



# **REQUEST FOR PROPOSAL**

**For**

**PARK SECURITY PATROL SERVICES**

**SUBMITTAL DEADLINE: December 5<sup>th</sup>, 2016**

## **CITY OF SAN JACINTO**

**The City of San Jacinto requires security patrol service for 31 sites within the City. Patrol officers will provide dusk till dawn security inspections of parks and related facilities.**

### **SCOPE OF WORK**

#### **This contract would consist of the following tasks:**

- Provide nightly patrol service up to thirty one (31) sites throughout the City.
- The contractor will check each site five (3 to 5) times per night in a random order/pattern with and time stamp/log to a daily report.
- Contractor's vehicles shall be equipped with a GPS system in order to verify routes and stops.
- Contractor's vehicles must be clearly marked as security patrol vehicles.
- Contractor's vehicles must be equipped with a spotlight and a loud hailer (PA) system meeting law enforcement standards.
- The Contractor shall **not** engage individuals at the sites other than through dispersal commands through the loud hailer system. If further action is required the Contractor shall immediately contact the San Jacinto Police Department (SJPD).
- Patrol services shall be provided from dusk till dawn, 365 days per year.
- Contractor shall provide daily reports to the City including verification of GPS data.
- Contacts requiring SJPD notification or acts of vandalism and graffiti shall be reported daily to City staff.
- Contractor shall have at least two vehicles available for this contract.
- Contractor's personnel shall be in uniforms identifying them as security officers.
- Contractor will lock restrooms at dusk and unlock restrooms/gates at dawn in parks that have those facilities (3).
- Contractor shall maintain 24 hour phone and e-mail contact availability.
- Contract shall be for one year in duration with two optional one year extensions based on contractor's previous year's performance.

**PROPOSAL SUBMITTAL  
REQUIREMENTS**

1. Proposers should send five (5) copies of the completed proposals and cost bid so that it is received by the City no later than (2pm December 5<sup>th</sup>, 2016) to:

City of San Jacinto  
Attention: Rick Hoffman  
595 S. San Jacinto  
Avenue  
San Jacinto, CA 92583

2. Format: Proposal should be 8 ½ x 11 inches, printed two-sided on recycled and recyclable paper with removable bindings, bound in a single document and organized in sections following the order specified under contents.

3. Contents: Proposal shall contain the following information:

- A. Firm Description

If responding as a firm rather than as an individual, provide a description of your firm and list relevant information about capabilities, size, services, and length of time in existence.

- B. Relevant Experience

Describe relevant experience managing and implementing security patrol services.

- C. Key Personnel Qualifications

If responding as a firm, identify key personnel who would work on the project, as assigned their respective roles and a synopsis of relevant experience and licensing. If responding as an individual, provide a synopsis of relevant experience and licensing.

- D. References

List of public agencies or clients for whom similar or comparable work has been performed, with the name, title and phone number of a contact person.

- E. Scope of Work

Provide an explanation of tasks associated with the project in the Scope of Work section, including a general description of how you propose to complete each task.

- F. Budget and Schedule of Charges  
Provide a “Not to Exceed” amount and a list of Personnel Rates, Equipment Charges, Travel Reimbursement Costs, and Job Descriptions for Personnel.
- G. Work Schedule  
Provide time schedule for completion of work assuming a two-year contract period.
- H. Insurance  
The individual or firm receiving the contract shall procure and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, employees or subcontracts as set forth in Section 3.2.10 of Exhibit “B” which is attached hereto and incorporated by reference herein. The cost of such insurance shall be included in the consultant’s proposal.
- I. Consultant Agreement  
The City of San Jacinto’s standard professional services agreement is attached as Exhibit “B”. Please identify if your firm would have any issues with the provisions of the City’s standard professional services agreement.

## **CRITERIA FOR SECTION AND INTERVIEW SCHEDULE**

After the submittal deadline, the City will review all proposals and select firms that will be invited for interviews. It is anticipated that the interview will take place:

### **WEEK OF (December 12, 2016)**

The City of San Jacinto will evaluate the written proposals using the following criteria:

- Experience providing security patrol services.
- Experience related to such services in similarly-sized communities
- Experience related to such services in cities with demographics similar to San Jacinto.
- Capabilities and resources of the firm or individuals
- Qualifications and experience of key individuals
- Scope of Work and Timeline for completion of work
- Cost of Proposal
- Appropriate licensing and bonding of the firm and individuals.

During the interview, the City of San Jacinto will assess the qualifications of the proposing firm related to the following criteria:

- Project management skills and approach

- Accessibility of project personnel
- Clear communication/presentation skills

The award will be based upon the City's evaluation of the proposing team's

- Written proposal
- Interview/in-person presentation
- Experience
- Favorable references

Proposals will be reviewed and interviews conducted by staff of the City of San Jacinto, Thereafter, a recommendation for award of contract will be presented to the San Jacinto City Council.

### **OTHER CONSIDERATIONS**

The City of San Jacinto reserves the right to reject any and all proposals. This Request for Proposals does not commit the City to award contract, pay any costs incurred in the preparation of proposals, or to procure or contract for supplies or services.

The City of San Jacinto reserves the right to negotiate with any qualified source or to cancel, in part of or in its entirety, this Request for Proposals, if it is in the best interest of the City to do so. The City may require the selected consultant to participate in negotiations, and submit such price, technical or other revisions of the proposal that may result from negotiations.

### **QUESTIONS**

Questions should be directed to:

Rick Hoffman  
595 S. San Jacinto  
Avenue  
San Jacinto, CA 92583  
(951) 505-4595  
Hoffmanconsult@outlook  
.com

### **ATTACHMENTS**

Exhibit "A" – Names and addresses of sites to be patrolled.  
Exhibit "B" – City's standard Professional Services Agreement

## **Exhibit "A" Parks to be patrolled**

Hafliger Park (Zone 22)  
630 E. Agape Ave

Belicia Park (Zone 31)  
1803 Mountain Ave

Durango Park (Zone 20)  
503 Divine Way

Sagecrest Park (Zone 1)  
Sagecrest Dr & Cortina Dr

Potter Ranch (Granite, Zone 27)  
1774 Wheelbarrow Way

Col. Lewis Millett Park (Zone 76)  
2001 Ramona Blvd.

Haugen Park (Zone 29)  
1099 Peaceful Ln

Arterra Park (2 Parks, Zone 21)  
Polzin / 7<sup>th</sup>

Lynden Trail Park (Zone 43)  
752 Overton Dr

Park Meadows (Bolander Park Zone 13)  
Meadow View Drive

Cutting Park (Zone 32)  
1780 W. Cottonwood Ave

Stallions Crossings (Zone 25)  
108 N. Lyon Ave

Warneke Park (Zone 38)  
594 Sunnyside Blvd

Daniel Najera Park (Mosiaco, Zone 41)  
1462 Rojo Lane

Sandalwood (2 Parks, Zone 11)  
Sandalwood & Sandkey, Sandalwood &  
Caseros

CENT (Zone 3)  
Directly across from Sandlewood &  
Sandkey (West side)

Aaron J. Ward Park (Zone 7)  
381 La Clarita Ave

Tamarisk Park (Zone 45)  
3061 Coffeeberry Way

Terrazzo Park (Zone 26)  
2171 Hartley Pkwy

Ward Park (Zone 8)  
805 Sweet Clover Loop

Solana II / Meadowbrook II (Zone 62)  
1300 Heron Way

Druding Park  
208 S. Pico Ave

Francisco Estudillo Heritage Park  
150 S. Dillon Ave

Hofmann Park  
650 San Jacinto Ave

Mistletoe Park  
421 S. Mistletoe Ave

Rancho Park  
975 E. Esplanade Ave

Sallee Park  
180 Idyllwild Drive

The Cove Julian Park (Zone 55)  
727 Julian Avenue

Sky View Park  
920 Sky View Lane

The Cove Pomegranate (Zone 53)  
252 Pomegranate St

**EXHIBIT B:**

**PROFESSIONAL SERVICES AGREEMENT  
TEMPLATE**

**CITY OF SAN JACINTO  
PROFESSIONAL SERVICES AGREEMENT  
PARK SECURITY PATROL SERVICES**

**1. PARTIES AND DATE.**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of San Jacinto, a municipal corporation organized under the laws of the State of California with its principal place of business at 595 South San Jacinto Avenue, San Jacinto, California 92583 (“City”) and [\_\_INSERT NAME\_\_], a [\_\_[INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY]\_\_] with its principal place of business at [\_\_INSERT ADDRESS\_\_] (“Consultant”). City and Consultant are sometimes individually referred to 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 KEY PERSONNEL\_\_\_],

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 or 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 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/subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Consultant represents that it, its employees and subcontractors/subconsultants 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 subconsultants 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 Laws and Regulations. 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.

3.2.9.1 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.

3.2.9.2 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 Worker's 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.

3.2.9.3 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 sub-consultants, or others for whom Consultant is responsible under its indemnity obligations provided for in this Agreement.

### 3.2.10 Insurance.

3.2.10.1 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 subconsultant to commence work on any subcontract until it has provided evidence satisfactory to the City that the subconsultant has secured

all insurance required under this section. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Agreement for cause.

3.2.10.2 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 subconsultants. Consultant shall also require all of its subconsultants 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.

(B) Minimum Limits of Insurance. Consultant shall maintain limits no less than: (1) *General Liability:* \$2,000,000 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:* \$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 \$1,000,000 per accident for bodily injury or disease.

3.2.10.3 Professional Liability. **\*\*\*INCLUDE THIS SUB-SECTION 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 **\*\*\*INSERT AMOUNT - TYPICALLY \$2,000,000 MINIMUM; HOWEVER, AMOUNT OF INSURANCE REQUIRED DEPENDS UPON NATURE OF CONTRACT AND RISK TO CITY. PLEASE CONTACT RISK MANAGEMENT TO CONFIRM AMOUNT\*\*\***] per claim, and shall be endorsed to include contractual liability.

3.2.10.4 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 be endorsed to state that: (1) the City, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; 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.

(B) Automobile Liability. The automobile liability policy shall be endorsed 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.

(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 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.

3.2.10.5 Separation of Insureds; No Special Limitations. 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.

3.2.10.6 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.

3.2.10.7 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.

3.2.10.8 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.

3.2.10.9 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.

3.2.11 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 subconsultants, 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.

### **3.3 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 City's [ **\_\_\_INSERT TITLE\_\_\_** ]. Extra Work may be authorized, as defined and 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 applicable, 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 Accounting Records.**

3.4.1 Maintenance and Inspection. 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.

### **3.5 General Provisions.**

#### **3.5.1 Termination of Agreement.**

3.5.1.1 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.

3.5.1.2 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 documents and other information within fifteen (15) days of the request.

3.5.1.3 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.

3.5.2 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:**

City of San Jacinto  
595 S. San Jacinto Avenue  
San Jacinto, CA 92583

**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.

### 3.5.3 Ownership of Materials and Confidentiality.

#### 3.5.3.1 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.

#### 3.5.3.2 Subconsultants.

Consultant shall require all subconsultants to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subconsultant 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 subconsultants, or those provided to Consultant by the City.

#### 3.5.3.3 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.

3.5.3.4 Indemnification. 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, for any alleged infringement of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the Project by City of the Documents & Data, including any method, process, product, or concept specified or depicted.

3.5.3.5 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 that 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.

3.5.4 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.

3.5.5 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.

#### 3.5.6 Indemnification.

3.5.6.1 Scope of Indemnity. To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the City, its directors, officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged negligent acts, omissions or willful misconduct of Consultant, its officials, officers, employees, subconsultants, agents, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential

damages, expert witness fees, attorney's fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's Services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

3.5.6.2 Additional Indemnity Obligations. Consultant shall defend, with counsel of City's choosing, at Consultant's own cost, expense and risk, any and all such aforesaid claims, suits, actions or other legal proceedings of every kind that may be brought or instituted against City or its directors, officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against City or its directors, officials, officers, employees, volunteers and agents as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse City for the cost of any settlement paid by City or its directors, officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for City's attorney's fees and costs, including expert witness fees. Consultant shall reimburse City and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall survive expiration or termination of this Agreement, and shall not be restricted to insurance proceeds, if any, received by the City, its directors, officials officers, employees, agents or volunteers.

3.5.7 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.

3.5.8 Governing Law. This Agreement shall be governed by the laws of the State of California. Venue shall be in Riverside County.

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

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

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

3.5.12 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.

3.5.13 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 subconsultants 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.

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

3.5.15 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.

3.5.16 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.5.17 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.

3.5.18 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.

3.5.19 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.

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

3.5.21 Grant Provisions. Since funding for the Services is provided, in whole or in part, with Proposition 84 Sustainable Communities Grant funds, Consultant shall also fully and adequately comply with the provisions included in Exhibit "D" (Grant Requirements) attached hereto and incorporated herein by reference ("Grant Requirements"). With respect to any conflict between such Grant Requirements and the terms of this Agreement, the Grant Requirements shall govern.

### **3.6 Subcontracting.**

3.6.1 Prior Approval Required. Consultant shall not subcontract any portion of the work required by this Agreement, except as expressly stated herein, without prior written approval of City. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

**[SIGNATURES ON NEXT PAGE]**

**SIGNATURE PAGE TO**

**PROFESSIONAL SERVICES AGREEMENT BY AND  
BETWEEN THE CITY OF SAN JACINTO AND [\*\*\*INSERT  
NAME\*\*\*]**

**CITY OF SAN JACINTO**

**[\*INSERT NAME OF CONSULTANT\*]  
[\*INSERT NAME OF LEGAL ENTITY\*]**

By: \_\_\_\_\_  
[\*\*\*INSERT NAME\*\*\*]  
[\*\*\*INSERT TITLE\*\*\*]

By: \_\_\_\_\_  
[\*\*\*INSERT NAME\*\*\*]  
[\*\*\*INSERT TITLE\*\*\*]

*Attest:*

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

*Approved as to Form:*

\_\_\_\_\_  
Best Best & Krieger LLP  
City Attorney

**EXHIBIT "A"**

**SCOPE OF SERVICES  
[INSERT SCOPE]**

**EXHIBIT "B"**

**SCHEDULE OF SERVICES  
[INSERT SCHEDULE]**

**EXHIBIT "C"**

**COMPENSATION**

**[INSERT RATES & AUTHORIZED REIMBURSABLE EXPENSE]**