

## CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this \_\_\_\_\_ by and between the City of Baldwin Park, ("City"), and \_\_\_\_\_ ("Consultant").

In consideration of the following mutual covenants, provisions and agreements, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City and Consultant agree as follows:

1. SCOPE OF SERVICES. Consultant agrees to perform during the term of this Agreement, the tasks, obligations, and services set forth in the "Scope of Services" attached to and incorporated into this Agreement as Exhibit "A." Duration of Scope of Services may be extended on a month-to-month basis but shall not exceed the total compensation.

2. COMPENSATION. City shall pay for the services performed by consultant pursuant to the terms of this Agreement at the time and manner set forth in the "Scope of Services" attached to and incorporated into this Agreement as Exhibit "A."

3. TIME FOR PERFORMANCE. Service Provider shall perform the services above described in a timely manner in accordance with the professional standard practices and the provisions of this agreement. This Agreement is effective as of the Commencement Date and shall terminate on the Expiration Date, unless sooner terminated as provided in Section 16 herein:

A. Commencement Date: \_\_\_\_\_

B. Expiration Date: \_\_\_\_\_

C. Upon mutual agreement by the parties, this agreement may be extended for an additional two (2) one-year terms.

4. AUDIT OR EXAMINATION. Consultant shall keep all records of funds received from City and make them accessible for audit or examination for a period of three years after final payments are issued and other pending matters.

5. STATUS OF CONSULTANT. Consultant shall provide all necessary personnel, equipment, and material, at its sole expense, to perform the services required of it pursuant to this Agreement. To this Agreement, Consultant shall be deemed, for all purposes, an independent contractor and shall have control of all work and the way it is performed. Consultant shall be free to contract for similar services to be performed for other entities 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. Consultant shall be responsible to pay and hold City harmless from all payroll and other taxes and interest thereon and penalties, therefore, which may become due because of services performed hereunder.

6. ASSIGNMENT. This Agreement is for the specific services with consultant as set forth herein. Any attempt by consultant to assign the benefits or burdens of this Agreement without written approval of City is prohibited and shall be null and void; except that Consultant may assign payments due under this Agreement to a financial institution.

7. RIGHT TO UTILIZE OTHERS. City reserves the right to utilize others to perform work like the Services provided herein.

8. COMPLIANCE WITH LAW. Contract services shall be provided in accordance with the applicable laws and regulations of all governmental agencies that are in force at the time services are performed. Consultant shall be responsible for becoming aware of and staying abreast of all such laws and ensuring that all services provided hereunder conform to such laws.

The terms of this Agreement shall be interpreted according to the laws of the State of California.

9. LIABILITY. Consultant shall indemnify, and hold harmless City, its officials, officers, and employees against any and all actions, claims, damages, liabilities, losses or expenses of whatsoever kind, name or nature, including legal costs and reasonable attorneys' fees, whether or not suit is actually filed, and any judgment rendered against City and/or its officials, officers, or employees that may be asserted or claimed by any person, firm, or entity arising out of Consultants' negligent performance, or the negligent performance of its agents, employees, subcontractors, or invitees, as well as, negligent acts or omissions of Consultant, its agents, employees, subcontractors or invitees, however, this indemnity clause shall not apply if there is concurrent passive or active negligence on the part of City, or its officials, officers, agents or employees.

10. INSURANCE. Consultant shall maintain insurance coverage in accordance with the following during its performance hereunder:

- (A) Comprehensive General Liability Insurance (including premises and operations, contractual liability, personal injury and independent Consultants' liability) with the following minimum limits of liability:
  - (1) Personal or Bodily Injury -- \$1,000,000, single limit, per occurrence; and
  - (2) Property Damage -- \$1,000,000, single limit, per occurrence; or
  - (3) Combined single limits -- \$2,000,000.
- (B) Comprehensive Automobile Liability Insurance including as applicable own, hired, and non-owned automobiles with the following minimum limits of liability:
  - (1) Personal or Bodily Injury -- \$1,000,000, single limit, per occurrence; and
  - (2) Property Damage -- \$1,000,000, single limit, per occurrence; or
  - (3) Combined single limits -- \$2,000,000.
- (C) Professional Liability Insurance with annual aggregates of \$1,000,000 or such other amount as may be approved in writing by the City.
- (D) Worker's Compensation Insurance that complies with the minimum statutory requirements of the State of California.
- (E) Prior to commencement of services hereunder, Consultant shall provide City with a certificate of Insurance reflecting the above, and an endorsement for each policy of insurance which shall provide:
  - (1) The City, and its officials, officers, agents, and employees are named as additional insured (except for Professional Liability and Worker's Compensation).
  - (2) The coverage provided shall be primary (except for Professional Liability and Worker's Compensation) as respects to City, its officials, officers, agents, or employees; moreover, any insurance or self-insurance maintained by City or its officials, officers,

agents or employees shall be more than Consultants' insurance and not contributed with it.

(3) The insurer shall provide at least thirty (30) days prior written notice to City of cancellation or of any material change in coverage before such change or cancellation becomes effective.

(F) With respect to Workers' Compensation Insurance, the insurer shall agree to waive all rights of subrogation against City and City personnel for losses arising from work performed by Consultant for City, and the insurer's agreement in this regard shall be reflected in the Workers' Compensation Insurance endorsement.

11. OWNERSHIP OF DOCUMENTS. All the documents required to be prepared pursuant hereto shall, upon the completion thereof, be deemed for all purposes to be the property of City. City's ownership of documents includes all analysis, computations, plans, correspondence and/or other pertinent data, information, documents, and computer media, including disks and other materials gathered or prepared by consultant in performance of this Agreement. Such work product shall be transmitted to City within ten (10) days after a written request, therefore. Consultant may retain copies of such products. Any re-use by City shall be at the sole risk of City and without liability to consultant.

12. RECORDS AND INSPECTIONS. Consultant shall maintain full and accurate records with respect to all services and matters covered under this Agreement. City shall have free access at all reasonable times to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings and activities. Consultant shall maintain an up-to-date list of key personnel and telephone numbers for emergency contact after normal business hours.

13. TAXPAYER IDENTIFICATION NUMBER. Consultant shall provide City with a complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service.

14. CONFLICT OF INTEREST. Consultant agrees that any conflict or potential conflict of interest shall be fully disclosed prior to execution of contract and Consultant shall comply with all applicable federal, state and county laws and regulations governing conflict of interest.

15. POLITICAL ACTIVITY/LOBBYING CERTIFICATION. Consultant may not conduct any activity, including any payment to any person, officer, or employee of any governmental agency or body or member of Congress in connection with the awarding of any federal contract, grant, loan, intended to influence legislation, administrative rulemaking or the election of candidates for public office during time compensated under the representation that such activity is being performed as a part of this Agreement.

16. RIGHT TO TERMINATE. City may terminate this Agreement at any time, with or without cause, in its sole discretion, with thirty (30) days written notice.

17. EFFECT OF TERMINATION. Upon termination as stated in Paragraph "16" of this Agreement, City shall be liable to consultant only for work performed by consultant up to

and including the date of termination of this Agreement, unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant shall be entitled to payment for work satisfactorily completed to date, based on proration of the compensation set forth in Exhibit "B" attached hereto. Such payment will be subject to City's receipt of a close-out billing.

18. LITIGATION FEES. Should litigation arise out of this Agreement for the performance thereof, the court shall award costs and expenses, including reasonable attorney's fees, to the prevailing party. In awarding attorney's fees, the court shall not be bound by any court fee schedule but shall award the full amount of costs, expenses and attorney's fees paid and/or incurred in good faith. "Prevailing Party" shall mean the party that obtains a favorable and final judgment. Should litigation occur, venue shall be in the Superior Court of Los Angeles County. This paragraph shall not apply, and litigation fees shall not be awarded based on an order or otherwise final judgment that results from the parties' mutual settlement, arbitration, or mediation of the dispute.

19. COVENANTS AND CONDITIONS. Each term and each provision of this Agreement to be performed by consultant shall be construed to be both a covenant and a condition.

20. INTEGRATED AGREEMENT. This Agreement represents the entire Agreement between the City and Consultant. No verbal agreement or implied covenant shall be held to vary the provisions of this agreement. This Agreement shall bind and inure to the benefit of the parties to this Agreement, and any subsequent successors and assigns.

21. MODIFICATION OF AGREEMENT. This Agreement may not be modified, nor may any of the terms, provisions or conditions be modified or waived or otherwise affected, except by a written amendment signed by all parties.

22. DESIGNATED REPRESENTATIVES. The Consultant Representative (A) designated below shall be responsible for job performance, negotiations, contractual matters, and coordination with the City. The City Representative (B) designated below shall act on the City's behalf as Project Manager.

(A) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(B) City of Baldwin Park  
Att.: \_\_\_\_\_  
14403 East Pacific Avenue  
Baldwin Park, CA 91706  
(626) 960-4011 ex. 460

23 NOTICES. Notices pursuant to this Agreement shall be in writing and may be given by personal delivery or by mail. Notices shall be directed to City's Designated Representative identified in Paragraph "21" of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day first above written.

CITY OF BALDWIN PARK

By: \_\_\_\_\_  
Emmanuel J. Estrada  
Mayor

Dated: \_\_\_\_\_

Approved by

By: \_\_\_\_\_  
Robert Tafoya  
City Attorney

Dated: \_\_\_\_\_

CONSULTANT: \_\_\_\_\_

By: \_\_\_\_\_  
Name/Title

Dated: \_\_\_\_\_