



CITY OF MONTEBELLO

Request for Proposals

(RFP No. 17-13)

COMPREHENSIVE USER FEES AND CHARGES STUDY

Release Date: March 23, 2017

Due Date: April 20, 2017, at 5:00 P.M.

1. **Purpose**

The City of Montebello (“City”) is requesting proposals from qualified firms for a Comprehensive User Fees and Charges Study (“Study”). The Study is to analyze the current direct and indirect costs to provide various City services; determine the current recovery rate; conduct a survey of surrounding and similar communities on their recovery rate and fees; and recommend an updated recovery rate and fees for the City. The Study would analyze the services and permit issuance by all City Departments and Divisions, including:

- City Clerk
- Community Development Department
 - Building Division
 - Code Enforcement
 - Planning Division
- Finance Department
- Fire Department
- Police Department
- Public Works Department
 - Engineering
 - Streets
 - Tree
 - Golf Course
- Recreation & Community Services Department
- Transit Department

This Study does not include any tax (including sales or utility) or any utility service charge, including water rates. Such are expressly excluded from the scope of this Study and no change is proposed as part of this task.

2. **Project Scope of Work**

Project tasks shall include, but are not necessarily limited to, the below. If the consultant feels that additional tasks are warranted, the proposal must clearly identify the recommendation in the proposal.

- a. Work and meet with City staff to refine the project scope, purpose, and goals of the City’s Study to ensure that the Study would be both accurate and appropriate

- to the City's needs. Review project schedule and answer any question pertaining to the successful development of the Study.
- b. Meet with staff and conduct interviews as needed to gain understanding of the City's process and operation. Conduct comprehensive review of the City's existing fees and charges.
 - c. Identify cost of providing each City service in a manner that is consistent with all applicable laws, statutes, rules and regulations governing the collection of fees, rates, and charges by public entities.
 - d. Compare service costs with existing recovery levels. This should include the City's current fee schedule as well as areas where the City, perhaps, should charge in light of services provided and practices of similar or neighboring cities.
 - e. Recommend appropriate fees and charges based analysis together with the appropriate subsidy percentage for those fees where full cost recovery is not recommended.
 - f. Prepare a report that identifies each service, its full cost, current and recommended cost recovery levels.
 - g. Prepare a report that identifies the current scope performed under the applicable fee, the proposed scope performed under the recommended fee, present fees, recommend fees, percentage change, cost recovery percentage, revenue impact and fee comparison with other cities comparable to Montebello.
 - h. Report on other matters pertinent in the course of the Study that is recommended to be considered.
 - i. Present the Study to the City and make necessary adjustments as requested.
 - j. Attend public meetings and assist in preparation of presentation to the City Council and general public.
 - k. Provide the City with an electronic copy of the final comprehensive study, including related schedules and cost documentation.
 - l. Consult with the City should it become necessary to defend the City's fees as a result of any legal or other challenges.

3. **Project Deliverables**

- a. Determine the current cost of service charged by the City of Montebello.

Deliverable – Summary of all fees and charges with backup explanation of how the fees are calculated. The costs should include all operating and overhead costs accounting for the full cost of service delivery.

- b. Determine the current recovery rate for each city departments. For the general fund departments, the study shall determine the actual recovery rate and the subsidized rate by the City's General Fund.

Deliverable – Summary of the cost recovery rates by each City department and the general fund subsidized rates when applicable. Backup explanation of how the fees are calculated.

- c. Recommendation to the City on:

- i. The appropriate recovery rate.
- ii. Fees and charges amounts the City should implement in its fee schedule based on governmental sector's best practices and incompliance with all applicable laws.

Deliverable – A proposed comprehensive citywide fee schedule including:

- i. All proposed fees and charges amounts.
- ii. Recovery and subsidized rates covering all city departments.
- iii. All backup calculations and explanations of how the numbers were derived.
- iv. Methodology to calculate fee increases in future years.

- d. Whenever possible, the recommendations or recommended fee changes must tie back to the City's existing fee schedule by line item and category for ease of implementation.

4. Proposal Requirements

The proposal should include the minimum information requested below in the order listed. Additional information, if provided, should be separately identified in the proposal.

Section One – Transmittal Letter

A cover letter signed by an official authorized to solicit business and enter into contracts for the proposer. The cover letter should include the name, address, email address, and phone number of the contact person.

Section Two – Experience and Qualification

Description summarizing the proposer’s experience over the past 10-years in performing similar services to municipal clients.

The firm’s ability to produce the required product in a timely fashion and the ability to present any necessary reports or studies to the City and general public.

Section Three – Outline Strategies and Options

Outline methodology, planning and design strategies that will result in the development of the recommendation.

Section Four – References

References from three different clients, including the name, email address and telephone number for each reference.

Section Five – Estimated Project Timeline and Pricing

Provide an estimated project timeline, including individual task, milestone, and deliverable.

Description of the project budget itemized according to the proposed timeline and each stage of work.

The proposed pricing shall be a fixed fee (“not to exceed”) inclusive of all tasks including but not limited to, printing, attendance at meetings, public presentation, travel, etc.

5. General Conditions

- a. By submitting a response, the proposer represents understanding and warrants that:
 - i. There is no express or implied obligation for the City to reimburse responding proposer for any expense incurred in preparing proposal in response to this request.
 - ii. During the evaluation process, the City reserve the right, where it may serve the City's best interest, to request additional information or clarification from proposers, or to allow corrections of errors or omissions. At the discretion of the City or the Selection Committee, firms submitting proposal may be requested to make oral presentations as part of the evaluation process.
 - iii. The City reserves the right to retain all proposals submitted, and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the proposer of the conditions contained in this request for proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City and the proposer selected.
 - iv. The City has a standard Professional Service Agreement, a copy of which is attached. Any objections to the standard Agreement must be specifically noted in the proposal. Please note the insurance requirement in the Agreement.
 - v. The City reserves the right to reject any or all proposals, to waiver any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.
 - vi. At no time shall the consultant, its agents, representatives or contracted personnel contact or otherwise communicate with City department personnel or City official without prior arrangement with the Assistant City Manager Danilo Batson or his designee, for the purposes of negotiating, modifying, changing or interpreting the proposal or specifications. Any changes, modifications, or interpretations must be handled by one source uniformly for all consultants. All questions relating to the statements contained in the RFP are to be addressed in

writing to Assistant City Manager Danilo Batson at 1600 W. Beverly Blvd., Montebello, CA 90640 or via e-mail at dbatson@cityofmontebello.com.

6. Proposal Submittal

For consideration to be given to any proposal submitted pursuant to this RFP, 5 copies of the submittal materials must be received on **April 20, 2017 by 5:00 p.m.**, to the address below:

City Clerk's Office
City of Montebello
1600 W. Beverly Boulevard
Montebello, CA 90640

Late proposals are not accepted regardless of postmark and will be returned unopened to the sender. No oral, telephone, fax or e-mail proposals will be considered. The City reserves the right to reject any or all proposals submitted.

7. Selection Criteria

Proposals may be evaluation based on, but not limited to, the following criteria in no specific order:

- a. Firm's experience with similar projects.
- b. Time required to accomplish the requested services.
- c. References.
- d. Ability to work effectively with the City.
- e. Proposed cost.

The City retains sole discretion to evaluate proposal. Receipt of proposal in response to this RFP does not obligate the City in any way to engage any consultant. The City reserves the right to reject any and all proposal, wholly or in part, at any time, without penalty. The City shall retain the right to abandon the proposal process at any time prior to the actual execution of a contract with a consultant, and the City shall bear no financial or other responsibility in the event of such abandonment. The City reserves the right to negotiate any and all final terms and conditions including length, scope of services, and compensation of any agreement entered.

DRAFT PROFESSIONAL SERVICES AGREEMENT

**CITY OF MONTEBELLO
PROFESSIONAL SERVICES AGREEMENT NO.
BY AND BETWEEN
CITY OF MONTEBELLO AND [CONTRACTOR]**

THIS AGREEMENT (“Agreement”) is made and entered into on _____, 2017, by and between the CITY OF MONTEBELLO, a municipal corporation (hereinafter referred to as “CITY”), and _____ (hereinafter referred to as “CONSULTANT”). CITY and CONSULTANT are sometimes referred to herein individual as the “Party,” and jointly as the “Parties.”

RECITALS

WHEREAS, the CITY desires to retain a qualified professional CONSULTANT to provide appraisal and valuation services of the CITY’s municipal water system;

WHEREAS, the CONSULTANT represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

NOW THEREFORE, in consideration of performance by the Parties of the covenants and conditions herein contained, the Parties hereto agree as follows:

SECTION 1. SERVICES / COMPENSATION.

A. All terms, conditions, requirements, and provisions of the Request for Proposals for Citywide Total Compensation Study (dated April 17, 2017) (“Request for Proposals”), as such is set forth fully in Exhibit “A” hereto, are hereby incorporated fully herein by this reference and shall be binding on the Parties. To the extent of a conflict between the terms of this Agreement and those set forth in any exhibits or attachments hereto, the terms of this Agreement shall govern.

B. CONSULTANT shall provide to CITY those services that are set forth fully in the Request for Qualifications/ Request for Proposals incorporated fully herein by this reference (hereinafter “Professional Services”).

C. CONSULTANT shall be compensated for performance of the Professional Services as set forth in the Schedule of Compensation attached hereto as Exhibit “B” and incorporated fully herein by this reference (“Compensation”). CONSULTANT shall provide an itemized billing statement to the CITY each month for Professional Services performed. CONSULTANT shall no incur fees or costs which exceed the Compensation without the prior written consent of the CITY.

SECTION 2. TERM.

This Agreement shall commence upon issuance of the Notice to Proceed by the City (“Effective Date”), and shall expire three (3) months from the Effective Date, unless terminated earlier as hereinafter provided. This Agreement may be extended for up to one (1) additional year upon such terms and conditions mutually agreed upon by the Parties in writing.

SECTION 3. PERFORMANCE.

- a. CONSULTANT shall, at all times, faithfully, competently, and to the best of its ability, experience and talent, perform all Professional Services and other tasks described herein.
- b. CONSULTANT shall employ, at a minimum, generally accepted standards and practices utilized by companies and individuals engaged in providing similar services as are required of CONSULTANT hereunder, in meeting its obligations under this Agreement.
- c. CONSULTANT shall be knowledgeable of and subject to all CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command.
- d. CONSULTANT shall have the right to retain, subject to CITY's advance written approval, additional individuals, consultants or sub-consultants to assist in the completion of the Professional Services. Compensation for additional individuals, consultants or sub-consultants shall be the sole and exclusive responsibility of CONSULTANT.
- e. CONSULTANT shall retain all original reports, field and office notes, correspondence, calculations, maps, and other documents specifically related to the services provided by CONSULTANT pursuant to this Agreement, other than documents which are exempt from disclosure pursuant to the attorney-client privilege or any other applicable law. Said documents shall be made available for inspection by the CITY upon request.

SECTION 4. WORK PRODUCT.

- a. CONSULTANT hereby agrees that all work product produced pursuant to or in the performance of this Agreement shall be the property of and shall be provided to the CITY, and ownership of said work product shall be retained by the CITY. CONSULTANT may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by CONSULTANT.
- b. All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed to any third-party by CONSULTANT without prior written consent by the CITY. The CITY shall grant such consent if disclosure is legally required. All such written work product shall be returned to the CITY upon the termination or expiration of this Agreement. CONSULTANT agrees that the covenants contained in this Article shall survive the expiration or termination of this Agreement.

SECTION 5. EXTRA SERVICES.

No extra services over and above the Compensation shall be rendered by CONSULTANT under this Agreement unless such extra services first shall have been duly authorized in writing by the City Manager.

SECTION 6. CITY SUPERVISION.

The City Manager shall have the right of general supervision of all work performed by CONSULTANT and shall be the CITY agent with respect to obtaining CONSULTANT's compliance hereunder. No payment for services rendered under this Agreement shall be made without the prior approval of the City Manager.

SECTION 7. TERMINATION.

In the event that either Party hereto fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, the non-defaulting Party shall give the defaulting Party written notice of the default, the nature of the default, and of the steps necessary to cure the default.

a. Termination for Cause. In the event that any of the provisions of the Agreement are violated by either Party, the non-defaulting Party may terminate the Agreement by serving written notice upon the other Party, listing the violation(s) and its intent to terminate such Agreement unless within ten (10) days after the serving of such notice, such violation shall cease or be rectified, the contract shall upon the expiration of an additional thirty (30) days cease and terminate. Violations by CONSULTANT which cannot be corrected within ten (10) days, said Agreement shall at the option of the City cease and terminate upon the giving of like notice. In the event of any such termination for default by CONSULTANT, the City may take over the work and prosecute the same to completion by contract or otherwise for the account and at the expense of the CONSULTANT. The CONSULTANT and his sureties shall be liable to the City for any excess cost occasioned in the event of any such termination. This change shall not be construed to prevent the termination, for other causes authorized by law or other provisions of this contract. In the event of a termination for cause, CONSULTANT shall only be entitled to the Compensation for those Professional Services satisfactory performed on or before the effective date of termination.

b. Termination For Convenience. The CITY shall have the option, at its sole discretion and without cause, to terminate this Agreement in whole or in part by giving thirty (30) business days' written notice to CONSULTANT. Upon the termination of this Agreement as provided herein, the CITY shall provide to CONSULTANT the part of Compensation which would otherwise be payable to CONSULTANT for services CONSULTANT had completed as of the date of termination, less the amount of all previous payment with respect to the Compensation. Further, upon such a termination for convenience by CITY, the Parties agree that CONSULTANT shall be reimbursed for any "non-refundable" costs that CONSULTANT has incurred for its services under this Agreement, provided that: (1) such "non-refundable" costs were incurred by the CONSULTANT prior to the date of termination, and (2) that

CONSULTANT provides the CITY with adequate proof that CONSULTANT incurred the costs, and is unable to be seek a refund for such costs. Such “non-refundable” costs may include, but are not limited to, travel reservations incurred by CONSULTANT for its performance of services under this Agreement. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

SECTION 8. EMPLOYMENT OF CITY EMPLOYEES.

No regular employee of the CITY shall be employed by CONSULTANT during the term of this Agreement.

SECTION 9. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES.

No official or employee of the CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount which may become due to CONSULTANT.

SECTION 10. INDEPENDENT CONSULTANT.

a. The CONSULTANT is and shall, at all times, remain as to the CITY a wholly independent CONSULTANT. Neither the CITY nor any of its elected officials, officers, employees or agents shall have control over the conduct of the CONSULTANT except as expressly set forth in this Agreement. The CONSULTANT shall not at any time or in any manner represent that he is in any manner an elected official, officer, employee or agent of the CITY. No employee benefits shall be available to CONSULTANT in connection with the performance of this Agreement. Except as provided in this Agreement, CITY shall not pay salary, wages, or other compensation to CONSULTANT for performance hereunder for CITY, CITY shall not be liable for compensation to CONSULTANT, CONSULTANT’s employees or CONSULTANT’S sub-CONSULTANTS for injury or sickness arising out of performing services hereunder.

b. The Parties further acknowledge and agree that nothing in this Agreement shall create or be construed to create a partnership, joint venture, employment relationship or any other relationship except as set forth in this Agreement.

c. CITY shall not deduct from the Compensation paid to CONSULTANT any sums required for Social Security, withholding taxes, FICA, state disability insurance or any other federal, state or local tax or charge which may or may not be in effect or hereinafter enacted or required as a charge or withholding on the compensation paid to CONSULTANT. CITY shall have no responsibility to provide CONSULTANT, its employees or sub-consultants with workers’ compensation insurance or any other insurance.

SECTION 11. PERS ELIGIBILITY INDEMNITY.

a. In the event that CONSULTANT or any employee, agent, or sub-CONSULTANT 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 CITY for the payment of any employee and/or employer contributions for PERS benefits on behalf of CONSULTANT or its employees, agents, or sub-consultants, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of CITY.

b. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONSULTANT and any of its employees, agents, and sub-consultants 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 CITY, including but not limited to eligibility to enroll in PERS as an employee of CITY and entitlement to any contribution to be paid by CITY for employer contribution and/or employee contributions for PERS benefits.

SECTION 12. LEGAL RESPONSIBILITIES.

CONSULTANT shall at all times observe and comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments including, but not limited to the Montebello Municipal Code. The CITY, and its appointed or elected officers, employees, or agents, shall not be liable at law or in equity occasioned by failure of the CONSULTANT to comply with this section.

SECTION 13. INDEMNIFICATION.

The CONSULTANT agrees to, and shall defend, indemnify, protect and hold harmless, the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers from and against any and all claims, demands, lawsuits, defense costs, civil, penalties, expenses, causes of action, and judgments at law or in equity, or liability of any kind or nature which the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers may sustain or incur or which may be imposed upon them for injuries or deaths of persons, or damage to property arising out of CONSULTANT'S negligent or wrongful act, or omission under the terms of this Agreement, except only liability arising out of the sole negligence of the CITY.

SECTION 14. INSURANCE COVERAGE.

During the term of this Agreement, CONSULTANT shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with CONSULTANT'S performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

- Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the limit shall be twice the required occurrence limit.
- Automobile Liability Insurance: Insurance Services Office Form Number CA 0001

covering, Code 1 (any auto), or if CONSULTANT has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

- Worker's Compensation insurance as required by the laws of the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- Professional Liability insurance appropriate to the CONSULTANT'S profession, with limit no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

If the CONSULTANT maintains higher limits than the minimums shown above, the CITY requires and shall be entitled to coverage for the higher limits maintained by the CONSULTANT.

CONTACTOR shall require each of its sub-consultants, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a current rating of at least A:VII in the latest edition of Best's Insurance Guide.

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (ten (10) days for non-payment) has been given to the City. CONSULTANT agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either (i) immediately terminate this Agreement for Cause; or (ii) take out the necessary insurance and pay, at CONSULTANT'S expense, the premium thereon.

At all times during the term of this Agreement, CONSULTANT shall maintain on file with CITY's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the CITY as an additional insured. CONSULTANT shall, prior to commencement of work under this Agreement, file with CITY's Risk Manager such certificate(s).

CONSULTANT shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming CITY, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to CITY. CONSULTANT agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor"

with regard to any notice provisions.

The insurance provided by CONSULTANT shall be primary to any coverage available to CITY. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or volunteers, shall be in excess of CONSULTANT'S insurance and shall not contribute with it.

All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT, and CONSULTANT'S employees, agents or sub-CONSULTANTS, from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against the CITY.

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of CITY, CONSULTANT shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONSULTANT shall procure a bond guaranteeing payment of losses and expenses.

Procurement of insurance by CONSULTANT shall not be construed as a limitation of CONSULTANT'S liability or as fall performance of CONSULTANT'S duties to indemnify, hold harmless and defend under Section 9 of this Agreement.

SECTION 15. SUBCONTRACT, ASSIGNMENT OR DELEGATION.

CONSULTANT shall not subcontract, delegate or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY. Any proposed subcontract, delegation, or assignment shall provide a description of the services to be covered, identification of the proposed sub-consultant, delegee, or assignee, and an explanation of why and how the same was selected, including the degree of competition involved.

Any subcontract, delegation or assignment shall be made in the name of CONSULTANT and shall not bind or purport to bind CITY and shall not release CONSULTANT from any obligations under this Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees or sub-consultants. No such subcontract, delegation or assignment shall result in any increase in the amount of total compensation payable to CONSULTANT under the Agreement.

SECTION 16. NO WAIVER.

Waiver by any Party hereto of any term, condition or covenant of this Agreement shall not constitute the waiver of any other term, condition or covenant hereof.

SECTION 17. DISPUTE RESOLUTION; GOVERNING LAW.

Disputes regarding the interpretation or application of any provision(s) of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Parties. The venue for any litigation shall be County of Los Angeles, California. The Parties agree that the covenants contained in this Article shall survive the expiration or termination of

this Agreement.

SECTION 18. ATTORNEY'S FEES AND COSTS.

If any action is brought at law or in equity by a Party to enforce or interpret the provisions of this Agreement, the prevailing Party in such litigation shall be entitled to an award of reasonable attorney's fees, expert fees, and costs, in addition to any other relief to which it may be entitled or is awarded.

SECTION 19. WARRANTIES.

Each of the Parties represents and warrants to one another as follows:

- a. It has received independent legal advice from its attorneys with respect to the advisability of entering into and executing this Agreement;
- b. In executing this Agreement, it has carefully read this Agreement, knows the contents thereof, and has relied solely on the statements expressly set forth herein and has placed no reliance whatsoever on any statement, representation, or promise of any other party, or any other person or entity, not expressly set forth herein, nor upon the failure of any other party or any other person or entity to make any statement, representation or disclosure of any matter whatsoever; and
- c. It is agreed that each Party has the full right and authority to enter into this Agreement, and that the person executing this Agreement on behalf of either Party has the full right and authority to fully commit and bind such Party to the provisions of this Agreement.

SECTION 20. MISCELLANEOUS.

- a. The descriptive paragraph headings of this Agreement are included for purposes of convenience only and shall not control or affect the construction of interpretation of any of its provisions.
- b. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender, and the neuter and vice versa.
- c. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.
- d. The representations and warranties made by the parties to this Agreement shall survive the consummation of the transaction herein described.
- e. This Agreement may be signed in any one or more counterparts all of which taken

together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by facsimile transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the Party whose signature appears in the facsimile and shall be binding upon such Party in the same manner as though an originally signed copy had been delivered.

f. Each of the Parties acknowledges that it has been represented by independent counsel of its own choosing, or if it has not been so represented, it has been admonished to obtain independent counsel and has freely and voluntarily waived and relinquished the right to counsel. Each Party who has not obtained independent counsel acknowledges that the failure to have independent legal counsel will not excuse such Party's failure to perform under this Agreement or any agreement referred to in this Agreement.

SECTION 21. NOTICE.

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, or approvals hereunder shall be given to the following addresses or such other addresses as the Parties may designate by written notice:

Danilo Batson, Assistant City Manager
Administration
City of Montebello
1600 West Beverly Boulevard
Montebello, California 90640
E-mail: dbatson@cityofmontebello.com

CONSULTANT

SECTION 22. NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYER.

In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, sub-CONSULTANT, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, mental condition or sexual orientation. CONSULTANT will take affirmative action to ensure that sub-consultant and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

SECTION 23. CONFLICT OF INTEREST.

CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by CONSULTANT under this Agreement, or which would conflict in any manner with the performance of its services hereunder. CONSULTANT further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, CONSULTANT shall avoid the appearance of having any interest that would conflict in any manner with the performance of its services pursuant to this Agreement.

CONSULTANT covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to CITY as a result of the performance of this Agreement, or the services that may be procured by the CITY as a result of the recommendations made by CONSULTANT. CONSULTANT's covenant under this section shall survive the termination of this Agreement.

SECTION 24. ENTIRE AGREEMENT.

This Agreement contains the entire understanding between the CITY and CONSULTANT. Any prior agreements, promises, negotiations or representations not expressly set forth herein are of no force or effect. Subsequent modifications to this Agreement shall be effective only if in writing and signed by each Party. If any term, condition or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall be valid and binding.

CITY OF MONTEBELLO

CONSULTANT

Francesca Tucker-Schuyler
City Manager

Dated: _____

Dated: _____

ATTEST:

Irma Barajas
City Clerk

APPROVED AS TO FORM:

Arnold Alvarez-Glasman
City Attorney