



City of Rialto
Purchasing Division

Purchasing Manager: William Jernigan

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Email: procurement@rialtoca.gov

REQUEST FOR PROPOSAL #19-093
Pyrotechnics Display

Closing Date: March 14, 2019, 4:00 P.M.

RFP Number:	19-093
Due Date:	March 14, 2019
Time:	4:00 P.M.
Project:	Pyrotechnics Display

The prospective supplier shall submit a fully executed sealed proposal, to be received no later than 4:00 P.M., Thursday, March 14, 2019. Sealed proposals shall be submitted to:

City of Rialto
Purchasing Division
249 S. Willow Avenue
Rialto, CA 92376
Attn: William Jernigan, CMP

NOTE: Proposers are required to submit one (1) original RFP signed in ink, one (1) hard copy of the RFP, and one (1) electronic media version (CD or USB Flash Drive) copy of the RFP. Original and copies should be identified as such. Failure to provide copies may result in disqualification.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
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CITY OF RIALTO
STATE OF CALIFORNIA
NOTICE INVITING SEALED PROPOSALS

NOTICE IS HEREBY GIVEN by the City of Rialto Purchasing Division will be accepting sealed proposals for the following: **Pyrotechnics Display**

Proposals must be received by Thursday, March 14, 2019 at 4:00 P.M., in the Purchasing Office, 249 S. Willow Ave. (City Yard) Rialto, California 92376

No proposals shall be considered unless it is made on the proposal form furnished by the City of Rialto and is made in accordance with the provisions of the Request for Proposal. All proposals must be labeled **RFP 19-093 Pyrotechnics Display** the proposal price must be firm for ninety (90) days from date of the proposal opening in order to permit staff evaluation and City Council award. The City of Rialto City Council reserves the right to reject any or all proposals in whole or in part and may waive any irregularities or informality in any proposal to the extent permitted by law and when the public interest will be served thereby.

No oral interpretations will be made to any proposer as the meaning of the contract documents. Requests for an interpretation shall be made in writing and delivered to the Agency at least 5 days before the time announced for opening the proposals. Interpretations will be in the form of an addendum to the contract documents and, when issued, will be sent as promptly as is practical to all parties to whom the contract documents have been issued. All addenda shall be included in the contract when submitting the proposal.

The City Offices are closed every Friday and the following Holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve, and Christmas.

Proposal packages are available online at <http://yourrialto.com/bids-proposals/>

(s) William Jernigan
Purchasing Manager
City of Rialto

Publish:
Provide proof of publication

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
OVERVIEW & BACKGROUND

The City of Rialto was founded in 1887 and incorporated in 1911. The City operates as a general law City with a City Council-City Administrator form of government. Five (5) Council members serve four (4) year, overlapping terms, with elections held every two (2) years. The Council meets on the second and fourth Tuesday of every month. Municipal services are provided by the City's approximately 320 full-time benefited employees (as of May 31, 2019).

Rialto is an ethnically diverse and progressive community, which boasts several unique community assets including its own Police and Fire Departments, a City owned Racquet and Fitness Center, Performing Arts Theater, a Community Center and Senior Center. Rialto is conveniently located to various recreational pursuits from the mountains, beaches and desert.

The City of Rialto lies in the west portion of the San Bernardino Valley, due west of the County Seat. Rialto is sixty miles east of Los Angeles and 103 miles north of San Diego. Rialto is proud to be a City of commercial, residential, educational, cultural and industrial growth.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
SCOPE OF WORK

The City of Rialto hereby invites all qualified vendors to submit a firm fixed price to provide a pyrotechnics (fireworks) display for the Rialto Community July 4th Celebration.

The show will take place at 9:00 p.m. at Jerry Eaves Park, Rialto, CA. The length of the display should be identified, and must have a minimum length of 16 and maximum length of 20 minutes of continuous fireworks display and should include a grand finale display.

To be considered, proposals must identify the relationship between price and length of the program. Each proposal should include a description of all fireworks to be included in the display and any other visuals and an explanation that assists in describing the show.

Pyrotechnic display should include:

- No shells less than 3"
- No shells greater than 10"
- No shells that go up less than 75'
- 16-20 minute show
- Must include grand finale

Services to be performed must be in compliance with all provisions of applicable laws and regulations, including, without limitation using one licensed pyrotechnic operator in connection with the handling or display of fireworks, combing the grounds for any live materials around the site immediately preceding the fireworks display, providing sufficient personnel at fireworks discharge site in order to ensure a safe public display, and obtaining all necessary licenses and permits.

Layout, application and all permits must be completed and approved prior to June 28, 2019.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
SCHEDULE OF COSTS

Total Base Proposal (written in figures) \$ _____

Total Base Proposal (written in words) _____

Amount Written in Words

Where there is a discrepancy between words and figures WORDS WILL GOVERN. Where there is a discrepancy between unit price and extended total, UNIT PRICE WILL GOVERN.

Please check your calculations before submitting your proposal; the City will not be responsible for Proposer's miscalculations.

Subconsultant Information

Does this proposal include the use of subconsultants? ☐ Yes ☐ No Initials _____

Exceptions or Clarifications: _____

Proposer: _____

Contact: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
DIVERSITY BUSINESS STATEMENT

The City of Rialto encourages the maximum participation by small business, Veteran-Owned small business (VOSB), Service-Disabled Veteran owned small business (SDVOSBC), HUBZone small business, Small Disadvantaged business (SDB/DBE), and Women-Owned small businesses (WOSB).

It is the policy of City of Rialto, to conduct business with the above stated businesses whenever possible to the maximum extent that is feasible.

The City of Rialto shall, within the limits of state statutes and regulations, pursue the award of a fair share of all contracts with minority businesses and shall encourage and assist minority businesses in the methods of conducting business with the City of Rialto.

Small Business Concerns Information

The Proposer shall furnish the following information. Additional sheets may be attached, if necessary.

- (1) Name: _____
- (2) Address: _____
- (3) Phone No.: _____ Fax No.: _____
- (4) E-Mail: _____
- (5) Type of Firm: (Check all that apply)
- _____ Individual _____ Partnership _____ Corporation
- _____ Minority Business Enterprise (MBE) _____ Women Business Enterprise (WBE)
- _____ Small Disadvantaged Business (SDB) _____ Veteran Owned Business
- _____ Disabled Veteran Owned Business _____ Other
- (6) Business License: _____ Yes _____ No License Number: _____
- (7) Tax Identification Number: _____
- (8) Contractors License: State: License No. : _____ Classification(s) _____
- (9) Names and Titles of all members of the firm:
- _____
- _____
- _____
- (10) Number of years as a contractor in construction work of the type: _____
- (11) Three (3) projects of this type recently completed:
- Type of project: _____
- Contract Amount: _____ Date Completed: _____
- Owner: _____ Phone: _____
- Type of project: _____
- Contract Amount: _____ Date Completed: _____
- Owner: _____ Phone: _____
- Type of project: _____
- Contract Amount: _____ Date Completed: _____
- Owner: _____ Phone: _____
- (12) Person who inspected the site of the proposed work for your firm:
- Name: _____ Date of Inspection: _____

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
LOCAL BUSINESS PREFERENCE

- A. All notices inviting Proposals or requests for proposal issued by the City shall state that the City applies a local business preference and that qualified local businesses may submit an application for a local business preference together with its proposal or proposal except for notices inviting Proposals for public projects as defined in Public Contract Code Section 20191.
- B. Qualified local businesses may submit an application for a local business preference on the form prepared by the purchasing manager. The application shall require the business, or agent thereof, to submit the following notarized information on the attached form under penalty of perjury:
1. Its qualifying office, place of business or distribution point within the City and the time it has been located at such location;
 2. The total number of its employees as of the date of the application with adequate proof as determined by the purchasing manager;
 3. The number of employees that reside in the city and the time they have resided in the city with adequate proof as determined by the purchasing manager;
 4. Its consent to permit the city to reduce its original proposal pursuant to this chapter not to exceed five percent of its original proposal; and
 5. All such other information reasonably necessary for the purchasing manager to provide information to the city council in order to determine the applicability of this chapter to award a contract for any public project, purchase or service.

(Ord. No. 1496, § 1, 12-13-11)



Certification Statement Local Vendor Preference

RFP

Notarization Required

I certify that my company meets all of the following qualifications to be eligible for the local vendor preference:

(1). That *my company* maintains an office within the legally defined boundaries of the City of Rialto and have a majority of full time employees, chief officers, and managers regularly conducting work and business from these offices.

(2). That *my company* has held a valid City of Rialto Business License for a consecutive period of at least two (2) years prior to the date for application for certification.

I make this certification with the full knowledge that should any information provided prove to be false, that *my company* could be excluded from bidding on City of Rialto requirements for a period of two (2) years.

Company Name: _____

Address: _____

Type of Products or Services: _____

Business License Number: _____

Phone Number: _____

Owner's Name: _____

Total number of employees _____ Total number of employee that reside in the City _____

Pursuant to Chapter 2.47 of the Rialto, California Municipal Code I consent to permit the City to reduce my original proposal amount, not to exceed five percent of the original proposal
#19-093 Pyrotechnics Display: Yes _____ No _____

Owner's Signature

Printed Name

To be completed by Authorized City of Rialto Representative:

Vendor Certified: _____ Date: _____

**CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
DISCLOSURES REQUIRED BY PERSONS OR ENTITIES
CONTRACTING WITH THE CITY OF RIALTO**

Pursuant to Rialto Municipal Code section 2.48.145, all persons or business entities supplying any goods or services to the City of Rialto shall disclose whether such person or entity is related to any officer or employee of the City by blood or marriage within the third degree which would subject such officer or employee to the prohibition of California Government Sections 87100 et.seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090.

By submitting this proposal, or supplying any goods or services to the City, the undersigned hereby attests under penalty of perjury, personally or on behalf of the entity submitting this proposal or supplying any goods or services to the City, as well the entity's officers, representatives and the undersigned, that it/they have no relationship, as described above, or financial interests, as such term is defined in California Government Section 87100 et. seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090, with any City of Rialto elected or appointed official or employee, except as specifically disclosed immediately below:

Vendor/Contractor/Consultant: _____

City of Rialto Official/ Employee Name(s)	The nature of the relationship with the person listed is
_____	_____
_____	_____
_____	_____

By: _____

Name: _____

Title: _____

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
DISCLOSURE OF PROPOSAL CONTENTS

The proposals may be kept confidential until a contract is awarded. At that time, all proposals and documents pertaining to the proposals will be open to the public, except for the material that is proprietary or confidential. The Procurement Manager will not disclose or make public any pages of a proposal on which the offeror has stamped or imprinted "proprietary" or "confidential" subject to the following requirements.

Proprietary or confidential data shall be readily separable from the proposal in order to facilitate eventual public inspection of the non-confidential portion of the proposal. Confidential data is normally restricted to confidential financial information concerning the offeror's organization and data that qualifies as a trade secret. The cost of services proposed shall not be designated as proprietary or confidential information.

If a request is received for disclosure of data for which an offeror has made a written request for confidentiality, the Purchasing Manager shall examine the offeror's request and make a written determination that specifies which portions of the proposal should be disclosed. Unless the offeror takes legal action to prevent the disclosure, the proposal will be so disclosed. The proposal shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data.

**CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PROPOSER SIGNATURE DECLARATION**

The undersigned hereby offers and agrees to furnish the goods and services in compliance with all the service level requirements, instructions, specifications, and any amendments contained in this RFP document and any written exceptions in the offer accepted by the City.

This proposal is genuine, and not sham or collusive, nor made in the interest or on behalf of any person not herein named; the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a sham proposal, or any other person, firm or corporation to refrain from submitting a proposal; and the Proposer has not in any manner sought by collusion to secure for themselves an advantage over any other Proposer.

Each proposal must be signed on behalf of the Proposer by an officer authorized to bind the Proposer to the proposal. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and I agree to the terms and conditions in this proposal.

Company Name

Signature of Authorized Person

Address

Printed Name

City State Zip Code

Title

City of Rialto License Number

Date

The Proposer hereby acknowledges receipt of and agrees this submittal is based on the RFP and the following addenda. Failure to indicate receipt of addenda may result in the Proposer being rejected as non-responsive.

ADDENDUM # _____ DATED _____ ADDENDUM # _____ DATED _____

ADDENDUM # _____ DATED _____ ADDENDUM # _____ DATED _____

(If additional addenda are issued, attach a complete listing of these addenda when submitting this PROPOSAL.)

No PROPOSAL

In order to help us improve our internal processes and become a better customer, if you are not submitting a PROPOSAL, please state the reason(s) why and return this page to the Purchasing Manager.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
STATEMENT OF REFERENCES

List and describe fully the last four contracts performed by your firm which demonstrate your ability to complete the work included with the scope of the specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

Reference No. 1

Customer Name: _____
Contact Individual: _____ Phone No: _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Reference No. 2

Customer Name: _____
Contact Individual: _____ Phone No: _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Reference No. 3

Customer Name: _____
Contact Individual: _____ Phone No: _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Reference No. 4

Customer Name: _____
Contact Individual: _____ Phone No: _____
Address: _____
Contract Amount: _____ Year: _____
Description of work done: _____

Please list all City of Rialto projects completed with in the last five (5) years.

Project Name: _____
Contact Individual: _____ Phone No: _____
Project Location: _____
Contract Amount: _____ Year: _____
Description of work done: _____

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
GENERAL INFORMATION

The City of Rialto has outlined the requirements herein in as much detail as is currently known. Please provide any exceptions, additional information, or suggestions that will aid in the City's selection process (attachments are acceptable).

The City reserves the right to negotiate terms and specifications/scope of work with the highest ranked competitively priced and qualified proposal. If an agreement cannot be negotiated the City reserves the right to negotiate with any other finalist.

Any evidence of agreement or collusion among Proposers acting illegally to restrain freedom of competition by agreement to propose a fixed price, or otherwise, will render the proposal of such Proposers void.

Proposer shall identify those services (if any) that will be outsourced to a subconsultant or sub-proposer. The prime Proposer will be responsible for verifying the qualifications and validity of all licenses or permits for any outsourced work to subconsultants. The prime Consultant is also responsible for paying its employees and any subconsultants the prime Consultant hires.

This RFP does not obligate the City to accept or contract for any expressed or implied services.

The City reserves the right to request any Proposer submitting a proposal to clarify its proposal or to supply additional material deemed necessary to assist in the selection process.

All submitted proposals and information included therein or attached thereto shall become public record upon contract award.

The City reserves the right to cancel this solicitation at any time.

The City reserves the right to award by individual line item, by group of line items, or as a total, whichever is deemed most advantageous to the City.

All questions must be submitted through the PlanetBids platform, questions received any other way will not be addressed.

The City Offices are closed every Friday and the following Holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve, and Christmas.

Proposers, their representatives, agents or anyone else acting on their behalf are specifically directed NOT to contact any City employee, Commission member, Committee member, Council member, or any other agency employee or associate for any propose related to this entire RFB process other than as directed above. Contact with anyone other than as directed above may be cause for rejection of proposal.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
GENERAL TERMS AND CONDITIONS – RFP

Definition of Terms

The following terms used in the RFP documents shall be construed as follows:

1. “City” shall mean the City of Rialto.
2. “Consultant/ Proposer/Contractor” shall mean the individual, partnership, corporation or other entity to which this agreement is awarded.
3. “Supplier/ Proposer/Consultant” shall be considered synonymous with term “proposer”.
4. “Contract/agreement” shall be considered synonymous with term “contract”.
5. “Evaluation Committee” is an independent committee established by the City to review, evaluate, and score the Proposals, and to recommend award to the Proposer that submitted the proposal determined by the committee to be in the best interest of the City.
6. “May” indicates something that is not mandatory, but permissible.
7. “Must/Shall” indicates a mandatory requirement. A proposal that fails to meet a mandatory requirement will be deemed non-responsive, and not be considered for award.
8. “Proposer” shall mean the person or firm making the offer.
9. “PROPOSAL” shall be the offer presented by the Proposer.
10. “RFP” shall be the acronym for Request for proposal.
11. “Should” indicates something that is recommended, but not mandatory. Failure to do what “should” be done will not result in rejection of your proposal.
12. “Submittal Deadline” shall be the date and time on or before all Proposals must be submitted.
13. “Successful Proposer” shall be the person, consultant, or firm to whom the award is made.

City Business License

Proposer shall secure, at the proposer’s own cost, the appropriate business license from the City prior to beginning any work or delivering any equipment or material to be furnished under this specification and proposal. This must be initiated within six City working days after notification of award.

Consultant’s Address and Legal Services

The address given in the proposal shall be considered the legal address of the Proposer and shall be changed only by written or electronic notice to the City. The Proposer shall supply an address to which certified mail can be delivered. The delivery of any communication to the Proposer personally, or to such address, or the depositing in the United States Mail, registered or certified with postage prepaid, addressed to the Proposer at such address, shall constitute a legal service thereof.

Cost of Preparing Proposal

Any and all costs incurred responding to this RFP, conducting demonstrations or any other related activities, shall be borne by the proposer and the City shall not be liable for any of these costs.

Informed Proposer

Proposers are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting Proposals. Failure to do so will be at proposer’s own risk and they cannot secure relief on the plea of error.

Proposal Errors

Proposer is liable for all errors or omissions incurred by Proposer in proposal. Proposer will not be allowed to alter proposal documents after the due date for proposal submission.

The City reserves the right to make corrections due to errors identified in proposal by the City or the proposer. This type of correction or amendment will only be allowed for errors as typing, transposition or any other obvious error. Any changes will be date and time stamped and attached to proposal. All changes must be coordinated in writing with, authorized by and made by the Purchasing Manager.

Waiver of Minor Administrative Irregularities

The City reserves the right, at its sole discretion, to waive minor administrative irregularities contained in any proposal.

Rejection of Proposal

The City reserves the right, as the interest of the City requires, to reject any or all proposals, to waive any minor informality in proposal received, to reject any unapproved alternate proposal(s), and reserves the right to reject the proposal of any Proposer who has previously failed to perform competently in any prior business relationship with the City.

The rejection of any or all proposal shall not render the City liable for costs or damages.

Proposal Format and Submittal

All proposals must be submitted in writing on the enclosed request for proposal documents. Proposal accepted by the City in writing constitute a legally binding contract offer. All materials submitted shall become a part of the proposal. Proposers are required to submit one (1) original RFP signed in ink, one (1) hard copies of the RFP, and one (1) electronic media version copy of the RFP. Original and copies should be identified as such. Written proposal must be presented in a sealed package. Proposer must enter the proposal number, title, and Proposer's name on the outside of the package. Sealed proposals are to be delivered to the address listed in this RFP no later than the stated proposal opening date and time.

Proposer shall complete and return all applicable documents including forms, specifications, drawings, schematic diagrams, and any technical and/or illustrative literature. The Purchasing Manager may deem a Proposer non-responsive if the Proposer fails to provide all required documentation and copies. Proposal must be signed by a duly authorized officer eligible to sign contract documents for the proposer. Consortiums, joint ventures, or teams submitting Proposals will not be considered responsive unless it is established that all contractual responsibility rests solely with one Proposer or one legal entity. The proposal must identify the responsible entity.

Proposal shall be based only on the material contained in the RFP, proposal conference responses, amendments, addenda and other material published by the City relating to the RFP. The Proposer shall disregard any previous draft material and oral representations which may have been obtained from the Proposer.

Proposals that are unnecessarily elaborate beyond what is sufficient to present a complete and effective proposal are not desired.

The information requested and the manners of submission are essential to permit prompt evaluation of all proposals on a fair and uniform basis. Accordingly, the City reserves the right to declare as non-

responsive and reject any proposals in which information requested is not furnished or where direct or complete answers are not provided.

The Proposer shall not change any wording in the RFP or associated documents. Any explanation or alternative offer shall be submitted in a letter attached to the front of the proposal documents. Alternatives that do not substantially meet the City's requirements cannot be considered. Proposals offered subject to conditions or limitations may be rejected as non-responsive.

Submitting Proposals

- a) Submittal Deadline: Proposals must arrive in the Purchasing Office by the submittal deadline shown in these specifications or subsequent addenda. Proposals may be submitted by hand, by courier, or any other method specified herein.
- b) Responsibility: Proposers are solely responsible for ensuring that their Proposals are received by the City in accordance with the solicitation requirements, before submittal deadline, and at the place 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 at the office specified in the 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.
- c) Extension of Submittal Deadline: The City reserves the right to extend the submittal deadline when it is in the best interest of the City.
- d) Addendums: All questions/answers and addendums will be posted PlanetBids. Suppliers are encouraged to check the website periodically for updates.
- e) Email/Facsimile Transmissions: Proposals may NOT be submitted by email or facsimile, unless otherwise specified herein.
- f) Forms: All forms included in this RFP must be completed for the proposal to be considered responsive.
- g) Late Proposals: The submittal deadline IS FIRM. Proposals will NOT be accepted after the submittal deadline and will be returned to the Proposer unopened.
- h) Signature: To be considered for award, each proposal shall be signed by an authorized representative of the Proposer.
- i) Sealed Proposals: Proposals MUST BE sealed upon submittal (e.g., envelope, package, box, etc.).

Proposals Property of City/Proprietary Proposal Material

All Proposals submitted in response to this RFP shall become the property of the City of Rialto, and subject to the State of California Public Records Act. Proposers must identify all copyrighted material, trade secrets or other proprietary information that the Proposer claims are exempt from the California Public Records Act (California Government Code Section 6350 et seq). Sections claimed to be exempt for public disclosure should be clearly identified as such.

In the event a Proposer claims such an exemption, the Proposer is required to state in the proposal the following: "The Proposer will indemnify the City and its officers, employees and agents, and hold them harmless from any claim or liability and defend any action brought against them for their refusal to disclose copyrighted material, trade secrets or other proprietary information to any person making a request thereof."

Failure to identify sections exempt from disclosure and to include such a statement shall constitute a waiver of a Proposer's right to exemption from this disclosure.

Proposal Acceptance Period

Unless otherwise stated, Proposals shall be irrevocable for a period of 90 days following the proposal opening date.

Multiple Proposals

Proposers interested in submitting more than one proposal may do so, providing each proposal stands alone and independently complies with the instructions, conditions, and specifications of the RFP.

California State Board of Equalization Permit

Proposer shall enter the company's State of California Board of Equalization permit number on the proposal form. If the company does not have this permit, the Proposer shall sign the proposal form declaring that the company has no California sales tax permit.

Applicable Laws

Selected Proposer is required to comply with all existing State, Federal, and Local laws. If Proposer outsources any work or job to a sub-Proposer, it will be the prime Proposer's responsibility to ensure that all sub-Proposers meet the requirements as stated in this RFP.

Withdrawal of Proposal

Proposer may withdraw proposal in writing at any time prior to the specified proposal due date and time. Faxed/mailed withdrawals will be accepted. A written request signed by an authorized representative of the Proposer must be submitted to the Purchasing Manager or appropriate email sent to procurement@rialto.ca.gov. After withdrawing a previously submitted proposal, the Proposer may submit another proposal at any time up to the proposal closing date and time.

Proposer 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. Proposer acknowledges that the original proposal and costs provided stand. However, Proposer has the option of withdrawing a proposal at any time until closing date and time of RFP.

Lowest Ultimate Cost and Best Overall Value to the City of Rialto

A final contract will be awarded to the highest ranked competitively priced and qualified Proposer. Although price is of prime consideration, it is not the sole determining factor. The City reserves the right to select the appropriate firm based on the most qualified proposal. The determination of the most qualified and most competitively priced proposal may involve all or some of the following factors: price, thoroughness of the proposal package, previous experience and performance; conformity to specifications; financial ability to fulfill the contract; ability to meet Specifications/Scope of Work; terms of payment; compatibility, as required; number of sub-Proposers the main Proposer may need to employ for outsourced work; other costs; and other objective and accountable factors which are reasonable. The City reserves the right to select a Proposer to perform all of the work identified in the RFP, or only selected portions based on price and/or other factors.

Proposal Protests

All protests concerning the award, evaluation, recommendation or other aspect of the selection/proposal process must be made in writing, signed by an individual authorized to bind the Proposer contractually and financially, and contain a statement of the reason(s) for the protest; citing the law, rule, regulation or procedures on which the protest is based. The protester must provide facts and evidence to support the claim.

All protest letters must be mailed to:

City of Rialto
 Purchasing Division
 150 S. Palm Avenue
 Rialto, CA 92376
 Attn: Purchasing Manager

All protests must be received by the Purchasing Manager as soon as possible and will be addressed in writing within 5 City business days.

Execution of Notice of Award

A response to this RFP is an offer to contract with the City based upon the terms, conditions, service level agreements, and specifications contained in the RFP.

A contract will be formed when the Purchasing Manager or City Council award the contract to the selected proposer(s).

Any contract made pursuant to this RFP, and any negotiated amendments to it must be accepted in writing by the Proposer. If, for any reason proposer should fail to accept in writing, any conduct by proposer which recognizes the existence of a contract pertaining to the subject matter hereof shall constitute acceptance by Proposer of the contract and all of its terms and conditions. Any terms offered in Proposer's acceptance of City's contract which add to, vary from or conflict with the terms herein are hereby objected to. Any such proposed terms shall be void and the terms herein shall constitute the complete and exclusive statement of the terms and conditions of the contract between the parties and may hereafter be modified only by written change order executed by the authorized representatives of both parties.

The foregoing should not be interpreted to prohibit either party from proposing additional contract terms and conditions during negotiations of the final contract.

If the contract negotiation period exceeds thirty (30) days or if the selected proposer fails to execute contract within five (5) business days of delivery of it, the City may elect to cancel the award and award the contract to the next highest ranked proposer.

Modifications/Change Orders/Amendments

Any adjustments, alterations, additions, deletions, or modifications in the terms and/or conditions of resultant agreement must be made by written change order approved by the Purchasing Manager, and the Contractor.

The City shall neither pay for nor be obligated to accept any modifications performed by consultant without a written change order.

Contract Administrator and Duties

The Contract Administrator, or designee, will audit the billings, approve changes to the agreement and generally be responsible for overseeing the execution and ongoing administration of the agreement. In lieu of a Contract Administrator, the Purchasing Manager will act as the Contract Administrator.

Prime Consultant

The Proposer who becomes the Consultant upon award of the contract by the Purchasing Manager must be the prime consultant performing the primary functions of the contract. If any portion of the contract is to be subcontracted, it must be clearly set forth in the proposal document as to what part(s) are to be subcontracted, the reasons for the subcontracting, and a listing of subconsultants. Acceptance or rejection of a proposer's request to use subconsultants is at the sole discretion of the City. The City reserves the right to reject any proposal to function as the prime consultant on the awarded contract. When approved, the subconsultant(s) shall agree to and be bound by all terms, conditions and specifications of the awarded contract and the proposer shall be responsible for proper performance of the contract by the subconsultant.

Subconsultant

With prior approval of the City, the Consultant may enter into subcontracts and joint participation agreements with others for the performance of portions of resultant agreement. The Consultant shall at all times be responsible for the acts and errors or omissions of its subconsultants or joint participants and persons directly or indirectly employed by them. Nothing in this contract shall constitute any contractual relationship between any others and the City or any obligation on the part of the City to pay, or to be responsible for the payment of any sums to the subconsultants.

The provisions of resultant agreement shall apply to all subconsultants in the same manner as to the Consultant. In particular, the City will not pay, even indirectly, the fees and expenses of a subconsultant which do not conform to the limitations and documentation requirements of resultant agreement.

Copies of Subconsultant Agreements

Upon written request from the City, the Consultant shall supply the City with subconsultant agreements.

Record and Audit Rights

The Consultant shall maintain records and books of account showing all costs and expenses incurred by the Consultant for the contract. The City shall have the right, upon reasonable notice, to audit the books, records, documents, and other evidence and the accounting procedures and practices, where needed, to verify the costs and expenses claimed. The City retains this right for at least three years after final payment and until all disputes, appeals, litigation, or claims have been resolved. This right to audit shall also include inspection at reasonable times of the consultant's office or facilities which are engaged in the performance of the contract. In addition, the Consultant shall, at no cost or expense to the City, furnish reasonable facilities and assistance for such an audit.

Upon request, Consultant shall also provide copies of documents applicable to this contract.

The audit findings shall, to the extent allowed by law, be treated by the City as confidential.

Permits/License

It is the responsibility of the Proposer to provide any permits/licenses which may be required of Local, State, or Federal regulations at no cost to the City.

Most Favored Public Entity Pricing

The prices charged against resultant contract shall not exceed those charged any other government agency. A current price list must be available in the Proposer's local office at all times for audit by the City.

Price Changes

Prices quoted shall remain unchanged for the duration of the resultant agreement, unless agreed upon by both parties.

Cooperative Purchasing

The City desires that the prices, terms, and conditions contained in any agreement resulting from this RFP shall be offered to any other government agency. The proposer shall state in the proposal if willing to allow such cooperative purchasing. Any resulting cooperative purchasing shall be between the consultant and governmental agency desiring such cooperative purchasing, as long as specifications are similar and the agreements are reached within a year of original proposal.

Hold Harmless Clause

The Proposer shall, during the terms of the contract including any warranty period, indemnify, defend, and hold harmless the City, its officials, employees, agents, and representatives thereof from all suits, actions, or claims of any kind, including attorney's fees, brought on account of any personal injuries, damages or violations of rights sustained by any person or property in consequence of any neglect in safeguarding contract work, or on account of any act or omission by the Consultant or his employees, or from any claims or amounts arising from violation of any law, bylaw, ordinance, regulations or decree. The Proposer agrees that this clause shall include claims involving infringement of patent or copyright.

Safety

All Consultant and subconsultants performing services for the City are required and shall comply with all Occupational and Health Administration (OSHA), State and County Safety and Occupational Health Standards, and any other applicable rules and regulations. Also all Consultants and subconsultants shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this contract.

Severability

In the event that any provision shall be adjudged or decreed to be invalid, such ruling shall not invalidate the entire agreement but shall pertain only to the provision in question and the remaining provisions shall continue to be valid, binding, and in full force and effect.

Non-Collusion Affidavit

Proposer shall declare that the only persons or parties interested in the proposal as principals are those named therein; that no officer, agent, or employee of the City of Rialto is personally interested, directly or indirectly, in the proposal; that the proposal is made without connection to any other individual, firm, or corporation making a proposal for the same work; and that the proposal is in all respects fair and without collusion or fraud. The Non-Collusion Affidavit shall be executed and submitted with the proposal.

Workman's Compensation Certificate

Section 3700 of the State Labor Code requires that every employer shall secure the payment compensation by either being insured against liability to pay compensation with one or more insurers or by securing a certificate of consent to self-insure from the State Director of Industrial Relations.

In accordance with this section and with Section 1861 of the State Labor Code, the Consultant shall sign a Compensation Insurance Certificate which is included with the Contract Agreement, and submit

same to City of Rialto along with the other required contract documents, prior to performing any work. Reimbursement for this requirement shall be considered as included in the various items of work.

Insurance

Prior to the commencement of any services hereunder, Proposer shall provide to the City certificates of insurance with the City named as additional insured. Such policies shall be subject to approval by the City and shall require thirty days' notice to the City before any cancellation. Failure to furnish such evidence, if required, may be considered a default of the contract.

- (1) Workers' compensation insurance covering all employees of the Consultant, in a minimum amount of \$1 million per accident, effective per the laws of the State of California;
- (2) Commercial general liability insurance covering third party liability risks, including without limitation contractual liability, in a minimum amount of \$1 million combined single limit per occurrence for bodily injury, personal injury, and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate shall apply separately to this project, or the general aggregate limit shall be twice the occurrence limit;
- (3) Commercial auto liability and property insurance covering any owned and rented vehicles of Consultant in a minimum amount of \$1 million combined single limit per accident for bodily injury and property damage;
- (4) Professional Liability in a minimum amount of \$1 million per incident.

Termination

Subject to the provisions below, the contract may be terminated by the City upon thirty (30) days advance written notice to the other party; but if any work or service thereunder is in progress, but not completed as of the date of termination, then this contract may be extended upon written approval of the City until said work or services are completed and accepted.

a. Termination for Convenience

In the event that this contract is terminated or cancelled upon request, and for the convenience of the City, without the required thirty (30) days advanced written notice, then the City shall negotiate reasonable termination costs, if applicable.

b. Termination for Cause

Termination by the City for cause, default or negligence on the part of the firm shall be excluded from the foregoing provision; termination costs, if any shall not apply. The thirty (30) days advance notice requirement is waived in the event of Termination for Cause.

c. Termination Due to Unavailability of Funds in Succeeding Fiscal Years

When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, the contract shall be cancelled and the consultant shall be reimbursed for the reasonable value of any non-recurring costs incurred, but not amortized in the price of the supplies or services delivered under the contract.

Contractual Disputes

The Consultant shall give written notice to the Purchasing Manager of his intent to file a claim for money, or other relief at the time of the occurrence, or the beginning of the work upon which the claim is to be based.

The written claim shall be submitted to the Purchasing Manager no later than sixty (60) days after final payment. If the claim is not disposed of by agreement, the Purchasing Manager shall reduce his/her decision to writing and mail or otherwise forward a copy thereof to the Consultant within thirty (30) days of receipt of the claim.

The Purchasing Manager's decision shall be final unless the Consultant appeals within thirty (30) days by submitting a written letter of appeal to the City Administrator, or designee. The City Administrator shall render a decision within sixty (60) days of receipt of the appeal.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PROPOSERS BACKGROUND INFORMATION

Proposers Information

Proposer's Contact Name: _____

Contact Title: _____

Mailing Address: _____

Location of Business
(if different from mailing address): _____

Telephone Number: _____

Pager Number: _____

24 Hour Tel. Number: _____

Fax Number: _____

E-Mail Address: _____

Remittance Address:
(if different from mailing address): _____

Number of Years in Business: _____

Applicable State of California License #(s): _____

Expiration Date(s): _____

Proposer's Dunn and Bradstreet

'DUNNS: NUMBER: _____

Customer References

The proposer must submit a minimum of four (4) non-proposer owned customer references whose services have been provided for or used by the proposer within the last twenty-four (24) months. Services provided to these customers must be of comparable size and similar in scope to the City's requirements within this proposal.

Include the following for each reference:

- Company Name:
- Name of Contact:
- Title of Contact:
- Address:
- Telephone number of Contact:
- Dates and types of service(s) provided

The City may, at its option, contact other known proposer's customers for references.

Business Organization

Proposer shall provide an overview of the entity submitting this RFP including the following information:

- Brief history and description of entity;
- Date entity was established and location of entity when established;
- Location of headquarters;
- Total number of employees;
- Organization chart indicating the positions and names of the core management team which will undertake this project;
- Resumes for all core team members.

Proposed Subconsultant Information

If applicable to the proposal, the following information must be provided for each proposed subconsultant. Attach and submit this information with this proposal. If subconsultants will not be utilized, so indicate.

- Subconsultant's name, mailing address, phone number
- Subconsultant's contact name, title, phone number
- Subconsultant's status as a minority/woman owned business enterprise, if applicable
- Subconsultant's City of Rialto business License
- Description of work to be subcontracted
- Reason(s) for subcontracting
- Percentage of total contract to be subcontracted

**CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PROPOSER'S DECLARATION**

Proposal Date: _____, 2019

To the Honorable Mayor and City Council From:

Contractor

The undersigned, as Proposer, declares that he has carefully examined the locations of the proposed work described, examined the Agreement and read the Instructions to Proposers and is familiar with all proposal requirements, and hereby proposes and agrees, if the proposal is accepted, to complete the said maintenance in accordance with the Agreement Documents, as defined in the General Provisions, in the time stated herein, for the prices set forth in the following schedule:

Said amount to include and cover all taxes, the furnishing of all materials, the performing of all the labor requisite and the providing of all necessary machinery, tools, apparatus and other means of construction; also, the performance and completion of all the work in the manner set forth, described and shown in the Specifications or on the drawings for the work.

The Proposer to whom the contract (s) is awarded agrees to enter into an agreement with the City, and to commence work within fifteen (15) working days from the date of execution thereof, and to diligently prosecute the work to completion as set forth in the agreement after the execution of the agreement and the date of issuance of a Notice to Proceed.

The City Offices are closed every Friday and the following Holidays: New Year's Day, Martin Luther King Day, President's Day, Cesar Chavez Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, Christmas Eve, and Christmas.

All proposals are to be computed on the basis of the given Estimated Type of Work, as indicated in this proposal. In case of a discrepancy between words and figures, the words shall prevail. In case of a discrepancy between unit prices and the extension thereof, the unit price shall prevail and proposals will be computed as indicated above and compared on the basis of correct totals.

The estimated quantities of work indicated in this proposal are approximate only, being given solely as a basis for comparison of proposals. The City does not expressly nor by implication agree that the actual amount of work will correspond therewith, but reserves the right to increase or decrease the amount of any item or portions of the works as may be deemed expedient by the Contract Administrator.

It is understood by the Proposer that the City of Rialto has the right to reject this proposal or to award an agreement to the undersigned at the prices stipulated. If the proposal is rejected, then the enclosed check or proposal bond shall be returned to the undersigned within thirty-days (30) days from the date thereof. If the proposal is accepted and the work is awarded and the terms supplied by the Purchasing Manager within fifteen (15) days such further time as may be granted by the City Council, then said check shall be cashed or said bond declared forfeit and an amount equal to the difference between the lowest Proposer who will execute an agreement shall be paid into the treasury of the City of Rialto as liquidated damages for the failure of the undersigned to comply with the terms of this proposal.

Licensed in accordance with an act providing for the registration of Contractor's License No. _____, classification, **XXXX**. In executing this proposal the Proposer certified being properly licensed to do the work.

Signature of Proposer

If an individual, so state. If a firm or co-partnership, state the firm name and give the names of all individual co-partners composing the firm, i.e., president, secretary, treasurer and manager, thereof.

Dated: _____, 2019

_____ Business Address

_____ Telephone Number

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
STATEMENT OF PROPOSER'S QUALIFICATIONS

STATE OF CALIFORNIA,

COUNTY OF _____

I am the _____ of _____, the Proposer herein. I have read the foregoing statement and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

Executed on _____ at _____, California
(date) (place)

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature of Authorized Representative

Printed Name/Title

Company Name

Address

City, State, Zip Code

Date Signed

**CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PROPOSER'S BOND**

KNOW ALL MEN BY THESE PRESENT,

That we, _____, as Principal, and _____, as Surety,

are held and firmly bound unto the City of Rialto in the sum of TEN PERCENT (10%) of the total amount of the proposal of the principal, to be paid to the said City or its certain attorney, its successors and assigns; for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors or assigns, jointly and severally, firmly by these presents.

In no case shall the liability of the surety hereunder exceed the sum of \$ _____.

THE CONDITION OF THIS OBLIGATION IS SUCH,

That whereas the principal has submitted the above mentioned proposal to the City of Rialto for certain maintenance specifically described as follows, for which proposals are to be opened, no later than March 14, 2019 at 4:00 P.M. for: RFP 19-093 Pyrotechnics Display. The undersigned Proposer hereby proposes to furnish all labor, materials, equipment, tools and services necessary to perform all work required in the specifications for either or both of the proposals .

NOW, THEREFORE, if the aforesaid principal is awarded the contract and within the time and manner required under the specifications after the prescribed forms are presented to him for signature, enters into a written contract in the prescribed form in accordance with the proposal, and files the two bonds with the City of Rialto. One to guarantee faithful performance and the other to guarantee payment for labor and materials as required by law, then this obligee and judgment is recovered; the surety shall pay all costs incurred by the obligee in such suit including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, 2019.

(SEAL)

(SEAL)

(SEAL)

PRINCIPAL

(SEAL)

(SEAL)

(SEAL)

(SEAL)

SURETY

(SEAL)

ADDRESS

NOTE: Signatures of those executing for the surety must be properly acknowledged (notarized). Attach Power of Attorney.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PERFORMANCE BOND CERTIFICATION

Offeror must provide written evidence from an authorized bonding company of their ability to provide an acceptable performance (surety) bond.

NOW, THEREFORE, if the aforesaid principal is awarded the contract, and, within the time and manner required under the specifications, after the prescribed forms are presented to him for signature, enters into a written contract, in the prescribed form, in accordance with the proposal, and files the bonds with the City of Rialto, one to guarantee faithful performance and the other to guarantee payment for labor and materials, as required by law, then this obligee and judgment is recovered, the surety shall pay all costs incurred by the obligee in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this _____ day of _____, 2019.

_____	(SEAL)
_____	(SEAL)
_____	(SEAL)
PRINCIPAL	
_____	(SEAL)
_____	(SEAL)
_____	(SEAL)
_____	(SEAL)
SURETY	
_____	(SEAL)
ADDRESS	

NOTE: Signatures of those executing for the surety must be properly acknowledged (notarized). Attach Power of Attorney.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
WORKERS' COMPENSATION INSURANCE CERTIFICATION

The Contractor shall execute the following form as required by the California Labor Code, Sections 1860 and 1861:

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract.

Date: _____

By

(Contractor)

(Signature)

(Title)

ATTEST:

By

(Signature)

(Title)

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
MINIMUM WAGE STATEMENT

This contract will be awarded as a cost-savings contract under the provisions of Government Code Section 19130(a). In accordance with those provisions, the salary rate to be paid to individuals performing the requested services as described under this contract should be an amount calculated NOT to “significantly undercut” the State pay rate and shall not be less than the industry rate for San Bernardino County. In the event that this salary rate does significantly undercut the State pay rate or the industry rate for San Bernardino County. THE PROPOSAL WILL BE REJECTED AS NON-RESPONSIVE.

A Proposer on this contract must complete the “Minimum Wage Statement” below and return this sheet with his/her proposal.

MINIMUM WAGE STATEMENT

I hereby certify that the minimum wage to be paid to all individuals performing the requested services as described under this contract will not less than \$_____ per hour.

Signature of Authorized Representative

Printed Name

Title

Company Name

Address

City, State, Zip Code

Date Signed

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
STATEMENT OF PROPOSER'S PAST CONTRACT
DISQUALIFICATIONS

Pursuant to Section 10162 of the Public Contract Code the Proposer shall state whether such Proposer, any officer or employee of such Proposer who has a proprietary interest in such Proposer has ever been disqualified, removed, or otherwise prevented from proposing on, or completing a Federal, State or Local Government Project because of a violation of law or a safety regulation; and if so, explain the circumstances.

If the Proposer has had a contract terminated for default, all such incidents must be described. Termination for default is defined as notice to stop performance due to the Proposer's non-performance or poor performance and the issue was either not litigated; or litigated and such litigation determined the Proposer to be in default. Submit full details of all termination(s) for default experienced by the Proposer including the other party's name, address and telephone number. Present the Proposer's position on the matter. The City will evaluate the facts and may, at its sole discretion, reject the Proposer's proposal if the fact discovered indicates the completion of a contract resulting from the RFP may be jeopardized by selection of the Proposer.

If no such termination for default has been experienced by the Proposer in the past five years, so indicate.

1. Do you have any disqualification, removal, etc., as described in the above paragraph to declare?

Yes ☐ No ☐

2. If yes, explain the circumstances. Attach additional pages if necessary.

Executed on _____ at _____, California.

I declare, under penalty of perjury, that the foregoing is true and correct.

Signature of Authorized Representative

Printed Name/Title

Company Name

Address

Date Signed

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
PROPOSER'S STATEMENT OF SUBCONSULTANTS

Without exception, the proposer is required to state the name and address of each subconsultant and the portion of the work which each will do as required by Section 2-3, "Subcontracts", of the Standard Specifications and in conformance with Public Contracts Code, Section 4100 to 4113, inclusive.

Without limiting the generality of the foregoing, any consultant making a Proposal or offer to perform the work shall set forth in the Proposal:

(a) The name and the location of the place of business of each subconsultant who will perform work or labor or render service to the prime consultant in or about the construction of the work or improvement, or a subconsultant licensed by the State of California who, under subcontract to the prime consultant, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the prime consultant's total Proposal: and

(b) The portion of the work which will be done by each subconsultant.
The prime consultant shall list only one subconsultant for each portion.

The undersigned submits herewith a list of subconsultants in conformance with the foregoing:

<u>Name Under Which Subconsultant is Licensed</u>	<u>License No. & Class</u>	<u>Business Address</u>	<u>Specific Description of Subcontract and Portion of the Work to be Done</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Signature(s) of Proposer Date

Signature(s) of Proposer Date

Title

Title

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
CERTIFICATION OF NON-DISCRIMINATION BY CONTRACTORS

As suppliers of goods or services to the City of Rialto, the firm listed certified that it does not discriminate in its employment with regard age, handicap, race, color, religion, sex, or national origin; that it is in compliance with all federal, state, local directives, and executive orders regarding non-discrimination in employment; and that it agrees to demonstrate positively and aggressively the principle of equal employment opportunity in employment. Every bidder in violation of this section is subject to all penalties imposed for violation of Chapter 1 of Part VII, Division 2 of the Labor Code, in accordance with the provisions of Section 1753 thereof.

We agree specifically:

1. To establish or observe employment policies which affirmatively promote opportunities for minority persons at all job levels.
2. To communicate this policy to all persons concerned, including all company employees, outside recruiting services, especially those serving minority communities, and to the minority communities at large.
3. To take affirmative steps to hire minority employees within the company.

Signature of Authorized Representative

Printed Name/Title

Company Name

Address

City, State, Zip Code

Date Signed

Please include any additional information available regarding equal opportunity employment programs now in effect within your company.

CITY OF RIALTO
REQUEST FOR PROPOSAL #19-093
NON-COLLUSION AFFIDAVIT

The undersigned bidder or agent, being duly sworn on oath, says that he/she has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to include anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He/She further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee gift, commission or thing of value on account of such sale.

OATH AND AFFIRMATION

I HEREBY AFFIRM UNDER THE PENALTIES FOR PERJURY THAT THE FACTS AND INFORMATION CONTAINED IN THE FOREGOING BID FOR PUBLIC WORKS ARE TRUE AND CORRECT.

Dated this _____ day of _____, _____

(Name of Organization)

(Title of Person Signing)

(Signature)

ACKNOWLEDGEMENT

STATE OF _____)

) ss

COUNTY OF _____)

Before me, a Notary Public, personally appeared the above named and swore that the statements contained in the foregoing document are true and correct.

Subscribed and sworn to me this _____ day of _____, _____.

Notary Public Signature

My Commission Expires: _____

SAMPLE SERVICES AGREEMENT
BETWEEN THE CITY OF RIALTO AND
NAME OF VENDOR

THIS SERVICES AGREEMENT (herein "Agreement") is made and entered into this **XX** day of **Month**, **Year** by and between the City of Rialto, a municipal corporation ("City"), and **Consultant**, a **State corporation** ("Consultant"). City and Consultant are sometimes individually referred to as "Party" or collectively as "Parties".

RECITALS

A. City has determined it is in the public's interest to contract for certain services which are necessary or convenient to the exercise of its powers.

B. City has sought, by issuance of Request for Proposal (RFP) for **Type of Services**, RFP #**XX-XXX**, the performance of the services defined and described particularly in Article 1 of this Agreement.

C. Following the submission of a proposal for the performance of the services defined and described particularly in Article 1 of this Agreement, **Contractor** was selected by the City to perform those services.

D. Pursuant to Chapter 2.48 of the Rialto Municipal Code, City has authority to enter into and execute this Agreement.

E. The Parties desire to formalize the selection of Contractor for the performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, Contractor shall provide those services specified in the "Scope of Services" attached hereto as **Exhibit "A"** and incorporated herein by this reference, which services may be referred to herein as the "services" or "work" hereunder. As a material inducement for City to enter into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, it meets all local, state, and federal requirements in performing the services, and it is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently, and to

the best of its ability, experience, and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be of good quality, fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor's Proposal.

This Agreement shall include the Request for Proposal ("Contract Documents"), and the Scope of Services shall include Consultant's scope of work. The Contract Documents shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the Contract Documents, and/or this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any federal, state, or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees, and Assessments.

Contractor shall obtain, at its sole cost and expense, such licenses, permits, and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments, and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend, and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes penalties, or interest levied, assessed, or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. If Contractor discovers any latent or unknown conditions that will materially affect the performance of the services hereunder, then Contractor shall immediately inform the City of such fact and shall not proceed except at City's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies, and/or other components thereof, to prevent losses or damages, and shall be responsible for all such damages to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Prevailing Wages.

Contractor is aware of the requirements of California Labor Code Section 1720, *et seq.* and 1770, *et seq.*, as well as California Code of Regulations, Title 8, Section 1600, *et seq.*, ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on "Public Works" and "Maintenance" projects. It is the understanding of City and Consultant that the Prevailing Wage Laws do not apply to this Agreement because the Agreement does not involve any services subject to prevailing wage rates pursuant to the California Labor Code or regulations promulgated thereunder. Contractor shall defend, indemnify, and hold City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

1.8 Further Responsibilities of Parties.

Both Parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both Parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless specified in this Agreement, neither Party shall be responsible for the service of the other.

1.9 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to, or deducting from said work. No such extra work or change may be undertaken unless a written order is first given by the Contract Officer to the Contractor, describing in detail the extra work or change and the reason(s) therefor and incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work or change, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or an amount not to exceed a total contract sum of Fifteen Thousand Dollars (\$15,000), whichever is less, or any increase in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively must be approved by the City Council. Payment for additional services rendered by Contractor under this Agreement requires the submission of the actual costs of Contractor's performance of the extra work with the invoice(s) for the extra work claim(s), as provided in Section 2.4. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be

provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors.

No claim for an adjustment in the contract amount or time for performance shall be valid unless the procedures established in this Section are followed.

1.10 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the “**Special Requirements**” attached hereto as **Exhibit “B”** and incorporated herein by this reference. In the event of a conflict between the provisions of **Exhibit “B”** and any other provisions of this Agreement, the provisions of **Exhibit “B”** shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the “**Schedule of Compensation**” attached hereto as **Exhibit C** and incorporated herein by this reference. The total compensation, shall not exceed **Contract Amount Written Out Dollars and Cents (\$XX,XXX.XX)**, the “Contract Sum”, unless additional compensation is approved pursuant to Section 1.9.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services; (iii) payment for time and materials based upon the Contractor’s rates as specified in the Schedule of Compensation, provided that time estimates are provided for the performance of sub tasks, but not exceeding the Contract Sum; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City may independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within thirty (30) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission.

2.5 No Waiver.

Review and payment by City to Contractor of any invoice for work performed by Contractor pursuant to this Agreement shall not be deemed a waiver of any defects in work performed by Contractor or of any rights or remedies provided herein or any applicable law.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the agreement.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall, within ten (10) days of the commencement of such delay, notify the Contract Officer in writing of the causes of

the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer shall extend the time for performance in accordance with the procedures set forth in Section 1.9. The Contract Officer's determination shall be final and conclusive upon the Parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, the term of this Agreement shall commence on Date. Unless earlier terminated under the terms of this agreement, this agreement shall continue in full force and effect for one (1) year, until Date. At the sole discretion of the City of Rialto, upon written notice(s) to the Contractor, the term of this agreement may be extended for Number (X) additional one year (1) terms. Said notice shall be delivered prior to Date, for the final one (1) year extension, if granted. In no event shall the term of this Agreement extend beyond Date. (include if applicable)

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection there with: Contractor

Name
(Name)

Title
(Title)

Name
(Name)

Title
(Title)

It is expressly understood that the experience, knowledge, capability, and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires to reassign any staff or subcontractor of Contractor, Contractor

shall, immediately upon a Reassign Notice from City of such desire of City, reassign such persons or persons.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care, or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be the City Administrator or other such person designated by the City Administrator. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Administrator, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode, or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives, or agents, or in fixing their number, compensation, or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition against Subcontracting or Assignment.

The experience, knowledge, capability, and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers

restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees, and agents of City:

(a) Comprehensive General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury, and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure, and provide legal defense for both the Contractor and the City against any loss, claim, or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, and hired cars.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of, or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements.

(f) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees, and agents as additional insureds, and any insurance maintained by City or its officers, employees, or agents shall apply in excess of, and not contribute with, Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees, and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any Party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend, and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations, or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), arising from Contractor's reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents, or employees, any and all costs and expenses incurred by the City, its officers, agents, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Contractor shall incorporate similar, indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness, or willful misconduct of the design professional. The indemnity obligation

shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer or Surety.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager Consultant.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor.

However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed, and governed both as to validity and to performance of the Parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of San Bernardino, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, Eastern Division.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party.

7.6 Legal Action.

In addition to any other rights or remedies, either Party may take legal action, in law or in equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating Party need not provide the non-terminating Party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either Party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing Party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a Party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

Additionally, pursuant to Rialto Municipal Code section 2.48.145, Consultant represents that it has disclosed whether it or its officers or employees is related to any officer or employee of the City by blood or marriage within the third degree which would subject such officer or employee to the prohibition of California Government Sections 87100 et. seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090. To this end, by approving this Agreement, Consultant attests under penalty of perjury, personally and on behalf of Consultant, as well its officers, representatives, that it/they have no relationship, as described above, or financial interests, as such term is defined in California Government Section 87100 et. seq., Fair Political Practices Commission Regulation Section 18702, or Government Code Section 1090, with any City of Rialto elected or appointed official or employee, except as specifically disclosed to the City in writing.

8.3 Covenant against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorney's fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Facilities and Equipment.

Except as otherwise provided, Contractor shall, at its own cost and expense, provide all facilities and equipment necessary to perform the services required by this Agreement. City shall make available to Contractor only physical facilities such as desks, filing cabinets, and conference space ("City Facilities"), as may be reasonably necessary for Contractor's use while consulting with City employees and reviewing records and the information in possession of City. The location, quality, and time of furnishing of City Facilities shall be in the sole discretion of City. In no event shall City be required to furnish any facilities that may involve incurring any direct expense, including but not limited to computer, long distance telephone, network data, internet, or other communication charges, vehicles, and reproduction facilities.

9.2 Payment of Taxes.

Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any federal and state taxes.

9.3 Notices.

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered, sent by pre-paid First Class U.S. Mail, registered or certified mail, postage prepaid, return receipt requested, or delivered or sent by facsimile with attached evidence of completed transmission, and shall be deemed received upon the earlier of (i) the date of delivery to the address of the person to receive such notice if delivered personally or by messenger or overnight courier; (ii) three (3) business days after the date of posting by the United States Post Office if by mail; or (iii) when sent if given by facsimile. Any notice, request, demand, direction, or other communication sent by facsimile must be confirmed within forty-eight (48) hours by letter mailed or delivered. Other forms of electronic transmission such as e-mails, text messages, instant messages are not acceptable manners of notice required hereunder. Notices or other communications shall be addressed as follows:

If to City: City of Rialto
 150 S. Palm Ave.
 Rialto, CA 92376
 Attn: City Administrator
 Tel: (909) 820-2525
 Fax: (909) 820-2527

With copy to: Aleshire & Wynder, LLP
 18881 Von Karman Ave., Suite 1700
 Irvine, CA 92612
 Attn: Fred Galante, City Attorney
 Tel: (949) 223-1170
 Fax: (949) 223-1180

If to Contractor: Name, Vendor Name
 Address
 City, State & Zip
 Tel: (XXX) XXX-XXXX
 Fax: (XXX) XXX-XXXX

Either Party may change its address by notifying the other Party of the change of address in writing.

9.4 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either Party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.5 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.6 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the Parties. It is understood that there are no oral agreements between the Parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the Parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The Parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.7 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the Parties hereunder unless the invalid provision is so material that its invalidity deprives either Party of the basic benefit of their bargain or renders this Agreement meaningless.

9.8 Corporate Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that (i) such Party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said Party, (iii) by so executing this Agreement, such Party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said Party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF RIALTO, a municipal corporation

Deborah Robertson, Mayor

ATTEST:

Barbara A. McGee, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Fred Galante, City Attorney

CONTRACTOR:

COMPANY NAME

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Two signatures are required if a corporation.

EXHIBIT A
SCOPE OF WORK

**EXHIBIT B
SPECIAL PROVISIONS**

(If Applicable)

EXHIBIT C
SCHEDULE OF COMPENSATION