



September 9, 2024

Subject: Invitation to Submit Proposals for the City of Lakewood Pre-Approved ADU Plan Program.

The City of Lakewood invites proposals from qualified firms to provide design services for the City's Pre-Approved Accessory Dwelling Unit (ADU) Plan Program. California Government Code Section 65852.27 requires cities to, by January 1, 2025, develop a program for the pre-approval of accessory dwelling unit plans.

The City is seeking preparation of pre-approved standard plans to be published on the City's website and to be made available free of charge for the permitting and construction of ADUs.

The deadline for submitting proposals is on or before Thursday at 5:00 PM, September 20, 2024. Late submittals may be rejected. Proponents are asked to submit one five (5) copies and one (1) electronic copy (Portable Document Format (PDF)) of the Proposal to:

Mr. Abel Avalos, Director of Community Development  
City of Lakewood  
5050 Clark Avenue  
Lakewood, CA 90712

Should you have any questions, please do not hesitate to contact Paul Kuykendall, Senior Planner. His telephone number is (562) 866-9771, extension 2344. The deadline to submit general questions and information requests for this RFP is September 16, 2024. Responses to questions may be posted on the City's website by September 18, 2024.

Sincerely,

Abel Avalos  
Director of Community Development

# Lakewood

# City of Lakewood, California

September 9, 2024

A REQUEST FOR PROPOSAL TO PROVIDE CONSULTANT SERVICES TO  
THE CITY OF LAKEWOOD FOR PREPARATION OF A PRE-APPROVED  
ACCESSORY DWELLING UNIT PLAN PROGRAM



## Important RFP Dates

RFP issued on: September 9, 2024

Deadline to submit general questions and information requests: September 16, 2024

Responses to questions posted by: September 18, 2024

Due date to submit proposals: September 20, 2024

Proponent interviews to begin (anticipated): September 24, 2024

Contract awarded (anticipated): October 8, 2024

Begin services (anticipated): October 9, 2024

Project completion date (anticipated): December 30, 2024

City of Lakewood Request for Proposals – Contents

I.	Introduction.....	3
II.	Scope of Work .....	4
III.	Proponent Information .....	8
IV.	Instructions for Submitting Proposals.....	8
V.	Selection Process .....	10
VI.	Disclosures, Insurance, and Indemnification .....	11
VII.	Availability of Background Information .....	12
VIII.	General Questions and Information Requests.....	12

## I. Introduction

### A. Overview

The City of Lakewood, hereinafter referred to as the “City”, is requesting submission of proposals (RFP) from firms or individuals, hereinafter, referred to as “Proponent,” to provide consulting services to the City to design pre-approved plans for single-story Accessory Dwelling Units (ADUs).

The pre-approved standard plans will be published on the City’s website and will be made available to the public for the permitting and construction of ADUs.

### B. City Profile

Incorporated on April 16, 1954, the City of Lakewood is located in the greater Los Angeles metropolitan area, approximately 25 miles southeast of the Los Angeles civic center. Lakewood is contiguous to the jurisdictions of Long Beach, Bellflower, and Cerritos, which are to the north, La Palma and Cypress to the east, Hawaiian Gardens and Long Beach to the south, and Long Beach to the west.

According to the Southern California Association of Governments (SCAG), the population of the City of Lakewood was 81,179 in 2018 (<https://scag.ca.gov/data-tools-local-profiles> select Los Angeles County, then Lakewood). Lakewood’s environment, both locally and regionally, is primarily urban. Lakewood is 9.5 square miles in area.

City’s Vision Statement - To be a welcoming and thriving community where everyone can live, work and play in a safe and healthy environment.

City’s Mission Statement - To enhance the quality of life of the Lakewood community by providing efficient public services that are responsive and fiscally prudent and with a commitment to legendary customer service.

To read about the City’s Values Statements and Goals, visit:

<https://www.lakewoodcity.org/Government/Vision-Mission-and-Values>

### C. ADU objective standards

The City’s objective standards for ADUs are contained in the Administrative Manual for Residential Development which is on the City’s website:

<https://www.lakewoodcity.org/files/assets/public/building-amp-planning/documents/administrative-manual-for-residential-development-2022-01-12.pdf>

### D. City Expectations

The Proponent is expected design and obtain approval through the Los Angeles County Public Works building plan check system. The pre-approved ADU building plan packages for two (2) single-story floor plans as described in the Scope of Work with project completion date of December 30, 2024.

II. Scope of Work

The Proponent will coordinate with the Community Development Department for the preparation and submittal of the ADU plans.

A. Project Schedule

1. The Proponent will develop and submit the ADU concept floor plans, elevations, and roof plan to the City no later than October 24, 2024.
2. Community Development staff will review and either approve the concept floor plans, elevations, and roof plan or provide the Proponent with corrections no later than October 30, 2024.
3. The Proponent shall submit to building plan check no later than November 7, 2024
4. No later than December 9, 2024, the Proponent will complete an required revisions and resubmit Building Code complaint ADU plans to the City such that they will be ready for issuance of building permits.

B. Deliverables

1. Prepare and submit one (1) Portable Document Format (PDF) of each of the ADU plans to the Community Development Department.
2. Each floor plan shall be prepared for building plan check approval and shall also include a reverse image version (opposite hand version).
3. The deliverables shall include two (2) separate plan packages:
  - a. A detached two-car garage converted into an ADU studio, approximately 365 square feet with an option for an enclosed bedroom.
  - b. A new 500 square-foot, fully detached one-bedroom ADU.
4. The ADU plans shall include foundation plans, construction cross sections, construction details, utility plans, and any other required construction documents based on the 2024 Los Angeles County Building Code. The plans shall include Energy Readiness Requirements for an all-electric dwelling unit and photovoltaic solar panels for the new fully detached ADU. All ADU plans shall be accurate and complete in order to obtain building plan check approval and ready for issuance of building permits.
5. An itemized list of the following items necessary for completion of the ADUs as presented in the ADU plans:
  - a. Electrical – A count of all panels, meters, switches, outlets, and light fixtures.
  - b. Plumbing – A count of all sinks, dishwashers, gas appliances, toilets, showers, bathtubs, and or (combination shower/bathtubs), water heaters, and hose bibs.
  - c. Mechanical – A count of all fans, heaters, air conditioners, and/or heat pumps.

III. Proponent Information

A. Proponent Selection Timeline.

The following table is the City’s tentative schedule for selecting a Proponent, preparing and completing this project:

Activity	Due Date
RFP issued	September 9, 2024
Deadline to submit general questions and information requests	September 16, 2024
Responses to questions posted by City	September 18, 2024

Due date to submit proposals	September 20, 2024
Proponent interviews to begin (anticipated)	September 24, 2024
Contract awarded (anticipated)	October 8, 2024
Begin consulting services (anticipated)	October 9, 2024
Project completion date (anticipated)	December 30, 2024

B. Proponent Interview.

Proponents considered most qualified to provide the required services may be requested to participate in an oral interview at the City's discretion. Applicants will be notified in writing of the time and place for the interview. It is expected that key members of the engagement team (owner, partner, manager, senior personnel, and/or project manager) be present for the interview process. Failure to appear for the oral interview may be cause to disqualify the Proponent from further consideration.

C. Travel Expenses.

The City shall not reimburse awarded Proponent for local travel related expenses; therefore, any such costs must be included in the rates set forth in the fee schedule. However, the City may, at its own discretion, provide reimbursement for reasonable pre-approved by the City for travel out of area to and reimbursement shall be limited to airfare and hotel expenses only. Proponents submitting expense reimbursement requests to the City shall include on their invoices detailed information including description, date of the expense, business purpose and amount prior to such travel date. Travel related expenses shall be reimbursed at direct cost, but not to exceed the Federal per diem rate as established by the U.S. General Services Administration ([www.gsa.gov/perdiem](http://www.gsa.gov/perdiem)), plus applicable taxes. Proponent shall attach supporting documents substantiating all expenses such as itemized receipts, paid invoices, or paid credit card statements (if description has sufficient detail). All requests for travel-related expense reimbursement shall be pre-approved by the City Manager or his/her designee.

IV. Instructions for Submitting Proposals

A. Submit Proposal and Fee Schedule.

It is the responsibility of the Proponent to ensure the proposal is delivered on time to the Director of Community Development. Any proposal received after the deadline will be disqualified and will not be considered.

B. Examination of the RFP Content.

By submitting a proposal, the Proponent represents that it has thoroughly examined and become familiar with the contents of the RFP and that it is capable of performing quality work to achieve the City objectives. The submission of a *signed* proposal shall be considered an agreement to all the terms, conditions, and specifications provided in the RFP. The proposal shall contain all of the following components:

1. **Sample Agreement:** A Sample of Standard Agreement is attached (Exhibit A) for the purpose of informing the Proponent of the fixed, predetermined, standard contract provisions with which they will be required to comply. These provisions are subject to revision by the City at any time prior to the signing of the agreement;
2. **Exceptions:** If the Proponent suggests alternatives or states exceptions to any term or condition in the Agreement, or to any provision or recurrent of the RFP, such alternative or exception shall be clearly stated and identified in the submitted proposal. Otherwise, the successful Proponent will be expected to sign the Agreement upon award of the contract. Any alternative proposal must satisfy all minimum qualifications specified in the RFP. The City expressly reserves the right, in its sole discretion, to (1) reject a proposal containing any exception or alternatives as non-conforming, or (2) accept any proposal alternative or exception and to award a contract based there on if determined to be in the best interest of the City;
3. **Additional Information and Services.** The City reserves the right, where it may serve the City's best interest, to request additional information or clarifications from Proponents. The scope of services describes the minimum work to be completed. Upon final selection of the Proponent, the Scope of Work may be modified and refined during negotiations with the City.
4. **Proposal Signature:** The Proposal shall include an original cover letter signed by an official authorized to bind on behalf of the Proponent. The cover letter shall include the Proponent's business name, mailing address, telephone number, and e-mail address of the Proponent's point of contact. The cover letter shall contain the printed name and title of the official signing on behalf of the Proponent. The cover letter shall contain a statement that the Proposal shall remain valid for no less than 120 calendar days from the date the Proposal is received by the City. If the Proponent is a corporation, the official signing the Proposal must be empowered by the Proponent to do so. A copy of the corporate resolution or minutes authorizing the official to sign on behalf of the corporation shall be submitted with the Proposal;
5. The cover letter shall identify the Proponent's principal or project manager within the Proponent's firm who will have direct and continuous responsibility for this project. The principal or project manager shall be the contact point for City staff for all matters related to this project and shall oversee all day-to-day activities for the project. The Proposal shall include the expected percentage of involvement of the principal or project manager and other Proponent staff will have in carrying out the scope of services. A resume for the principal or project manager and each Proponent staff shall be included in the Proposal;
6. The Proposal shall contain a list of any and all subcontractors to be hired by the Proponent as part of the project. A summary of key personnel, experience, and qualifications of the subcontractor shall be submitted with the Proposal;
7. The Proposal shall contain a description of the Proponent's firm, organizational structure, location of the principal office, and other pertinent information;
8. The Proposal shall contain a not-to-exceed cost, with the total amount clearly indicated, and an itemized cost estimate for each component of the project

broken down by staff level and required staff hours. The Proposal should contain all costs for preparation of an Environmental Impact Report. Attendance at all public meetings, workshops, and hearings identified in this RFP shall be included in the Proposal;

9. The Proposal shall include hourly rates for all Proponent staff and subcontractors assigned to this project, a sample invoice, methodology for addressing billing disputes, and whether overhead costs are factored into hourly rates or charged in addition to hourly rates;
10. The Proposal shall include a list of public agencies for which the Proponent has successfully completed pre-approved ADU plans. The name of the public agency, contact person, address, and telephone number for which the pre-approved ADU plans were prepared shall be included in the Proposal;
11. Any questions, interpretations, or clarifications about any portion of this RFP must be requested in writing (by the deadline indicated in the RFP Proposal Timeline). All written questions will be answered in writing and conveyed to all Proponents in writing via the City website. Oral explanations or instructions shall not bind the City;

C. Proposal Withdrawal.

Proponent agrees that failure on its part to list all cost components related to the service will not be accepted by the City as an acceptable justification to re-quote the proposal. Proponent acknowledges that the original proposal and costs provided stand. However, Proponent has the option of withdrawing a proposal at any time until a final Contract is awarded. The City reserves the right to not consider any re-submitted proposals that had previously been withdrawn.

V. Selection Process

Issuance of this RFP and receipt of Proposals to this RFP shall not be construed the City will award a contract or pay costs incurred in responding to this RFP. The City reserves the right to accept or reject the combined or separate components of a proposal in part or in the entirety of such component and waive any informality in any submittal. All submittals requirements contained in this RFP must be fulfilled and completed and, any omission must be identified and explained, otherwise the submittal may be rejected. The City reserves the right to postpone the review of the Proposal for its own convenience or to accept or reject any or all proposals received in response to the RFP or to award a contract based on the proposal that best meets the City's needs.

1. **Proposals are due on or before Thursday at 5:00 PM, September 20, 2024.** The city reserves the right to reject late submittals. Proponents shall submit one (1) original, five (5) paper copies, and one electronic PDF copy of the Proposal to:

Mr. Abel Avalos, Director of Community Development  
City of Lakewood  
5050 Clark Avenue  
Lakewood, CA 90712



2. Proposals are to be evaluated by the City of Lakewood's staff members.
3. Interviews will be held with those firms whose Proposals most closely match the City's Expectations and the content of the RFP.
4. Staff will recommend the final selection to the City Council, which will review and approve a contract for professional services (the Agreement).
5. No oral, telegraphic, electronic mail, facsimile, or telephonic proposals or modifications will be considered unless specified. The City shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Delivery of proposals shall be made to the office specified in this Request for Proposal. Deliveries made before the Submittal Deadline, but to the wrong City office, will be considered non-responsive unless re-delivery is made to the office specified before the Submittal Deadline. All proposals shall become the property of the City.

#### VI. Disclosures, Insurance, and Indemnifications

The Agreement between the selected Proponent and the City must include insurance and indemnifications. Insurance limits will be provided to the Proponent prior to the award of the contract. Proof of insurance is not required with the submittal of the Proposal but will be required prior to the award of the contract.

1. The City will provide to the Proponents, prior to execution of the Agreement, the contract insurance requirements for Commercial General Liability, Automobile Liability, Workers Compensation, Professional Liability and Endorsements.
2. The Proponent shall notify the City in writing when the Proponent seeks to change key personnel identified in the Proposal. The Proponent shall not change subcontractors without prior written approval from the City. The City reserves the right to reject any and all changes to key personnel and/or subcontractors. The City reserves the right to renegotiate the Agreement for these services if there are any changes to key personnel or subcontractors.
3. Provide a list of any and all litigation, including personal and property, involving the Proponent's firm in the last five (5) years.
4. The Proposal shall disclose any conflict of interest, or any matter they may be perceived as a conflict of interest, that the Proponent may have in carrying out the services described in the Agreement.
5. Any evidence of agreement or collusion among Proponents, acting illegally to restrain freedom of competition by agreement to propose a fixed price, or otherwise, may render the Proposal of such proponents void.
6. The selected Proponent shall obtain and maintain a business license from the City of Lakewood for the entire duration of the Agreement.
7. The Proponent shall comply with all existing State and Federal labor laws. The selected Proponent shall be responsible for compliance with all applicable OSHA standards and requirements. The Proponent shall be responsible to ensure that all of its subcontractors comply with the requirements as stated in this RFP and the Agreement.

8. All responses, proposals, and information submitted by the Proponent shall become public record upon contract award. Proposals shall not be marked as confidential or proprietary. Regardless of any materials submitted by the Proponent marked as confidential, proprietary, or another term of similar meaning, information in Proposals shall become part of the public record and subject to disclosure without further notice to the Proponent. The City shall not be liable for the disclosure of any such materials or records.
9. The Proponent shall not, in any way, be considered to be an officer, agent, or employee, of the City.
10. All documents, records, drawings, designs, specifications, developed by the Proponent shall become the property of the City, but may used by the Proponent as a portfolio reference.

VII. Availability of Background Information

Links to the City’s objective standards for ADUs are contained in the Administrative Manual for Residential Development which is on the City’s website:

<https://www.lakewoodcity.org/files/assets/public/building-amp-planning/documents/administrative-manual-for-residential-development-2022-01-12.pdf>

VIII. General Questions and Information Requests

All general questions and/or information requests should be directed to Paul Kuykendall, AICP, Senior Planner via e-mail at [pkuykendall@lakewoodcity.org](mailto:pkuykendall@lakewoodcity.org) or via U.S. Mail to:

City of Lakewood  
Paul Kuykendall, AICP, Senior Planner  
5050 Clark Avenue  
Lakewood, CA 90712

All requests for information and/or general questions shall be submitted in writing or by e-mail no later than September 16, 2024.

**CITY OF LAKEWOOD  
PROFESSIONAL SERVICES AGREEMENT  
WITH**

---

This Professional Services Agreement (“Agreement”) is made and effective as of \_\_\_\_\_ (the “Effective Date”), by and between the City of Lakewood, a California municipal corporation, (the “City”) and \_\_\_\_\_ (“Consultant”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on the Effective Date, and shall remain and continue in effect until the Services are completed, unless sooner terminated pursuant to the provisions of this Agreement.

**2. SERVICES**

Consultant shall perform the services described and set forth in Consultant’s Proposal attached hereto as Exhibit A (“Services”), incorporated herein as though set forth in full.

**3. PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of Consultant’s ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant under this Agreement.

**4. CITY MANAGEMENT**

The City Manager or designee shall represent the City in all matters pertaining to the administration of this Agreement.

**5. PAYMENT**

- A. The City agrees to pay Consultant for Services satisfactorily performed in accordance with the fees set forth in Exhibit A, in an amount not to exceed \$\_\_\_\_\_.
- B. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager or designee. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to in writing by the City and

Consultant at the time the City's written authorization is given to Consultant for the performance of said services.

- C. Consultant will submit invoices monthly for actual Services performed. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's Services or fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. Any final payment under this Agreement shall be made within forty-five (45) days of receipt of an invoice therefor.

**6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

- A. The City may at any time, for any reason, without cause, suspend or terminate this Agreement, or any portion hereof, by serving written notice upon Consultant. Upon receipt of said notice, Consultant shall immediately cease all Services under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.
- B. In the event this Agreement is terminated pursuant to this section, the City shall pay to Consultant the actual value of the Services performed up to the time of termination, unless the City disputes any of the Services performed or fees. Upon termination of the Agreement pursuant to this section, Consultant will submit an invoice to the City pursuant to Section 5.

**7. DEFAULT OF CONSULTANT**

If the City determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, the City shall serve Consultant a written notice of the default. Consultant shall have seven (7) days after service of said notice to cure the default. In the event that Consultant fails to cure the default within such period of time or fails to present the City with a written plan for the diligent cure of default if such default cannot be cured within seven days, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement. The City shall also have the right to offset against the amount of any fees due to Consultant any costs incurred by the City as a result of Consultant's default.

**8. OWNERSHIP OF DOCUMENTS**

- A. Consultant shall maintain complete and accurate records with respect to tasks, costs, expenses, receipts, and other such information required by the City that relate to the performance of Services under this Agreement. Consultant shall maintain adequate records of Services provided in sufficient detail to permit an evaluation of Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily

accessible. Consultant shall provide free access to the representatives of the City or its designees at reasonable times to such books and records; shall give the City the right to examine and audit said books and records; shall permit the City to make transcripts or copies therefrom as necessary; and shall allow inspection of all Services, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

- B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the Services shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, copying and/or printing computer files. Consultant hereby grants to the City all right, title, and interest, including any copyright, in and to the documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared by Consultant in the course of providing the Services under this Agreement.

## 9. **INDEMNIFICATION AND DEFENSE**

- A. Indemnity.

To the fullest extent permitted by law, Consultant shall indemnify and hold harmless the City and any and all of its officials, officers, employees, agents, and/or volunteers ("Indemnified Parties") from and against any and all losses, liabilities, damages, costs and expenses, including attorney's fees and costs, caused in whole or in part by the acts, errors, or omissions of Consultant, its officers, agents, employees, subcontractors, or subconsultants (or any agency or individual that Consultant shall bear the legal liability thereof) in the performance of Services under this Agreement.

- B. Duty to Defend.

In the event the City, its officials, officers, employees, agents, and/or volunteers are made a party to any claim, action, lawsuit, or other adversarial proceeding ("Action") arising from the performance of the Services under this Agreement, whether or not Consultant is named in such Action, and upon demand by the City, Consultant shall defend the City at Consultant's sole cost, or at the City's option, to reimburse the City for its costs of defense, including reasonable attorney's fees and costs incurred in the defense.

- C. Payment by the City for Services is not a condition precedent to enforcement of this section. Consultant's duty to defend, indemnify, and hold harmless the City

shall not extend to the City's sole or active negligence. In the event of any dispute between Consultant and the City as to whether liability arises from the sole or active negligence of the City or its officials, officers, employees, agents, and/or volunteers, Consultant will be obligated to pay for the City's defense until such time as a final judgment has been entered adjudicating the City as solely or actively negligent. Consultant will not be entitled in the absence of such a determination to any reimbursement of defense costs including, but not limited to, attorney's fees, expert fees and costs of litigation.

## **10. INSURANCE**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached hereto and made a part of this Agreement.

## **11. INDEPENDENT CONSULTANT**

- A. Consultant is and shall at all times remain as to the City a wholly independent consultant and/or independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither the City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, agents, subcontractors, or subconsultants, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, agents, subcontractors, or subconsultants are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against the City, or bind the City in any manner.
- B. No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, the City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for the City. The City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold the City harmless from any and all taxes, assessments, penalties, and interest asserted against the City by reason of the independent Consultant relationship created by this Agreement. Consultant further agrees to indemnify and hold the City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. The City shall have the right to offset against the amount of any fees due to Consultant under this Agreement as

a result of Consultant's failure to promptly pay to the City any reimbursement or indemnification arising under this paragraph.

- C. In the event that Consultant or any employee, agent, subcontractor, or subconsultant of Consultant providing Services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, subcontractors, or subconsultants, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.
- D. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, subcontractors, and subconsultants providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the City, including but not limited to eligibility to enroll in PERS as an employee of the City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

## **12. LEGAL RESPONSIBILITIES**

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

## **13. UNDUE INFLUENCE**

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

## **14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of the City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Services during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any

Agreement or sub-agreement, or the proceeds thereof, for Services to be performed under this Agreement.

**15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

- A. All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without the City's prior written authorization, unless the information is clearly public. Consultant, its officers, employees, agents, subcontractors, or subconsultants, shall not without written authorization from the City Manager or designee, or unless requested by the City's attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the Services performed under this Agreement or relating to the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives the City notice of such court order or subpoena.
  
- B. Consultant shall promptly notify the City should Consultant, its officers, employees, agents, subcontractors, and/or subconsultants be served with any summons, complaint, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request ("Discovery"), court order, or subpoena from any person or party regarding this Agreement and the Services performed hereunder or the City, unless the City is a party to any lawsuit, arbitration, or administrative proceeding connected to such Discovery, or unless Consultant is prohibited by law from informing the City of such Discovery. The City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding as allowed by law. Unless the City is a party to the lawsuit, arbitration, or administrative proceeding and is adverse to Consultant in such proceeding, Consultant agrees to cooperate fully with the City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, the City's right to review any such response does not imply or mean the right by the City to control, direct, or rewrite said response, or that the City has an obligation to review any such response or verifies any response it has reviewed.

**16. NOTICES**

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



To the City: City of Lakewood  
5050 Clark Avenue  
Lakewood, CA 90712  
Attention: City Manager

To Consultant: Name \_\_\_\_\_  
Address \_\_\_\_\_  
Address \_\_\_\_\_  
Attention: \_\_\_\_\_

**17. ASSIGNMENT**

Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Before retaining or contracting with any subcontractor or subconsultant for any services under this Agreement, Consultant shall provide the City with the identity of the proposed subcontractor or subconsultant, a copy of the proposed written contract between Consultant and such subcontractor or subconsultant which shall include and indemnity provision similar to the one provided herein and identifying the City as an indemnified party, or an incorporation of the indemnity provision provided herein, and proof that such proposed subcontractor or subconsultant carries insurance at least equal to that required by this Agreement or obtain a written waiver from the City for such insurance.

**18. LICENSES**

At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses required of it by law for the performance of the Services described in this Agreement.

**19. GOVERNING LAW**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the City.

**20. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written and pertaining to the subject of this Agreement or with respect to the terms and conditions of this Agreement shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**21. AMENDMENTS**

Any amendments to this Agreement must be in writing and executed by the parties hereto, or their respective successors and assigns, in order to be valid.

**22. ATTORNEYS' FEES**

In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

**23. CONSTRUCTION**

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

**24. WAIVER**

The delay or failure of any party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

**25. SEVERABILITY**

If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

**26. COUNTERPARTS**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

**27. AUTHORITY TO EXECUTE THIS AGREEMENT**

The persons executing this Agreement on behalf of the parties warrant and represent that they have the authority to execute this Agreement on behalf of said parties and have the authority to bind the parties to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

[If Consultant is a corporation, two signatures are required: Signature 1 – the Chairperson of the Board, the President, or any Vice President; Signature 2 – the Secretary, any Assistant Secretary, the Chief Financial Officer, or any Assistant Treasurer (Corp. Code § 313).]

CITY OF LAKEWOOD

CONSULTANT

\_\_\_\_\_  
Mayor

\_\_\_\_\_

ATTEST:

CONSULTANT

\_\_\_\_\_  
City Clerk

\_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Attachments:      Exhibit A      Consultant's Proposal  
                         Exhibit B      Insurance Requirements

**EXHIBIT A**  
**CONSULTANT'S PROPOSAL**

## EXHIBIT B

### INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of the City, and prior to commencement of Services, Consultant shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to the City. If the Consultant maintains higher limits than the minimum limits shown below, the City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

**General liability insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

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

Consultant shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.

**Umbrella or excess liability insurance.** Consultant shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability, and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop-down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

## **Other provisions or requirements**

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

**Duration of coverage.** Consultant shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, or Consultant's agents, representatives, employees, subcontractors, or subconsultants.

**Primary/noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by the City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

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

**Acceptable insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance 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 VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

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

**Enforcement of Agreement provisions (non estoppel).** Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

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

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

**Additional insured status.** General liability policies shall provide or be endorsed to provide that the City and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

**Prohibition of undisclosed coverage limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to the City and approved of in writing.

**Separation of insureds.** A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

**Pass through clause.** Consultant agrees to ensure that its subcontractors or subconsultants, and any other party involved with the Services who is brought onto or involved in the Services by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with Consultants, subcontractors, subconsultants, and others engaged in the Services will be submitted to the City review.

**The City's right to revise specifications.** The City reserves the right at any time during the term of the Agreement to change the amounts and types of insurance required by giving Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to Consultant, the City and Consultant may

renegotiate Consultant's compensation or come to some other agreement to address the additional cost.

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

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

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