

CITY OF CLAREMONT



**REQUEST FOR PROPOSALS
FOR
OAK PARK CEMETERY CREMATION GARDEN SURVEY
JUNE 4, 2020**

**Proposals must be received by the City of Claremont prior to
5:00 p.m. local time on Wednesday, July 1, 2020 at:**

**City of Claremont
1616 Monte Vista Avenue
Claremont, CA 91711**

With this Request for Proposals (“**RFP**”), the City of Claremont (“**City**”) is requesting proposals (“**Proposals**”) from qualified consultants (“**Respondents**”) for the following:

Oak Park Cemetery Cremation Garden Survey (“**Project**”)

The purpose of the Proposal is to demonstrate the qualifications, competence and capacity of Respondent to perform the work or provide the services described in this RFP, in conformity with the requirements of this RFP. The Proposal should demonstrate the qualifications of the Respondent and of the particular staff to be assigned to this project. It should also specify a specific approach that will meet the RFP requirements.

The successful Respondent will be expected to execute the Professional Services Agreement, attached hereto as Attachment “C”.

1. Introduction

1.1 Project Description

The City is looking to develop a cremation garden at Oak Park Cemetery. As part of the initial design process, the City requires a field topo of the area to serve as a basis for developing a gravesite layout. The City will work with the selected respondent to develop the topographic map, establish a gravesite layout, field identify each gravesite prior to construction, and set final monuments following construction. The selected respondent will work with the City to develop a numbering system for the purposes of identifying each gravesite. The final map will be recorded with Los Angeles County.

1.2 Project Schedule

The City intends to initiate this project in July 2020 anticipating completion in February 2020. Respondents to this RFP must be able and willing to commit the necessary resources to complete the project within this timeframe.

1.3 Purpose

The purpose of this project is to prepare a topographic map, gravesite layout, gravesite numbering system, and set final monuments.

2. Scope of Required Services

2.1 Summary of Services

The following provides an outline of the scope of services to be provided to the City:

Task 1: Meet with City Staff and Conduct Field Visit

Task 2: Identify Gravesite Locations in the Field Prior to Construction

Task 3: Prepare Field Topographic Map and Identify Gravesite Locations

Task 4: Set Final Monuments Following Construction

Task 5: Record Final Map with Los Angeles County

Although the full scope of work shall be negotiated in a Professional Services Agreement, a copy of which is attached hereto as Attachment "C", the Respondent will be expected to fulfill, at a minimum, the services and technical requirements described in the Scope of Services, attached hereto as Attachment "A".

3. Schedule of Events

Timetable for Reviewing and Evaluating Proposals:

1. RFP Release	June 4, 2020
2. Preproposal Requests for Clarification Due	June 22, 2020
3. Proposal Due Date	July 1, 2020
4. Anticipated Final Selection	July 9, 2020
5. Project Start	July 20, 2020

4. Proposal Requirements

4.1 Proposal Format

Respondent's Proposal shall be clear, accurate, and comprehensive. Excessive or irrelevant materials will not be favorably received. The Proposal shall be signed by an individual or individuals authorized to execute legal documents on behalf of the Respondent.

Respondent must submit one (1) electronic copy of the Proposal. Proposals shall be organized in the order presented below:

- a) Transmittal Cover Letter.
- b) Executive Summary. Summarize the content of your firm's Proposal in a clear and concise manner.
- c) Identification of Respondent. Respondent's legal name, background, and contact person, including corporate office and local office address, city, state, zip code, telephone number, fax number, web site address, and e-mail address.

- d) Proposed Scope of Services. The scope of services should reflect the Scope of Services section of this RFP and where deviations are suggested they need to be spelled out in the Deviations section of the Proposal.
- e) Personnel. Names and specific qualifications, experience, skill set fit, and appropriate licenses held, if applicable, of the primary staff to be assigned to the Project.
- f) Work Plan. A detailed work plan summary of how the Respondent will address the City's objectives and Project requirements, including a timeline with milestones for completion of the Project.
- g) References. Provide a minimum of three (3) professional references regarding the Respondent's experience and performance performing related work completed within the past twelve (12) months. Include the following information: (1) Organization contact name, phone number, e-mail address; and (2) Project size and description, if applicable, and description of services.
- h) List Of Representative Projects. List of representative projects undertaken by Respondent in the last 5 years demonstrating experience in each category of the project.
- i) Funding Proposal. Include a detailed cost proposal to accomplish the scope of work, broken down by task, including optional tasks and reimbursables (see Funding Proposal form). It is anticipated that a not-to-exceed dollar limit will be negotiated with the successful Respondent. The Funding Proposal must include an Hourly Rate of Principals and a list of individuals who will be working on the Project.
- j) Iran Contracting Act Certification. Respondents must complete the Iran Contracting Act Certification, attached hereto as Attachment "B".
- k) Deviations from the RFP. Detail any proposed deviations from the scope of services or any other requirement specified in this RFP. In submitting a proposal in response to this RFP, Respondent is certifying that it takes no exceptions to this RFP and that it will accept the terms and conditions of the Professional Services Agreement, attached hereto as Attachment "C". If any exceptions are taken, such exceptions must be clearly noted in the Proposal and may be reason for rejection of the Proposal. As such, Respondent is directed to carefully review the proposed Professional Services Agreement and, in particular, the insurance and indemnification provisions therein, which will not be modified.

- l) Letter of Intent. Respondents must include a Letter of Intent which includes the Respondent's name, address, telephone number, fax number, and identify a contact person during the proposal evaluation period. The Letter of Intent must include a statement indicating that the Proposal shall remain valid for a period of not less than ninety (90) days from the date of submittal.

4.2 Submittal Instructions

To be considered, the City must receive from Respondent an electronic proposal prior to **5:00 p.m. local time on Wednesday, July 1, 2020**. Electronic submissions shall be sent to Kristin Mikula, Community Services Manager kmikula@ci.claremont.ca.us and Michele Gonzales, Senior Administrative Assistant at mgonzales@ci.claremont.ca.us.

5. Insurance Requirements

The successful Respondent shall carry and maintain, at the successful Respondent's expense, at all times during the term of the agreement not less than the coverage and limits of insurance set forth in Article 8 of the Professional Services Agreement (Attachment "C"), which shall be maintained with insurers and under forms of policies satisfactory to the City. A summary of these requirements follows:

- Commercial General Liability* - limit \$1,000,000 per occurrence, \$2 million aggregate to cover bodily injury and property damage.
- Commercial Automobile Liability* - limit \$1,000,000 per occurrence, \$2 million aggregate to cover bodily injury and property damage.
- Workers' Compensation Insurance* - Statutory Limits of State of California, including \$1,000,000 Employers' Liability.
- Professional Liability* - (Errors and Omissions) in the amount of \$1,000,000.

Prior to award of the Professional Services Agreement, the successful Respondent shall submit proof of insurance on an Acord certificate of liability insurance (7/97) with an additional insured endorsement CG 2010 (11/85) and Waiver of Subrogation endorsement.

5.1 Provision of Insurance

Insurance required pursuant to this agreement shall be endorsed as follows:

- a) Except for workers' compensation and professional liability insurance policies, name the City of Claremont, its directors, officials, officers, employees, agents and volunteers as additional insureds.
- b) Waive all rights of subrogation against persons and entities designated to be listed as additional insureds in the policy.
- c) State that such insurance is primary insurance as respects the interests of the additional insureds and that any other insurance maintained by the additional insureds is excess and not contributing insurance with the insurance required hereunder.
- d) Provide that this policy may neither be canceled nor the amount of the coverage thereof reduced until 30 days after receipt by the City of a written notice of such cancellation or reduction of coverage, including a 10-day notice of nonpayment of premium, as evidenced by receipt of a registered letter.
- e) The insurance company shall be an admitted carrier in the State of California with an A.M. Best rating of A-VIII or better.

In addition, the insurance shall be reasonably satisfactory to the City in all other respects.

6. Evaluation Process

6.1 Evaluation Criteria

Proposals that meet the submittal requirements will be selected for further evaluation and negotiations by the City. Selection of the top proposals shall be based on the following criteria:

- a) Cost
- b) Qualifications
- c) Experience with Similar Projects
- d) References

At the conclusion of the Proposal solicitation period, the City will review each submission, and then rank the Proposals according to evaluation criteria. Upon determination of the highest ranked firm, the City will endeavor to negotiate a mutually agreeable fee with the selected firm. In the event that the City is unable to reach agreement, the City will proceed, at its sole discretion, to negotiate with the next firm selected by the City.

Respondents should note that the lowest cost proposal is not the sole determining factor in the final selection.

6.2 Award of Contract

If awarded, the contract will be awarded on the basis of demonstrated competence and professional qualifications. The City reserves the right to reject all proposals and to contract for services in the manner that most benefits the City including awarding more than one contract if desired.

7. Requests for Clarifications

All questions, interpretations or clarifications, either administrative or technical must be requested in writing by email and directed to:

KRISTIN MIKULA, COMMUNITY SERVICES MANAGER

EMAIL: KMIKULA@CI.CLAREMONT.CA.US

All written questions will be answered in writing and conveyed to all firms on the Proposer's List. Oral statements regarding this RFP by any persons should be considered unverified information unless confirmed in writing. To ensure a response, questions must be received in writing by 5:00 p.m. local time on Tuesday, June 22, 2020.

8. General Provisions

Respondent is encouraged to review this RFP carefully in its entirety prior to preparation of its Proposal. The City reserves the right to reject any or all Proposals or to select the Proposal most advantageous to the City. The City reserves the right to verify all information submitted in the Proposal and to request additional information from any and all Respondents, including but not limited to personal or corporate financial statements or other financial documentation.

8.1 Amendments to RFP. The City reserves the right to amend the RFP or issue to all Respondents a Notice of Amendment to answer questions for clarification.

8.2 No Commitment to Award. Issuance of this RFP and receipt of proposals does not commit the City to award a contract. The City expressly reserves the right to postpone the proposal for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one Respondent concurrently, or to cancel all or part of this RFP.

8.3 Amendments to Proposals. No amendment, addendum or modification will be accepted after the deadline stated herein for receiving Proposals. Respondent may modify or amend its Proposal only if the City receives the amendment prior to the deadline stated herein for receiving Proposals.

8.4 Non-Responsive Proposals. A Proposal may be considered non-responsive if conditional, incomplete, or if it contains alterations of form, additions not called for, or other irregularities that may constitute a material change to the Proposal. The City shall have sole discretion in determining the completeness of each Proposal.

8.5 Late Proposals. The City will not be responsible for Proposals that are delinquent, lost, incorrectly marked, sent to an address other than that given herein, or sent by mail or courier service and not signed for by the City. Any late or incomplete Proposals may not be considered.

8.6 Costs for Preparing. The City will not compensate any Respondent for the cost of preparing any Proposal, and all materials submitted with a Proposal shall become the property of the City. The City will retain all Proposals submitted and may use any idea in a Proposal regardless of whether that Proposal is selected.

8.7 Alternative Proposals. Only one final proposal is to be submitted by each Respondent. Multiple proposals will result in rejection of all proposals submitted by the Respondent.

8.8 Public Documents. All Proposals and all evaluation and/or scoring sheets shall be available for public inspection at the conclusion of the selection process.

8.9 No Exceptions. Submission of a Proposal constitutes acceptance by Respondent of the conditions contained in this RFP and the Professional Services Agreement, should Respondent be selected.

ATTACHMENT A

SCOPE OF SERVICES

PROJECT TASKS

1. Planning and Coordination

Attend Project Kickoff Meeting on Site with Cemetery Staff
Conduct preliminary research, planning, organization, and setup
Conduct Field Survey

2. Cemetery Expansion Map

- Prepare preliminary cremation garden map with proposed plot lines for City review.
- Prepare final cemetery map with proposed plot lines suitable for plan check and recordation.

3. Project Control and Field Topo

Verify onsite survey control
Perform topographic survey of cremation garden

4. Field Preparations and Calculation

Field Identify Gravesite Locations for Contractor Prior to Construction
Set Final Monuments Following Construction

6. Deliverables

One full size sheet set of Cremation Garden Area with dimensions
One 8.5" x 11" set of detail sheets for lots and section.
Record Final Map with Los Angeles County
Attend City Council Meeting for Map

ATTACHMENT B
IRAN CONTRACTING ACT CERTIFICATION
(Public Contract Code sections 2202-2208)

Prior to bidding on, submitting a proposal, or executing a contract or renewal for a public entity contract for goods or services of \$1,000,000 or more, a vendor must either: a) certify it is **not** on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to Public Contract Code section 2203(b) and is not a financial institution extending \$20,000,000 or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS; or b) demonstrate it has been exempted from the certification requirement for that solicitation or contract pursuant to Public Contract Code section 2203(c) or (d).

To comply with this requirement, please insert your vendor or financial institution name and Federal ID Number (if available) and complete **one** of the options below. Please note: California law establishes penalties for providing false certifications, including civil penalties equal to the greater of \$250,000 or twice the amount of the contract for which the false certification was made, contract termination, and three-year ineligibility to bid on contracts. (Pub. Cont. Code § 2205.)

OPTION #1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the vendor/financial institution identified below, and the vendor/financial institution identified below is **not** on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person/vendor, for 45 days or more, if that other person/vendor will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

OPTION #2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services.

If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below, and attach documentation demonstrating the exemption approval.

<i>Vendor Name/Financial Institution (Printed)</i>	<i>Federal ID Number (or n/a)</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	<i>Date Executed</i>

ATTACHMENT C
CITY OF CLAREMONT
PROFESSIONAL SERVICES AGREEMENT

Model Agreement—to use, remove this line, all brackets “[]” and repaginate as desired.

**AGREEMENT BY AND BETWEEN THE CITY OF
CLAREMONT AND [CONTRACTOR] FOR
PROFESSIONAL SURVEY AND MAPPING SERVICES**

PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, 20__ by and between the City of Claremont, a municipal organization organized under the laws of the State of California with its principal place of business at 207 Harvard, Claremont, California 91711 (“City”) and [insert Name of Company], a [insert type of business; corporation; limited liability company; etc.] with its principal place of business at [insert address] (“Consultant”). City and Consultant are sometimes individually referred to herein as “Party” and collectively as “Parties.”

RECITALS.

Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing survey and mapping to public clients, is licensed in the State of California, and is familiar with the plans of City.

Project.

City desires to engage Consultant to render such services for the Oak Park Cemetery Cremation Garden Survey project (“Project”) as set forth in this Agreement.

TERMS.

Scope of Services and Term.

General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply professional survey and mapping services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

Term. The term of this Agreement shall be from [insert start date] to [insert ending date], unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines.

Fees and Payments.

Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit C attached hereto and incorporated herein by reference. The total compensation shall not exceed [insert written dollar amount] (\$[insert numerical dollar amount]) without advance written approval of the City Manager's [replace 'City Manager' with 'City Council' for amounts over \$25,000] project manager. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

Responsibilities of Consultant.

Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations

respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: [insert Names].

Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the

Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

Laws and Regulations. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

Labor Code Requirements.

Prevailing Wages. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates

of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

Registration and Labor Compliance. If the services are being performed as part of an applicable "public works" or "maintenance" project, then, in addition to the foregoing, pursuant to Labor Code sections 1725.5 and 1771.1, the Consultant and all subconsultants must be registered with the Department of Industrial Relations ("DIR"). Consultant shall maintain registration for the duration of the project and require the same of any subconsultants. This project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of payroll records directly to the DIR.

Representatives of the Parties.

City's Representative. The City hereby designates [insert Name or Title], or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

Consultant's Representative. Consultant hereby designates [insert Name or Title], or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

Indemnification.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the City, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, omissions or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages,

expert witness fees and attorneys fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against City, its directors, officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Consultant shall reimburse City and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement and shall not be restricted to insurance proceeds, if any, received by the City, its officials officers, employees, agents or volunteers. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

Insurance.

Time for Compliance. Consultant shall not commence Work under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

Minimum Requirements. Consultant shall, at its expense, 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 the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) Workers' Compensation and Employer's Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply

separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; and (3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of \$1,000,000 per accident for bodily injury or disease.

Professional Liability. [INCLUDE ONLY IF APPLICABLE - DELETE OTHERWISE] Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 [INCREASE IF NECESSARY - OTHERWISE LEAVE AS IS AND DELETE THIS NOTE] per claim, and shall be endorsed to include contractual liability.

Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

General Liability. The general liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way.

Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents and volunteers.

Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents and volunteers.

Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Accounting Records.

Maintenance and Inspection. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

Ownership of Materials and Confidentiality.

Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

Subcontracting.

Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

General Provisions.

Termination of Agreement.

Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon

termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

CITY:

City of Claremont
P.O. Box 880
Claremont, CA 91711
Attn: [insert Name & Department]

CONSULTANT:

[insert Name]
[insert Address]
[insert City, State zip]
Attn: [Contact Person]

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations,

understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County.

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

City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer. In connection with this Agreement, Consultant shall not discriminate, in any way, against any person (including, but not limited to subcontractors, employees, or applicants for employment) based on any characteristic protected under federal law (such as Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-2), State law (such as the California Fair Employment and Housing Act, Gov. Code § 12940), or local law. Examples of protected characteristics include, without limitation, race, religion, color, national origin, handicap, ancestry, sex, sexual orientation, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan, or other related programs or guidelines currently in effect or hereinafter enacted.

Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

[SIGNATURES ON NEXT PAGE]

CITY OF CLAREMONT

[INSERT NAME OF CONSULTANT]

By: _____
City Manager or Dept. Head [\leq \$25,000]
OR Mayor [OVER \$25,000]

By: _____

Attest:

Name: _____

City Clerk

Title: _____

[If Corporation, TWO SIGNATURES,
President **OR** Vice President **AND**
Secretary, **AND** CORPORATE SEAL
OF CONTRACTOR REQUIRED]

Approved as to Form:

Rutan & Tucker, LLP

By: _____

City Attorney

Name: _____

Title: _____

EXHIBIT A

SCOPE OF SERVICES

[insert scope]

EXHIBIT B

SCHEDULE OF SERVICES

[insert schedule]

EXHIBIT C

COMPENSATION

[insert rates & authorized reimbursable expenses]