**

**PROPOSALS DUE ON  
WEDNESDAY, JULY 18, 2018  
ON OR BEFORE 5:00 P.M. (PST)**

**ISSUED BY:  
FINANCE/IT DEPARTMENT  
1 CIVIC CENTER DRIVE  
SAN MARCOS, CA 92069**

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### **RFP EXHIBITS LIST:**

- ☒ Exhibit A – General Scope of Work
- ☒ Exhibit B - Attachments to RFP
  - Attachment 1: Project Map (if applicable) – NOT USED
  - Attachment 2: Subconsultant/Subcontractor List Form
  - Attachment 3: Example Certificate of Insurance (ACORD)
- ☒ Exhibit C - Standard Services Agreement

## **REQUEST FOR PROPOSALS FOR IT HELP DESK SERVICES**

### **I. INTRODUCTION**

Thank you for your interest in contracting opportunities with the City of San Marcos (“City”). The City is located in the north central part of the County of San Diego (the “County”), approximately 24 miles north of the City of San Diego and 90 miles south of the City of Los Angeles. The City, which was incorporated in 1963 and established as a charter city in 1994, has a population of approximately 95,768. Further information regarding the City and its projects can be found at [www.san-marcos.net](http://www.san-marcos.net).

The City is seeking IT Help Desk Services from qualified firms to provide professional services described below. This RFP describes the Project, the required scope of services/work, the proposer selection process and criteria, and the minimum information that must be included in the proposal. Failure to submit information in accordance with the RFP requirements and procedures may be cause for disqualification.

### **II. DESCRIPTION OF WORK/PROJECT**

A general Scope of Work is attached as Exhibit A as necessary for Proposer to form the basis of its Scope of Work Statement. The City is seeking the services of qualified firm(s) to provide coverage of IT Help Desk Services (“Project”) as described in Exhibit A. A general Scope of Work is attached as Exhibit A as necessary for Proposer to form the basis of its Scope of Work Statement.

### **III. LOCATION OF WORK**

City of San Marcos.

### **IV. PROJECT FUNDING**

The City intends to use funding from ☒ Local sources for this Project.

### **V. PROJECT BUDGET**

The estimated budget for this Project is \$30,000-\$45,000/per year and is subject to approval of the City’s annual Budget.

### **VI. PAYMENT AND COMPENSATION**

It is anticipated that the method of payment(s) shall be made by Not to Exceed (NTE) Amount based on Fee Schedule contingent upon final negotiation of compensation.

### **VII. PROJECT SCHEDULE AND PERIOD OF PERFORMANCE**

Upon successful execution of an Agreement between no less than one firm, depending on the responses to the RFP, the term of the Agreement will be for two (2) years, with three (3) one-year options to extend, which may be exercised at the City’s sole discretion.

## VIII. GENERAL INFORMATION, TERMS AND CONDITIONS

**Compliance with Laws and Regulations** – The successful Consultant will be required to comply with all existing state and federal labor laws including those applicable to equal opportunity employment provisions. Consultant, its agents, and employees shall comply with all laws, ordinances, rules and regulations of the federal and state governments, the County of San Diego, the City of San Marcos and all governing bodies having jurisdiction applying to work done under the Agreement.

**Disadvantaged Business Enterprise (DBE)** – The Agreement(s) resulting from this RFP ☒ **IS NOT** subject to 49 CFR, Part 26 entitled “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”. However, use of DBEs is encouraged.

**Forms, Certifications, etc.** – All documents for completion supplied by the City, which when filled out, executed, and accompanied by all supplements thereto, must be submitted as part of the Proposal. Proposal not presented on or with such forms so furnished, or submitted without all required supplements, or not completed with all required information, including information pertaining to work to be performed by other than Consultant's own forces, may be rejected by the City as non-responsive.

**Indemnification and Hold Harmless** – The successful Consultant must agree to indemnify, hold harmless and defend the City, its officers, agents and assigns from any and all liability or loss resulting from any suits, claims or actions brought against the City which result directly or indirectly from the wrongful or negligent actions of the Consultant in the performance of the Agreement and pursuant to the provisions of said Agreement.

**Incurred Expenses** - City is not responsible for costs associated with the preparation of the proposals; there is no express or implied obligation for City to reimburse Consultant for any expenses incurred in preparing or submitting a proposal.

**Insurance** – The successful Consultant, at the successful Consultant’s sole cost and expense and for the full term of the Agreement, must obtain and maintain at least the minimum insurance requirements set forth in City of San Marcos’ Standard Services Agreement. A sample Insurance Certificate (ACORD) is included as Attachment 3 to Exhibit B.

**Licenses, Certifications, Accreditations** – The successful Consultant shall possess and be required to secure and/or maintain in force during the period covered by Agreement all permits, licenses, certifications, accreditations and approvals required by applicable law, necessary to provide services as described in this RFP. Any associated fees shall be the responsibility of the Consultant.

**Business License** – Consultant shall obtain a City of San Marcos Business License during the term of the Agreement.

**Property of City** - The City is not responsible for errors or omissions on the part of the respondent in preparation of a proposal. All data, documents and other products used or developed during this RFP process and project development remain the property of City. City reserves the right to retain all proposals submitted and to use any idea(s) in a proposal regardless of whether that proposal is

selected. Submission of a proposal indicates acceptance by the Consultant of the conditions contained in this RFP and the appendices hereto, unless clearly and specifically noted in the proposal and confirmed in the contract between City and the selected Consultant.

Payment of Prevailing Wage - NOTICE IS HEREBY GIVEN that payment of prevailing wages and compliance with the California Labor Code Sections 1770 et seq **IS NOT** required for this project. If applicable, see Prevailing Wage Requirements Attachment 4 of Exhibit B.

Department of Industrial Relations (DIR) Registration – When the payment of Prevailing Wage exists, Consultant, and each subcontractor or subconsultant who will perform work, provide labor, or render service to the Consultant on or about this Project, must be registered with the California Department of Industrial Relations public works contractor registration program and must meet the minimum program qualifications necessary to be eligible to work on public works projects. City will not enter into any contract without proof of the Consultant and any designated subcontractor's or subconsultant's current registration to perform public work under Labor Code Section 1725.5. This requirement applies to consultants and subcontractors or subconsultants performing work on all public works projects in the City of San Marcos awarded on or after April 1, 2015, see also Attachment 4 of Exhibit B. For registration and/or additional information, please visit the State of California Department of Industrial Relations website at [www.dir.ca.gov](http://www.dir.ca.gov).

Potential Conflict of Interest - All professional and technical services provided and the resulting deliverables produced by the Consultant shall be free of any conflict of interest. Any person, firm or subsidiary thereof who has provided or is currently providing engineering services to a construction contractor(s) on any project listed in the scope of this RFP may not compete either as a prime consultant for, or participate as a subconsultant on the Agreement resulting from this RFP. Any person or entity with whom the City has contracted to prepare or assist in the preparation of this RFP is ineligible to submit a proposal for the provision so specified in this RFP.

In addition, if an Agreement is awarded as a result of this RFP, Consultant will be foreclosed from bidding on the construction work of this Project (if applicable).

Proprietary Information - In accordance with applicable Public Records Law and except as may be provided by other applicable State and Federal Law, all proposers should be aware that the RFPs and the responses thereto are in the public domain. However, the proposers are requested to identify specifically any information contained in their proposals which they believe to be exempt from disclosure, citing specifically the applicable exempting law. The City will consider a proposer's opinions regarding applicability of statutes, but shall not be obligated to concur in such opinions, and shall have no liability to a Proposer for making public any information contained in a proposal.

Proposals Binding - All proposals submitted shall be binding on proposers for one hundred twenty (120) calendar days following opening of the proposals. All proposals received in response to this RFP will become the property of the City and will not be returned to the proposers. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.

Protest Procedures – Protests must follow the City’s protest procedures and are available upon written request by the eligible Protestor. Protests can either be filed within five (5) business days after the date the solicitation or addendum with revised content (if any) is released to the public or within five (5) business days after the results of the bid are posted whichever is applicable per the City’s protest procedures. Not following these timelines will result in the rejection of a protest. In addition, not following the protest content requirements described in the City’s Protest Procedures shall also result in the rejection of a protest. Protests by subcontractors will be rejected.

Public Records Act - Materials submitted by Consultant are subject to public inspection under the California Public Records Act (Government Code Section 6250 et seq.), unless exempt.

Right to Withdraw - The City reserves the right to withdraw this RFP at any time without prior notice and to reject any and all proposals submitted without indicating any reasons. Any award of contract for services will be made to the proposer that is best qualified and responsive in the opinion of the City.

Rejected Proposals – Proposals may, at the City’s option, be rejected if they contain any alterations, additions, conditions or alternatives, are incomplete, or contain erasures or irregularities of any kind. The City reserves the right to reject any and all proposals. The City expressly reserves the right to postpone the opening of submittals for its own convenience and to reject any and all submittals responding to this Request for Proposals.

Subcontractor/sub consultant - The Proposer must list only one subcontractor/sub consultant for each portion of the Work as is defined by the Proposer in the “List of Subcontractors” section of the supplied forms (Attachment 2 of Exhibit B). Partial submittal or failure to include all required information regarding subcontractors may preclude the full analysis and review of the Proposal and may be cause to disqualify the submission as non-responsive.

Consultant must comply with the Subletting and Subcontracting Fair Practices Act, California Public Contract Code Section 4100 et seq. ("Subcontracting Act"), including listing in the bid documents the name, address, and phone number of the place of business, DIR registration number and the California contractor license number, if applicable, of each subcontractor or subconsultant who will perform work, provide labor, or render service to Consultant on or about the construction of the work for this Project, or a subcontractor or subconsultant licensed by the State of California who, under subcontract to Consultant, specially fabricates and installs a portion of the work or improvement according to the bid and contract documents, in an amount in excess of one-half (½) of one percent (1%) of Consultant’s total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half (½) of one percent (1%) of Consultant’s total bid or ten thousand dollars (\$10,000), whichever is greater. Consultant must also provide the portion of the work which will be done by each subcontractor or subconsultant.

City will not enter into any contract without proof that designated subcontractors or subconsultants are properly licensed and in good standing with the California Contractors State License Board pursuant to Public Contract Code Section 4104.

Work by Proposer's Own Forces - It is the intention of the City to award a contract only to a Proposer who will perform with such Proposer's own forces (those who are in direct employment of the Proposer's organization) at least 50 percent (50%) of the work, exclusive of items designated in the Scope of Work by the City as specialty items, if any.

## **IX. PROPOSAL REQUIREMENTS**

The proposal response must be concise, well organized, and demonstrate the firm's understanding of the Scope of Work (Attachment A) and key personnel qualifications. The proposal shall include, at a minimum, the information listed below. Format your responses to this RFP in the following order to facilitate comparisons between respondents:

1. Title Page. Include the name of the proposer's agency/firm, address, telephone number, and name of contact person, date and the subject: IT Help Desk Services- ' \_\_\_\_\_ ' (FIRM)
2. Cover Letter and Executive Summary. This letter should be signed by the person in your firm who is authorized to negotiate terms, render binding decisions and commit the firm's resources, certify that all information is accurate, state that the proposal is valid for 120 days from the submission date, give full contact information regarding the proposal, and include a statement of your intention to bid on all sections of the scope of services/work.

The letter should also summarize the proposer's understanding of the work to be done and make a positive commitment to perform the work in accordance with the terms of the proposal being submitted. This section should summarize the key points of your submittal and should answer the question: "Why should City of San Marcos engage this firm?"

In addition, you must include a statement that by submitting a proposal in response to this RFP, you acknowledge that you have read and understand the contents of the RFP and agree to comply with the requirements and conditions contained in the RFP and all of the applicable Exhibits/Attachments hereto. Failure to provide statement/acknowledgement may result in rejection of proposal.

Limit to one or two pages.

3. Table of Contents. Include a clear identification of the material by section and by page number.
4. RFP Addenda. Statement by Proposer that all Addenda related to this RFP have been received (if any).
5. Organization and Personnel. Provide Employer Identification Number (EIN), and a brief description of how your firm is organized (i.e., corporation, partnership, etc.), including the businesses in which it is engaged and the location of offices. It is highly recommended that one office be located within the City or surrounding area.

Provide the proposal contact name, address, phone number, and email address.

Provide a statement of how long your firm has been providing support as required by this RFP.

Note: Background checks will be required of the successful firm's employees prior to start of any work (facility and/or technology access). Successful firm shall be responsible for the cost if more than three employees need background checks per contract year.

6. Scope of Work Statement – Based on the general Scope of Work provided as Exhibit A, provide a Scope of Work Statement detailing how the service will be provided, understanding of the nature of work and responsibilities, ability to meet the position requirements and work conditions.
7. Evidence of Insurance. Insurance must meet requirements outlined in City of San Marcos' Standard Services Agreement (Exhibit C), no exceptions. Include a Statement and/or Letter by Insurance Provider confirming Proposer can meet insurance requirements set forth in said Agreement attached.
8. Exceptions and/or Clarifications. State and List exceptions, and/or clarifications (if any) to Scope of Work for this project.
9. Potential Conflicts of Interest. All professional and technical services provided and the resulting deliverables produced by the Consultant shall be free of any conflict of interest. Advise and disclose any potential conflicts known by your firm and discuss how, if selected, your firm would address any concerns raised by such potential conflict. A potential conflict of interest may include, but is not limited to, work related to this project either in the project area, contracts with counties, cities developers, current clients and other parties who may have a financial interest in the outcome of this project. Also reference the section regarding Conflict of Interest and Political Reform Act Obligations of the Standard Services Agreement, Exhibit C.
10. DIR Registration Verification (if applicable). Provide proof of the Consultant and any designated subcontractor's or subconsultant's current registration to perform public work under Labor Code Section 1725.5. Refer to RFP Section VIII for further information.
11. Financial Capability. State whether the Proposer has filed bankruptcy in the last ten years and provide any other relevant information concerning whether the Proposer is financially capable of completing this Project. Identify any pending litigation against Proposer. Identify any mergers, acquisitions, or sales of the vendor company within the last five years (if so, an explanation providing relevant details).
12. Experience with Similar Work and References. Describe the Proposer's experience in providing work efforts similar to the Project described in this RFP and list three (3) successful work efforts (including start and end date). For each completed project, provide



the Name, Company and Project Manager the Proposer performed the work for including telephone number, email address and dollar value of the contract. City may, at its own discretion, interview the Proposers' references.

Describe experience in government/municipal IT support. Identify your existing client base including the number of clients you provided for the services being proposed here.

13. Cost Proposal/Fee Schedule. Any costs incurred by Proposer which are not specifically provided for herein shall be the expense of Proposer. Any omissions or ambiguities will be construed most favorable to the City.

The City is seeking a clear and comprehensive understanding of all costs associated with providing help desk support. The Cost Proposal/Fee Schedule shall be provided in a separate sealed envelope; Present an estimate of the total direct and indirect costs to the scope of work/services and the work products that your firm proposes to provide. Other Direct Costs; expenses such as travel, postage, reproduction and related costs necessarily incurred are to be reflected as well. Such expenses will not be eligible for reimbursement unless otherwise determined by the Director of Finance and IT and approved by the City in advance.

Cost Proposal/Fee Schedule shall include a cost estimate to provide 20 hours of work per week, and a secondary cost estimate to provide 32 hours of work per week. In each cost estimate, if additional work hours are required during any given week, please note the additional cost per hour. The scope of work and proficiency expected are detailed in Exhibit A.

Other Additional Services as needed – include any additional services not listed in Exhibit A for which Proposer may provide.

All costs are subject to final negotiation by City.

14. Forms, Certifications, Lists, etc. Include all documents for completion supplied by the City, which when filled out, executed, and accompanied by all supplements thereto, must be submitted as part of the Proposal.

#### **X. PROPOSAL PRE-SUBMITTAL MEETING**

CONSULTANT PRE-PROPOSAL MEETING - A pre-proposal meeting will not be held for this project.

#### **XI. PROPOSAL SUBMITTAL**

In an effort to promote waste reduction and resource conservation, the submittal should not contain any plastic bindings, plastic pages, or laminated pages. Double-sided proposals are preferred, and copies should be printed on recycled paper. Please avoid superfluous use of paper, such as title sheets, chapter dividers, and unnecessary attachments or documents not specifically requested.

Proposal Package shall include the following:

- One digital and one original hard copy and four (4) copies of each proposal (no more than 15 physical pages double-sided on 8.5" x 11" paper size; physical pages do not include any addenda, resumes and/or completed City provided forms that may be required of this RFP) must be submitted by **5:00 pm on Tuesday, March 20, 2018. Proposals received after that time will not be accepted.**
- One original copy and one digital file copy of Cost Proposal in a **separate sealed envelope** with Proposal

Proposal Package shall be submitted by the **time and date indicated on the front of this RFP**. Proposal package shall be marked **"PROPOSAL FOR IT HELP DESK SERVICES - DO NOT OPEN WITH REGULAR MAIL"** and mailed to:

City of San Marcos  
Finance/IT  
Attention: Tim O'Brien  
1 Civic Center Drive  
San Marcos, CA 92069-2918

Proposals should be verified before submission. While every effort has been made to ensure the information presented in the RFP is accurate and thorough, the City assumes no liability for any unintentional error or omissions in this document. The City reserves the right to waive any requirement of this RFP when it determines that waiving a requirement is in the best interest of the City.

No amendments, additions, or alternates to Proposal shall be accepted after the submission deadline.

By submitting a proposal, the proposer agrees to the general terms and conditions set forth in this Request for Proposal.

## **XII. PROCUREMENT SCHEDULE**

City anticipates the process for selection and award of Agreement(s) will be according to the following tentative schedule:

RFP Release	June 20, 2018
Pre-Proposal Meeting (Non-Mandatory)	N/A
Last Day to Submit written request for clarification	(3) business days prior to the proposal due date
Proposal Due Date	July 18, 2018
Proposal Review and Evaluation Process	July 2018
Interviews (if applicable)	N/A
Selection and Notification of Intent to Award or Intent to Negotiate	Aug/Sept 2018

Negotiations Complete (if applicable)	TBD
Approval of Agreement	Sept/Oct 2018
Notice of Award / Notice to Proceed	Sept/Oct 2018

### **XIII. INTERPRETATION OF RFP AND AGREEMENT DOCUMENTS (CLARIFICATION)**

If the Proposer is in doubt as to the meaning or finds discrepancies and/or omissions from any part of the RFP and Agreement Documents, the Proposer must submit a written request for clarification via e-mail to Tim O'Brien, at ITRFP@san-marcos.net no later than (3) business days prior to the proposal due date. All requested clarifications regarding this RFP will be posted on City's website or sent via email as described below. All emails should be marked clearly in the subject area as "RFP for IT Help Desk Services".

The City may or may not respond to requests for clarifications. Clarifications of the RFP and Agreement Documents responded to by the City may be made by written Question and Answer document or Addendum and will be posted on the City's website no later than one (1) business day prior to the proposal due date. Failure of any Consultant to review Question and Answer document or receive any Addenda will not relieve such Consultant from any obligations imposed by such addenda. All addenda so issued will become part of the RFP and Contract Documents. Failure to cover in its proposal any such addenda issued may render his bid informal and result in its rejection.

### **XIV. INCORPORATION OF EXHIBITS**

The Exhibits listed in the Table of Contents with the box marked are attached and incorporated herein by reference. Wherever the word "contractor" appears in the attachments, it should be read as the equivalent to the word "consultant." Wherever the words "bid" or "bidder" appear in the attachments, they should be read as the equivalent to the words "proposal" or "Proposer." Wherever the words "Agency" appear in the attachments they should be read as the equivalent to the word "City".

### **XV. EVALUATION CRITERIA**

City reserves the right to request additional information concerning any proposal for purposes of clarification, to accept or negotiate any modification to any timely received proposal following the deadline for receipt of proposals, and/or to waive any irregularities if to do so would serve in the best interest of City.

The Consultant will be evaluated according to the following criteria:

#### Completeness and Quality of Proposal (20 points)

Response to the RFP and the required attachments must be complete. Responses that do not include the proposal content requirement within this RFP and subsequent Addenda will be considered incomplete.

#### Understanding of the work to be done (20 points)

Consultants are required to demonstrate a thorough understanding of the work as described in this RFP.

Key Personnel (Project Team) (25 points)

Key personnel possess the qualifications and expertise necessary for this project.

Experience with similar work (40 points)

Consultant demonstrated experience with similar work for this project. (xx points)

Scope of Services/Work (Technical Expertise) (30 points)

The Consultant will develop a detailed scope of work to meet the requirements for completing the Project and/or identified Tasks. The attached scope of work is general in nature and may be modified by the Consultant.

Cost (10 points)

Value of Proposers work based on fair and reasonableness of cost and fee schedule.

Interview (if applicable) (N/A)

Presented and demonstrated knowledge of the work required, including but not limited to identifying critical issues, innovation, and solutions. Ability to communicate effectively and respond appropriately to questions asked thereof.

## **XVI. CONSULTANT SELECTION**

Selection of Consultant or Consultants will be based upon the evaluation of the proposals received and ranking of the most qualified consultant(s) as determined by the City. The City reserves the right to ask additional questions of Proposers and/or conduct oral interviews if it is in the best interest to do so whereby Proposers will be notified in advance of the time, place and additional information, if any, of the oral interview. The City may enter into negotiations with the highest ranked qualified Proposer and/or accept a Best and Final Offer (BAFO) from the highest ranked qualified Proposer. Upon successful negotiations and/or acceptance of BAFO from highest ranked qualified Proposer, City will proceed with Award of Contract as described in this RFP. If it is in the best interest of the City to enter into multiple contracts, the City may enter into negotiations or accept BAFO's from top ranked qualified Proposers.

Consultants or their representatives are prohibited from attempting to influence the selection by contacting Selection Committee members, elected officials, staff or other individuals and entities that may be involved in selecting the Consultant or awarding the Consultant Agreement. Any such attempt to influence selection outside of the prescribed process will be grounds for disqualification.

## **XVII. QUALIFICATION OF CONSULTANT**

The Consultant must furnish the City with satisfactory evidence of the Consultant's competency to perform the proposed work. It is the intention of the City to award a contract only to a Consultant who:

- 1) furnishes satisfactory evidence that such Consultant has the requisite financial resources, license and classification status, experience, and completion ability;
- 2) is able to obtain satisfactory insurance;

- 3) is able to prosecute the work successfully and promptly, and
- 4) is able to complete the work within the time specified in the RFP and Agreement Documents or as may be needed (if applicable).

To determine the degree of responsibility to be credited to a Consultant, the City will weigh any evidence that the Consultant (or personnel guaranteed to be employed in responsible charge of the Work) has or has not performed satisfactorily on other Agreements of like nature and magnitude or comparable difficulty at similar rates of progress, including but not limited to responsibility based on performance and progress; time for performance and completion of past project; and competency based on financial resources and experience.

#### **XVIII. FEDERAL AID PROJECT – NOT APPLICABLE**

#### **XIX. CITY'S AUTHORIZED REPRESENTATIVES**

On behalf of the City, and through the authority of the City of San Marcos, the City Manager or Department Director/Management Designee of the City of San Marcos will be the City's authorized representative in the interpretation and enforcement of all work performed in connection with this Agreement.

#### **XX. AWARD OF CONTRACT(S) AND AUTHORIZATION TO PROCEED**

The award of the contract, if it be awarded, will be to the Consultant whose proposal complies with all the requirements prescribed and negotiations (if any) have been successfully completed. Successful Consultant will be notified in writing by City of Intent to Award and/or Notice of Award and shall provide all necessary documentation, including but not limited to Proof of Insurance, as necessary to execute an Agreement and issue Authorization to Proceed.

Consultant will begin work after an Agreement is executed and Notice to Proceed is issued and must maintain the level of effort required to complete the work in accordance with the approved design and/or project schedule. Consultant must also make every reasonable effort to maintain its proposed project team throughout the course of the work. Changes to project team staff will require written approval by the City.

#### **XI. RFP/Q ISSUANCE**

By:	<i>Laura Rocha</i>
Name:	<i>Laura Rocha</i>
Title:	Director of Finance and IT
Date:	June 20, 2018

## **EXHIBIT A**

### **GENERAL SCOPE OF WORK**

#### Help Desk Specialist

##### Job Summary

Responsible for providing technical assistance and support related to computer systems, hardware, or software. Responds to queries, runs diagnostic programs, isolates problem, and determines and implements solution.

##### Responsibilities

- Provide technical assistance and support for incoming queries and issues related to computer systems, software, and hardware.
- Respond to queries either in person or over the phone, or via email.
- Install, modify, and repair computer hardware and software.
- Support IT team to resolve technical problems with Local Area Networks (LAN), Wide Area Networks (WAN), and other systems.
- Install computer peripherals for users.
- Work with IT team to determine and resolve high level problems.
- Help ensure IT infrastructure is properly monitored and IT “best practices” are properly followed.
- Oversee the execution and completion of assigned tasks.
- Document and help improve existing processes.

##### Position Requirements

- Desire two years of hands-on experience in a Microsoft OS/Exchange/Office environment
- Proficient with managing and prioritizing multiple projects
- Strong communications skills and ability to impart information about technology to IT customers
- May troubleshoot unfamiliar products alongside IT team or through vendor or online documentation
- Excellent written and verbal communication skills including interpersonal / customer service skills
- Self-motivated with ability to set and manage priorities judiciously
- Reports to a supervisor

##### Work Conditions

- Work in a 9x5 daytime environment supporting and troubleshooting computer systems
- Availability to work variable hours, as required, to meet deadlines
- Ability to lift and move up to 25 pounds
- Sitting for extended periods of time

**EXHIBIT B**  
**ATTACHMENTS TO RFP**

List of Attachments to RFP

Attachment 1: Project Map – NOT USED

Attachment 2: Subconsultant/Subcontractor List Form

Attachment 3: Example Certificate of Insurance (ACORD)

**ATTACHMENT 2: SUBCONSULTANT/SUBCONTRACTOR LIST FORM**

<b>Firm Name/ Address/ City, State, ZIP</b>	<b>Phone/ Fax</b>	<b>Description of Portion of Work to be Performed</b>	<b>Contractor's License Number (if applicable)</b>	<b>DIR Registration Number (if applicable)</b>
<i>Name</i>	<i>Phone</i>			
<i>Address</i>	<i>Fax</i>			
<i>City State ZIP</i>				
<i>Name</i>	<i>Phone</i>			
<i>Address</i>	<i>Fax</i>			
<i>City State ZIP</i>				
<i>Name</i>	<i>Phone</i>			
<i>Address</i>	<i>Fax</i>			
<i>City State ZIP</i>				
<i>Name</i>	<i>Phone</i>			
<i>Address</i>	<i>Fax</i>			
<i>City State ZIP</i>				

Duplicate as needed.



# ATTACHMENT 3: EXAMPLE CERTIFICATE OF INSURANCE



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	NAIC #	
	INSURER A:	
INSURED	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

### COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMPROP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED \$ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/>	N/A				<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

### CERTIFICATE HOLDER

### CANCELLATION

	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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ACORD 25 (2014/01)

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**CONSULTANT SERVICES AGREEMENT NO. \_\_\_\_\_**  
**BETWEEN CITY OF SAN MARCOS AND**  
**COMPANY NAME**

This Agreement for CONSULTANT Services ("Agreement") is entered into as of this MONTH day of DAY, 20YEAR, between the CITY of San Marcos, a chartered municipal corporation ("CITY"), and NAME OF CONSULTANT/SERVICE PROVIDER a COMPANY DESCRIPTION ("CONSULTANT") hereinafter referred to individually as "Party" and collectively, the "Parties".

**RECITALS**

WHEREAS, CITY desires to obtain the services of CONSULTANT to perform DESCRIPTION OF SERVICES TO BE PROVIDED services for the PROJECT TITLE project ("Project"); and

WHEREAS, CONSULTANT is a(n) CONSULTANT SPECIALTY and has represented that CONSULTANT possesses the necessary qualifications to provide such services to CITY; and

WHEREAS, CITY has authorized the preparation and execution of this Agreement to retain the services of CONSULTANT as set forth below.

NOW, THEREFORE, the Parties agree as follows:

**1. Scope of Work**

CONSULTANT will provide services to CITY as described in Exhibit "A" entitled "Scope of Work" attached hereto and incorporated by reference. CONSULTANT must timely perform the Scope of Work in accordance with the schedule in Exhibit C and approved by CITY, but in no event will any work be performed under this Agreement before the same is executed by both Parties.

CITY must consent in writing to any changes to the Scope of Work, with such consent to be in CITY's sole discretion, affected by written addendum or amendment to this Agreement. Exhibit "A" will be deemed revised in accordance with any revisions for which CITY's consent has been issued. Any revisions to the Scope of Work for which CITY's consent has not been issued will be null and void.

**2. Funding**

This project is funded with ☒ Local/City funds and/or ☐ Other: DESCRIBE OTHER FUNDING SOURCES  
Ex: Developer Deposits, etc..

**3. Compensation and Reimbursement**

CITY shall compensate and reimburse CONSULTANT in accordance with their rate sheet, attached hereto as Exhibit "B", Fee Schedule, incorporated by reference and contingent upon the availability of funds from which payment for contract purposes can be made.

For the term of this Agreement, CITY will compensate CONSULTANT a ☐ Lump Sum, ☐ Not to Exceed amount of ALPHA NUMERIC VALUE Dollars and CENTS/100 (\$NUMERIC VALUE).

CITY must consent in writing to any changes to the amount, with such consent to be in CITY's sole discretion, affected by written addendum or amendment to this Agreement.

CONSULTANT agrees to bill CITY on a monthly basis for all allowable costs. CONSULTANT must submit invoices to CITY no more frequently than monthly. All invoices must include a purchase order number assigned by CITY, a summary of work performed for the period being billed, a percentage of work completed for each task, and an overall percentage of work completed for services as identified in the Scope of Work. CONSULTANT will submit invoices no later than the expiration of sixty (60) days following completion of work under this Agreement. Invoices submitted after 60 days may be subject to rejection in CITY's sole discretion.

#### **4. Term of Agreement**

The term of this Agreement ("Term") shall be effective on Date and shall automatically continue in full force and effect for a period of Number years, with Number, Number-year Option to Renew by mutually agreed upon written amendment executed by CITY and CONSULTANT or unless sooner terminated as provided in Section 7 of this Agreement, below.

CONSULTANT is advised that any recommendation for Agreement award is not binding on CITY until the Agreement is fully executed and approved by CITY.

#### **5. Time of Essence**

Time is of the essence with respect to the obligations of each Party under this Agreement.

#### **6. Time for Completion of Work - Extensions**

CITY and CONSULTANT have agreed on a time schedule, as provided in Exhibit "C" entitled "Project Schedule" attached hereto and incorporated by reference. All professional services required by this Agreement must be satisfactorily completed within the indicated time after CONSULTANT receives written authorization from the CITY to proceed.

Should CONSULTANT begin work in advance of receiving written authorization to provide any professional services performed by it, then such services will be considered as having been done by CONSULTANT at its own risk and as a volunteer unless said professional services are authorized by the CITY.

Any delay determined to be occasioned by causes beyond the control of CONSULTANT will be reason for the granting of extension of time for the completion of such services. When such delay occurs, CONSULTANT must immediately notify the CITY in writing of the cause and the extent of the delay, whereupon the CITY will ascertain the facts and the extent of the delay and grant an extension of time for the completion of the professional services when, in his or her judgment, his or her findings of fact justify such an extension of time. The CITY's findings of fact will be final and conclusive as to the

Parties. This is not intended to deprive CONSULTANT of its civil legal remedies in the event of a dispute.

## **7. Termination**

This Agreement may be terminated with or without cause by CITY. Termination without cause will be effective only upon 15-day written notice to CONSULTANT. During said 15-day period CONSULTANT must continue to perform all consulting services in accordance with this Agreement, after which CITY will pay CONSULTANT for its reasonable costs and expenses incurred prior to receipt of the termination notice. This Agreement may be terminated by CITY for cause in the event of any of the following: (i) a material breach of this Agreement by CONSULTANT; (ii) misrepresentation by CONSULTANT in connection with the formation of this Agreement or the performance of services; and/or (iii) CONSULTANT's failure to perform services under this Agreement as directed by CITY. Termination for cause will be effective immediately upon the delivery of written notice of termination to CONSULTANT, after which CITY will pay CONSULTANT for its reasonable costs and expenses incurred prior to receipt of the termination notice. Upon termination of this Agreement, CONSULTANT must return any confidential information which was provided by CITY, in the event such information is in a format that makes it feasible to return to CITY.

## **8. Office Space and Clerical Support**

Unless otherwise specified in Exhibit "B," CONSULTANT will provide its own office space and clerical support at its sole cost and expense.

## **9. Confidential Relationship**

CITY may from time to time communicate to CONSULTANT certain information to enable CONSULTANT to effectively perform the services. CONSULTANT must treat all such information as confidential, whether or not so identified, and must not disclose any part thereof without the prior written consent of CITY. CONSULTANT must limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services. The foregoing obligation of this Section, however, will not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of CONSULTANT, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of CONSULTANT without any obligation of confidentiality; or (iv) has been or is hereafter rightfully disclosed to CONSULTANT by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

CONSULTANT must not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of CITY. In its performance hereunder, CONSULTANT will comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

Consultant must only use and/or disseminate such confidential information for purposes required by this Agreement and/or otherwise required by federal, state or local law. Consultant acknowledges and agrees that it is responsible for the unauthorized collection, receipt, transmission, access,

storage, disposal, used and disclosure of such confidential information under its control or in its possession by Consultant and/or its employees, agents, contractors and representatives. If such confidential information is disseminated by Consultant under circumstances not authorized by this Agreement or City, Consultant must contact City immediately and work with City to remedy the wrongful dissemination of such confidential information, including but not limited to cooperating with and assisting City with any investigation of the data or security breach, providing City with access to all relevant records, logs, files, data reporting and other materials required by City, and facilitating interviews between the City and its employees, agents, contractors and/or representatives. Any act or omission by Consultant and/or its employees, agents, contractors and representatives that compromises either the security, confidentiality or integrity of the Confidential Information or the safeguards put in place by City or Consultant relating to the protection of the security, confidentiality or integrity of confidential information constitutes a material breach of this Agreement for which City may immediately terminate the Agreement without further liability or obligation to Consultant.

In the event of termination of this Contract, CONSULTANT agrees that it will return any confidential information which was provided by CITY. In the event such information is in a format that makes it feasible to return same to CITY.

#### **10. Covenant Against Contingent Fees**

CONSULTANT declares that it has not employed or retained any company or person, other than a bona fide employee working for CONSULTANT, to solicit or secure this Agreement, that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of the Agreement. For breach of violation of this warranty, CITY has the right, but not the obligation, to annul this Agreement without liability, or, at its sole discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

#### **11. Ownership of Records and Documents**

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement will be the property of CITY. CONSULTANT must promptly provide such documentation to CITY in electronic and/or other format as determined by CITY. In the event of any re-use or alteration of the documents, such re-use or alteration will be the responsibility of CITY. Upon expiration or earlier termination of this Agreement, CONSULTANT must return to CITY any and all equipment, documents or materials and all copies made thereof which CONSULTANT received from CITY or produced for CITY for the purposes of this Agreement.

#### **12. Conflict of Interest and Political Reform Act Obligations**

During the term of this Agreement, CONSULTANT will not act as Consultant or perform services of any kind for any person or entity whose interests conflict in any way with those of CITY. CONSULTANT will at all times comply with the terms of the Political Reform Act and the local conflict of interest ordinance. CONSULTANT will immediately disqualify itself and will not use its official position to

influence in any way any matter coming before the CITY in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents and warrants that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for CITY.

CONSULTANT must comply with all of the reporting requirements of the Political Reform Act and local ordinance. Specifically, CONSULTANT must file Statements of Economic Interest with the CITY Clerk in a timely manner on forms which CONSULTANT must obtain from the CITY Clerk.

**13. No Assignments/Work by Subcontractor**

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which CITY, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

All subcontractors listed (if any) must provide a meaningful element of work within the defined scope of work. Changes to the subcontractor list during the term of the Agreement shall be approved in writing by the City prior to the start of work by the subcontractor. If applicable, Subcontractor's subject to prevailing wage will be required to register with the Department of Industrial Relations (DIR).

**14. Maintenance of Agreement Documentation**

CONSULTANT must maintain all books, documents, papers, employee time sheets, accounting records and other evidence pertaining to costs incurred and must make such materials available at its office at all reasonable times during the term of this Agreement and for three (3) years from the date of final payment under this Agreement, for inspection by CITY and copies thereof must be furnished, if requested.

**15. Independent Contractor, Consultant Not an Agent**

At all times during the term of this Agreement, CONSULTANT will be an independent contractor and will not be an employee, agent, partner or joint venturer of CITY. Except as CITY may specify in writing, CONSULTANT has no authority, expressed or implied, to act on behalf of CITY in any capacity whatsoever as an agent. CONSULTANT has no authority, expressed or implied, pursuant to this Agreement to bind CITY to any obligation whatsoever. CITY has the right, but not the obligation, to control CONSULTANT insofar as the results of CONSULTANT's services rendered pursuant to this Agreement; however, CITY does not have the right to control the means by which CONSULTANT accomplishes such services.

**16. Warranties and Representations**

CONSULTANT warrants and represents that CONSULTANT possesses the requisite skills and resources to perform the services required by the Scope of Work in a reasonable and worker like manner. CONSULTANT further represents and declares to CITY that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required to practice its profession, and that it will

at its sole cost and expense, keep in effect at all times during the term of this Agreement, any such license, permit or approval.

**17. Personnel**

CONSULTANT must assign qualified and certified personnel to perform services under this Agreement. CONSULTANT's personnel must at all times comply with CITY's drug and alcohol policies then in effect. CITY has the right, but not the obligation, to review and disapprove personnel performing work under this Agreement. CITY has the unrestricted right, but not the obligation, to require the removal of any person(s) assigned by CONSULTANT by giving oral or written notice to CONSULTANT to such effect.

CONSULTANT's performance will be evaluated by City. A copy of the evaluation may be sent to CONSULTANT for comments. The evaluation together with the comments, if any, shall be retained as part of the Contract record

**18. Licenses, Permits, Etc.**

CONSULTANT represents and declares to CITY that it has all licenses, permits, qualifications and approvals of whatever nature which are legally required to practice its profession. CONSULTANT represents and warrants to CITY that CONSULTANT will, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit or approval which is legally required for CONSULTANT to practice its profession.

In accordance with City's Municipal Code Chapter 3.08, a business license shall be required when doing business with the City. Additional information and application can be found on the City's website at: <http://www.san-marcos.net/how-do-i/pay-for/business-licenses>.

**19. Safety (where applicable)**

CONSULTANT shall comply with Occupational Safety and Health Administration (OSHA) regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by CITY and other CITY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.

Pursuant to the authority contained in Section 591 of the Vehicle Code, CITY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and/or damage from such vehicles.

Any subcontract entered into with respect to this Agreement must contain all of the provisions of this Section.

If Agreement requires trenching of five feet or deeper – the following shall apply

CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

## **20. Insurance**

20.1 Policies. CONSULTANT must obtain and maintain during the entire term of this Agreement the following insurance policies from companies admitted or authorized in the State of California to transact the insurance business in the class of the type provided and must have a general policyholder's rating of not less than an "A" and a financial size of ten million dollars (\$10,000,000) (currently Class V) or better in the most current A.M. Best's Key Rating Guide; which standards will be met by such the issuing company and not by means of the standing or assets of their parent, subsidiary or affiliate entities:

- a. Comprehensive General Liability. Coverage shall include premises-operations, products/completed operations (10 years), broad form property damage, personal injury, bodily injury and blanket contractual liability, shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits, there shall be no cross-liability exclusion, there shall be no land subsidence exclusion, and there shall be no prohibition against payment of a SIR or deductible in the event of the named insured's failure to do so, in the following coverage amounts:
  - i. \$1,000,000 per occurrence (property damage and bodily injury);
  - ii. \$2,000,000 general aggregate;
  - iii. \$2,000,000 products/completed operations aggregate.
- b. Automobile Liability. Coverage shall include owned, hired and non-owned vehicles, shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits, there shall be no cross-liability exclusion, and there shall be no prohibition against payment of a SIR or deductible in the event of the named insured's failure to do so, in the following coverage amounts:
  - i. \$1,000,000 per accident combined single limit (bodily injury and property damage).
- c. Professional Liability Insurance with policy limits of not less than \$1,000,000 combined single limits per claim and annual aggregate.
- d. Technology Professional Liability Insurance (if applicable) - TBD
- e. Cyber Liability (if applicable) with policy limits of not less than \$1,000,000 per claim and annual aggregate which shall include the following coverage:



- i. Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination or use of the confidential information.
  - ii. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.
  - iii. Liability arising from the failure of technology products (software) required under the contract for Consultant to properly perform the services intended.
  - iv. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.
- f. Workers' Compensation Insurance in amounts in accordance with statutory requirements.

Limits may be met by a combination of primary and umbrella/excess liability policies, provided that: (1) the umbrella/excess policy carriers meet the requirements noted above, (2) there is sufficient umbrella/excess coverage provided that meet or exceed the specified coverage requirements of GL or Auto, so that any claim event will not result in a deficiency in any of the coverage requirements described above; and (3) umbrella/excess insurance amounts may be applied only once to meet the insurance coverage requirement for only one line of deficient underlying insurance.

20.2 Endorsements. Endorsements must be obtained so that each policy contains the following four provisions, the wording for which will be to the satisfaction of the CITY Attorney:

- a. Additional Insured. (Not required for Professional Errors and Omissions Liability Insurance or Workers' Compensation.) "CITY of San Marcos and its elected and appointed boards, officers, agents and employees are additional insureds with respect to this subject project and Agreement with CITY".
- b. Preferred Forms. General Liability: CG 2010 11 85, CG 2037 1001 or the equivalent.
- c. Notice. "Said policy shall not terminate, nor shall it be canceled or reduced in coverage without thirty (30) days' written notice to the CITY of San Marcos."
- d. Primary Coverage. "The policy provides primary coverage to City of San Marcos, and its elected and appointed boards, officers, agents, and employees. It is not secondary or in any way subordinate to any other insurance or coverage maintained by CITY of San Marcos."
- e. Waiver of Subrogation. "We waive any right of recovery we may have against the CITY of San Marcos and its elected and appointed boards, officers and employees because of

payments we make for injury or damages arising out of your ongoing operations or your work done under Agreement with the City of San Marcos.”

20.3 Insurance and Indemnity Obligations Separate. The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by this Section, and any approval of such insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement including, but not limited to, the indemnification provision.

## **21. Insurance Certificates**

CONSULTANT must provide CITY with certificates of insurance and accompanying endorsements showing the insurance coverages described in the paragraphs above, in a form and content approved by CITY, prior to beginning any work under this Agreement.

CITY utilizes an online Evidence of Coverage database, PINS Advantage, to electronically maintain the insurance documents required by this Section. CITY will send CONSULTANT an automatic email through the PINS system with information to provide to CONSULTANT’s insurance representative to upload insurance documents into the CITY’s system.

## **22. Indemnification**

With respect to professional services performed under this Agreement, and to the full extent permitted by law, CONSULTANT shall indemnify, protect, defend and hold harmless the CITY of San Marcos and its elected and appointed boards, officers, agents and employees (collectively, “CITY Indemnified Parties”) from and against any liability, including without limitation liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel fees and costs, court costs, interest, defense costs, and expert witness fees, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by CONSULTANT or by any individual or agency for which CONSULTANT is legally liable, including, but not limited to, officers, agents, employees or subcontractors of CONSULTANT.

CONSULTANT will work in good faith to procure applicable insurance for the cost of any defense arising from its obligations under this Agreement, and acknowledges that the provisions of this section are not limited by the insurance requirements set forth in section 20. Further, CONSULTANT agrees to pay any and all costs incurred by City Indemnified Parties to enforce the indemnity and hold harmless provisions of this section.

## **23. Dispute Resolution**

The Parties agree to make a diligent, good faith attempt to resolve any claim, controversy or dispute arising out of or relating to this Agreement, or concerning the breach or interpretation thereof. If a dispute arises between the Parties that cannot be settled after engaging in good faith negotiations, the parties agree to resolve the dispute pursuant to the following procedures. Each Party shall

designate an authorized representative to negotiate the dispute, and said representative will attempt to resolve the dispute by any means within their authority.

If the issue remains unresolved after thirty (30) days, the Parties will resolve any remaining dispute through (non-binding) arbitration. The non-binding arbitration process will provide for the selection by both Parties of a disinterested third person arbitrator within thirty (30) days. If the Parties cannot agree upon an arbitrator, then a single neutral arbitrator will be appointed pursuant to Section 1281.6 of the Code of Civil Procedure. The place of the arbitration shall be in San Diego County, California. The arbitrator will follow the substantive laws of the State of California, including rules of evidence, and the arbitrator's decision will be supported by substantial evidence. The arbitrator will have no power, authority or jurisdiction to award any punitive or exemplary damages. The award will be made within six (6) months, and the prevailing Party will be entitled to an award of reasonable attorneys' fees, CONSULTANT and expert witness fees, and any and all costs for services rendered to or for such prevailing Party. If non-binding arbitration does not result in settlement of the dispute within six (6) months, either Party may pursue other legal remedies for a determination of the dispute.

This provision is not intended to, nor shall it be construed to, change the time periods for filing any claim or action under Government Code Sections 900, et seq. This dispute resolution process is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either party initiating litigation. By executing this Agreement, you are agreeing to the dispute resolution process described in this Section, and are giving up any rights you might possess to have the dispute litigated in a court or by jury trial.

\_\_\_\_\_  
CITY (init'ls)

\_\_\_\_\_  
CONSULTANT (init'ls)

#### **24. Notices**

Any and all notices, demands, requests, consents or other communications, including but not limited to billings and payments which are required or permitted to be made hereunder must be in writing and must be sent by personal delivery; first-class mail, return receipt requested; overnight or express mail service; or facsimile. Notices will be deemed to have been received: upon delivery if personally delivered; seventy-two (72) hours after deposit in the U.S. Mail; on the day of transmission via facsimile unless sent after business hours and in that event, on the next business day. Notices may be sent to the following addresses; the parties may deliver notice of change of address or delivery information in the manner outlined in this Section.

CITY (Original):                      City of San Marcos  
Finance/IT Department  
1 Civic Center Drive  
San Marcos, CA 92069-2918  
Facsimile: (760) 744-9520

CONSULTANT: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_

**25. Entire Agreement, Modification**

This Agreement, and any exhibits and attachments hereto, constitutes the entire understanding between the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, discussions, representations, agreements and/or understandings concerning the same. This Agreement may not be amended, modified or altered except by an agreement in writing and signed by both Parties. No verbal amendment or implied covenant will change any provision of this Agreement.

**26. Exhibits and Recitals**

The attached Exhibits and all Recitals referenced in this Agreement, and each of them, are hereby incorporated by reference into this Agreement as though set forth in full at this point.

**27. Counterparts**

This Agreement may be executed in any number of counterparts, each of which will for all purposes be deemed to be an original, and all of which taken together will constitute one and the same document.

**28. Construction**

The terms and provisions of this Agreement will be liberally construed to effectuate the purpose of this Agreement. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase, or provision of this Agreement, no uncertainty or ambiguity will be construed or resolved against either Party under any rule of construction, including the Party primarily responsible for the drafting and preparation of this Agreement.

**29. Binding Agreement**

This Agreement will inure to the benefit of and be binding upon the Parties and their respective successors.

**30. Severability**

The provisions of this Agreement are severable. In the event that any provision of this Agreement, or any element thereof, is found to be invalid, illegal, or unenforceable by any court of competent jurisdiction, the validity and enforceability of the remaining provisions will not be affected and will remain in full force and effect.

**31. Waiver**

No waiver by either Party of any term or provision of this Agreement will be deemed or will constitute a waiver of any other provision of this Agreement, nor will any waiver constitute a continuing waiver unless otherwise expressly provided in writing.

**32. Definitions**

The terms “shall” and “will” used throughout this Agreement are intended to be mandatory.

**33. Gender**

Whether referred to in the masculine, feminine, or as "it," CONSULTANT means the individual or corporate CONSULTANT and any and all employees of CONSULTANT providing services hereunder.

**34. Applicable Laws**

CONSULTANT shall observe and comply with all local, state and federal laws, rules, ordinances and regulations in the performance of its obligations under this Agreement.

**35. Governing Law, Venue**

This Agreement will be construed under and in accordance with the laws of the State of California, and appropriate venue for any action or proceeding arising from this Agreement shall be had in the Superior Court of San Diego County, North County Branch.

**36. Labor Requirements**

**NOTICE IS HEREBY GIVEN** that payment of prevailing wages and compliance with the requirements of California Labor Code Sections 1770 et. seq. **IS NOT** required for this project. Where applicable, a summary of the prevailing wage requirements is set forth in Exhibit N/A, Prevailing Wage Requirements.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE.]**

**37. Authority to Sign**

The Parties each represent that all requisite approvals have been secured and that the persons executing this Agreement on their behalf have full authority to do so and to bind such Party to perform pursuant to the terms and conditions of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**AGENCY:**

City of San Marcos

**CONSULTANT:**

COMPANY NAME

By: \_\_\_\_\_  
Jack Griffin, City Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Helen Holmes Peak, City Attorney

By: \_\_\_\_\_

Name: \_\_\_\_\_

ATTEST:

Title: \_\_\_\_\_

By: \_\_\_\_\_  
Phillip Scollick, City Clerk

\_\_\_\_\_  
Contractor's City Business License No.

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

**[NOTE: In the event CONSULTANT is a Corporation, the signatures of two separate persons holding different offices must be provided.]**

## **EXHIBIT “A”**

### **SCOPE OF WORK**

The following Scope of Work outlines the tasks to be performed by CONSULTANT. CONSULTANT must provide the necessary qualified personnel to perform such services. In the performance of the services CONSULTANT will:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

**[PLEASE NOTE: IN THE EVENT CITY REQUIRES ADHERENCE TO ANY SCHEDULE OR TIMING, THAT INFORMATION MUST BE INCLUDED IN EXHIBIT “A” OR SOME OTHER CONTRACT DOCUMENT, OR IT WILL NOT BE AN ENFORCEABLE REQUIREMENT.]**

**EXHIBIT “B”**

**FEE SCHEDULE**

TBD

SAMPLE



**EXHIBIT “C”**

**PROJECT SCHEDULE**

TBD

SAMPLE