



1-2020-01-22-187

ADDENDUM NO. 1
2021-2029 HOUSING ELEMENT UPDATE
JANUARY 22, 2020

TO ALL REQUEST FOR PROPOSALS RECIPIENTS

The deadline to submit proposals for the above-referenced project has been extended to **Wednesday, February 26, 2020, at 5:30 p.m.** All other terms, conditions, requirements, and qualifications of the proposal remain unchanged by this Addendum.

Sincerely,

A handwritten signature in blue ink that reads "Ryan Hallett Hinton".

Ryan Hallett Hinton
Assistant to the City Manager



REQUEST FOR PROPOSALS

2021 – 2029 HOUSING ELEMENT UPDATE

Release Date:

Monday, December 9, 2019

Due Date for Proposals:

5:30 p.m., Thursday, January 16, 2020

TABLE OF CONTENTS

I. INTRODUCTION	1
II. INFORMATION FOR PREPARATION OF PROPOSAL.....	3
A. Project Objectives	3
B. Scope of Work	3
C. Deliverables	4
D. Required Information	5
III. EVALUATION PROCEDURES	7
IV. SCHEDULE	9
V. CONDITIONS & LEGAL REQUIREMENTS	10

Attachment A – Professional Services Agreement

**CITY OF LA PALMA
REQUEST FOR PROPOSALS
2021 – 2029 HOUSING ELEMENT UPDATE**

I. INTRODUCTION

It is the intent of the City of La Palma (“City”) to receive proposals from qualified consultants to provide consulting services for the update of the Housing Element and Safety Element of the City’s General Plan. The City must update its Housing Element as mandated by State law for the 2021-2029 planning cycle, with completed certification by the California Department of Housing and Community Development (“HCD”) no later than August 31, 2021.

The City will select and negotiate with the qualified consultant(s) whose competitive proposals are responsive to this RFP and are in the best interest of the City. Any competitive proposal submitted in response to this RFP must provide sufficient detail and information to complete an evaluation of its merits. The instructions contained herein must be followed in order for competitive proposals to be considered responsive to this RFP. The City reserves the right to reject any or all proposals.

City Profile

Incorporated in 1955, the City currently has 53 full-time employees and provides a full range of services, including police protection; the construction and maintenance of streets, and other infrastructure; recreational and cultural activities; water and sewer services; and building and safety, land use planning, and zoning services. In addition, there are the standard internal support services such as payroll, accounts payable, human resources, risk management, budget and financial reporting, and general accounting. The City also has contracts in place with the Southeast Area Animal Control Authority (SEAACA) for animal control and the Orange County Fire Authority for fire services.

La Palma occupies a land area of approximately two square miles and serves a population of 15,984. The City operates under a Council/Manager form of government. The City Council is composed of five members elected at large on a non-partisan basis to serve four-year overlapping terms. Each year, the Council elects one of its members to serve as Mayor and another member to serve as Mayor Pro Tem. The Mayor serves as the official representative of the City for all legislative and ceremonial purposes. The Mayor is the presiding officer at City Council meetings and executes legal instruments and documents.

Proposals

Three (3), unbound originals along with one electronic copy of the proposal must be packaged, sealed, and plainly labeled:

City of La Palma
Attn: Ryan Hallett Hinton, Assistant to the City Manager
RFP: 2021 – 2029 Housing Element Update
7822 Walker Street
La Palma, CA 90623

All proposals must be received by the City of La Palma located at 7822 Walker Street, La Palma, CA 90623 **NO LATER THAN 5:30 P.M., Thursday, January 16, 2020**. Postmarks will not be accepted in lieu of this requirement. The consultant is solely responsible for reading and completely understanding the requirements of this RFP.

If the proposal is mailed, it is the sole responsibility of the consultant to have the proposal delivered to the City of La Palma by the date and time specified in this RFP. Any proposal received later than the specified date and time will not be accepted or considered. All responses will be retained as property of the City of La Palma.

All proposals shall be prepared and submitted in accordance with the provisions of this RFP. However, the City may waive any informalities, irregularities or variances, whether technical or substantial in nature, or reject any and all proposals at its sole discretion. Each consultant preparing a response to the RFP shall bear all expenses associated with its preparation and no claims for reimbursement shall be submitted to the City for the expense of proposal preparation or presentation. Any competitive proposal may be withdrawn prior to the indicated time for receipt of proposals or authorized postponement thereof. No consultant may withdraw a proposal within ninety (90) days after the actual date of the receipt by the City of the proposal. The City reserves the right to reject any or all proposals with or without cause.

Clarification and Addenda

Each consultant shall examine all RFP documents and shall judge all matters relating to the adequacy and accuracy of such documents. Any inquiries, suggestions, or requests concerning interpretation, clarification, or additional information pertaining to the RFP shall be made in writing to the City of La Palma, RFP: 2021 – 2029 Housing Element Update, 7822 Walker Street, La Palma, CA 90623 or via email to ryanh@cityoflapalma.org **no later than 5:30 p.m. on Monday, December 23, 2019**.

The City shall not be responsible for oral interpretations given by any City employee, representative, or others. The issuance of a written addendum is the only official method whereby interpretation, clarification, or additional information can be given. If any addenda are issued to the RFP, the City will attempt to notify all prospective consultants who have secured same. However, it shall be the responsibility of each consultant, prior to submitting the competitive bid, to contact Ryan Hallett Hinton, Assistant to the City Manager, at (714) 690-3300 to determine if addenda were issued and to make such addenda a part of the competitive proposal. Firms are encouraged to send contact information via email to Ryan Hallett Hinton, Assistant to the City Manager, at ryanh@cityoflapalma.org, so that notification regarding any addenda may be communicated. An official addenda, if necessary, shall be available no later than **Monday, January 6, 2020**.

Contacting City Staff

Proposers are directed to avoid contact with City staff without prior consent of the Assistant to the City Manager prior to award of the contract.

Payment

The selected consultant will be paid in accordance with negotiated payment terms plus other City contract terms and conditions as set forth in the Professional Services Agreement (**Attachment A**).

II. INFORMATION FOR PREPARATION OF PROPOSAL

The City is requesting proposals from qualified consultants to provide consulting services for the update of the Housing Element and Safety Element of the City's General Plan. The City must update its Housing Element as mandated by State law for the 2021-2029 planning cycle, with completed certification by the California Department of Housing and Community Development ("HCD") no later than August 31, 2021.

In addition to the Housing Element update, the City wants to address SB 379, which requires all cities to include climate adaptation and resiliency strategies in the Safety Element of the General Plan in conjunction with the next Housing Element update. The City completed a Local Hazard Mitigation Plan, which is currently being reviewed by the Federal Emergency Management Agency (FEMA) as of the writing of this RFP. It is expected that the FMEA-approved Local Hazard Mitigation Plan will be incorporated into the City's Safety Element to be consistent with SB 379.

A. Project Objectives

The Housing Element and Safety Element update project shall be guided by the following objectives:

- Comply with all City and state legal and regulatory requirements;
- Produce comprehensive documents that addresses current and projected housing conditions and needs in the City;
- Ensure residents and stakeholders are engaged and participate in the update process to facilitate community buy-in;
- Achieve milestones with sufficient time for City and state oversight and review; and,
- Effectively coordinate with City staff.

B. Scope of Work

The consultant will prepare an update of the City's Housing Element for the 2021-2029 planning period with assistance and oversight from the City. At a minimum, the consultant is expected to complete the following tasks:

1. Prepare the Housing Element update in compliance with state law.
2. Develop a project timeline leading to HCD certification of the Housing Element by August 31, 2021.
3. Update housing, population, and employment projections.
4. Incorporate the Regional Housing Needs Assessment (RHNA) figures as provided by the Southern California Association of Governments (SCAG).
5. Investigate, analyze, and address all new state housing laws (SB 35, AB 2162, etc.) and make recommendations to the City on their implementation and incorporation into applicable City codes and regulations.
6. Assess housing conditions and immediate needs, including special housing needs.

7. Identify and analyze potential sites for future housing.
8. Assess all City housing programs to determine their effectiveness and to make future recommendations if needed.
9. Update the Safety Element as required to be updated with the Housing Element update.
10. Conduct community workshops to facilitate public input (these meetings may also serve as the scoping meetings for the environmental document).
11. Identify sections of the City's General Plan Land Use Element that may need to be amended to be in compliance with State law, including all tables, maps, etc. consistent with the 2021-2029 Housing Element.
12. Incorporate existing Local Hazard Mitigation Plan into the City's Safety Element to be consistent with SB 379.
13. Prepare, post, and file all the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notice of Intent to Adopt a (Mitigated) Negative Declaration or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion to be filed with the County of Orange Clerk-Recorder's Office.
14. Conduct a Scoping Meeting, attend City Council Public Hearings, and amend the environmental document as needed, following City Council review.
15. Submit City Council approved environmental documents and updated Housing Element and Safety Element to HCD.
16. Coordinate document review until such time that the document is certified by HCD, including addressing recommended modifications and comments by HCD.

C. Deliverables

1. Prepare and submit Administrative Draft Housing Element and General Plan Land Use Element (if applicable) for City staff to review and comment upon in accordance with the project's schedule. Design of the draft (text, font, graphics, tables, figures, and picture placement) to match the General Plan document format and quality;
2. Revise the Administrative Draft Housing and Administrative Draft Land Use Elements to incorporate staff's comments and submit the Draft Housing Element and Draft Land Use Element to the Community Development Department for City staff distribution to HCD, the City Council, and the general public for review and comment;
3. Prepare, post, and file the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notice of Intent to Adopt a (Mitigated) Negative Declaration or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion to be filed with the County of Orange Clerk-Recorder's Office;
4. Prepare addendum and revisions to draft documents both in response to City input and comments from HCD, including tracking of said revisions;

5. Prepare Final Draft Updated Housing Element in response to comments from HCD, responsible agencies, City staff, City Council, and the public.
6. Amend the Public Safety Element of the City's General Plan incorporating elements of the Local Hazard Mitigation Plan, climate adaptation, and resiliency strategies consistent with SB 379;
7. Attend, present, and participate in City Council meetings, informational workshops or study session meetings, City staff meetings, and public hearings as required by the City;
8. Prepare public meeting presentation materials, memos, letters, and other documents as required by City staff;
9. Provide regular email progress reports;
10. Assist in the preparation of staff reports and exhibits for City Council meetings;
11. Provide and maintain an Internet-based folder for all project materials accessible to City staff and consultants;
12. Coordinate with City staff, City Attorney, and HCD staff as necessary;
13. Upon adoption of the Final Draft Housing Element and Final Draft General Plan Land Use Element by the City Council, the consultant will prepare a final adopted version with the date of adoption prominently displayed on the front cover and throughout the document to distinguish it as the official document from other versions of the Housing Element and Land Use Element; and
14. The consultant shall assist the City in achieving State certification of the Housing Element after adoption by the City Council and shall perform all tasks necessary to obtain HCD certification.

D. Required Information

Consultants must submit satisfactory evidence to the City supporting their ability to meet the scope of work within a prompt time frame. Also, to improve consistency the proposals must conform to the following format:

1. Introduction of consulting firm, including experience and background.
2. Qualifications of personnel assigned to this project, including resumes.
3. A list of any sub-consultants who will be hired by the consultant. A summary of their experience and qualifications should be included.
4. Related project experience for which the firm or individual members of the consultant team has prepared HCD-certified Housing Elements within the current planning cycle and at least two (2) letters of reference pertaining to this type of work.
5. Contact information for three (3) relevant public agency references, including contact name, phone number, address, brief description of services performed, and date of service.

6. A detailed outline of the proposed approach, including a work plan and schedule, including milestones, dates, and submittals to complete the Housing and Safety Element updates. Please specifically address the areas described in the Scope of Work section.
7. A budget that includes itemized estimated cost for each component. Cost associated with preparing and circulating the environmental documentation should be itemized separately. Please provide a cost proposal assuming a Mitigated Negative Declaration and a cost proposal assuming an EIR.
8. A “not-to-exceed” cost to perform the requested service. Please include a detailed breakdown by Scope of Work, staff level, and required hours.
9. A copy of a recently certified Housing Element (similar in size to La Palma) completed by your firm.

III. EVALUATION PROCEDURES

General

All competitive proposals shall be evaluated utilizing the criteria specified. It is the objective of the City to select the consultant through the outlined evaluation process. It will include interviews with the top-ranked firms. An Evaluation Committee will recommend to the City Manager and to the City Council, the consultant who best illustrates its abilities to meet the City's needs. However, the recommendation of the committee shall not be binding, and the decision of the City Manager or City Council shall be final.

Evaluation Committee

All competitive proposals received by the City from the consultants as of the submission time and date set forth herein shall be cataloged and distributed to select City staff ("Evaluation Committee") for review and evaluation. The Evaluation Committee, comprised of key stakeholders, will review all competitive proposals. The names of the selection committee members and their evaluations are confidential. The Evaluation Committee shall evaluate all proposals received using a formalized evaluation process.

Each Evaluation Committee member will be governed by the following guidelines to ensure a thorough and unbiased assessment of each proposal:

1. Each member will evaluate materials of each proposal in its entirety, impartially, and without bias;
2. Members, if necessary to ensure full understanding of a proposal, may discuss with technical and legal staff, particular elements of the proposal;
3. Members will review only the consultant's written documents, not information which is inferred or interpreted by another person; and,
4. Members must use the prescribed evaluation criteria for each evaluation.

The results of the Evaluation Committee's review of proposals and interviews with the top-ranked firms shall be forwarded to the City Manager for consideration by February 13, 2020.

Completeness of Competitive Proposals

Following receipt of competitive proposals, the Evaluation Committee shall review all proposals with respect to the completeness and conformance with the instructions and requirements specifically indicated in this RFP.

Competitive proposals, which are deemed incomplete or non-conforming with instructions and requirements of this RFP, may not be given further evaluation. The City reserves the right to reject any or all competitive proposals and to waive any irregularity, variance, or informality whether technical or substantial in nature, in keeping with the best interest of the City.

Informality Waiver/Rejection of Proposals

The City will reject proposals if:

- The consultant misstates or conceals any material fact in the proposal;
- The proposal does not strictly conform to the law; or,
- The proposal is conditional.

The City may reject all proposals whenever it is deemed in the best interest of the City to do so and may reject any part of a proposal. The City may also waive any minor informalities or irregularities in any proposal. Each consultant who submits a proposal shall be notified of the City's final selection.

Evaluation Criteria

All competitive proposals shall be evaluated with respect to the completeness of data provided, support for claims made, relevant experience, and the overall approach taken. The following list of evaluation criteria, which has in no manner been weighted or prioritized, shall be utilized in the technical evaluation of each consultant's competitive proposal:

- Demonstrated understanding and ability to complete the project;
- Background and experience of the project team, including individual team members and sub-consultants assigned to various tasks;
- Project management approach;
- Response to all components of the RFP;
- Proven track record for completing similar projects on-time, within budget, and receiving certification from HCD; and
- Cost.

IV. SCHEDULE

The tentative schedule for the evaluation of proposals is as follows:

Action	Time/Date
Advertisement of RFP	Monday, December 9, 2019
Request for Information Due Date	5:30 p.m., Monday, December 23, 2019
Addenda Available (If necessary)	Monday, January 6, 2020
Deadline to Submit Proposals	5:30 p.m., Thursday, January 16, 2020
Interviews of Top Rated Consultants	Week of January 27 and/or February 3, 2020 Exact date to be determined.
Selection and Recommendation to City Council	Tuesday, February 18, 2020 or March 3, 2020

Any schedule change affecting the RFP submittal will be distributed via addenda.

V. CONDITIONS & LEGAL REQUIREMENTS

Legal Name

Proposals shall clearly indicate the consultant's legal name, address, and phone number, and shall indicate whether the consultant is a corporation, general partnership, individual, or other business entity. In addition, the proposal must include the name, phone number, and email address of the person to whom correspondence should be directed. Proposals shall be signed above the typed or printed name and title of the signor. The signer must have the authority to bind the consultant to the submitted competitive proposal.

Openness of Procurement Process

Written proposals, other submissions, correspondence, and all other pertinent records shall be handled as public records. The City gives no assurance as to the confidentiality of any portion of any proposal once submitted.

Errors and Omissions

Once a proposal is submitted, the City shall not accept any request by any consultant to correct errors or omissions in any calculations or competitive proposal price submitted.

Retention and Disposal of Proposals

The City reserves the right to retain all submitted competitive proposals for public record purposes. The City also reserves the right to dispose of any or all copies of competitive proposals in whatever manner it deems appropriate. No copies of any competitive proposal will be returned to the consultant.

Collusion

By offering a submission to this RFP, the consultant certifies that the consultant has not divulged to or discussed or compared its competitive proposal with any competitors, and has not colluded with any other consultants or parties to this competitive proposal whatsoever.

Conflict of Interest

The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

Professional Services Agreement

The selected consultant will be required to sign a Professional Services Agreement with the City (**Attachment A**).

Insurance Requirements

The successful firm shall submit appropriate evidence of required insurance coverage prior to finalizing the contract and commencing work. The City's standard contract terms and conditions are provided in the attached Professional Services Agreement (**Attachment A**).

ATTACHMENT A

PROFESSIONAL SERVICES AGREEMENT

(Attached)

**AGREEMENT FOR CONSULTANT SERVICES
[COMPANY NAME]**

THIS AGREEMENT FOR the CONSULTANT SERVICES (hereinafter, the "Agreement"), entered into as of [DATE], by and between the CITY OF LA PALMA, a municipal corporation (hereinafter, the "City"), and [COMPANY NAME], a corporation (hereinafter, the "Consultant"). The Consultant and the City are hereafter together referred to as the "Parties" and each individually as a "Party."

RECITALS

A. The City requires the services of, and desires to retain, a consultant to perform the services set forth and described in the Scope of Work attached hereto as Exhibit "A" and incorporated herein by this reference (hereinafter, the "Consultant Services").

B. By virtue of the Consultant's expertise, experience, and background, the Consultant is qualified to perform the Consultant Services for and on behalf of the City.

C. The City and the Consultant mutually desire to enter into this Agreement for the provision of the Consultant Services by the Consultant for and on behalf of the City, in accordance with the terms and conditions set forth herein.

EXECUTORY AGREEMENTS

NOW, THEREFORE, in consideration of the facts recited above and the covenants, conditions, and promises contained herein, the City and the Consultant mutually agree as follows:

SECTION ONE: RETENTION AND DUTIES OF CONSULTANT

1.1 The City hereby retains the Consultant, and the Consultant accepts this retention from the City, to perform the Consultant Services as set forth in the Scope of Work attached hereto as Exhibit "A".

1.2 The Consultant shall perform all services set forth in the Scope of Work in a competent and professional manner, and shall complete all such work, and each component thereof, within the time periods set forth in the Scope of Work.

1.3 In the performance of the Consultant Services, the Consultant shall report to and receive instructions from the [DEPT HEAD TITLE] of the City. Tasks or services other than those specifically described in the Scope of Work shall not be performed without the prior written approval of the [DEPT HEAD TITLE]. If the City changes the scope of the Consultant Services to be performed by the Consultant, or if the Consultant is requested to perform services not specifically described in the Scope of Work, the Consultant shall perform such services as are necessary to complete the work, and compensation for the work performed shall be paid by the City

in accordance with the Budget and Fee Schedule attached hereto as Exhibit "B" and incorporated herein by this reference, or as otherwise may be agreed in writing by the City and the Consultant.

1.4 The Consultant shall not subcontract the performance of any of the Consultant Services without the prior written approval of the City.

1.5 All data, studies, drawings, plans, maps, reports, and other documents shall, upon payment in full for the Consultant Services, be furnished to and become the property of the City, without restriction or limitation upon their use.

1.6 The Consultant agrees that the following person shall be the project manager on behalf of the Consultant under this Agreement, and shall be principally responsible for performing the Consultant Services:

[PROJECT MANAGER]

Notwithstanding the foregoing, the parties acknowledge that persons other than the above-designated project manager of the Consultant may perform tasks or services under this Agreement if the performance of such tasks or services is under the supervision and control of the Consultant's project manager. The Consultant shall not alter the assignment of the above-designated project manager without the prior written approval of the [DEPT HEAD TITLE].

1.7 The City reserves and has the right and privileges, at its sole discretion and with or without cause at any time during the term of this Agreement, of suspending, canceling or terminating this Agreement or any work in connection with this Agreement. In the event of termination, all finished or unfinished data, studies, maps, reports, and other items prepared by the Consultant shall become the property of the City, and the Consultant shall promptly deliver such items to the City. In the event of termination, the City shall pay the Consultant for all authorized services performed and for all authorized and invoiced expenses incurred up to the date of termination of this Agreement, on a time and materials basis in accordance with the Budget and Fee Schedule attached hereto as Exhibit "B".

SECTION TWO: COMPENSATION TO CONSULTANT

2.1 The City shall pay to the Consultant for the performance of the Consultant Services compensation in accordance with the Budget and Fee Schedule attached hereto as Exhibit "B".

2.2 The Consultant shall invoice the City on a monthly basis for all work performed by the Consultant under this Agreement. Invoices shall include billings for all charges, including authorized direct costs incurred by the Consultant during the month covered by the invoice. All charges for labor or professional services shall describe with specificity the services rendered and shall set forth the number of hours worked and hourly rates in accordance with the Budget and Fee Schedule. Within thirty (30) days of receipt of an invoice, and upon determination by the City that the invoice is in order and that the Consultant has performed all requested or required services in a timely and competent manner, the City shall pay such invoice.

2.3 The Consultant shall maintain records on all services for and charges to the City under this Agreement for a period of not less than twenty-four (24) months after the completion or termination of this Agreement, and make such records available for review and audit if requested by the City at any time during the term, or within twenty-four (24) months of the completion or termination, of this Agreement.

SECTION THREE: LEGAL RESPONSIBILITIES

3.1 The Consultant shall keep fully informed of all Federal and State laws and regional, county, and municipal ordinances and regulations which may in any manner affect those employed by the Consultant or the performance by the Consultant of any tasks or services for or on behalf of the City. The Consultant shall at all times observe and comply with all such laws, ordinances, and regulations, and shall be responsible for the compliance therewith of all work and services performed by the Consultant by or on behalf of the City.

3.2 The Consultant is retained as an independent contractor only, for the sole purpose of rendering those professional services set forth in Exhibit "A" hereto or otherwise requested by the City, and is not an employee of the City. The City shall have the right to control the Consultant only as to results of the Consultant's services rendered pursuant to this Agreement, and the City shall not have the right to control the means by which the Consultant accomplishes the services performed under this Agreement.

3.3 The Consultant shall not discriminate against any employee or applicant for employment because of race, religion, sex, age, marital status, or national origin.

3.4 All proprietary information developed by the Consultant in connection with, or resulting from, this Agreement, including but not limited to inventions, discoveries, improvements, copyrights, patents, maps, reports, textual material, or software programs, shall be the sole and exclusive property of the City. The Consultant agrees that the compensation to be paid pursuant to this Agreement includes adequate and sufficient compensation for any proprietary information developed in connection with or resulting from the performance of the Consultant Services under this Agreement. The Consultant further understands and agrees that full disclosure of all proprietary information developed in connection with, or resulting from, the performance of services by the Consultant under this Agreement shall be made to the City, and that the Consultant shall do all things necessary and proper to perfect and maintain ownership of such proprietary information by the City.

3.5 The Consultant agrees to perform all work to the reasonable satisfaction of the City. If the services performed under this Agreement are not satisfactory, the City has the right to take appropriate action, including but not limited to: (1) meeting with the Consultant, its agents or subcontractors to review the quality of the work and resolve matters of concern; (2) requiring the Consultant to have the work repeated at no additional fee until it is satisfactory; (3) withholding payment of City's compensation to the Consultant for any unsatisfactory work performed; (4) terminating this Agreement.

3.6 The Consultant shall assume all costs arising from the use of patented or copyrighted materials, including but not limited to equipment, devices, processes, and software

programs, used or incorporated in the services or work performed by the Consultant under this Agreement. The Consultant shall indemnify, defend, and hold the City harmless from any and all suits, actions, or proceedings of every nature for or on account of the use of any patented or copyrighted materials.

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

3.8 The parties mutually acknowledge that the City has retained Consultant to perform the tasks and services set forth in this Agreement based upon the special skills, expertise, and experience of Consultant. Accordingly, in performing the tasks and services under this Agreement, Consultant shall use the skill and care that a highly specialized professional with significant expertise in the field, would use under similar circumstances. Further, the parties mutually agree that, to the extent that Consultant retains sub-consultants or subcontractors to perform any portion of any of the tasks or services under this Agreement, Consultant has a duty to the City to ensure that the tasks and services performed by such sub-consultants and subcontractors meet the same highly specialized professional level, skill, and expertise expected of Consultant.

3.8.1 Except as set forth in subdivision 3.8.2, Consultant shall indemnify, defend (with legal counsel acceptable to the City), and hold harmless the City, its officials, officers, and employees ("City Personnel") from and against any and all actions, suits, claims, demands, judgments, attorneys fees, costs, damages to persons or property, losses penalties, obligations, expenses, or liabilities ("Claims") that may be asserted or claimed by any person or entity arising out of Consultant's performance of any tasks or services for or on behalf of the City, whether or not there is concurrent active or passive negligence on the part of the City and/or any City Personnel, but excluding any Claims arising from the sole negligence or willful misconduct of City or any City Personnel.

3.8.2 The provisions of this subdivision 3.8.2 apply only in the event that Consultant is a "design professional" within the meaning of the California Civic Code Section 2782.8(c). If Consultant is a "design professional" within the meaning of Section 2782.8(c), then notwithstanding subdivision 3.8.1 above, to the fullest extent permitted by law (including, without limitation, Civil Code Sections 2782 and 2782.6), Consultant shall defend (with legal counsel reasonably acceptable to the City), indemnify, and hold harmless the City and City Personnel from and against any Claim that arises out of, pertains to, or relates to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Consultant, any sub-consultant,

subcontractor, or any other person directly or indirectly employed by them, or any person that any of them control, arising out of Consultant's performance of any task or service for or on behalf of the City under this Agreement. Such obligations to defend, hold harmless, and indemnify the City or any City Personnel, shall not apply to the extent that such Claims are caused in part by the sole active negligence or willful misconduct of the City or such City Personnel. Consultant's cost to defend City and/or City personnel against any such Claim shall not exceed Consultant's proportionate percentage of fault with respect to that Claim; however, pursuant to Civil Code section 2782.8(a), in the event that one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Consultant shall meet and confer with City (and, if applicable, other parties) regarding any unpaid defense costs. To the extent Consultant has a duty to indemnify the City or any City Personnel under this subdivision (b), Consultant shall be responsible for all incidental and consequential damages resulting directly or indirectly, in whole or in part, from Consultant's negligence, recklessness, or willful misconduct.

3.9 The Consultant shall not commence the performance of any work or services under this Agreement until the Consultant has obtained all insurance required hereunder, nor shall the Consultant allow any subcontractor to commence services under its subcontract until all such insurance has been obtained by the subcontractor. Current certification of insurance shall be kept on file with the City at all times during the term of this contract. The City reserves the right to require complete, certified copies of all required insurance policies, at any time. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the Agency's Risk Manager. The Consultant shall take out and maintain at all times during the performance of this Agreement the following policies of insurance:

3.9.1 Workers Compensation Insurance to cover its employees as required by law; and the Consultant shall require all subcontractors to provide such compensation insurance for all of the latter's employees. Each such policy of worker compensation insurance shall carry the following endorsements:

(a) "The insurer waives all rights of subrogation against THE CITY OF LA PALMA, its officers, officials, agents, employees, and representatives."

(b) "This insurance policy shall not be canceled, limited or nonrenewed by the insurer until thirty (30) days after receipt by THE CITY OF LA PALMA of a written notice of such cancellation, limitation, or reduction of coverage."

3.9.2 Comprehensive General Liability Insurance for bodily injury, death, and property damage which may arise from the negligent performance of the Consultant, its employees, agents representatives, successors, and assigns while performing work or services under this Agreement, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate.

3.9.3 Comprehensive Automobile Liability Insurance, including owned, non-owned, and hired automobiles, in a minimum Combined Single Limit of \$1,000,000 per occurrence for bodily injury, death, and property damage.

Each such policy of insurance provided for in Paragraph 3.9.2 and 3.9.3 shall be in a form satisfactory to the City and shall contain the following endorsements:

(a) "THE CITY OF LA PALMA, its officers, officials, employees, and representatives, are hereby declared to be additional insureds under the terms of this policy with respect to the operations and activities of the named insured at or from the premises of THE CITY OF LA PALMA described above."

(b) "This insurance policy shall not be canceled, limited, or not renewed until thirty (30) days after receipt by THE CITY OF LA PALMA of a written notice of such cancellation, limitation, or reduction of coverage."

(c) "This insurance policy is primary insurance and no insurance held or owned by the designated additional insureds shall be called upon or looked to cover a loss under said policy; THE CITY OF LA PALMA shall not be liable for the payment of premiums or assessments on this policy."

3.9.4 Professional Liability Insurance to protect the City from the Consultant's negligent acts, errors, and omissions of a professional nature, with coverage in a minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

At least thirty (30) days prior to the expiration of any policy of insurance required under Paragraph 3.9.1, 3.9.2, 3.9.3 or 3.9.4, a signed complete certificate of insurance, with all endorsements provided herein, showing that such insurance coverage has been renewed or extended, shall be filed with the City.

3.10 The Consultant shall not assign or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of the City; and any such assignment or other transfer without such consent shall be void.

3.11 Except as the City may specify in writing, the Consultant shall have no authority, express or implied, to act on behalf of the City in any capacity whatsoever as an agent. This Agreement does not grant to the Consultant any authority, express or implied, to bind the City to any obligation whatsoever.

3.12 In the event any action is commenced by one Party to this Agreement against the other to enforce any of the rights or obligations arising from this Agreement, the prevailing Party in such action, in addition to any other relief and recovery ordered by the court, shall be entitled to recover all statutory costs, together with reasonable attorney's fees.

SECTION FOUR: MISCELLANEOUS

4.1 Notices: All notices, invoices or other instruments required or permitted to be given under this Agreement shall be served by personal delivery or deposited in a United States mail depository, postage prepaid, and addressed as follows:

If to the City: CITY OF LA PALMA
7822 Walker Street
La Palma, California 90623
Attn: [DEPT HEAD TITLE]

If to the Consultant: [NAME OF COMPANY]
[ADDRESS OF COMPANY]

or such other address or person as either Party may indicate to the other in writing. Service of any instrument by mail shall be deemed effective forty-eight (48) hours after deposit in a United States mail depository, postage prepaid, and addressed as set forth above.

4.2 Integration: This Agreement represents the entire understanding of the City and the Consultant as to those matters contained herein, and no prior oral or written understanding shall be of any force or effect with regard to those matters covered by this Agreement. This Agreement may not be modified, altered, or amended except in writing signed by both the City and the Consultant.

4.3 Construction: This Agreement shall be construed in accordance with the laws of the State of California and as if drafted by both parties hereto.

4.4 Successors and Assigns: Subject to the provisions of Paragraphs 1.4 and 3.10 hereinabove, this Agreement, and all of the covenants, terms, and conditions hereof, shall be binding upon, and inure to the benefit of, the City, the Consultant, and their respective successors and assigns.

4.5 Authority of Signatories: The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by so executing this Agreement the Parties are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first written above.

CITY OF LA PALMA

By _____
[Mayor or City Manager]

ATTEST:

City Clerk

[NAME OF COMPANY]

By _____

[Title]

By _____

[Title]

APPROVED AS TO FORM:

RUTAN & TUCKER

By _____
City Attorney, City of La Palma

Exhibit A
Scope of Work

Exhibit B
Budget and Fee Schedule