



REQUEST FOR PROPOSALS

Development Impact Fee Study

RFP Release Date

March 2, 2020

Proposal Submittal Deadline

March 26, 2020

Contact Person:

Gustavo Romo

Director of Community Development

City of Bell Gardens

7100 Garfield Avenue

Bell Gardens, CA 90201

(562) 806-7724

gromo@bellgardens.org

REQUEST FOR PROPOSALS

Development Impact Fee Study

NOTICE IS HEREBY GIVEN that the City of Bell Gardens (“City”) is issuing this Request for Proposals (“RFP”) for preparation of a Development Impact Fee Study and recommended Development Impact Fee Schedule for new development.

To be considered, the City must receive four (4) bound copies of the proposal no later than 5:00 p.m., on March 26, 2020, at the following address:

City of Bell Gardens
Attn: Jane Halstead, City Clerk
7100 Garfield Avenue
Bell Gardens, CA 90201

Additionally, one printable PDF copy sent via email to:

Elizabeth Jimenez, Senior Secretary
Email: ejimenez@bellgardens.org

Proposals must be signed by a representative authorized to bind the company and submitted in a sealed envelope clearly marked: “City of Bell Gardens – Development Impact Fee Study”.

Failure to comply with the requirements set forth in this RFP may result in disqualification. **Proposals and/or modifications received subsequent to the hour and date specified above will not be considered.** Submitted proposals may be withdrawn at any time prior to the submission time specified in this RFP, provided notification is received in writing before the submittal deadline. Proposals cannot be changed or withdrawn after the submittal deadline. No handwritten notations or corrections will be allowed. The responding Consultant is solely responsible for all costs related to the preparation of the proposal.

The City reserves the right to reject all proposals and to waive any minor informalities or irregularities contained in any proposal. Acceptance of any proposal submitted pursuant to this RFP shall not constitute any implied intent to enter into a contract.

The contract award, if any, will be made to the consultant who, in the City’s sole discretion, is best able to perform the required services in a manner most beneficial to the City.

Please submit all inquiries to gromo@bellgardens.org.

Table of Contents

Introduction/Purpose	1
Background.....	1
Project Schedule.....	2
Scope of Services	2
General.....	6
Proposal Format and Content	6
Criteria for Selection	7
Attachment 1: Template – Professional Services Agreement	i

Introduction/Purpose

The City of Bell Gardens (“City”) is requesting sealed proposals for the preparation of a Development Impact Fee Study and recommended Development Impact Fee Schedule for new development. The City does not presently have any Development Impact Fees for new development and needs to start preparing for and budgeting to pay for its infrastructure based on the impacts of new development activity. The City’s impact fee program must comply with the Mitigation Fee Act (California Government Code Section 66000 et seq., also known as Assembly Bill 1600).

Proposals must be responsive to the City’s request. The City shall determine the most responsive and qualified consultant providing the best service at the most reasonable cost. Cost alone shall not be the determinative factor.

The Request For Proposals does not obligate the City to award a contract or complete the project and the City reserves the right to cancel the solicitation if deemed in its best interest.

Background

The City of Bell Gardens was incorporated as a general law city in 1961. It is bordered by the City of Commerce, Downey, South Gate, and Bell. The City has a population of approximately 44,000 in an area of 2.4 square miles and is located in the southeastern part of Los Angeles County.

The City of Bell Gardens operates under the Council-Manager form of government, with a five-member City Council with overlapping terms of four years and a Mayor and Mayor Pro Tem selected by the Council at the end of each year. The City Council appoints the City Manager and City Attorney. The City is organized into departments that provide a full range of municipal services, including police, public works, recreation and community service, community and economic development, and administration. The City’s 2019-20 adopted General Fund budget is \$31,716,416 million, and the total City budget is \$55,841,778 million.

While the City has understood the impacts of development on its infrastructure, it has never adopted DIF’s for fear of being identified as unfriendly to business. However, it now understands that developers budget for such fees and expect them to be part of a growing city that must budget to take care of its infrastructure to ensure economic prosperity. Certain user fees and charges have been periodically adjusted throughout the years and a formal comprehensive fee study is currently in the process of being updated. Therefore, the purpose of the requested study is to ensure the City utilizes overhead rates that accurately account for the cost of dilapidating infrastructure and General Plan updates and assess appropriate fees to ensure necessary improvements and updates are made over time.

Project Schedule

Below is a desired schedule for initiation of this project; however, dates may be subject to change and adjusted as necessary.

RFP Issued	March 5, 2020
Proposal Submittal Deadline	March 26, 2020
Oral Interviews (conducted at City's discretion)	April 6, 2020 (week of)
Contract awarded by City Council	May 25, 2020

Scope of Services

- A. Provide data, findings and recommendations to implement Development Impact Fees based on the proposed infrastructure requirements to support the City's General Plan growth projections and the City's 10-Year Capital Improvement Plan. The consultant will work with City staff to determine other supporting infrastructure (i.e., equipment, vehicles, etc.) or other operational services that could rightfully be included in the fee program to ensure the costs of such supporting infrastructure are paid by new development.
- B. Review the following City documents:
 1. 10-Year Capital Improvement Program for FY 2019-20 through FY 2029-30
 2. General Plan (Latest Update)
 3. City's Comprehensive Fee Schedule
- C. Attend staff and public meetings. The consultant shall include attendance at the following meetings, as a minimum, in their proposal. Should the consultant identify a meeting they believe is necessary to achieve the results and is beyond the meetings described below, they should describe them in their proposal. Unless otherwise determined by the City, consultant must plan on meetings being held at Bell Gardens City Hall:
 1. Kick-off meeting between Consultant and City staff to discuss objectives, methodology, timeframe, etc.
 2. Initial City Council meeting to present report and draft DIF study.
 3. Final City Council meeting to follow up on first meeting and present final report and DIF study.
- D. Report Deliverables: Prepare a final report submitted to the City containing background information, methodology, findings, and recommendations. More specifically, consultant shall prepare a report containing, but not limited to, the following:
 - a. Background information
 - b. Description of the overall methodology
 - c. Supporting justification
 - d. Calculations that demonstrate the legal nexus between recommended fees and the impact created by new development
 - e. Relationship between the use of fees and the type of project on which it would be imposed
 - f. Purpose of the fee
 - g. How the fee would be used
 - h. Description of the relationship between the need for any additional facilities and the type of development project on which the fee would be imposed

- i. Any additional matters that City staff should be made aware of, findings, and recommendations.

General

The Consultant may recommend other tasks deemed appropriate to achieve the objectives set forth in this RFP. If the Consultant believes additional tasks are warranted, they must be clearly identified in the Consultant's proposal. The City reserves the right to modify the scope of services before the contract is awarded depending on cost and the City's confidence in the selected vendor.

The successful respondent will be required to retain all working papers and related supporting documents, including records of professional time spent, for a period of five (5) years after delivery of the required reports, unless notified in writing by the City of the need to extend the retention period. The Consultant further agrees to allow City staff to review such documents upon written request at any time during the retention period.

Proposal Format and Content

The Proposal should include, at minimum, information requested below in the order listed:

A. Title Page

Title page should include "City of Bell Gardens RFP – Development Impact Fee Study".

B. Table of Contents

C. Transmittal Letter

1. Company name and address.
2. Provide a brief summary describing the proposer's ability to perform the work requested, a history of the proposer's background and experience providing services. This summary should be brief and concise to apprise the reader of the basic services offered, experience and qualifications of the proposer, staff, subcontractors, and/or suppliers.
3. Letter of transmittal signed by an individual authorized to bind the respondent stating the respondent has read and will comply with all terms and conditions of the RFP.
4. General information about the primary contact who will address questions about the proposal. Include name, title, telephone number and email address of the individual.

D. Qualifications and Experience of the Firm

1. Describe your firm's history and organizational structure. Include the size of the firm, location of offices, number of years in business, organizational chart, name(s) of owner(s) and principal parties, and number and titles of staff. Please note the Consultant must have a minimum of five (5) years of direct experience preparing DIF studies as opposed to bringing on a subconsultant for said work.
2. Identify the primary business of the parent company and/or affiliates.
3. Provide any substantiated complaints against the firm in the last five (5) years and any outstanding litigation, if applicable.
4. Identify the office(s) of your organization that will have primary responsibility for managing the DIF study.
5. What is your firm's experience in conducting user fee studies? Identify the studies performed by your firm in the last five years.
6. Comment on other areas that may make your firm different from your competitors.
7. Conflict of Interest Statement: The firm shall disclose any financial, business, or other relationship with the City that may have an impact upon the outcome of this contract. Particular attention should be paid to compliance with Government Code section 1090.
8. Comments on or Requested Changes to Contract: The City standard professional services contract is included as Attachment 1 to this Request For Proposals. The proposing firm shall identify any objections to and/or request changes to the standard contract language in this section.

E. Qualifications and Experience of Proposed Project Team

1. Describe the qualifications of staff proposed for the assignment, position(s) in the firm, and types and amount of equivalent experience. Be sure to include any municipal agencies they have worked with in the past five years and their level of involvement. As previously noted, the Consultant must have a minimum of five (5) years of direct experience preparing DIF studies as opposed to bringing on a subconsultant for said work.

F. Scope of Services and Work Plan

1. Describe the methodology, planning and design strategies for completing the DIF Study requested under the Scope of Services.

G. Project Timeline and Pricing

1. Provide an estimated project timeline that outlines individual tasks, milestones, and deliverables.

2. Provide a description of the project budget itemized according to the firm's proposed timeline and broken into each service or phase of work, such as the planning, development, and/or implementation phase.
3. The firm shall present a specific "not to exceed" fixed fee, including associated fees (e.g. printing, travel, attendance at meetings, etc.) based on the proposed timeline. Each phase of the work should have an itemized budget.
4. Outline billing and payment expectations, including timing and method of payment.

H. References

1. A list of the municipal agencies for which the respondent has prepared a Development Impact Fee Study within the past five (5) years. Provide the following information for three (3) projects that are similar in size and scope to the project requested by this proposal:
 - Name, address, and telephone number of the agency
 - Time period for the project
 - Brief description of the scope of the review
 - Recommended procedures
 - Reference contact name and telephone number

Criteria for Selection

A two-step analysis will be employed.

Proposals will initially be evaluated by Staff to verify the qualifications of the consultant and the appropriateness of the proposal for meeting the City's needs. The proposals that are found qualified based on this initial evaluation will be reviewed for the costs proposed. The City reserves the right to interview any or all responding firms and/or to award a contract without conducting interviews.

A recommendation for consultant selection will be made to the City Council based on Staff's "best value" evaluation of the proposals/qualifications, which will consider the consultant team's qualifications, comparable experience and cost, as well as consultant's availability to undertake the project, complete the tasks timely and deliver a high-quality work product, and their ability to comply with the City's standard professional services agreement.

All interested parties are encouraged to submit proposals to the RFP, as the award is not based solely on the lowest cost proposal submitted. Total cost will be taken into consideration, but the Consultant's capabilities, competence and capacity will be considered as well. The City reserves the right to choose the overall best firm according to the City's criteria. The City and its designated representatives shall be the sole judge of its own best interest, the proposal, and the resulting negotiated agreement. The City's decisions will be final.

The above factors, along with other factors that the City may deem appropriate, will be used to identify the proposal that represents the best value, which will be the basis for the contract award. The decision of whether to award a contract and selection of a consultant will be in the sole discretion of the City Council.

ATTACHMENT 1

Professional Services Agreement

FOR <<Description of Services>> SERVICES
[<<Consultant Name>>]

THIS AGREEMENT is made and entered into this day of 20 , by and between the City of Bell Gardens, a municipal Corporation (herein referred to as "City") and <<Consultant Name>> (herein referred to as "Consultant").

RECITALS

A. WHEREAS, City proposes to have Consultant perform the services described herein below;

B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated;

C. WHEREAS, City has solicited and received a proposal from Consultant, has reviewed the previous experience and evaluated the expertise of Consultant, and desires to retain Consultant to render professional services under the terms and conditions set forth in this Agreement;

D. WHEREAS, City and Consultant desire to contract for specific services described below and desire to set forth their rights, duties and liabilities in the services to be performed; and

E. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1. **Term.** <<The term of this Agreement shall commence upon execution of this Agreement and City's issuance to Consultant a notice to proceed for all or a portion of the work and shall terminate upon City's acceptance and payment for all or such portion of the work as was authorized by such notice, unless terminated earlier as set forth herein.>>

[ALTERNATIVE]

<<The term of this Agreement shall commence on the above written date, and shall terminate on the day of , 20 , unless terminated earlier as set forth herein.>>

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

2. **Scope of Services.** <<Consultant shall provide the professional services described in the City's Request for Proposal ("RFP") attached hereto as Exhibit and incorporated herein by reference and Consultant's Response to City's RFP (the "Proposal"). A copy of said Proposal is attached hereto as Exhibit and incorporated herein by this reference.>>

[ALTERNATIVE]

<< Consultant shall diligently perform all the services described in the Scope of Services attached hereto as Exhibit and incorporated herein by reference. The City may elect to delete certain tasks of the Scope of Services at its sole discretion.>>

Notwithstanding services described above, the City may request and Consultant may agree to perform other services. The scope of such services and compensation shall be agreed to in writing, signed by both parties and shall become a part of this Agreement.

2.1. All professional services shall be performed by Consultant or under Consultant's supervision. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional Consultants in accordance with sound professional practices.

2.2 Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

3. **Time of Performance.** <<Time is of the essence in the performance of services under this Agreement and the services shall be performed to completion in a diligent and timely manner. The failure by Consultant to perform the services in a diligent and timely manner may result in termination of this Agreement by City.>>

[ALTERNATIVE]

<< Time is of the essence in the performance of services under this Agreement and Consultant shall perform the services in accordance with the Project Schedule attached hereto as Exhibit and incorporated herein by reference. The failure by Consultant to strictly adhere to the schedule may result in termination of this Agreement by City.>>

Notwithstanding the foregoing, Consultant shall not be responsible for delays due to causes beyond Consultant's reasonable control. However, in the case of any such delay in the services to be provided for the Project, each party hereby agrees to provide notice to the other party so that all delays can be addressed.

4. **Compensation.** <<City shall pay Consultant for the services on a time and expense not-to-exceed basis in accordance with the provisions of this Section and the Pricing Proposal submitted by Consultant attached hereto as Exhibit and incorporated herein by reference. Consultant's compensation for all work performed in accordance with this Agreement, including all reimbursable items and sub Consultant fees, shall not exceed <<dollar amount>> unless authorized in writing by the City and approved by the City Council.>>

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

[ALTERNATIVE]

<< **Consultant shall be paid in accordance with the fee schedule set forth in Exhibit attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed <<dollar amount.>>>>**

[ALTERNATIVE]

<< **City shall pay Consultant for the services on a time and expense not-to-exceed basis in accordance with the provisions of and the Project Budget this Section and the Staff Hour and Fee Estimate as well as the Consultant's Schedule of Charges as set forth in Exhibit and incorporated herein by reference. Consultant's compensation for all work performed in accordance with this Agreement, including all reimbursable items and sub consultant fees, shall not exceed <<dollar amount>> without additional authorization from City.>>**

4.1 Consultant shall submit monthly invoices to City describing the work performed the preceding month. Consultant's bills shall include the name of the person who performed the work, a brief description of the services performed and the specific Task in the Scope of Services to which it relates, the date the services were performed, the number of hours spent on all work billed on an hourly basis, and a description of any reimbursable expenditures. No billing rate changes shall be made during the term of this Agreement without the prior written approval of City. City shall pay Consultant no later than thirty (30) days after receipt of the monthly invoice by the City.

4.2 City shall reimburse Consultant only for those costs or expenses specifically approved in this Agreement, or specifically approved in advance by City. Unless otherwise approved, such costs shall be limited and in accordance with Schedule of charges set forth in the Proposal attached hereto as Exhibit and incorporated herein by reference.

4.3 Consultant shall not receive any compensation for Additional Work without the prior written authorization of City. As used herein, "Additional Work" means any work that is determined by City to be necessary for the proper completion of the Project, but which is not included within the Scope of Services and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Additional Work shall be billed in accordance with the Billing Rates as set forth in Exhibit and on the terms set forth in this Article 4.

5. Contract Administration. The << **identify city representative by title**>> shall have the authority to act for City under this Agreement. The <<**identify city representative by title**>> or his/her authorized representative shall represent City in all matters pertaining to the services to be rendered pursuant to this Agreement. Consultant shall designate a representative for purposes of this Agreement who shall have the authority to act for Consultant under this Agreement.

6. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement. Consultant shall designate a Project Manager, who shall coordinate all phases of the Project. This Project Manager shall be available to City at all reasonable times during the Agreement term. Consultant has designated <<**name of project**

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

manager>>, to be its Project Manager. Consultant shall not remove or reassign the Project Manager without the prior written consent of City. City's approval shall not be unreasonably withheld.

7. **Indemnification.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Sub consultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Sub consultants) and the City in the performance of professional services under this agreement.

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including 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's 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 City for which Consultant is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant.

Notwithstanding the foregoing, nothing herein shall be construed to require Consultant to indemnify the Indemnified Parties from any Claim arising from the active negligence or willful misconduct of the Indemnified Parties. Nothing in this indemnity shall be construed as authorizing any award of attorney's fees in any action on or to enforce the terms of this Agreement. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by the Consultant.

In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from Consultant's performance of this agreement, the Consultant shall provide a defense to the City indemnitees, or at the City's option, reimburse the City indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims.

8. **Insurance.** Without limiting Consultant's indemnification of City, and **prior to commencement of work.** Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, a policy or policies of liability insurance of the type and amounts described below and in a form satisfactory to City.

A. **Certificates of Insurance.** Consultant shall provide certificates of insurance with original endorsements to City as evidence of the insurance coverage required herein. Insurance certificates must be approved by the City Attorney prior to commencement of performance or issuance of any permit. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement.

B. **Signature.** A person authorized by the insurer to bind coverage on its behalf shall

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

sign certification of all required policies.

C. **Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City Attorney.

D. **Coverage Requirements.**

i. **Workers' Compensation Coverage.** Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance with limits of at least one million dollars (\$1,000,000). Consultant shall submit to City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

ii. **General Liability Coverage.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than two million dollars (\$2,000,000) per occurrence, four million dollars (\$4,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability. Consultant's general liability policies shall be primary and non-contributory, and be endorsed using Insurance Services Office form CG 20 10 to provide that City and its officers, officials, employees, and agents shall be additional insureds under such policies. For construction contracts, an endorsement providing completed operations to the additional insured, ISO form CG 20 37, is also required.

iii. **Automobile Liability Coverage.** Consultant shall provide auto liability coverage for owned, non-owned, and hired autos using ISO Business Auto Coverage form CA 00 01, or the exact equivalent, with a limit of no less than one million dollars (\$1,000,000) per accident. If Consultant owns no vehicles, this requirement may be met through a non-owned auto endorsement to the CGL policy.

iv. **Professional Errors and Omissions Insurance.** Consultant shall maintain professional liability insurance that insures against professional errors and omissions that may be made in performing the Services to be rendered in connection with this Agreement, in the minimum amount of one million dollars (\$1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this agreement. The cost of such insurance shall be included in Consultant's bid.

E. **Endorsements.** Each general liability and automobile liability insurance policy shall

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

be endorsed with the following specific language:

i. The City, its elected or appointed officers, officials, employees, agents and volunteers are to be covered as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant.

ii. This policy shall be considered primary insurance as respects to City, its elected or appointed officers, officials, employees, agents and volunteers as respects to all claims, losses, or liability arising directly or indirectly from the Consultant's operations or services provided to City. Any insurance maintained by City, including any self-insured retention City may have, shall be considered excess insurance only and not contributory with the insurance provided hereunder.

iii. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

iv. The insurer waives all rights of subrogation against City, its elected or appointed officers, officials, employees, agents and volunteers.

v. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its elected or appointed officers, officials, employees, agents or volunteers.

vi. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits, by either party except after thirty (30) calendar days (10 calendar days written notice of non-payment of premium) written notice has been received by City.

8.1 Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

9. **Nondiscrimination.** In the performing of this Agreement, Consultant shall not discriminate against any subcontractor, employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation race, religion, color, national origin, handicap, ancestry, sex or age.

10. **Independent Contractor.** It is understood that City retains Consultant on an independent contractor basis and Consultant is not an agent or employee of City. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the expressed terms of this Agreement. Nothing in this Agreement shall be deemed to constitute approval for Consultant or any of Consultant's employees or agents, to be the agents or employees of City. Consultant shall have the responsibility for and control over the means of performing the work, provided that Consultant is in compliance with the terms of this Agreement. Anything in this Agreement that may appear to give City the right to direct Consultant as to the details of the performance or to exercise a measure of control over Consultant

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

shall mean only that Consultant shall follow the desires of City with respect to the results of the services.

10.1 The Consultant shall at all times remain an independent Contractor with respect to the services to be performed under this Agreement and shall be responsible for the payment of Federal and State Employer Withholding Taxes, Unemployment Insurance Taxes, FICA Taxes, Retirement, Life and/or Medical Insurance, and Worker's Compensation Insurance for the employees of the Consultant or any other person performing services under this Agreement. Consultant and its employees are not entitled to the rights or benefits afforded to City's employees, including disability or unemployment insurance, workers' compensation, medical insurance, sick leave, or any other employment benefit. Consultant agrees to indemnify and hold City harmless from any claims, costs, losses, fees, penalties, interest, or damages suffered by City as a result of any claim by any person or entity contrary to the provisions of this Section 10.

11. Ownership of Documents. All documents, information and materials of any and every type prepared by the Consultant pursuant to this Agreement shall be the property of the City. Such documents shall include but not be limited to all findings, reports, documents, information and data including, but not limited to, electronic media, computer tapes or discs, files, and tapes furnished or prepared or accumulated by the Consultant in performing work under this Agreement, whether completed or in process.

12. Confidentiality. All City information disclosed to Consultant during the course of performance of services under this Agreement shall be treated as confidential and shall not be disclosed to any other persons or parties except as authorized by City, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law. All documents, including drafts, notes and communications that result from the services in this Agreement, shall be kept confidential unless City authorizes in writing the release of information, excepting that information which is public record and subject to disclosure pursuant to the Public Records Act, or otherwise required by law..

13. Access to Records. Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under this Agreement on file for at least three (3) years following the date of final payment to Consultant by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit and copying at reasonable times, during Consultant's usual and customary business hours. Consultant shall provide proper facilities to City's representative(s) for access and inspection. Consultant shall be entitled to reasonable compensation for time and expenses relate to such access and inspection activities, which shall be considered to be an additional service to the City, subject to the provisions of Section 4 hereinabove.

14. Conflict of Interest. The Consultant or its employees may be subject to the provisions of the California Political Reform Act of 1974 (the "Act"), which (1) requires such persons to disclose any financial interest that may foreseeably be materially affected by the work performed under this Agreement, and (2) prohibits such persons from making, or participating in making, decisions that will foreseeably financially affect such interest.

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

If subject to the Act, Consultant shall conform to all requirements of the Act. Failure to do so constitutes a material breach and is grounds for immediate termination of this Agreement by City. Consultant shall indemnify and hold harmless City for any and all claims for damages resulting from Consultant's violation of this Section.

Consultant represents that neither Consultant, nor any of its employees, agents or subcontractors, have a conflict of interest with respect to the work to be performed under this Agreement, nor shall such individuals, during this term of this Agreement, acquire any interest, which would conflict in any manner with the performances of services hereunder.

15. **Assignment.** This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

16. **Compliance with Laws, Rules, Regulations.** Consultant shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

17. **Integration; Amendment.** This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing sign by both parties.

18. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

19. **Waiver/Validity.** Consultant agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver of any other condition of performance under this Agreement. The acceptance by the City of the performance of any work or services by Contractor shall not be deemed to be a waiver of any term or condition of this Agreement.

20. **Jurisdiction.** City and Consultant agree that the law governing this Agreement shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Agreement shall be filed and maintained in the County of Los Angeles.

21. **Notice.** Any notices required to be given pursuant to this Agreement shall be deemed

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

To City:
City of Bell Gardens
7100 Garfield Avenue
Bell Gardens, California
90201 Attn: <<name>>

To Consultant:
<<consultant>>
<<address>>
<<city, state, zip>>
Attn: <<name>>

Nothing hereinabove shall prevent either City or Consultant from personally delivering any such notices to the other.

22. Termination. City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving written notice of such termination to Consultant. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City. In the event of such termination, Consultant shall be entitled to compensation for all services rendered and work performed for City to the date of such termination.

23. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of the RFP or the Response, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over both the Response and the RFP and the Response shall govern over the RFP.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates set forth below.

Date: _____, 20__

<<consultant>>

by: <<name and title>>

TEMPLATE PROFESSIONAL SERVICES AGREEMENT

**CITY OF BELL GARDENS, a
California municipal corporation**

Date: _____, 20__

_____ **by: <<name and title>>**

**ATTEST:
CITY CLERK**

APPROVED AS TO FORM:

Rick R. Olivarez, City Attorney