



CITY OF FOUNTAIN VALLEY

Request for Proposals (RFP) Electronic Document Imaging (Scanning) and Media Conversion Services

RFP Submittal Deadline: 4 p.m. July 2, 2018

INTRODUCTION:

The City of Fountain Valley (City) is requesting proposals from qualified consulting firms (Contractor) to provide both scanning and media conversion services. The City is interested in selecting a Contractor to perform the scanning of blueprints, Microfiche, and other building and construction documents into digital format.

BACKGROUND:

The City of Fountain Valley was incorporated on June 13, 1957 and is a general law city. The City of Fountain Valley, with a population of approximately 58,000 is approximately 10 square miles situated in Orange County. Fountain Valley has established itself, both locally and nationally, as a progressive, well-balanced community dedicated to improving the quality of life for its citizens.

In 2004, the City contracted with an outside building services firm, Charles Abbott & Associates to provide all building service functions that includes permitting, plan check, and inspection services. As part of the building permit issuance fees, monies are collected for the archiving of construction plans and permits.

Four years ago the City of Fountain Valley contracted with an outside information management firm to provide document scanning services for plans and other building and construction documents. The contract has expired and the city is seeking to maintain the ongoing process of efficient and accurate records management. The City is also seeking to convert Microfiche to a more efficient document retrieval process.

PRE-PROPOSAL CONFERENCE:

The Pre-Proposal Conference date is on Thursday, June 21, 2018 at 1:30 P.M. at City Hall located at 10200 Slater Avenue, Fountain Valley, CA. Attendance for the Pre-Proposal conference is not mandatory but is recommended to submit a qualifying proposal for this project. Additionally, to facilitate the clarification of requirements or interpretations of this RFP, Firms and/or Contractors should submit via email and to the

contact person noted on page 11, any questions they may have before the Pre-Proposal Conference date above or in writing the day off the Pre-Proposal Conference. Any clarifications or interpretations made to prospective Firms and/or Contractors will be conveyed back in writing via email no later than 5:00 p.m. on June 27, 2018.

SCOPE OF WORK:

Purpose: The City requests Contractor to have sufficient resources to be able to provide both scanning and media conversion services in an efficient and accurate manner. The objective for these services is to:

- Provide media conversion services and records retention
- Provide for on-line access to electronic records
- Eliminate the cost associated with the storage of the original “hard copy” media

Contractor shall provide all labor, materials, tools and equipment required for Scanning, Indexing and Imaging Service for City department requesting services.

SCOPE OF SERVICES:

The City of Fountain Valley (City) uses a Laserfiche Document Imaging and Records Management System. The City requests competitive bids for the following services:

- Document imaging/scanning services
- Media Conversion Services- digital conversion of microfiche and/or microfilm to Multi Group-IV Tagged Image File Format with the large size drawings and the standard size documents at a minimum of 300 dots per inch and process these digital images to be seamlessly included into the City of Fountain Valley’s Laserfiche Software.
- Optical Character Recognition (OCR) services. This process shall provide an accurate conversion of image data into a searchable PDF format.
- Services shall be in accordance with standards set by the American National Standards Institute (ANSI) and Association for Information and Image Management (AIIM).

Handling and Receiving Requirements:

- Confidentiality, Accuracy and Security of Documentation: It is critical that the proposer understands the required security of the documents. These documents are irreplaceable and must be safeguarded. Once the proposer received the documents from the City, they are responsible for their safekeeping. Contractor must secure materials in a secure, dry location and take great care in handling of fragile originals.
- Safeguards against theft, loss, and/or damage must be maintained at the highest levels. The Contractor will be held responsible for lost, stolen and/or damaged original documents. The Contractor will be fined up to \$ 50 for a records box that

is lost, stolen or damaged. Also, for media conversions purposes, the Contractor will be liable up to \$ 500 per roll of microfilm and/or \$ 100 per piece of microfiche for any lost, stolen and/or damaged original while in the Contractors possession. Also, no unauthorized reproduction or duplication of any media produced by the contractor is permissible.

- These documents contain sensitive security information such as building plans, intellectual property rights and other sensitive information. Once the documents are in the hands of the Contractor, the Contractor becomes solely responsible for the security of the documents.

Tracking and Inventory of City Documents:

The Contractor will inventory and acknowledge the receipt of all items received. It is intended that the Contractor will maintain an automated tracking system to allow for the retrieval of any document that is in process. Any discrepancies between the City's Department's inventory transmittal and the items received by the Contractor are to be resolved with ten calendar days. After scanning/media conversion services have been completed on a pickup from the City, the Contractor will be required to perform a final quality control step that compares the final output to the manifest that City provided that Contractor to ensure that every document has been digitized and indexed. The Contractor will be required to provide to the City a report comparing the documents provided to the final output with each product delivery. The City will implement this process in conjunction with the contract and is open to process re-engineering as suggested by the Contractor.

Pick-up and Turnaround Time:

The Contractor will pick up all City documents that are to be scanned and/or have media conversion performed from designated City sites; the Contractor is responsible for the pick-up of the City documents themselves, the City determines it to the City's benefit. Only the City will make such a determination.

- The City and the awarded Contractor will mutually develop a procedure, (preferably utilizing a bar code system) as well as a pickup and delivery schedule. The City's plan is for weekly pickups.
- The City will determine the pickup locations and shall also require the Contractor to schedule a regular pick up of documents to be scanned and media conversion services performed.
- Transportation of City Documents: All City documents must be transported in a closed, preferably climate controlled, vehicles. If magnetic media is involved, all items must be placed in magnetic protection containers within the applicable vehicles.
- Hard Copy Storage: The Contractor will maintain the City hard copy documents in

a secure archival environment for a period of not less than 120 days.

Preparation Requirements:

- Vendor shall perform “Document Preparation” as necessary to scan all files- Preparation of Documents to be Scanned: this includes removing all staples and paperclips, repair all torn documents with non-reflective tape, straighten all folded plans and mount any irregular size memorandum on standard 8 ½” x 11” paper and other wise make the documents ready for processing.

Quality, Production and Pricing Requirements:

- All data must be preserved in a form identical to, or functionally equal to, the original record.
- Scanned images shall be placed on a DVD, external hard drive, or other appropriate approved media for delivery to the City.
- Each scanned image shall have a unique file name specified by the City.
- Documents shall rotate to provide maximum readability (e.g. letters shall be in proper orientation when document is displayed without rotation.)
- Vendor shall use 300 dpi or higher for those documents where it is required to meet the quality requirements.
- The vendor shall not scan blank documents.
- Vendor shall perform a consistency check on 20 % of the images. This shall include image clarity, orientation, and accuracy.
- Vendor shall calibrate and maintain systems (maintain consistency of output as described in ANSI/AIIM MS44-1988 (R1993) Recommended Practice for Quality Control Image Scanners; ensure that scanning system is free from dust and other particles; maintain calibration through each shift; use appropriate technical targets and procedures as defined by manufacturer)
- Report and discuss any problem images that cannot be captured to meet benchmark specifications.
- Inspect film intermediates for quality and consistency
- Post process digital images (cropping, deskewing, despeckling, image rotation)
- A document may consist of one or many pages. If the document has more than one page this document must be scanned as a multi-page document.
- Vendor invoices shall denote the number of scanned pages being billed for the current invoice as well as the total number of pages billed to date.

Record Accessibility:

The City will require designated City Staff to have access to original City documents supplied to the Contractor for Scanning and/or Media Conversion services in the event a document is needed. The Contractor will provide the ability to locate and return to the City any original document that is in the possession of the Contractor within one business day from the time of request by an authorized department agent. After the City has fulfilled its need the Contractor shall also pick up these documents and return with them to the Contractor site to either complete the scanning or conversion process, whichever applies.

Records Destruction:

Once the City receives from the Contractor its scanned images and indexed files and has checked both for clarity and accuracy, the City Clerk or his/her designee will normally require the Contractor to shred the original documents. The City prefers the Contractor to do the shredding themselves on the Contractor's site, but the City will permit to Contractor to hire an outside vendor that will perform shredding on the Contractor's site (the City will not permit its documents to be taken off the Contractors site for shredding). If the Contractor hires an outside shredding vendor to do the shredding on the Contractors site, the outside shredding vendor must be bonded. In either instance the Contractor will be required to have at least one of their own employees present during the shredding of all City documents. Once the City documents have been destroyed, the Contractor will be required to provide the City Clerk or his/her designee with certificate of destruction that the Contractor signs along with a witness signature, verifying what documents have been destroyed, the date of destruction and that the security of the documents was safeguarded through the entire destruction process. The City reserves the right to have its own designated employee (s) present during the Contractor's destruction process. The City also reserves the right to use a different alternative for destruction of its documents if it is determined to be in the best interest of the City.

SPECIFICATIONS:

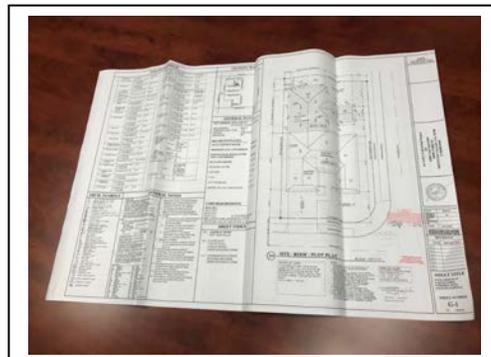
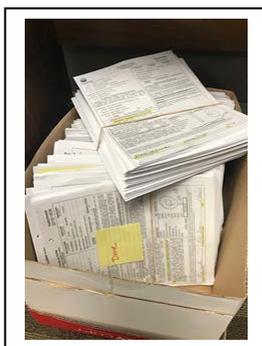
- Must meet or exceed the minimum specifications for use with Laserfiche software. Quality control must occur during all phases of scanning (prior, during, while updating the metadata/indexing, and after sending scanned documents to Laserfiche application).
- Description of materials to be converted:
Source Documents:
 - Drawings that are primarily E size (Anticipated largest is 36" x 43")
 - Letter and Legal size documents (Anticipated largest is 11' x 17")
 - Microfiche and/or Microfilm (35mm & 16mm)
 - Pictures

Estimated Quantity:

- Microfiche/Microfilm: The estimated number of microfiche is based on 24 linear feet of microfiche with an average of 600 microfiche per foot for an approximate total of 11,400 microfiche slides.
- Plans: Approximately 100-500 E sized drawings per month (Anticipated largest is 36" x 43")
- Permits: Approximately 1,000-3,000 letter and legal sized documents per month

Subject Matter:

- Building Documents
- Building permit
- Electrical Permit
- Plumbing Permit
- Check Sheets
- Plans (Drawings)
- Building Plans
- Electrical Plans
- Plumbing Plans
- Mechanical/Air Conditioning Plans
- Landscaping Plans
- Soils Reports
- Structural Calculations
- Inspection Slips
- Correspondence
- Notice of Violations Miscellaneous Documents
- Certificate of Occupancy



REQUIRED INFORMATION AND FORMAT OF SUBMITTALS:

In order to be considered for selection, the respondent individuals or firm shall submit a proposal using as a minimum the following criteria, which shall be scored by representatives from the City of Fountain Valley:

1. Letter of Introduction
 - a. A letter of introduction signed by an authorized individual having the authority to negotiate and execute contracts on behalf of the organization.
 - b. The firm(s) shall state why it believes it is qualified to provide the services described in this Request for Proposal (RFP).
 - c. If submitting as a team, note which team is the prime consultant or lead joint venture partner (if applicable).
 - d. Include the name and resume of the individual leading the team.
2. Firm Information and Qualifications
 - a. Number of years the firm(s) has been in business.
 - b. Location of principal office that will be responsible for the implementation of this contract, and the distance from the City of Fountain Valley.
 - c. List company and individual team members experience in providing similar services.
 - d. A listing of the firm's experience providing scanning and archiving blueprints and other building and construction documents into digital format to other municipalities. Provide the name of a minimum of three (3) municipalities with the name and phone number of the individual who can be contacted with regards to the services.

- e. Identify any proposed consultants that are not directly associated with the imaging firm and include the same background documentation accordingly.

3. Firm Resources

- a. Provide a statement demonstrating your firm's or team's ability to accomplish the scope of services in a comprehensive and thorough manner to meet the needs of the City.
- b. Description of the proposed method of transport of plans from City to location of proposers imaging facility. Include a description of who will maintain custody of the plans from the time they leave City Hall to the time they are returned.

4. Firm's Sample Product

- a. City staff will include three (3) examples (1 page each) that the responding firm shall provide an electronic example of such plans and or permits with their proposal.

5. Firm's Cost Proposal

Consultant's cost proposal shall be broken down in the following categories:

- a. Document prep per image (remove staples, repair tears, repair folded pages, etc.)
- b. Scanning: price per page depending on plans, permits, reports, etc. size (8.5"x11", 11"x14", 11"x17", 24"x36", etc.)
- c. Please indicate costs for color images separately.
- d. Pick Up and Delivery of documents.
- e. File Preparation and Indexing by address, permit number, and date.
- f. DVD, flash drive or other acceptable media device.

6. Addenda

The City may modify, clarify or interpret the Request for Proposals by issuing an addendum. Any such addendum shall become part of the package and of any contract awarded. A signed copy of the addendum shall be attached to the proposal and submitted as part of the package. Failure to do so may result in a non-responsive submittal.

SELECTION CRITERIA:

The following criteria shall be used for consultant selection:

- Quality of the proposal: Completeness, content, and responsiveness to the Request for Proposals.

- Cost related to the level of work proposed and meeting the project schedule.
- Professional qualifications and capability of the firm, personnel and subconsultants (if any).
- Consultant's knowledge of fee study reviews and cost allocation studies.
- The ability of the firm to commit the personnel necessary to complete the job in the desired time frame. Past experience of the project manager to successfully manage the team and any subconsultant will be considered.
- Quality of references and the results of reference checks, as determined appropriate.
- Demonstration of a clear understanding of the project.

CITY will review all proposals and rank consultants according to their response to this RFP. CITY reserves the right to begin negotiations and enter into a Contract without interviews or further discussion.

Upon completion of the evaluation phase, City staff will select those consultants for interviews whose proposals and qualifications most closely conform to the requirements of this RFP. The City may choose to interview one or more of the firms responding to this RFP. The City of Fountain Valley City Council is the authorizing entity to issue a contract award to the top-ranked consultant. Upon receipt of the executed Agreement, it will be submitted to the City Council for approval.

PROPOSAL CLOSING DATE & TIME:

The deadline to submit proposals for this project is **Monday, 4:00 p.m. on July 2, 2018**. Three (3) copies of the proposal shall be submitted in a sealed envelope, plainly marked:

City of Fountain Valley
RFP – Electronic Document Imaging Services
10200 Slater Avenue
Fountain Valley, CA 92708
Attn: Matt Mogensen, Planning & Building Director

CONTRACT:

The selected consultant will be required to enter into an "Agreement for Consultant Services" for the consultant services with the City. The Agreement will include a detailed scope of work and payment of services schedule. **The contract shall be for a total of four (4) years from approval date.** A sample Agreement for Consultant Services specifying the City's terms and conditions, including insurance requirements, is attached (Attachment 1). The successful vendor shall submit appropriate evidence of required insurance coverage prior to finalizing the contract and commencing work. Any objections

or exceptions to the agreement must be stated in the proposal. Any submission of a proposal without objection to the agreement indicates understanding and intention to comply with the agreement. If there is a term or condition in the agreement that the firm intends to negotiate, it must be stated in the proposal. The City reserves the right to reject any proposal(s) containing exceptions or modifications to the agreement. The City may revise the stated terms and conditions prior to execution.

The Scope of Work, as may be modified through negotiation and/or by written addendum issued by the City, will be made a part of the Agreement.

GENERAL INFORMATION:

1. **Right to Reject Proposals:**

The City reserves the right to reject any and all proposals, which do not meet the requirements of this RFP, and/or any portion of the requirements of this project. Issuance of this RFP and receipt of proposals does not commit CITY to award a Contract. CITY also reserves the right to postpone award of a Contract for its own convenience, accept or reject any or all proposals received in response to this RFP, and cancel any or all portions of this RFP and resulting Contract.

2. **Examination of Proposal Documents**

By submitting a proposal, each consultant represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the objectives of CITY.

3. **Pre-Contractual Expenses**

CITY shall not be liable for any pre-contractual expenses incurred by consultants in the preparation of proposals. Pre-contractual expenses shall not be included in the fee proposal.

4. **Ownership of Reports and Documents**

Originals of all documents and data produced under the terms of the Contract shall become the property of CITY. CITY shall retain all copyrights. Contractor shall be prohibited from reproducing and retaining any plans, permits, and reports, etc.

5. **Consultant's Representative:**

The consultant shall assign a responsible representative to perform the work noted in this proposal. The consultant's representative shall remain in responsible charge for the duration of the project. CITY reserves the right to terminate the contract if, in the opinion of CITY, substantial changes in project management may jeopardize the successful completion of this project to the satisfaction of CITY.

6. **Independent Contractor:**

The Consultant is as to the City a wholly independent contractor. The Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City.

7. Legal Responsibilities:

The Consultant shall keep itself informed of all local, State, and Federal laws and regulations, including, but not limited to, those pertaining to conflict of interest, which in any manner affect those employed by it or in any way affect the performance of its building plan check and inspection service. The Consultant shall at all times observe and comply with all such laws and regulations.

8. Term

It is anticipated that the selected firm/individual will enter into a contract with the City for a term not to exceed four (4) years, with the potential to extend the contract for three additional one (1) year terms, at the sole discretion of the City. The agreement will have a 30 day termination clause.

9. Subcontracting

Only those firms identified in the Contract as subcontractors or subconsultants shall be allowed to perform work for this project. Any amendments to this requirement shall be made in writing by consultant to CITY. CITY has the right to reject any requested amendments at any time during the course of this project.

10. Federal, State, and Local Laws

The consultant shall comply with all federal, state, and local laws, rules, regulations, ordinances, and statutes.

11. Indemnification

The consultant shall indemnify, defend, and hold harmless CITY, its officers, directors, employees and agents from and against any and all claims, including attorney's fees and reasonable expenses for litigation or settlement, for any loss, damages, bodily injuries, and loss of property caused by negligent acts, omissions, or willful misconduct by the successful consultant and its subconsultant's, if any, arising out of performance of the of the Contract.

12. Contracts/Agreements:

The successful consultant shall enter into a Contract with CITY that is based on the contents of this RFP, the consultant's proposal, and CITY Contract. CITY shall enter into a Contract for this project with a single firm and not with multiple firms doing business as a joint venture. A sample Agreement for Consultant Services specifying the City's terms and conditions, including insurance requirements, is attached (Attachment 1). The successful vendor shall submit appropriate evidence of required insurance coverage prior to finalizing the contract and commencing work. Any objections or exceptions to the agreement must be stated in the proposal. Any submission of a proposal without objection to the agreement indicates understanding and intention to comply with the agreement. If there is a term or condition in the agreement that the firm intends to negotiate, it must be stated in the proposal. The City reserves the right to reject any proposal(s) containing exceptions or modifications to the agreement. The City may revise the stated terms and conditions prior to execution.

CONTACT INFORMATION:

For all questions and/or inquiries regarding this RFP, please contact:

Matt Jenkins, Assistant Planner
Phone: (714) 593-4427
Email: Matt.Jenkins@fountainvalley.org

Matt Mogensen, Planning & Building Director
Phone: (714) 593-4426
Email: Matt.Mogensen@fountainvalley.org

ATTACHMENT:

Attachment 1 – Sample Agreement for Consultant Services

SAMPLE AGREEMENT FOR CONSULTANT SERVICES
CON - -

This AGREEMENT is made and effective as of _____, between the City of Fountain Valley, a municipal corporation ("CITY") and _____ ("CONSULTANT"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This AGREEMENT shall commence on _____ ("EFFECTIVE DATE") and remain and continue in effect until all tasks described herein are completed but in no event later than _____, unless sooner terminated or extended pursuant to the provisions of this AGREEMENT.

2. SERVICES

CONSULTANT shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. CONSULTANT shall complete the tasks according to the schedule of performance, which is also set forth in Exhibit A.

3. PERFORMANCE

CONSULTANT shall at all times faithfully, competently, and to the best of his/her/its ability, experience, and talent perform all tasks described herein. CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of CONSULTANT hereunder in meeting its obligations under this AGREEMENT.

4. CITY MANAGEMENT

_____ shall represent CITY in all matters pertaining to the administration of this AGREEMENT, including review and approval of all products submitted by CONSULTANT, but not including the authority to enlarge the tasks to be performed or change the compensation due to CONSULTANT. The City Manager shall be authorized to act on CITY'S behalf and to execute all necessary documents that enlarge the tasks to be performed or change CONSULTANT's compensation, subject to Section 5 hereof.

5. PAYMENT

(a) CITY agrees to pay CONSULTANT in accordance with the payment rates, terms, and schedule of payment set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____ dollars (\$ _____) ("TOTAL CONTRACT SUM") for the total term of this AGREEMENT unless payment is approved as provided in this AGREEMENT.

(b) CONSULTANT shall not be compensated for any services rendered in

connection with its performance of this AGREEMENT that are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. This written authorization requirement cannot be waived. CONSULTANT shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Manager and CONSULTANT at the time CITY's written authorization is given to CONSULTANT for the performance of said additional services. The City Manager's authority to approve additional compensation is subject to Fountain Valley Municipal Code section 2.36.110. Approval of additional compensation that exceeds the City Manager's authority as specified in Fountain Valley Municipal Code section 2.36.110 must be obtained from the City Council.

(c) CONSULTANT will submit invoices for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of CONSULTANT'S fees it shall give written notice to CONSULTANT within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) CITY may at any time, for any reason, with or without cause, suspend or terminate this AGREEMENT, or any portion hereof, by serving upon CONSULTANT, at least thirty (30) days prior, written notice. Upon receipt of said notice, CONSULTANT shall immediately cease all work under this AGREEMENT, unless the notice provides otherwise. If CITY suspends or terminates a portion of this AGREEMENT such suspension or termination shall not make void or invalidate the remainder of this AGREEMENT.

(b) In the event this AGREEMENT is terminated pursuant to this section, CITY shall pay to CONSULTANT the actual value of the work performed up to the time of termination, provided that the work performed is of value to CITY. Upon termination of the AGREEMENT pursuant to this section, CONSULTANT will submit an invoice to CITY detailing work performed up to the time of termination.

7. DEFAULT OF CONSULTANT

(a) CONSULTANT's failure to comply with the provisions of this AGREEMENT shall constitute a default. In the event that CONSULTANT is in default for cause under the terms of this AGREEMENT, CITY shall have no obligation or duty to continue compensating CONSULTANT for any work performed after the date of default and can terminate this AGREEMENT immediately by written notice to CONSULTANT. If such failure by the CONSULTANT to make progress in the performance of work hereunder arises out of causes beyond CONSULTANT's control, and without fault or negligence of CONSULTANT, it shall not be considered a default.

(b) As an alternative to the procedure for immediate termination for default set forth in subparagraph (a), if CITY determines that CONSULTANT is in default in the performance of any of the terms or conditions of this AGREEMENT, CITY may in its discretion cause to be served upon CONSULTANT a written notice of the default and demand to cure. CONSULTANT shall have ten (10) calendar days after service upon it

of said notice to cure the default by rendering a satisfactory performance. In the event that CONSULTANT fails to cure its default within such period of time, CITY shall have the right, notwithstanding any other provision of this AGREEMENT, to terminate this AGREEMENT without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity, or under this AGREEMENT.

8. OWNERSHIP OF DOCUMENTS

(a) CONSULTANT shall maintain complete and accurate records with respect to services provided and other such information required by City that relate to the performance of services under this AGREEMENT. CONSULTANT shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. CONSULTANT shall provide free access to the representatives of CITY or its designees at reasonable times to such books and records; shall give CITY the right to examine and audit said books and records; shall permit CITY to make copies and transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this AGREEMENT. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion, termination, or suspension of this AGREEMENT all data, files, reports, documents both electronic and paper prepared in the course of providing the services to be performed pursuant to this AGREEMENT shall become the sole property of CITY and may be used, reused, or otherwise disposed of by CITY without the permission of CONSULTANT. With respect to computer files, CONSULTANT shall make available to CITY, at CONSULTANT's office and upon reasonable written request by CITY, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNIFICATION

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for CONSULTANT's services, to the fullest extent permitted by law, CONSULTANT shall indemnify, protect, defend, and hold harmless CITY and any and all of its officials, employees, and agents ("INDEMNIFIED PARTIES") from and against any and all losses, liabilities, damages, costs, and expenses, including attorney's fees and costs to the extent the same are caused in whole or in part by any negligent or wrongful act, error, or omission of CONSULTANT, its officers, agents, employees, or subconsultants (or any entity or individual that CONSULTANT shall bear the legal liability thereof) in the performance of professional services under this AGREEMENT. With respect to the design of public improvements, CONSULTANT shall not be liable for any injuries or property damage resulting from the reuse of the design at a location other than that specified in this AGREEMENT without the written consent of CONSULTANT.

(b) Indemnification for Other Than Professional Liability. 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 attorneys 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 entity for which CONSULTANT is legally liable, including but not limited to officers, agents, employees, or subconsultants of CONSULTANT.

(c) General Indemnification Provisions. CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subconsultant or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this AGREEMENT. In the event CONSULTANT fails to obtain such indemnity obligations from others as required here, CONSULTANT agrees to be fully responsible according to the terms of this section. Failure of CITY to monitor compliance with these requirements imposes no additional obligations on CITY and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend CITY as set forth here is binding on the successors, assigns, or heirs of CONSULTANT and shall survive the termination of this AGREEMENT or this section. 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 Indemnity or AGREEMENT. This indemnity shall apply to all claims and liability regardless of whether any insurance policies are applicable.

10. INSURANCE

Prior to performing any work or receiving any compensation under this AGREEMENT, CONSULTANT shall obtain, and thereafter maintain for the duration of this AGREEMENT, insurance coverage as specified in Exhibit C, attached hereto and incorporated herein as though set forth in full.

11. INDEPENDENT CONTRACTOR

(a) CONSULTANT is and shall at all times remain as to the CITY a wholly independent contractor. The personnel performing the services under this AGREEMENT on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. Neither CITY nor any of its officers, employees, or agents shall have control over the conduct of CONSULTANT or any of CONSULTANT's officers, employees, or agents, except as set forth in this AGREEMENT. CONSULTANT shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the CITY. CONSULTANT shall not incur or have the power to incur any debt, obligation, or liability whatsoever against CITY, or bind CITY in any manner.

(b) No employee benefits shall be available to CONSULTANT in connection with the performance of this AGREEMENT. Except for the fees paid to CONSULTANT as provided in this AGREEMENT, CITY shall not pay salaries, wages, or other compensation to CONSULTANT for performing services hereunder for CITY. CITY shall not be liable for compensation or indemnification to CONSULTANT for injury or sickness arising out of performing services hereunder. In addition to the indemnification provisions of Section 11, CONSULTANT shall indemnify, defend, and hold CITY harmless from claims or liability arising from CONSULTANT's employees for CITY benefits including, but not limited to, pension, health benefits, holiday, vacations, etc.

12. LEGAL RESPONSIBILITIES

CONSULTANT shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this AGREEMENT. CONSULTANT shall at all times observe and comply with all such laws and regulations. CITY, and its officers and employees, shall not be liable at law or in equity occasioned by failure of CONSULTANT to comply with this Section.

13. UNDUE INFLUENCE

CONSULTANT declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of CITY in connection with the award, terms, or implementation of this AGREEMENT, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the CITY will receive compensation, directly or indirectly, from CONSULTANT, or from any officer, employee, or agent of CONSULTANT, in connection with the award of this AGREEMENT or any work to be conducted as a result of this AGREEMENT. Violation of this section shall be a material breach of this AGREEMENT entitling CITY to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of CITY, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with this AGREEMENT.

15. RELEASE OF INFORMATION / CONFLICTS OF INTEREST

(a) All information gained by CONSULTANT in performance of this AGREEMENT shall be considered confidential and shall not be released by CONSULTANT without CITY's prior written authorization. CONSULTANT, its officers, employees, agents, or subconsultants, shall not without written authorization from the City Manager or unless requested by the Attorney for the City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this AGREEMENT or relating to any project or property located within the CITY. Response to a subpoena or court order shall not be considered "voluntary" provided CONSULTANT gives CITY notice of such court order or subpoena.

(b) CONSULTANT shall promptly notify CITY should CONSULTANT, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this AGREEMENT and the work performed thereunder or with respect to any project or property located within the CITY. CITY retains the right, but has no obligation, to represent CONSULTANT and/or be present at any deposition, hearing, or similar proceeding. CONSULTANT agrees to cooperate fully with CITY and to provide

the opportunity to review any response to discovery requests provided by CONSULTANT. However, CITY's right to review any such response does not imply or mean the right by CITY to control, direct, or rewrite said response.

16. SECURITY OF INFORMATION

CONSULTANT shall identify reasonably foreseeable internal and external risks to the privacy and security of personal information acquired during performance of this AGREEMENT that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of the information. CONSULTANT shall regularly assess the sufficiency of any safeguards and information security awareness training in place to control reasonably foreseeable internal and external risks, and evaluate and adjust those safeguards in light of the assessment.

17. NOTICES

Any notices which either party may desire to give to the other party under this AGREEMENT must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

CITY

City of Fountain Valley
10200 Slater Avenue
Fountain Valley, California 92708
Attention: City Clerk

CONSULTANT

Attention: _____

18. ASSIGNMENT

CONSULTANT shall not assign the performance of this AGREEMENT, nor any part thereof, nor any monies due hereunder, without the prior written consent of CITY.

19. LICENSES

At all times during the term of this AGREEMENT, CONSULTANT shall have in full force and effect, all licenses required of it by law for the performance of the services described in this AGREEMENT including, but not limited to, a Fountain Valley business license.

20. GOVERNING LAW

CITY and CONSULTANT understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this AGREEMENT and also govern the interpretation of this AGREEMENT. Any litigation concerning this AGREEMENT shall take place in Orange County Superior Court or Central District of California Federal District Court.

IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed the day and year first above written.

CITY OF FOUNTAIN VALLEY

CONSULTANT

Signature

ATTEST:

Typed Name

Title

City Clerk

Approved as to Form:

HARPER & BURNS LLP

Corporate seal (or attach Notary acknowledgment)

Attorneys for the City

Exhibit "A"
Scope of Services and Additional Terms

Exhibit "B"
Fee Schedule

Exhibit “C”

Insurance Specifications

Without limiting CONSULTANT's indemnification of CITY, and prior to performing any work under this AGREEMENT or receiving any compensation, CONSULTANT shall obtain, provide and maintain at its own expense during the term of this AGREEMENT, policies of insurance of the type and amounts described below and in a form that is satisfactory to CITY.

General liability insurance. 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 \$1,000,000.00 dollars per occurrence, \$2,000,000.00 dollars general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

Automobile liability insurance. CONSULTANT shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of CONSULTANT arising out of or in connection with the work to be performed under this AGREEMENT, including coverage for any owned, hired, non-owned, or rented vehicles, in an amount not less than \$ 1,000,000.00 dollars combined single limit for each accident.

Workers' compensation insurance. CONSULTANT shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$ 1,000,000.00 dollars). 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.

Professional liability (errors & omissions) insurance. CONSULTANT shall maintain professional liability insurance that covers the services to be performed in connection with this AGREEMENT, in the minimum amount of \$1,000,000.00 dollars 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.

Proof of insurance. CONSULTANT shall provide certificates of insurance to CITY as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsement must be approved by CITY prior to commencement of performance. Current certification of insurance shall be kept on file with CITY at all times during the term of this contract. CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of this AGREEMENT by CONSULTANT, his/her/its agents, representatives, employees, or subconsultants. If this AGREEMENT involves construction, CONSULTANT must maintain general liability and umbrella or excess liability insurance for as long as there is a statutory exposure to completed operations claims. CITY and its officers, officials, employees, and agents shall continue as additional insureds under such policies.

CITY's rights of enforcement. In the event any policy of insurance required under this AGREEMENT does not comply with these specifications or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT's payments. In the alternative, CITY may cancel this AGREEMENT.

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 CITY. Notwithstanding the foregoing, XCU insurance shall have a rating of at least B-VI.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this AGREEMENT shall be endorsed to waive subrogation against CITY, its elected or appointed officers, agents, officials, employees, and volunteers or shall specifically allow CONSULTANT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. CONSULTANT hereby waives its own right of recovery against CITY, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). CONSULTANT acknowledges and agrees that any actual or alleged failure on the part of CITY to inform CONSULTANT of noncompliance with any requirement imposes no additional obligations on the CITY nor does it waive any rights hereunder.

Specifications not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

Notice of cancellation. CONSULTANT agrees to oblige its insurance agent or broker and insurers to provide to CITY with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that CITY and its officers, officials, employees, and agents shall be additional insureds under such policies. This provision shall also apply to any excess liability policies. Coverage available to the additional insured shall be primary and non-contributory.

Agency's right to revise specifications. CITY reserves the right at any time during the term of the AGREEMENT to change the amounts and types of insurance required by giving CONSULTANT ninety (90) days advance written notice of such change. If such change results in substantial additional cost to CONSULTANT, CITY and CONSULTANT may renegotiate CONSULTANT's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by CITY. CITY reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by CITY.

Timely notice of claims. CONSULTANT shall give CITY prompt and timely notice of claims made or suits instituted that arise out of or result from CONSULTANT's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. CONSULTANT shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.