

EL SEGUNDO REQUEST FOR PROPOSALS

PBS NO. 20-03



INCLUSIONARY HOUSING ORDINANCE

December 8, 2020

Inquiries regarding these projects should be directed to:
Paul Samaras, Principal Planner
psamaras@elsegundo.org

Deadline: Thursday, January 11, 2021 at 4:00 pm

INTRODUCTION

The City of El Segundo is seeking proposals from experienced consultants to develop an Inclusionary Housing Ordinance that will encourage mixed-income housing city-wide. In addition to the Inclusionary Housing Ordinance, the City is also undertaking several other housing-related programs at the present time. The City is updating the 6th Cycle Housing Element and is also pursuing the development of three ordinances for Single Room Occupancy projects, Density Bonus, and Transitional and Supportive Housing. The completion of the Inclusionary Housing Ordinance should be developed with the intention of providing an appropriate percentage of affordable housing that will not inhibit private sector investment of market rate housing units.

BACKGROUND OF EL SEGUNDO

The City of El Segundo was incorporated in 1917. El Segundo is considered part of the South Bay sub-region in the southwestern edge of the Los Angeles Coastal Basin. Downtown Los Angeles is about 20 freeway miles from El Segundo. The City has 5.46 square miles with a resident population of about 17,000. The daytime population is over 75,000. All of the residential population is located west of Pacific Coast Highway on approximately 533 acres of land. The industrial and commercial area east of Pacific Coast Highway represents Fortune 500 companies and a range of businesses including aerospace, biotech, and travel related companies. Commercial development in the City continues to far outstrip the region's ability to provide affordable housing for those employed in El Segundo. Affordable housing in El Segundo would be largely workforce housing and senior housing.

SCOPE OF WORK

The City of El Segundo seeks to adopt an Inclusionary Housing Ordinance (Ordinance) that will facilitate the development of affordable housing units. The Ordinance should focus on both rental and homeownership units and should assist the City in meeting its RHNA requirements. The City is seeking an Ordinance that will balance economic growth and market-rate housing with the imperative of producing affordable housing.

Task 1 - Project Initiation

Kick-off Meeting with Primary Team Members. The project will begin with a kick-off meeting with City staff and key Consultant team members to review project timeline, develop communication protocols, deliver data and information requests, and clarify roles and responsibilities.

- Deliverables: Meeting Agenda and Notes; Data Request List

Project Timeline. Develop a project timeline that outlines tasks and deliverables, regular meetings with the City's project lead, community outreach plans, and additional key items. The overall timeline should aim to complete the economic feasibility studies within the first 120 days and the adoption of the Ordinance by October 15, 2021.

- Deliverables: Project Timeline with Benchmark Dates

Task 2 – Community Engagement Plan

Community Engagement Plan. The Proposal shall include a Community Engagement Plan (CEP) that identifies opportunities for inclusive community engagement with diverse and hard to reach populations. The CEP should take into consideration the impact of the COVID-19 pandemic and the need for virtual meetings in

lieu of physical meetings. The purpose of these meetings is to educate and inform the public about the rationale for the Ordinance, present the policy development process and timeline, as well as to gather information and ideas from the public to better inform the final Ordinance.

It is anticipated that the Inclusionary Housing Ordinance CEP should include one community workshop and up to five (5) stakeholder/focus group meetings to inform the public. Translation services may be necessary.

- Deliverables: Community Engagement Plan with marketing plan, techniques, stakeholder groups, and draft timeline of meeting dates

Task 3 – Conduct Economic Feasibility Study

The inclusionary housing program should generate significant affordable housing resources without overburdening developers or landowners or negatively impacting the pace of development. The selected Consultant shall have the capability to develop and use a financial model that will analyze the impacts of various inclusionary housing requirements for the rental and ownership markets (e.g. Ownership: single-family detached homes; townhouse/condominium developments; Rental: medium to high density multi-family developments – studio, one-bedroom, two-bedroom, and three-bedroom apartments).

Establish a Methodology. Establish an appropriate methodology for modeling the potential impacts and value of an inclusionary housing Ordinance. Provide this methodology in a memorandum for the City project lead's approval.

Identify Income Targets. Income targets for affordable housing required by the Ordinance should be based on a clear analysis of local needs and consider the City's housing production goals and obligations. For purposes of preparing the Proposal and evaluation, please consider the percentages as being 10 percent, 15 percent, and 20- percent of the overall project housing units and the mix of affordability as delineated by the City's 6th Cycle RHNA percentages (i.e. 53 percent Very Low-, 25 percent Low-, and 23 percent Moderate-Income).

Conduct Comparative Analysis of Inclusionary Policies. Conduct a survey of leading inclusionary housing policies adopted by comparable cities within Los Angeles County. Provide a report of findings and best practices in a memorandum for the City's project lead's approval. Budget for two drafts – an initial draft and a revised draft pursuant to City comments.

Evaluate Economic Feasibility. The Consultant shall prepare an economic study to determine the appropriate percentage of affordable units for various residential prototypes.

- Based on analysis of recent construction activity and future housing needs, identify at least three residential development scenarios for analysis in the economic feasibility study that are representative of projects in the City. Verify assumptions through interviews with developers and provide a justification for choosing these scenarios.
- For any other fulfillment options including in-lieu fees and other off-site solutions, conduct a nexus study to ensure that required fees are proportional to the impact of new development on the need for affordable housing.
- Budget for up to three iterations of the economic feasibility analysis
 - Deliverables: Economic Feasibility Study

Task 4 – Recommendations For Inclusionary Ordinance

Based on the results of the literature review, economic feasibility study, nexus study, and CEP, the Consultant shall provide recommendations for the following factors in a separate memorandum:

- Program structure
- Required share of units (percentage or percentages) to be set aside as affordable
- Required or to-be-determined share of Income categories (percentage) to be served
- Alternatives for the on-site fulfillment of inclusionary housing, such as an in-lieu fee and other options
- Developer incentives to reduce the economic impact of providing affordable units

- Monitoring and evaluation of the inclusionary housing program
 - Deliverables: Policy and Methodology Recommendations Memorandum

Task 5 – Preparation of Inclusionary Housing Ordinance – OPTIONAL-

The Consultant shall include this task within the Scope of Work and schedule it within the Timeline and Budget. However, the City may, at its discretion, discuss this task with the Consultant and remove it from the awarded professional services agreement.

Administrative Draft Ordinance. The Consultant shall develop a draft ordinance that includes program structure, income targets, set-aside requirements, alternatives for on-site inclusionary housing fulfillment, developer incentives, monitoring, and evaluation protocols.

Public Review Draft Ordinance: Based upon public input and City staff comment, the Consultant shall prepare a draft Ordinance that can be shared with the public and used for public hearings with the Planning Commission and City Council.

Final Draft Ordinance. Following the completion of the public hearing process, the Consultant shall update the Final Draft based upon City Council comments.

- Deliverables: Up to three drafts of the Inclusionary Housing Ordinance

Task 6 – Project Management, Meetings, Communication

Department Staff. Arrange recurring meetings with City’s project lead to discuss project status and management, task-specific issues, and review of findings. Budget a minimum of five (5) meetings with City staff.

City Commissions/Council. In addition to presenting materials at community engagement events, the Consultant is also expected to present materials and provide support to City staff throughout the Ordinance development and adoption process, including presentations, study sessions, and/or joint sessions to the Planning Commission, and City Council. Consultant shall budget for up to four study sessions, and public hearings. Joint study sessions shall constitute as one meeting.

Grant Funding. The preparation and adoption of the Inclusionary Housing Ordinance is funded by a grant from HCD. The City received a LEAP grant to fund the Ordinance. To facilitate grant compliance, the Consultant shall assist the City in fulfilling the grant performance and reporting requirements by providing monthly progress memos, meeting memos, etc.

- Deliverables: Meeting Notes, Monthly Status Memos, outreach tools, articles, notices, invoices with supportive back-up information

SUBMITTAL INSTRUCTIONS

1. For questions regarding this RFP, submit all inquiries via email to psamaras@elsegundo.org by the deadline below. Responses to the questions will be posted on the City’s website www.elsegundo.org under the “Bids/RFPs” tab. All Consultants are recommended to visit the abovementioned City website on a regular basis as the responses may be posted earlier than the date below. The City will not be responsible for or bound by any oral communication or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the City Contract.
2. RFP Timeline (times indicated are Pacific Time)

TASK	DATE/TIME
RFP Distribution Date	December 8, 2020
Deadline for submitting questions	December 22, 2020 by 4:00 PM
Answers to all questions submitted available	January 5, 2021 by 4:00 PM
Deadline for submission of proposals	January 11, 2021 by 4:00 PM
Evaluation period	January 12-22, 2021
City Council Award of Contract	February 2021

NOTE: These dates represent a tentative schedule of events. The City reserves the right to modify these dates at any time, with appropriate notice to prospective Consultants.

3. Method of Submission

Electronic proposals in PDF format shall be submitted directly to Paul Samaras at the address below. The Consultant is solely responsible for “on time” submission and receipt of their electronic narrative proposal and cost proposal. The City will respond with an email to confirm receipt. The City will only receive those proposals that were transmitted successfully. The RFP cover page shall be signed in ink, scanned and included as the first/top page of the narrative proposal in the electronic proposal submission.

Submit proposal by email to:

Paul Samaras, AICP
Principal Planner
psamaras@elsegundo.org

By submitting a response to this RFP, the prospective consultant waives all rights to protest or seek any legal remedies whatsoever regarding any aspect of this RFP. The City reserves the right to issue written notice to all participating firms of any changes in the proposal submission schedule, should the City determine in its sole and absolute direction that such changes are necessary. Acceptance of any proposal submitted pursuant to this RFP shall not constitute any implied intent to enter into a contract for consulting services. The City reserves the right to reject any and all proposals.

4. Proposals must be received by **4:00 PM (PT) on January 11, 2021**. Proposals that do not arrive by the specified date and time **WILL NOT BE ACCEPTED**. The City will not be held responsible for proposals mishandled as a result of technical error.
5. Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. The proposal should be presented in a format that corresponds to and references the Scope of Work Tasks and Proposal Evaluation, in the same order.
6. The proposal must be signed by the individual(s) legally authorized to bind the Consultant.

Consultants shall complete the cover page of the RFP document, sign in ink, and submit electronically with their narrative/technical proposal.

7. Proposals shall be submitted in two (2) distinct parts – Part One is the narrative portion and Part Two is the cost portion. The narrative portion will be reviewed first and then the cost portion. Therefore, the Proposal shall be comprised of two parts submitted in two separate electronic files.
8. A responsive proposal will include the following completed documents.

PROPOSAL EVALUATION

1. QUALIFICATIONS

Proposals should include detailed examples as well as a complete list of relevant work experience, resumes of key team members, and references. Proposals must demonstrate that the Consultant's experience meets the following minimum criteria:

- 1.1. Experience by the prime Consultant preparing financial analysis for local government jurisdictions within California.
- 1.2. Experience by the prime Consultant preparing housing policy recommendations to meet regional, State, and Federal housing law.
- 1.3. Experience by the prime Consultant or sub-consultant team in engaging diverse communities, including low-income and communities traditionally unlikely to participate in the public process.

2. REQUIRED RESPONSIVE DOCUMENTS

- 2.1. The Consultant shall provide a proposed summary as well as a detailed description of the approach and analysis to be used to develop the inclusionary housing policies, recommendations and related tasks. This should include the Consultant's approach to each of the tasks listed in the Scope of Work. The Consultant should include a budget for each of the tasks.
- 2.2. Consultants shall provide a description of the proposed team, relationship, and reporting structure among team members. Consultants shall identify specific staffing and resources available to complete the scope of work within the time frames described in the Scope of Work. Consultants shall provide sufficient detail to establish the expertise of each team member.

3. References

List of References where the consultant prepared (or is in the process of preparing) similar documents. A minimum of 3 references are required. Consultant shall provide the name of the individual, contact information, date of completion, and any particular description or explanation of specific challenges encountered.

COST

The cost proposal and scope of work shall include and specify the firm's labor, indirect costs, and any subconsultant costs, including a list with every team member's title and billable rates. The cost proposal shall relate to the Ordinance in such a way that the City can understand the hours, costs, and work associated with each member of the team.

This is a fixed-price contract and the fee to be paid to the Consultant shall not exceed \$45,000. Payments will be made at the Consultant's established billable rates for staff hours and direct expenses. Billable rates shall not include mark-ups on reimbursable items; no additional payment will be made for those items. The City will neither reimburse the Consultant for mileage, nor for the use of computer equipment.

ADDITIONAL REQUIREMENTS FROM FUNDING SOURCE

The Contract arising from this procurement process is funded in whole or in part by the HCD LEAP Grant. The City is requesting that the Consultant provide monthly progress memorandums, and other assistance with the City's preparation of reporting and invoicing requirements related to the grant.

CONTRACT

A copy of the City's standard professional services agreement is provided as an attachment. The Consultant should provide a statement that consultant is agreeable to execute the enclosed City Professional Services Agreement (PSA), procure a City of El Segundo business license, and to provide proof of insurance as noted in the agreement OR the consultant should describe any exceptions being requested to the agreement in their proposal.

**Sample El Segundo
Professional Services Agreement**



**PROFESSIONAL SERVICES AGREEMENT
(PLANNING/ENVIRONMENTAL CONSULTING)
BETWEEN
THE CITY OF EL SEGUNDO AND
“CONSULTANT”**

This AGREEMENT is made and entered into this ___ day of _____, 2020, by and between the CITY OF EL SEGUNDO, a municipal corporation and general law city (“CITY”) and XXXXXXXXX, a _____ corporation (“CONSULTANT”). The parties agree as follows:

1. CONSIDERATION.

- A. As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, below;
- B. As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;
- C. As additional consideration, CITY agrees to pay CONSULTANT a sum not to exceed _____ dollars (\$_____) for CONSULTANT’s services. CONSULTANT acknowledges that it will be paid by funds received by the CITY from the Developer and/or Applicant associated with Pacific Coast Commons Specific Plan project for which CONSULTANT performs services on behalf of the CITY.

2. SCOPE OF SERVICES.

- A. CONSULTANT will perform services listed in the attached Exhibit “A,” which is incorporated by reference.
- B. CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space and facilities, and all tests, testing and analyses, calculation, and all other means whatsoever, except as herein otherwise expressly specified to be furnished by CITY, necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

- 3. PAYMENTS.** For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit a detailed invoice to CITY which lists the hours worked and hourly rates for each personnel category and reimbursable costs (all as set forth in Exhibit “B”) the tasks performed, the percentage of the task completed during the billing period, the cumulative percentage completed for each task, the total cost of that work during the preceding billing month, and cumulative invoiced actual expenditures to date. If the CITY agrees with all of the information listed in the invoice, CITY will then pay CONSULTANT within net 45 days from

receipt of the invoice from the Developer / Applicant account created for the project. In the event that the Developer / Applicant account does not have sufficient funds for payment of CONSULTANT's services, CITY will notify CONSULTANT immediately upon knowledge of the lack of funds in writing to suspend any work under this Agreement until the account is replenished by the Developer / Applicant. The CITY is not responsible to pay for any of CONSULTANT's services performed after the date of such written notice, unless and until the Developer / Applicant account is replenished with sufficient funds. This Agreement will cover only those costs incurred for this project and for which Developer / Applicant funds are available.

4. POLITICAL REFORM ACT. CONSULTANT agrees that it will be considered a public official subject to the Political Reform Act of 1974 for purposes of this Agreement. CONSULTANT agrees and warrants that it has no financial interests which may be materially affected by the project for which the Initial Study, as specified in the SERVICES, is being prepared. Such financial interests may include, without limitation, interests in business entities, real property, or sources of income exceeding \$500 received within the past year. CONSULTANT further warrants that, before executing this Agreement, it reviewed the Political Reform Act of 1974 and the Fair Political Practices Commission regulations, including, without limitation, Chapter 7 of Title 2 of the California Administrative Code, Section 18700, et seq., in order to determine whether any conflict of interest would require CONSULTANT to refrain from performing the SERVICES or in any way attempting to use its official position to influence the governmental decisions underlying the subject project(s).

5. FAMILIARITY WITH WORK.

- A. By executing this Agreement, CONSULTANT agrees that it has:
 - i. Thoroughly investigated and considered the scope of services to be performed;
 - ii. Carefully considered how the services should be performed; and
 - iii. Understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.
- B. Although CITY has a duty to the public to independently review any environmental document, including, without limitation a negative declaration or draft EIR, prepared by CONSULTANT, that duty to the public, or the breach thereof, will not relieve CONSULTANT of its duties under this Section or any representation provided by CONSULTANT in this Agreement.

6. KEY PERSONNEL.

- A. CONSULTANT's key personnel assigned to perform work under this Agreement and their level of responsibility are as follows but is not limited to:
 -
 -
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- B. The resume of each of the individuals identified in this Section are attached to this Agreement, collectively, as Exhibit C, and incorporated by reference.
- C. In the event CITY objects to the continued involvement with this Agreement by any of the persons listed in this Section, CONSULTANT agrees that it will replace such persons with individuals that are agreed to by CITY.

7. PROJECT COORDINATION AND SUPERVISION.

Paul Samaras, AICP will be assigned as Project Manager and will personally supervise or perform the technical execution of the Project on a day-to-day basis on behalf of CITY and will maintain direct communication with CONSULTANT's Project Manager.

Paul Samaras, AICP will be assigned as CITY's Project Manager and will be responsible for project oversight, CONSULTANT performance and coordination with the Project Manager, and the CONSULTANT's Project manager as needed.

Paul Samaras, AICP will be responsible for general oversight, negotiations, and contractual matters.

8. TERM. The term of this Agreement will start on the Effective Date and end on December 31, 2023. If the term of this Agreement is extended beyond December 31, 2023, CONSULTANT reserves the right to negotiate the hourly rates outlined in Exhibit "B." Unless otherwise determined by written amendment between the parties, this Agreement will terminate in the following instances:

- A. Completion of the work specified in Exhibit "A";
- B. Termination as stated in Section 15.

9. TIME FOR PERFORMANCE.

- A. CONSULTANT will not perform any work under this Agreement until:
 - i. CONSULTANT furnishes proof of insurance as required under Section 22 of this Agreement; and
 - ii. CITY gives CONSULTANT a written notice to proceed.

- B. Should CONSULTANT begin work on any phase in advance of receiving written authorization to proceed, any such professional services are at CONSULTANT's own risk.
10. **TIME EXTENSIONS.** Should CONSULTANT be delayed by causes beyond CONSULTANT's control, CITY may grant a time extension for the completion of the contracted services. If delay occurs in the delivery of milestone work products, CONSULTANT must notify the Manager within forty-eight (48) hours, in writing, of the cause and the extent of the delay and how such delay interferes with the Agreement's schedule. The Manager will extend the completion time, when appropriate, for the completion of the contracted services.
 11. **CHANGES.** CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.
 12. **TAXPAYER IDENTIFICATION NUMBER.** CONSULTANT will provide CITY with a Taxpayer Identification Number.
 13. **PERMITS AND LICENSES.** CONSULTANT, at its sole expense, will obtain and maintain during the term of this Agreement, all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.
 14. **WAIVER.** CITY's review or acceptance of, or payment for, work product prepared by CONSULTANT under this Agreement will not be construed to operate as a waiver of any rights CITY may have under this Agreement or of any cause of action arising from CONSULTANT's performance. A waiver by CITY of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.
 15. **TERMINATION.**
 - A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause.
 - B. CONSULTANT may terminate this Agreement at any time with CITY's mutual consent. Notice will be in writing at least thirty (30) days before the effective termination date.
 - C. Upon receiving a termination notice, CONSULTANT will immediately cease performance under this Agreement unless otherwise provided in the termination notice. Except as otherwise provided in the termination notice,

any additional work performed by CONSULTANT after receiving a termination notice will be performed at CONSULTANT's own cost; CITY will not be obligated to compensate CONSULTANT for such work.

- D. Should termination occur, all finished or unfinished documents, data, studies, surveys, drawings, maps, reports and other materials prepared by CONSULTANT will, at CITY's option, become CITY's property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination, not to exceed the total costs under Section 1(C).
- E. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.
- F. By executing this document, CONSULTANT waives any and all claims for damages that might otherwise arise from CITY's termination under this Section.

16. OWNERSHIP OF DOCUMENTS. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this Agreement are CITY's property. CONSULTANT may retain copies of said documents and materials as desired but will deliver all original materials to CITY upon CITY's written notice. CITY agrees that use of CONSULTANT's completed work product, for purposes other than identified in this Agreement, or use of incomplete work product, is at CITY's own risk.

17. PUBLICATION OF DOCUMENTS. Except as necessary for performance of service under this Agreement, no copies, sketches, or graphs of materials, including graphic art work, prepared pursuant to this Agreement, will be released by CONSULTANT to any other person or public CITY without CITY's prior written approval. All press releases, including graphic display information to be published in newspapers or magazines, will be approved and distributed solely by CITY, unless otherwise provided by written agreement between the parties.

18. INDEMNIFICATION.

- A. CONSULTANT agrees to the following:
 - i. *Indemnification for Professional Services.* CONSULTANT will save harmless and indemnify and at CITY's request reimburse defense costs for CITY and all its officers, volunteers, employees and representatives from and against any and all suits, actions, or claims, of any character whatever, brought for, or on account of, any injuries or damages sustained by any person or property resulting or arising from any negligent or wrongful act, error or omission by CONSULTANT or any of CONSULTANT's officers, agents, employees, or representatives, in the performance of this

Agreement, except for such loss or damage arising from CITY's sole negligence or willful misconduct.

- ii. *Indemnification for other Damages.* CONSULTANT indemnifies and holds CITY harmless from and against any claim, action, damages, costs (including, without limitation, attorney's fees), injuries, or liability, arising out of this Agreement, or its performance, except for such loss or damage arising from CITY's sole negligence or willful misconduct. Should CITY be named in any suit, or should any claim be brought against it by suit or otherwise, whether the same be groundless or not, arising out of this Agreement, or its performance, CONSULTANT will defend CITY (at CITY's request and with counsel satisfactory to CITY) and will indemnify CITY for any judgment rendered against it or any sums paid out in settlement or otherwise.
- iii. *Exclusion for CEQA Actions.* Notwithstanding the foregoing, CONSULTANT need not indemnify, defend, or hold CITY harmless in CEQA actions initiated pursuant to Public Resources Code §§ 21167 and 21168 where CONSULTANT's work may form the basis of a lawsuit. However, should CONSULTANT's work, as contemplated by this Agreement, contain errors or omissions that results in an adverse ruling against CITY, CONSULTANT agrees to indemnify and hold CITY harmless to the extent provided for in Section 18(A)(i).

- B. For purposes of this section "CITY" includes CITY's officers, officials, employees, agents, representatives, and certified volunteers.
- C. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.
- D. The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by Section 22, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

19. ASSIGNABILITY. This Agreement is for CONSULTANT's professional services. CONSULTANT's attempts to assign the benefits or burdens of this Agreement without CITY's written approval are prohibited and will be null and void.

20. INDEPENDENT CONTRACTOR. CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which it is performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not

entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

21. AUDIT OF RECORDS. CONSULTANT will maintain full and accurate records with respect to all services and matters covered under this Agreement. CITY will have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcript therefrom, and to inspect all program data, documents, proceedings and activities. CONSULTANT will retain such financial and program service records for at least three (3) years after termination or final payment under this Agreement.

22. INSURANCE.

A. Before commencing performance under this Agreement, and at all other times this Agreement is effective, CONSULTANT will procure and maintain the following types of insurance with coverage limits complying, at a minimum, with the limits set forth below:

<u>Type of Insurance</u>	<u>Limits</u>
Commercial general liability:	\$2,000,000
Professional Liability	\$1,000,000
Business automobile liability	\$1,000,000
Workers compensation	Statutory requirement

B. Commercial general liability insurance will meet or exceed the requirements of the most recent ISO-CGL Form. The amount of insurance set forth above will be a combined single limit per occurrence for bodily injury, personal injury, and property damage for the policy coverage. Liability policies will be endorsed to name CITY, its officials, and employees as “additional insureds” under said insurance coverage and to state that such insurance will be deemed “primary” such that any other insurance that may be carried by CITY will be excess thereto. Such endorsement must be reflected on ISO Form No. CG 20 10 11 85 or 88, or equivalent. Such insurance will be on an “occurrence,” not a “claims made,” basis and will not be cancelable or subject to reduction except upon 30 days prior written notice to CITY.

C. Professional liability coverage will be on an “occurrence basis” if such coverage is available, or on a “claims made” basis if not available. When coverage is provided on a “claims made basis,” CONSULTANT will continue to renew the insurance for a period of 3 years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement and will cover CONSULTANT for all claims made by CITY arising out of any errors or

omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

- D. Automobile coverage will be written on ISO Business Auto Coverage Form CA 00 01 06 92, including symbol 1 (Any Auto).
- E. CONSULTANT will furnish to CITY duly authenticated Certificates of Insurance evidencing maintenance of the insurance required under this Agreement and such other evidence of insurance or copies of policies as may be reasonably required by CITY from time to time. Insurance must be placed with insurers with a current A.M. Best Company Rating equivalent to at least a Rating of "A:VII."
- F. Should CONSULTANT, for any reason, fail to obtain and maintain the insurance required by this Agreement, CITY may obtain such coverage at CONSULTANT's expense and deduct the cost of such insurance from payments due to CONSULTANT under this Agreement or terminate pursuant to Section 05.

23. USE OF CONSULTANT. CONSULTANT must obtain CITY's prior written approval to use any consultants while performing any portion of this Agreement. Such approval must approve of the proposed consultant and the terms of compensation.

24. INCIDENTAL TASKS. CONSULTANT will meet or will participate in conference calls with CITY on an as-needed basis to provide the status on the project, which will include a schedule update and a short narrative description of progress during the past month for each major task, a description of the work remaining and a description of the anticipated work to be done before the next schedule update.

25. NOTICES. All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

If to CITY:

If to CONSULTANT:

El Segundo Planning & Building Safety Dept. -
 350 Main St. -
 El Segundo, CA 90245 -
 Attention: Paul Samaras, Principal Planner
 Phone: 310-524-2340
 Email: psamaras@elsegundo.org

Attention: -
 Phone: -
 Email: -

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or

addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

26. **CONFLICT OF INTEREST.** CONSULTANT will comply with all conflict of interest laws and regulations including, without limitation, CITY's conflict of interest regulations.
27. **SOLICITATION.** CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT's bona fide employee, 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 CONSULTANT's bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.
28. **THIRD PARTY BENEFICIARIES.** This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT's or CITY's obligations under this Agreement.
29. **INTERPRETATION.** This Agreement was drafted in and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.
30. **COMPLIANCE WITH LAW.** CONSULTANT agrees to comply with all federal, state, and local laws applicable to this Agreement.
31. **ENTIRE AGREEMENT.** This Agreement, and its Exhibit(s), sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written. This Agreement will bind and inure to the benefit of the parties to this Agreement and any subsequent successors and assigns.
32. **CONSISTENCY.** In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the attached Exhibits; this Agreement supersedes any conflicting provisions. Any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below:
 - Exhibit: A: Scope of Work.
 - Exhibit: B: Budget / Price Quote
 - Exhibit: C: Resumes
33. **RULES OF CONSTRUCTION.** Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

34. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect.
35. **AUTHORITY/MODIFICATION.** The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment.
36. **ACCEPTANCE OF ELECTRONIC SIGNATURES.** The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by electronic (.pdf) or facsimile transmission. Such electronic or facsimile signature will be treated in all respects as having the same effect as an original signature.
37. **CAPTIONS.** The captions of the paragraphs of this Agreement are for convenience of reference only and will not affect the interpretation of this Agreement.
38. **FORCE MAJEURE.** Should performance of this Agreement be prevented due to fire, flood, explosion, acts of terrorism, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties' reasonable control, then the Agreement will immediately terminate without obligation of either party to the other.
39. **STATEMENT OF EXPERIENCE.** By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

[Signatures on next page]

IN WITNESS WHEREOF the parties hereto have executed this Agreement the day and year first hereinabove written.

CITY OF EL SEGUNDO

CONSULTANT,.

Scott Mitnick,
City Manager

XXXXXX, XXXXX
Chairman/CEO

ATTEST:

Taxpayer ID No. XX-XXXXXXXX

Tracy Weaver,
City Clerk

APPROVED AS TO FORM:

Mark D. Hensley,
City Attorney