

NOTICE FOR REQUEST FOR PROPOSALS (RFP) CITYWIDE OBJECTIVE DESIGN STANDARDS

Notice is hereby given that the City of Azusa will be accepting Request for Proposals (RFP) – Citywide Objective Design Standards.

The City of Azusa’s Economic and Community Development is requesting qualified firms, to respond to a Request for Proposals (RFP) to prepare consulting services for the creation and implementation of Citywide Objective Design Standards and associated environmental document and Code amendments. The City of Azusa is requesting qualified firms to submit a proposal for the City of Azusa’s 1st Citywide Objective Design Standards.

Link to RFP:

<https://www.ci.azusa.ca.us/749/BidRequest-For-Proposals>

TimeLine: Deadline to Submit Proposal

Thursday, July 29, 2021 by 5:30 PM

All **inquiries only** to this proposal should be submitted via mail or e-mail to:

Manuel Muñoz
Planning Division
Economic and Community Development Department
City of Azusa
213 E. Foothill Boulevard
Azusa, CA 91702
Phone: (626) 812-5226
Fax: (626) 334-5464
E-mail: mmunoz@azusaca.gov

Dated: June 30, 2021

/s/Jeffrey Lawrence Cornejo, Jr.
City Clerk

Published in the San Gabriel Valley Tribune on July 2, 2021



City of Azusa

Request for Proposals: Citywide Objective Design Standards

Proposals Due:

Thursday, July 29, 2021 by 5:30 PM

Contact:

Manuel Muñoz
Planning Manager
Economic and Community Development Department
City of Azusa
213 East Foothill Boulevard
Azusa, CA 91702
(626)812-5226
mmunoz@azusaca.gov



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I. Introduction

The City of Azusa is requesting qualified firms, to respond to a Request for Proposals (RFP) to prepare Citywide Objective Design Standards of all residential, commercial and industrial structures. This would be the City's first Citywide Objective Design Standards.

II. Geographic Area

The City of Azusa is the 11th oldest city in Los Angeles County and the fifth oldest in the San Gabriel Valley. Incorporated in 1898, the City was built upon street systems and city blocks using a grid pattern. The City operates under the council/administration form of government. It is a full-service city except for its Fire Department which is contracted with Los Angeles County Fire Department. The City covers approximately 10 square miles and boasts a diverse population of over 49,000. The estimated median household income is over \$57,000. The City is proud of its mix of small businesses, support services, manufacturers and large institutional employers such as Azusa Pacific University. The City is home to Azusa Pacific University (10,000 students) and 18 schools with 9,600 students in the Azusa Unified School District. Azusa is also home to the Home2Suites by Hilton and Lagunitas Brewing Company. Two Metro Gold Line Light Rail Stations have been operational since early March 2016 as part of the Foothill Gold Line from Pasadena to Azusa. The Azusa Downtown Station is located in the heart of City's downtown, and the APU/Citrus College Station is adjacent to both Azusa Pacific University and Citrus College,

The City is strategically located off the 210 Freeway within a 30 minute drive to Pasadena, Orange County, the Inland Empire, and the Ontario International Airport. In addition to its convenient freeway access and approximately 25 miles from Downtown Los Angeles, Azusa offers several major traffic corridors including the renowned U.S. Route 66 (Foothill Boulevard) which runs east to west through the community. The California State Route 39 runs north to the newly designated San Gabriel Mountains National Monument and south to the beach.

III. Purpose and Project Overview

The purpose of this RFP is to solicit and select a firm/s to provide consultant services to assist City staff as it relates to Citywide Objective Design Standards. Under the direction of the City's Director of Economic and Community Development, the consultant/s will provide the range of expertise to carry out the Citywide Objective Design Standards.

All services provided by the consultant/s shall be performed by individuals who meet the qualifications, educations, and certification/licensing for the position/s. The successful consultant/s shall also have the resources to provide cost effective and timely services, including providing outstanding customer service to the City and its related clients.

IV. Scope of Services and Consultant's Responsibilities

1. Background Review & Goals: Meet with City staff to establish project goals and objectives and confirm the project schedule. Review relevant codes and policies, including: General Plan, Azusa Municipal Code Chapter 88- Development Code, and Specific Plans like Monrovia Specific Plan and TOD Specific Plan, as well as other documents related to ongoing related studies.

2. Community Engagement and Education: The purpose of this document is to create Citywide Objective Design Standards that will engage and educate the community on the benefits of good

design. Public outreach should include discussions with the general public and specific stakeholder groups, such as property owners, business owners, Azusa Chamber of Commerce, Cultural and Historic Preservation Commission, Planning Commission and City Council. The consultant is responsible for recommending an outreach program as part of the work scope, including a kick-off meeting with the public. After general public outreach, the project would be heard by the Cultural and Historic Preservation Commission, Planning Commission and City Council.

3. Architectural Field Surveys: The consultant will conduct architectural field surveys to identify good/bad designs and most frequently used architectural styles in the City. The survey would cover all residential, commercial and industrial properties. This scope shall include the identification, photography, evaluation and classification of properties.

4. Citywide Objective Design Standards Components: The City of Azusa is placing a great emphasis on quality urban design, architecture, and quality of life in all neighborhoods in the City. The objective design standards for residential projects must meet the definition of Senate Bill (SB) 330 and Senate Bill (SB) 35. SB 330 states: "Objective design standard" means a design standard that involves no personal or subjective judgement by a public official and is uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal of an application." SB 35 states: "Objective zoning standards", "objective subdivision standard", and "objective design review standard" means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official prior to submittal. "Objective design review standards" means only objective design standards published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application, which are broadly applicable to development with the jurisdiction. The standards will be for all building types in the City including but not limited to residential, commercial, and industrial structures. They will focus on massing, form and architectural styles. The standards will be a conduit for educating the community and a tool for homeowners, designers, architects, and design review personnel to achieve high-quality design for projects. The overall components of the Citywide Objective Design Standards shall include but not limited to:

- Massing & Form
- Architectural Styles
- Design by Element
- Design by Architectural Style

5. Adoption of Objective Design Standards - Final Report: The final report will include the following information:

- (a) Objectives
- (b) Architectural Field Surveys
- (c) Research Design
- (d) Design Standards Methodology
 - (i) Massing & Form
 - (ii) Architectural Styles
- (e) Design Standards
 - (i) Residential
 - (ii) Commercial

- (iii) Industrial
- (f) Field Survey Results
- (g) Next Steps
- (h) Sources
- (i) Maps

City staff and will evaluate survey processes, findings, and standards created by the consultant. The consultant will then make a presentation of findings to City staff, the Cultural and Historic Preservation Commission, the Planning Commission and the City Council.

6. Implementation of Objective Design Standards: The consultant will implement the Objective Design Standards by the following but not limited to code amendment, robust handouts. The consultant will prepare an outline of the implementation and code sections to be amended and provide handouts and website content.

7. Digital Availability of Information: The consultant will produce all file in a digital format that can be easily manipulate by City Staff. The documents are preferred to be in an Adobe Suite software. All information shall be provided in working files and final document format.

V. Submittal Content and Procedures

The following minimum information should be provided in each proposal and will be utilized in evaluating each proposal submitted. To expedite the evaluation of proposals, submittals shall include:

(a) Cover Letter

The cover letter should indicate the full name and address of the consulting firm that will perform the services described in the RFP. The Consultant should include the name and contact information for the individual who will serve as project manager as well as the firm's qualifications.

(b) Consultant's Prior Experience and Qualifications

Provide three (3) examples of completed projects demonstrating the consultant's current design standards for municipalities or other public agencies.

(c) References

Provide three (3) client references applicable to the scope of services. Include contact names, telephone numbers and e-mail addresses.

(d) Organizational Chart

Identify all team members, their titles and responsibilities for the project.

(e) Team Member Resumes

Provide a resume for each team member.

(f) Methodology Overview and Approach

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

- 1) An implementation plan that describes in detail (i) the methods, including controls by which your firm manages projects of the type sought by this City of Azusa - RFP for Citywide Objective Design Standards

RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.

- 2) Detailed description of efforts your firm will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
- 3) Overall timeline for each task.
- 4) Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

(g) Compensation

Consultant's compensation for all work performed in accordance with this Agreement.

(h) Exceptions/Deviations

State any exceptions to or deviations from the requirements of this RFP, Segregating "technical" exceptions from "contractual" exceptions. Where Proposer(s) wishes to propose alternative approaches to meeting the City's technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, Proposer(s) will be deemed to have accepted the contract requirements.

VI. Evaluation and Selection Process

All proposals submitted will be reviewed and evaluated by the Evaluation Committee composed of the Director of Economic and Community Development and other members of City Staff for further consideration on the basis of the following criteria:

- Consultant's qualifications and experience;
- Consultant's knowledge of best practices in Historic Preservation;
- Consultant's experience in completing projects similar in size, scope and purpose;
- Consultant's understanding of the Scope of Services;
- Consultant's detailed work plan to complete services;
- Qualifications and experience of team members;
- Overall quality of response to RFP; and
- Consultant's fee proposal.

During the evaluation period, the City may interview some or all of the proposing firms. The City will establish a specific date to conduct interviews, and all prospective Proposer(s) will be asked to keep this date available. No other interview dates will be provided, therefore, if a Proposer(s) is unable to attend the interview on this date; its proposal may be eliminated from further discussion. The interview will likely consist of a short presentation by the Proposer(s) after which the Proposal Evaluation Committee will ask questions related to the firm's proposal and qualifications. At the conclusion of the evaluation process, the Proposal Evaluation Committee may recommend to the City Council, a Proposer(s) with the highest final ranking or a short list of top ranked firms within the competitive range whose proposal(s) is most advantageous to the City. The City Council will review the Proposal Evaluation Committee's recommendation and make the final selection.

VII. Professional Services Agreement

The selected consultant will be required to enter into a Professional Services Agreement with the City of Azusa which includes the City's standard Terms and Conditions including insurance requirements.

VIII. Submission of Proposals

One (1) unbound copy, three (3) bounded copies and one (1) electronic copy of all proposals must be received in the City of Azusa City Clerk by Thursday, July 29, 2021 at 5:30 p.m. It is the responsibility of the Consultant to see that any proposal sent through mail, or any other delivery method, should have sufficient time to be received by the City of Azusa City Clerk prior to the proposal due date and time. Late proposals will not be accepted. Proposals should be clearly marked and submitted to:

**City of Azusa
Office of the City Clerk
213 E. Foothill Blvd
Azusa, CA 91702**

All **inquiries only** to this proposal should be submitted by e-mail to:

Manuel Muñoz, Planning Manager
Planning Division
Economic and Community Development Department
City of Azusa
213 E. Foothill Boulevard
Azusa, CA 91702
Phone: (626) 812-5226
Fax: (626) 334-5464
E-mail: mmunoz@azusaca.gov

Interpretations or clarifications considered necessary in response to such questions will be resolved by the issuance of formal Addenda to the RFP sent out no later than Thursday, July 22, 2021 at 5:30 p.m. The deadline for all questions is Thursday, July 15, 2020 at 5:30 p.m. Questions received after this date and time will not be answered. Only questions that have been resolved in writing will be binding. Oral and other interpretations or clarifications will be without legal or contractual effect.

Deadline to Submit Proposal	July 29, 2021
Staff Review applications	August – September, 2021
Staff Selects Firm(s)	October, 2020

IX. General RFP Conditions

- (a) The City reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- (b) The City reserves the right to withdraw or cancel this RFP at any time without prior notice and the City makes no representations that any contract will be awarded to any Proposer(s) responding to this RFP.
- (c) The City reserves the right to postpone proposal openings for its own convenience.

- (d) Proposals received by the City are public information and must be made available to any person upon request.
- (e) Submitted proposals are not to be copyrighted.
- (f) The City reserves the right to seek clarification of information submitted in response to this RFP.
- (g) The City reserves the right to modify the RFP as it deems necessary.
- (h) Any material misrepresentations made by the Proposer(s) will void the proposal response and eliminate the Proposer(s) from further consideration.
- (i) Pre-Contractual Expense

The City shall not, in any event, be liable for any pre-contractual expenses incurred by Proposer(s) in the preparation of its proposal. Proposer shall not include any such expenses as part of its proposal.

Pre-contractual expenses are defined as expenses incurred by Proposer(s) in:

- i. Preparing its proposal in response to this RFP;
 - ii. Submitting that proposal to the City;
 - iii. Negotiating with the City any matter related to this proposal; or
 - iv. Any other expenses incurred by Proposer(s) prior to date of award, if any.
- (j) All materials submitted become the property of the City.

X. Award of Contract

The City of Azusa will receive competitive proposals from agencies having specific experience and qualifications in the areas identified in this solicitation. Under competitive negotiation procedures, the terms of the service contract, the price of the service, the method of service delivery, and the conditions of performance are all negotiable. A negotiated contract will be awarded to the firm that best meets the proposed needs at a reasonable price, not necessarily at the lowest price.

APPENDIX A

SAMPLE

PROFESSIONAL SERVICES AGREEMENT

**CITY OF AZUSA
PROFESSIONAL SERVICES AGREEMENT**

1. PARTIES AND DATE.

This Agreement is made and entered into this ____ day of _____, 20__ by and between the City of Azusa, a municipal corporation organized under the laws of the State of California with its principal place of business at 213 East Foothill Boulevard, Azusa, California 91702 (“City”) and [INSERT NAME OF COMPANY], a [INSERT TYPE OF BUSINESS: CORPORATION; LIMITED LIABILITY COMPANY; ETC.] with its principal place of business at [INSERT ADDRESS] (“Consultant”). City and Consultant are sometimes individually referred to herein as “Party” and collectively as “Parties.”

2. RECITALS.

2.1 Consultant.

Consultant desires to perform and assume responsibility for the provision of certain professional services required by the City on the terms and conditions set forth in this Agreement. Consultant represents that it is experienced in providing [INSERT TYPE OF SERVICES] services to public clients, is licensed in the State of California, and is familiar with the plans of City.

2.2 Project.

City desires to engage Consultant to render such services for the [INSERT NAME OF PROJECT] project (“Project”) as set forth in this Agreement.

3. TERMS.

3.1 Scope of Services and Term.

3.1.1 General Scope of Services. Consultant promises and agrees to furnish to the City all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply the professional [INSERT TYPE OF SERVICES] consulting services necessary for the Project (“Services”). The Services are more particularly described in Exhibit “A” attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.1.2 Term. The term of this Agreement shall be from [INSERT START DATE] to [INSERT ENDING DATE], unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established schedules and deadlines. The Parties may, by mutual written consent, extend the term of this Agreement if necessary to complete the Services.

3.2 Responsibilities of Consultant.

3.2.1 Control and Payment of Subordinates; Independent Contractor. The Services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the Services subject to the requirements of this Agreement. City retains Consultant on an independent contractor basis and not as an employee. Consultant retains the right to perform similar or different services for others during the term of this Agreement. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.2.2 Schedule of Services. Consultant shall perform the Services expeditiously, within the term of this Agreement, and in accordance with the Schedule of Services set forth in Exhibit "B" attached hereto and incorporated herein by reference. Consultant represents that it has the professional and technical personnel required to perform the Services in conformance with such conditions. In order to facilitate Consultant's conformance with the Schedule, City shall respond to Consultant's submittals in a timely manner. Upon request of City, Consultant shall provide a more detailed schedule of anticipated performance to meet the Schedule of Services.

3.2.3 Conformance to Applicable Requirements. All work prepared by Consultant shall be subject to the approval of City.

3.2.4 Substitution of Key Personnel. Consultant has represented to City that certain key personnel will perform and coordinate the Services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. In the event that City and Consultant cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. As discussed below, any personnel who fail or refuse to perform the Services in a manner acceptable to the City, or who are determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Consultant at the request of the City. The key personnel for performance of this Agreement are as follows: [\[INSERT NAMES\]](#).

3.2.5 City's Representative. The City hereby designates [\[INSERT NAME OR TITLE\]](#), or his or her designee, to act as its representative for the performance of this Agreement ("City's Representative"). City's Representative shall have the power to act on behalf of the City for all purposes under this Contract. Consultant shall not accept direction or orders from any person other than the City's Representative or his or her designee.

3.2.6 Consultant's Representative. Consultant hereby designates [INSERT NAME OR TITLE], or his/her designee, to act as its representative for the performance of this Agreement ("Consultant's Representative"). Consultant's Representative shall have full authority to represent and act on behalf of the Consultant for all purposes under this Agreement. The Consultant's Representative shall supervise and direct the Services, using his/her best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Services under this Agreement.

3.2.7 Coordination of Services. Consultant agrees to work closely with City staff in the performance of Services and shall be available to City's staff, consultants and other staff at all reasonable times.

3.2.8 Standard of Care; Performance of Employees. Consultant shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, including a City Business License, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Consultant shall perform, at its own cost and expense and without reimbursement from the City, any services necessary to correct errors or omissions which are caused by the Consultant's failure to comply with the standard of care provided for herein. Any employee of the Consultant or its sub-consultants who is determined by the City to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee who fails or refuses to perform the Services in a manner acceptable to the City, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.2.9 Period of Performance and Liquidated Damages. Consultant shall perform and complete all Services under this Agreement within the term set forth in Section 3.1.2 above ("Performance Time"). Consultant shall also perform the Services in strict accordance with any completion schedule or Project milestones described in Exhibits "A" or "B" attached hereto, or which may be separately agreed upon in writing by the City and Consultant ("Performance Milestones"). Consultant agrees that if the Services are not completed within the aforementioned Performance Time and/or pursuant to any such Project Milestones developed pursuant to provisions of this Agreement, it is understood, acknowledged and agreed that the City will suffer damage. *****INCLUDE THE FOLLOWING SENTENCE ONLY IF YOU'RE INCLUDING LD'S - DELETE OTHERWISE - DON'T SIMPLY INSERT \$0; ALSO DELETE "AND LIQUIDATED DAMAGES" FROM TITLE OF SECTION***** Pursuant to Government Code Section 53069.85, Consultant shall pay to the City as fixed and liquidated damages the sum of *****INSERT WRITTEN DOLLAR AMOUNT***** Dollars (\$*****INSERT NUMERICAL DOLLAR AMOUNT*****) per day for each and every calendar day of delay beyond the Performance Time or beyond any Project Milestones established pursuant to this Agreement.

3.2.10 Laws and Regulations; Employee/Labor Certifications. Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the City, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold City, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.2.10.1 Employment Eligibility; Consultant. By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time. Such requirements and restrictions include, but are not limited to, examination and retention of documentation confirming the identity and immigration status of each employee of the Consultant. Consultant also verifies that it has not committed a violation of any such law within the five (5) years immediately preceding the date of execution of this Agreement, and shall not violate any such law at any time during the term of the Agreement. Consultant shall avoid any violation of any such law during the term of this Agreement by participating in an electronic verification of work authorization program operated by the United States Department of Homeland Security, by participating in an equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, or by some other legally acceptable method. Consultant shall maintain records of each such verification, and shall make them available to the City or its representatives for inspection and copy at any time during normal business hours. The City shall not be responsible for any costs or expenses related to Consultant's compliance with the requirements provided for in Section 3.2.10 or any of its subsections.

3.2.10.2 Employment Eligibility; Subcontractors, Consultants, Sub-subcontractors and Subconsultants. To the same extent and under the same conditions as Consultant, Consultant shall require all of its subcontractors, consultants, sub-subcontractors and subconsultants performing any work relating to the Project or this Agreement to make the same verifications and comply with all requirements and restrictions provided for in Section 3.2.10.1.

3.2.10.3 Employment Eligibility; Failure to Comply. Each person executing this Agreement on behalf of Consultant verifies that they are a duly authorized officer of Consultant, and understands that any of the following shall be grounds for the City to terminate the Agreement for cause: (1) failure of Consultant or its subcontractors, consultants, sub-subcontractors or subconsultants to meet any of the requirements provided for in Sections 3.2.10.1 or 3.2.10.2; (2) any misrepresentation or material omission concerning compliance with such requirements (including in those verifications provided to the Consultant under Section 3.2.10.2); or (3) failure to immediately remove from the Project any person found not to be in compliance with such requirements.

3.2.10.4 Labor Certification. By its signature hereunder, Consultant certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.2.10.5 Equal Opportunity Employment. Consultant represents that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of City's Minority Business Enterprise program, Affirmative Action Plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.2.10.6 Air Quality. To the extent applicable, Consultant must fully comply with all applicable laws, rules and regulations in furnishing or using equipment and/or providing services, including, but not limited to, emissions limits and permitting requirements imposed by the South Coast Air Quality Management District (SCAQMD) and/or California Air Resources Board (CARB). Although the SCAQMD and CARB limits and requirements are more broad, Consultant shall specifically be aware of their application to "portable equipment", which definition is considered by SCAQMD and CARB to include any item of equipment with a fuel-powered engine. Consultant shall indemnify City against any fines or penalties imposed by SCAQMD, CARB, or any other governmental or regulatory agency for violations of applicable laws, rules and/or regulations by Consultant, its subconsultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

3.2.10.7 Water Quality.

(A) Management and Compliance. To the extent applicable, Consultant's Services must account for, and fully comply with, all local, state and federal laws, rules and regulations that may impact water quality compliance, including, without limitation, all applicable provisions of the Federal Water Pollution Control Act (33 U.S.C. §§ 1300); the California Porter-Cologne Water Quality Control Act (Cal Water Code §§ 13000-14950); laws, rules and regulations of the Environmental Protection Agency, the State Water Resources Control Board and the Santa Ana Regional Water Quality Control Board; the City's ordinances regulating discharges of storm water; and any and all regulations, policies, or permits issued pursuant to any such authority regulating the discharge of pollutants, as that term is used in the Porter-Cologne Water Quality Control Act, to any ground or surface water in the State.

(B) Liability for Non-compliance. Failure to comply with the laws, regulations and policies described in this Section is a violation of law that may subject Consultant or City to penalties, fines, or additional regulatory requirements. Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from and

against any and all fines, penalties, claims or other regulatory requirements imposed as a result of Consultant's non-compliance with the laws, regulations and policies described in this Section, unless such non-compliance is the result of the sole established negligence, willful misconduct or active negligence of the City, its officials, officers, agents, employees or authorized volunteers.

(C) Training. In addition to any other standard of care requirements set forth in this Agreement, Consultant warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them without impacting water quality in violation of the laws, regulations and policies described in this Section. Consultant further warrants that it, its employees and subcontractors will receive adequate training, as determined by City, regarding the requirements of the laws, regulations and policies described in this Section as they may relate to the Services provided under this Agreement. Upon request, City will provide Consultant with a list of training programs that meet the requirements of this paragraph.

3.2.11 Insurance.

3.2.11.1 Time for Compliance. Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to the City that it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under this section.

3.2.11.2 Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (3) Workers' Compensation and Employer's Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. The policy shall not contain any exclusion contrary to the Agreement, including but not limited to endorsements or provisions limiting coverage for (1) contractual liability (including but not limited to ISO CG 24 26 or 21 29); or (2) cross liability for claims or suits by one insured against another.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) General Liability: [CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT; TYPICAL MINIMUM IS \$1 MILLION, BUT AMOUNT OF INSURANCE REQUIRED DEPENDS ON NATURE OF CONTRACT AND RISK TO CITY]\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate

limit is used including, but not limited to, form CG 2503, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: [CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT; TYPICAL MINIMUM IS \$1 MILLION, BUT AMOUNT OF INSURANCE REQUIRED DEPENDS ON NATURE OF CONTRACT AND RISK TO CITY]\$1,000,000 per accident for bodily injury and property damage; and (3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of [CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT; TYPICAL MINIMUM IS \$1 MILLION, BUT AMOUNT OF INSURANCE REQUIRED DEPENDS ON NATURE OF CONTRACT AND RISK TO CITY]\$1,000,000 per accident for bodily injury or disease. Defense costs shall be paid in addition to the limits.

(C) Notices; Cancellation or Reduction of Coverage. At least fifteen (15) days prior to the expiration of any such policy, evidence showing that such insurance coverage has been renewed or extended shall be filed with the City. If such coverage is cancelled or materially reduced, Consultant shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with the City evidence of insurance showing that the required insurance has been reinstated or has been provided through another insurance company or companies. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, the City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by the City will be promptly reimbursed by Consultant or the City may withhold amounts sufficient to pay premium from Consultant payments. In the alternative, the City may suspend or terminate this Agreement.

3.2.11.3 Professional Liability. [INCLUDE THIS SUBSECTION ONLY IF APPLICABLE - DELETE OTHERWISE] Consultant shall procure and maintain, and require its sub-consultants to procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than [CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT; TYPICAL MINIMUM IS \$1 MILLION, BUT AMOUNT OF INSURANCE REQUIRED DEPENDS ON NATURE OF CONTRACT AND RISK TO CITY]\$1,000,000 per claim, and shall be endorsed to include contractual liability. Defense costs shall be paid in addition to limits.

3.2.11.4 Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the City to add the following provisions to the insurance policies:

(A) General Liability. The general liability policy shall include or be endorsed (amended) to state that: (1) using ISO CG forms 20 10 and 20 37, or endorsements providing the exact same coverage, the City of Azusa, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Services or ongoing and complete operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (2) using ISO form 20 01, or endorsements providing the exact same coverage, the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any

excess insurance shall contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of the City, before the City's own primary insurance or self-insurance shall be called upon to protect it as a named insured. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.4(A).

(B) Automobile Liability. The automobile liability policy shall include or be endorsed (amended) to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (2) the insurance coverage shall be primary insurance as respects the City, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it in any way. Notwithstanding the minimum limits set forth in Section 3.2.11.2(B), any available insurance proceeds in excess of the specified minimum limits of coverage shall be available to the parties required to be named as additional insureds pursuant to this Section 3.2.11.4(B).

(C) Workers' Compensation and Employers' Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

(D) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days (10 days for nonpayment of premium) prior written notice by certified mail, return receipt requested, has been given to the City; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its directors, officials, officers, employees, agents and volunteers. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officials, officers, employees, agents and volunteers, or any other additional insureds.

3.2.11.5 Separation of Insureds; No Special Limitations; Waiver of Subrogation. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the City, its directors, officials, officers, employees, agents and volunteers. All policies shall waive any right of subrogation of the insurer against the City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery

against City, its officials, officers, employees, agents, and volunteers, or any other additional insureds, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

3.2.11.6 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City. Consultant shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its directors, officials, officers, employees, agents and volunteers; or (2) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.2.11.7 Subconsultant Insurance Requirements. Consultant shall not allow any subconsultants to commence work on any subcontract relating to the work under the Agreement until they have provided evidence satisfactory to the City that they have secured all insurance required under this Section. If requested by Consultant, the City may approve different scopes or minimum limits of insurance for particular subconsultants. The Consultant and the City shall be named as additional insureds on all subconsultants' policies of Commercial General Liability using ISO form 20 38, or coverage at least as broad.

3.2.11.8 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the City.

3.2.11.9 Verification of Coverage. Consultant shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the City if requested. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.2.11.9 Reporting of Claims. Consultant shall report to the City, in addition to Consultant's insurer, any and all insurance claims submitted by Consultant in connection with the Services under this Agreement.

3.2.12 Safety. Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the work and the conditions under which the work is to be performed. Safety precautions as applicable shall include, but shall not be limited to: (A) adequate life protection and life saving equipment and procedures; (B) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (C) adequate facilities for the proper inspection and maintenance of all safety measures.

3.2.13 Accounting Records. Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

3.3 Fees and Payments.

3.3.1 Compensation. Consultant shall receive compensation, including authorized reimbursements, for all Services rendered under this Agreement at the rates set forth in Exhibit "C" attached hereto and incorporated herein by reference. The total compensation shall not exceed [INSERT WRITTEN DOLLAR AMOUNT] (\$[INSERT NUMERICAL DOLLAR AMOUNT]) without written approval of the City Manager [REPLACE 'CITY MANAGER' WITH 'CITY COUNCIL' FOR AMOUNTS OVER \$10,000]. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

3.3.2 Payment of Compensation. Consultant shall submit to City a monthly itemized statement which indicates work completed and hours of Services rendered by Consultant. The statement shall describe the amount of Services and supplies provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. City shall, within 45 days of receiving such statement, review the statement and pay all approved charges thereon.

3.3.3 Reimbursement for Expenses. Consultant shall not be reimbursed for any expenses unless authorized in writing by City.

3.3.4 Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from City's Representative.

3.3.5 Prevailing Wages. Consultant 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 16000, 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. If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. City shall provide Consultant with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Consultant shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available

to interested parties upon request, and shall post copies at the Consultant's principal place of business and at the project site. Consultant shall defend, indemnify and hold the 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.

3.4 Termination of Agreement.

3.4.1 Grounds for Termination. City may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to City, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.4.2 Effect of Termination. If this Agreement is terminated as provided herein, City may require Consultant to provide all finished or unfinished Documents and Data and other information of any kind prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such document and other information within fifteen (15) days of the request.

3.4.3 Additional Services. In the event this Agreement is terminated in whole or in part as provided herein, City may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.5 Ownership of Materials and Confidentiality.

3.5.1 Documents & Data; Licensing of Intellectual Property. This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents & Data"). All Documents & Data shall be and remain the property of City, and shall not be used in whole or in substantial part by Consultant on other projects without the City's express written permission. Within thirty (30) days following the completion, suspension, abandonment or termination of this Agreement, Consultant shall provide to City reproducible copies of all Documents & Data, in a form and amount required by City. City reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. The reproduction expense shall be borne by City at the actual cost of duplication. In the event of a dispute regarding the amount of compensation to which the Consultant is entitled under the termination provisions of this Agreement, Consultant shall provide all Documents & Data to City upon payment of the undisputed amount. Consultant shall have no right to retain or fail to provide to City any such documents pending resolution of the dispute. In addition, Consultant shall retain copies of all Documents & Data on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to City upon the

payment of actual reasonable duplication costs. Before destroying the Documents & Data following this retention period, Consultant shall make a reasonable effort to notify City and provide City with the opportunity to obtain the documents.

3.5.2 Subcontractors. Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were prepared by design professionals other than Consultant or its subcontractors, or those provided to Consultant by the City.

3.5.3 Right to Use. City shall not be limited in any way in its use or reuse of the Documents and Data or any part of them at any time for purposes of this Project or another project, provided that any such use not within the purposes intended by this Agreement or on a project other than this Project without employing the services of Consultant shall be at City's sole risk. If City uses or reuses the Documents & Data on any project other than this Project, it shall remove the Consultant's seal from the Documents & Data and indemnify and hold harmless Consultant and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Documents & Data on such other project. Consultant shall be responsible and liable for its Documents & Data, pursuant to the terms of this Agreement, only with respect to the condition of the Documents & Data at the time they are provided to the City upon completion, suspension, abandonment or termination. Consultant shall not be responsible or liable for any revisions to the Documents & Data made by any party other than Consultant, a party for whom the Consultant is legally responsible or liable, or anyone approved by the Consultant.

3.5.4 Confidentiality. All Documents & Data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. All Documents & Data shall not, without the prior written consent of City, be used or reproduced by Consultant for any purposes other than the performance of the Services. Consultant shall not disclose, cause or facilitate the disclosure of the Documents & Data to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of City.

3.6 General Provisions.

3.6.1 Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

Consultant:

[*INSERT NAME, ADDRESS & CONTACT PERSON***]**

City of Azusa - RFP for Citywide Objective Design Standards

City:

City of Azusa
213 E. Foothill Blvd.
Azusa, CA 91702

Attn: *****INSERT NAME & DEPARTMENT*****

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.2 Indemnification.

3.6.2.1 Scope of Indemnity. To the fullest extent permitted by law, CONSULTANT shall indemnify and hold harmless AGENCY and any and all of its officials, employees and agents (“Indemnified Parties”) from and against any and all losses, liabilities, damages, costs and expenses, including legal counsel’s fees and costs, caused in whole or in part by the negligent or wrongful act, error or omission of CONSULTANT, its officers, agents, employees or subconsultants (or any agency or individual that CONSULTANT shall bear the legal liability thereof) in the performance of services under this AGREEMENT. CONSULTANT’s duty to indemnify and hold harmless AGENCY shall not extend to the AGENCY’s sole or active negligence.

3.6.2.2 Duty to Defend. In the event the AGENCY, its officers, employees, agents and/or volunteers are made a party to any action, lawsuit, or other adversarial proceeding arising from the performance of the services encompassed by this AGREEMENT, and upon demand by AGENCY, CONSULTANT shall defend the AGENCY at CONSULTANT’s cost or at AGENCY’s option, to reimburse AGENCY for its costs of defense, including reasonable attorney’s fees and costs incurred in the defense of such matters to the extent the matters arise from, relate to or are caused by CONSULTANT’s negligent acts, errors or omissions. Payment by AGENCY is not a condition precedent to enforcement of this indemnity. In the event of any dispute between CONSULTANT and AGENCY, as to whether liability arises from the sole or active negligence of the AGENCY or its officers, employees, or agents, CONSULTANT will be obligated to pay for AGENCY’s defense until such time as a final judgment has been entered adjudicating the AGENCY as solely or actively negligent. CONSULTANT will not be entitled in the absence of such a determination to any reimbursement of defense costs including but not limited to attorney’s fees, expert fees and costs of litigation.

3.6.3 Governing Law; Government Code Claim Compliance. This Agreement shall be governed by the laws of the State of California. Venue shall be in Los Angeles County. In addition to any and all contract requirements pertaining to notices of and requests for compensation or payment for extra work, disputed work, claims and/or changed conditions, Consultant must comply with the claim procedures set forth in Government Code sections 900 et seq. prior to filing any lawsuit against the City. Such Government Code claims and any subsequent lawsuit based upon the Government Code claims shall be limited to those matters that remain unresolved after all procedures pertaining to extra work, disputed work, claims, and/or changed conditions have been followed by Consultant. If no such Government Code claim is submitted, or

if any prerequisite contractual requirements are not otherwise satisfied as specified herein, Consultant shall be barred from bringing and maintaining a valid lawsuit against the City.

3.6.4 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.6.5 City's Right to Employ Other Consultants. City reserves right to employ other consultants in connection with this Project.

3.6.6 Successors and Assigns. This Agreement shall be binding on the successors and assigns of the parties.

3.6.7 Assignment or Transfer. Consultant shall not assign, hypothecate, or transfer, either directly or by operation of law, this Agreement or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

3.6.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. All references to Consultant include all personnel, employees, agents, and subcontractors of Consultant, except as otherwise specified in this Agreement. All references to City include its elected officials, officers, employees, agents, and volunteers except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

3.6.9 Amendment; Modification. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

3.6.10 Waiver. No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

3.6.11 No Third Party Beneficiaries. Except to the extent expressly provided for in Section 3.6.7, there are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.6.12 Invalidity; Severability. If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

3.6.13 Prohibited Interests. Consultant maintains and warrants that it has not

employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subconsultants to file, a Statement of Economic Interest with the City's Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.14 Cooperation; Further Acts. The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

3.6.15 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.6.16 Authority to Enter Agreement. Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each Party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective Party.

3.6.17 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

3.6.18 Entire Agreement. This Agreement contains the entire Agreement of the parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Agreement may only be modified by a writing signed by both parties.

3.6.19 Federal Provisions. *****INCLUDE THIS SECTION ONLY IF APPLICABLE; DELETE OTHERWISE. IF APPLICABLE, YOU MAY ALSO NEED TO INCLUDE SOME INFORMATION IN THE RFP. CONSULT THE CITY ATTORNEY IF NECESSARY***** When funding for the Services is provided, in whole or in part, by an agency of the federal government, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Federal Requirements) attached hereto and incorporated herein by reference ("Federal Requirements"). With respect to any conflict between such Federal Requirements and the terms of this Agreement and/or the provisions of state law, the more stringent requirement shall control.

[SIGNATURES ON NEXT PAGE]

CITY OF AZUSA

[INSERT NAME OF CONSULTANT]

By: _____

City Manager [Up to \$10,000]
OR Mayor [OVER \$10,000]

By: _____

Name: _____

Attest:

Title: _____

City Clerk

[If Corporation, TWO SIGNATURES,
President **OR** Vice President **AND** Secretary,
AND CORPORATE SEAL OF
CONTRACTOR REQUIRED]

Approved as to Form:

Best Best & Krieger LLP

By: _____

City Attorney

Name: _____

Title: _____

EXHIBIT "A"
SCOPE OF SERVICES

[INSERT SCOPE]

EXHIBIT “B”

SCHEDULE OF SERVICES

[INSERT SCHEDULE]

EXHIBIT “C”
COMPENSATION

[INSERT RATES & AUTHORIZED REIMBURSABLE EXPENSES]

[INCLUDE THIS EXHIBIT (AND CORRESPONDING AGREEMENT PROVISION) ONLY IF APPLICABLE; DELETE OTHERWISE. IF APPLICABLE, YOU MAY ALSO NEED TO INCLUDE SOME INFORMATION IN THE RFP. CONSULT THE CITY ATTORNEY IF NECESSARY**]**

EXHIBIT "D"

FEDERAL REQUIREMENTS

[INSERT ALL FORMS, PROVISIONS AND OTHER REQUIREMENTS OF THE FEDERAL FUNDING SOURCE**]**