REQUEST FOR PROPOSALS TO PREPARE A RETAIL ANALYSIS AND DOWNTOWN STRATEGY

Release Date: October 13, 2016
Deadline for Submission: November 14, 2016 5:00 PM

City of Lomita
Community Development Department
Attn: Alicia Velasco, Principal Planner
24300 Narbonne Ave.
Telephone: (310) 325-7110 x 122
Email: a.velasco@lomitacity.com
Dear Prospective Consultant:

The City of Lomita Community Development Department is requesting written proposals for the preparation of a Retail Analysis and Downtown Strategy for the City’s Downtown Commercial zoning district. The successful proposer will have experience preparing Downtown Development Plans, Economic and Policy Analysis, and Investment Strategies of comparable complexity and scale for communities similar to that of Lomita.

Situated in the central northern portion of Lomita, the primary subject area is along Narbonne Avenue from 23902 to 24660 and only 14.05 acres in size. The DC Zone also branches out to Lomita Boulevard, 242th Street, 245th Street and Woodward Avenue. The subject area consists of 64 parcels of varying square footage, width and depth. The site is surrounded by multi-family and single-family residential uses, civic uses and commercial spaces (see exhibit B site map).

It is the City’s intent to define and transform the downtown area into a vibrant place to live, work and visit. Key goals of the Strategy are the following:

- To provide and assess the market feasibility for economic uses and type of development at specific sites within the Downtown Commercial District. Define target businesses to attract to the community or development projects. Determine market potential/recruitment targets for commercial districts throughout the City while improving the understanding of customer markets for existing businesses.

- To provide a comprehensive policy and regulations analysis of all City documents pertaining to the Downtown Commercial District. This analysis will review the City’s requirements from an economic and design related standpoint to create a refined vision for the area.

- To provide a detailed vision concept for the zone. This would include building prototypes, streetscape improvements, and recommendations for improved design guidelines and zoning code requirements.

All proposals will be submitted via email no later than November 14, 2016 by 5 p.m. to be considered.

Detailed information on the requested services, proposal requirements and evaluation selection criteria are provided in the following sections of this request for proposals.
CITY OVERVIEW
The City of Lomita is a general law city located 26 miles south of downtown Los Angeles. Lomita is a small City covering a 1.97 square mile geographic area, and is bound by the City of Torrance on the north and west; the City of Los Angeles to the east; the City of Rolling Hills Estates on the southwest and the City of Rancho Palos Verdes on the southeast. Incorporated in 1964, the City has a current population of 20,733 as of January 2015, according to the California Department of Finance. The City is within the Southern California Association of Governments (SCAG) planning region and the South Bay Council of Governments (SBCOG) sub-region.

Freeway access to the City is provided indirectly by Pacific Coast Highway (SR-1), which runs in an east-west direction through the City’s southern section. Pacific Coast Highway connects to the Harbor Freeway (SR-110) approximately 3.5 miles to the east. Crenshaw Boulevard and Western Avenue are major arterial roadways along the western and eastern borders of the City and provide connections to the San Diego Freeway (I-405) approximately 8.0 miles to the north.

Lomita City Hall is comprised of a small professional and administrative staff under the Council/Manager form of government. The City is under contract with Los Angeles County for Police, Fire, Building and Safety, and some Engineering services.
SCOPE OF WORK
The selected consultant will be expected to prepare a detailed scope of service. The following elements are anticipated to be critical components of the required scope of work, and should provide prospective proposers with a starting point for developing a detailed project scope.

1. **Retail Analysis**
   Provide expert in-depth financial analysis, data analysis, market studies and economic/revenue forecasts.
   
   - **Data Analysis:**
     - Community Profile
     - Trade Area & Void Analysis
     - Financial Analysis & Revenue Projection
     - Reuse and Redevelopment Study
     - Consumer Demand/Market Supply Assessment
     - Demographic Report
     - Household Segmentation Profile
     - Retail Performance Assessment

2. **Policy and Ordinance Analysis**
   Provide background information on how current City policies affect the downtown.
   
   - **City Policy Relationship:**
     - Summarize City policies and plans that affect the downtown area in both positive and negative aspects.
     - Identify City policy areas that may conflict with the Retail Analysis portion of the plan and other previously prepared economic development documents and offer recommendations on improvement.
     - Identify new policies and strategies that would promote the downtown and its redevelopment.
     - Provide zoning examples of density, and varied retail and services uses that the City could implement to help create a vibrant downtown area.
3. **Downtown Vision**
Utilizing the information gathered in parts one and two above, provide a refined vision for the downtown that includes all elements outlined in the overall project scope.

- **Vision:**
  - Work with City staff and downtown stakeholders to refine a coordinated vision for the downtown area based on various adopted City policy documents and regulations.
  - Consultant will provide illustrative services and/or case studies to create images as guiding principles. Images would include streetscapes, building types, green spaces and other architectural design features that create a downtown environment.
  - Consultant shall coordinate and lead an off-site downtown visioning meeting where staff, elected officials, and the public if noticed, can visit other regional downtown locations (TBD by staff and the selected consultant). The meeting will act as a charrette to help guide the policies of an overarching vision of the downtown plan.

4. **Aesthetics and Appearance of Downtown**
Create an attractive and strong “sense of place” within the downtown through physical improvements that highlight and enhance the distinct character of the downtown.

- **Aesthetics:**
  - Develop strategies to enhance the aesthetics within commercial corridors and other key locations identified by staff in the downtown.
  - Work with City staff to ensure land use and zoning regulations accommodate, reinforce and encourage the type of dramatic image envisioned in the Downtown Strategy.

**DELIVERABLES**
The consultant will prepare a Retail Analysis and Downtown Strategy document. Deliverables include the following and any others that might be necessary to complete the scope of services.

- Gather and analyze data. As part of this task review background reports and related materials such as previous Downtown Studies and Design Guidelines, staff reports for projects within the area, the Zoning Code, and the adopted General Plan.
- Attend a kick-off meeting with staff.
- Prepare any technical studies to be provided as part of, and/or as appendices to, the document.
- Attend up to three Commission/Council hearings and provide support to staff in the presentation.
- The consultant will also be expected to address any substantive comments from the City Council related to the draft document.

The final scope of services will be based on the consultant’s approach to the project and will be negotiated with the firm selected and will be included in the professional services agreement with the City.
CONSULTANT SELECTION
Firms will be selected for further consideration and possible follow-up interviews based on the following criteria:

- Relevant work experience
- Completeness of the proposal
- Overall project approach
- Qualification of key project team members
- Proposed project cost

Following the selection of the most qualified firm, and at the City’s discretion, a final professional services agreement including budget, schedule and final Scope of Services may be negotiated before execution of the agreement.

The City shall attempt to negotiate an agreement to perform the work with the proposer considered to be the most qualified. Should the City be unable to negotiate a satisfactory agreement with the proposer to be most qualified, at a price the City determines to be fair and reasonable, negotiations with that proposer will be formally terminated. The City will then undertake negotiations with the next qualified proposers individually until an agreement is reached.

Insurance Required
Prior to the beginning of and throughout the duration of the contract, Consultant will maintain insurance in conformance with the requirements set forth in the City’s Professional Services Agreement. A template is attached to the RFP for reference (Attachment A). Firms should only respond if they can meet the requirements laid out in the agreement.

PROPOSAL FORMAT
All proposals shall be submitted in the following format:

A. Introduction (three page limit)
The proposal shall include a brief introduction describing the firm’s professional history and the following additional information:

a. Name of proposer, address, telephone number of main office and any branch office that will be involved in any way with the services provided.
b. Size of the organization and a breakdown of employees by discipline.
c. Organizational chart with identification of individuals to be assigned to provide services for this project. If the Consultant plans to joint-venture, or to use the services of other consultants or individuals outside of his/her firm, a description and the qualifications of other individuals who will be involved should be included.
d. Include the name, title and address of the individual in your firm with the authority to negotiate contracts with the City.

B. Project Personnel and Management (ten page limit)
Clearly describe the staff and proposed project team that will be providing services to Lomita and include the names of the Project Manager and all lead and professional support personnel. The following information shall be furnished for each member of the proposed project team:
a. Education;
b. Professional Affiliations;
c. Any professional licenses or certifications;
d. Qualifications and relevant experience with similar type projects;
e. Provide a description of the responsibilities the individual will assume on projects.

C. Experience (six page limit)
The proposer shall provide the following information on at least two similar projects to verify relevant experience:

a. Name of client;
b. Project title and address;
c. Name and telephone number of contact person of client;
d. Name of Project Manager(s);
e. Project description;
f. Amount of original contract amount and actual fees paid by client; and
g. Actual time to complete the process (from contract award to document completion).

All information provided by the proposer will be subject to verification by the City.

D. Conflict of Interest (two page limit)
These RFP procedures prohibit the practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful considerations. City employees are also prohibited from participating in the selection process when such employee has a relationship with a person or business entity seeking an agreement under an RFP that would create a conflict of interest.

Please identify any foreseeable or potential conflicts of interest which could result from submittal of this proposal or award of a consultant contract.

E. Scope of Work, Timeframe, and Project Costs
Prepare an extensive scope of work in compliance with this request and indicate estimated task costs and timeframes. This will include a detailed project schedule including the timing of each work task. The anticipated project cost shall include:
- A not-to-exceed total budget amount.
- The cost for each major sub-task identified in the scope of work.
- The hourly rates for each person who will be involved in the work.

The proposal shall indicate the method(s) the proposer will use to control project costs and maintain timelines, and shall demonstrate via past performance its ability to control costs and timelines.

F. Management Approach (two page limit)
The proposal shall define the proposer’s approach to manage the project and to eliminate potential management and coordination problems associated with interaction between the City’s Project Manager and all other sub-consultants.
OTHER REQUIREMENTS

- The proposal shall be signed by an authorized official of your firm.
- Proposal shall identify any information, materials, and/or work assistance required from the City for this project.
- The proposal shall be valid for a minimum of 120 days.

SUBMISSION REQUIREMENTS

One electronic copy in pdf format of the proposal must be received no later than 5:00 p.m. on November 14, 2016. Hard copies are not required. Proposals should be submitted via email to:

Alicia Velasco, Principal Planner
a.velasco@lomitacity.com

Questions about the proposal may be directed to Alicia Velasco at (310) 325-7110, extension 122 or a.velasco@lomitacity.com.

LIMITATIONS

- All reports and pertinent data or materials shall become the sole property of the City and may not be reproduced without the explicit written permission of the City.
- No compilation, tabulation, syntheses or analysis of data, nor definition, opinions, etc., should be anticipated by the proposer from the City, unless volunteered by a responsible official in that agency. Good business practice, such as formal letters of request, and making of appointments, should be followed.
- The Request for Proposals does not commit the City to award a contract, to pay any costs incurred in preparation of the proposal or to procure or contract for services or supplies. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel in part or in its entirety this Request for Proposals, if it is in the best interests of the City to do so. The City may require the proposer selected to participate in negotiations, and to submit such price, technical, or other revisions of their proposals as may result from such negotiations.

Attachment:
City Professional Services Agreement Template

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This AGREEMENT is entered into this day of , 2016, by and between the CITY OF LOMITA, a general law city a municipal corporation (“CITY”) and , a limited liability company (“CONSULTANT”).

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this agreement.

B. Therefore, the City desires to contract out for consulting services for certain projects relating to preparation of documents in connection with a design project.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, based on the foregoing recitals, the City and the Consultant agree as follows:

1. CONSIDERATION AND COMPENSATION

A. As partial consideration, CONSULTANT agrees to perform the work listed in the SCOPE OF SERVICES, attached as EXHIBIT A;

B. As additional consideration, CONSULTANT and CITY agree to abide by the terms and conditions contained in this Agreement;

C. As additional consideration, CITY agrees to pay CONSULTANT an amount not to exceed $ , for CONSULTANT’s services, unless otherwise specified by written amendment to this Agreement.

D. No additional compensation shall be paid for any other expenses incurred,
unless first approved by the City Manager or his designee.

E. CONSULTANT shall submit to CITY, by not later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

2. SCOPE OF SERVICES.

A. CONSULTANT will perform the services and activities set forth in the SCOPE OF SERVICE attached hereto as Exhibit A and incorporated herein by this reference. If any part of Exhibit A is inconsistent with the terms of this Agreement, the terms of this Agreement shall control.

B. Except as herein otherwise expressly specified to be furnished by CITY, CONSULTANT will, in a professional manner, furnish all of the labor, technical, administrative, professional and other personnel, all supplies and materials, equipment, printing, vehicles, transportation, office space, and facilities necessary or proper to perform and complete the work and provide the professional services required of CONSULTANT by this Agreement.

3. PAYMENTS. For CITY to pay CONSULTANT as specified by this Agreement, CONSULTANT must submit an invoice to CITY which lists the reimbursable costs, the specific tasks performed, and, for work that includes deliverables, the percentage of the task completed during the billing period.

4. TIME OF PERFORMANCE. The services of the CONTRACTOR are to commence upon receipt of a notice to proceed from the CITY and shall continue until all authorized work is completed to the CITY’s reasonable satisfaction, in accordance with the schedule incorporated in “Exhibit A,” unless extended in writing by the CITY.

5. FAMILIARITY WITH WORK. By executing this Agreement, CONSULTANT represents that CONSULTANT has (a) thoroughly investigated and considered the scope of services to be performed; (b) carefully considered how the services should be performed; and (c) understands the facilities, difficulties, and restrictions attending performance of the services under this Agreement.

6. KEY PERSONNEL. CONSULTANT’s key person assigned to perform work under this Agreement is ________________. CONSULTANT shall not assign another person to be in charge of the work contemplated by this Agreement without the prior written authorization of the City.

7. TERM OF AGREEMENT. The term of this Agreement shall commence upon execution by both parties and shall expire on __________, 20___ ,unless earlier termination occurs under Section 11 of this Agreement, or extended in writing in advance by both parties.
8. **CHANGES.** CITY may order changes in the services within the general scope of this Agreement, consisting of additions, deletions, or other revisions, and the contract sum and the contract time will be adjusted accordingly. All such changes must be authorized in writing, executed by CONSULTANT and CITY. The cost or credit to CITY resulting from changes in the services will be determined in accordance with written agreement between the parties.

9. **TAXPAYER IDENTIFICATION NUMBER.** CONSULTANT will provide CITY with a Taxpayer Identification Number.

10. **PERMITS AND LICENSES.** CONTRACTOR will obtain and maintain during the term of this Agreement all necessary permits, licenses, and certificates that may be required in connection with the performance of services under this Agreement.

11. **TERMINATION.**

   A. Except as otherwise provided, CITY may terminate this Agreement at any time with or without cause. Notice of termination shall be in writing.

   B. CONSULTANT may terminate this Agreement. Notice will be in writing at least 30 days before the effective termination date.

   C. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination, all finished or unfinished documents, data, drawings, maps, and other materials prepared by CONSULTANT shall, at CITY’s option, become CITY’s property, and CONSULTANT will receive just and equitable compensation for any work satisfactorily completed up to the effective date of notice of termination.

   D. Should the Agreement be terminated pursuant to this Section, CITY may procure on its own terms services similar to those terminated.

12. **INDEMNIFICATION.**

   A. CONSULTANT shall indemnify, defend with counsel approved by CITY, and hold harmless CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT’s performance of work hereunder or its failure to comply with any of its obligations contained in this AGREEMENT, regardless of CITY’S passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the CITY. Should CITY in its sole discretion find CONSULTANT’S legal counsel unacceptable, then CONSULTANT shall reimburse the CITY its costs of defense, including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The CONSULTANT shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers)
covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

B. The requirements as to the types and limits of insurance coverage to be maintained by CONSULTANT as required by Section 17, and any approval of said insurance by CITY, are not intended to and will not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including, without limitation, to the provisions concerning indemnification.

13. **ASSIGNABILITY.** This Agreement is for CONSULTANT’s professional services. CONSULTANT’s attempts to assign the benefits or burdens of this Agreement without CITY’s written approval are prohibited and will be null and void.

14. **INDEPENDENT CONTRACTOR.** CITY and CONSULTANT agree that CONSULTANT will act as an independent contractor and will have control of all work and the manner in which is it performed. CONSULTANT will be free to contract for similar service to be performed for other employers while under contract with CITY. CONSULTANT is not an agent or employee of CITY and is not entitled to participate in any pension plan, insurance, bonus or similar benefits CITY provides for its employees. Any provision in this Agreement that may appear to give CITY the right to direct CONSULTANT as to the details of doing the work or to exercise a measure of control over the work means that CONSULTANT will follow the direction of the CITY as to end results of the work only.

15. **AUDIT OF RECORDS.**

A. CONSULTANT agrees that CITY, or designee, has the right to review, obtain, and copy all records pertaining to the performance of this Agreement. CONSULTANT agrees to provide CITY, or designee, with any relevant information requested and will permit CITY, or designee, access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with this Agreement. CONSULTANT further agrees to maintain such records for a period of three (3) years following final payment under this Agreement.

B. CONSULTANT will keep all books, records, accounts and documents pertaining to this Agreement separate from other activities unrelated to this Agreement.

16. **CORRECTIVE MEASURES.** CONSULTANT will promptly implement any corrective measures required by CITY regarding the requirements and obligations of this Agreement. CONSULTANT will be given a reasonable amount of time as determined by the City to implement said corrective measures. Failure of CONSULTANT to implement required corrective measures shall result in immediate termination of this Agreement.

17. **INSURANCE REQUIREMENTS.**
A. The CONSULTANT, at the CONSULTANT’s own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

1. Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective employees. Any notice of cancellation or non-renewal of all Workers’ Compensation policies must be received by the CITY at least thirty (30) days prior to such change. The insurer shall agree to waive all rights of subrogation against the CITY, its officers, agents, employees, and volunteers for losses arising from work performed by the CONTRACTOR for City.

2. General Liability Coverage. The CONSULTANT shall maintain commercial general liability insurance in an amount of not less than one million dollars ($1,000,000) per occurrence for bodily injury, personal injury, and property damage. If a commercial general liability insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit.

3. Automobile Liability Coverage. The CONSULTANT shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONSULTANT arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired, and non-owned vehicles, in an amount of not less than one million dollars ($1,000,000) combined single limit for each occurrence.

4. Professional Liability Coverage. The CONSULTANT shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONSULTANT’S operations under this Agreement, whether such operations be by the CONSULTANT or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than one million dollars ($1,000,000) on a claims-made annual aggregate basis, or a combined single-limit-per-occurrence basis. When coverage is provided on a “claims made basis,” CONSULTANT will continue to renew the insurance for a period of three (3) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONSULTANT for all claims made by CITY arising out of any errors or omissions of CONSULTANT, or its officers, employees or agents during the time this Agreement was in effect.

B. Endorsements. Each general liability, automobile liability and professional liability insurance policy shall be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California, or which is approved in writing by City, and shall be endorsed as follows. CONSULTANT also agrees to require all contractors, and subcontractors to do likewise.

1. “The CITY, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds with respect to liability arising out
of work performed by or on behalf of the CONSULTANT, including materials, parts, or equipment furnished in connection with such work or operations.”

2. This policy shall be considered primary insurance as respects the CITY, its elected or appointed officers, officials, employees, agents, and volunteers. Any insurance maintained by the CITY, including any self-insured retention the CITY may have, shall be considered excess insurance only and shall not contribute with this policy.

3. This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

4. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents.

5. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents, or volunteers.

6. The insurance provided by this policy shall not be suspended, voided, canceled, or reduced in coverage or in limits except after thirty (30) days’ written notice has been received by the CITY.

C. CONSULTANT agrees to provide immediate notice to CITY of any claim or loss against Contractor arising out of the work performed under this agreement. CITY assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve CITY.

D. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the CITY’s option, the CONSULTANT shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

E. The CONSULTANT shall provide certificates of insurance with original endorsements to the CITY as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the CITY on or before commencement of performance of this Agreement. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement.

F. Failure on the part of the CONSULTANT to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 11 above.

G. The commercial general and automobile liability policies required by this Agreement shall allow City, as additional insured, to satisfy the self-insured retention (“SIR”) and/or deductible of the policy in lieu of the Consultant (as the named insured) should Consultant fail to pay the SIR or deductible requirements. The amount of the SIR or deductible shall be subject to the approval of the City Attorney and the Finance Director. Consultant understands and agrees that satisfaction of this requirement is an express condition precedent to the
effectiveness of this Agreement. Failure by Consultant as primary insured to pay its SIR or deductible constitutes a material breach of this Agreement. Should City pay the SIR or deductible on Consultant’s behalf upon the Consultant’s failure or refusal to do so in order to secure defense and indemnification as an additional insured under the policy, City may include such amounts as damages in any action against Consultant for breach of this Agreement in addition to any other damages incurred by City due to the breach.

18. **USE OF OTHER CONSULTANTS.** CONSULTANT must obtain CITY’s prior written approval to use any consultants while performing any portion of this Agreement. Such approval must include approval of the proposed consultant and the terms of compensation.

19. **FINAL PAYMENT ACCEPTANCE CONSTITUTES RELEASE.** The acceptance by the CONSULTANT of the final payment made under this Agreement shall operate as and be a release of the CITY from all claims and liabilities for compensation to the CONSULTANT for anything done, furnished or relating to the CONSULTANT’S work or services. Acceptance of payment shall be any negotiation of the CITY’S check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the CITY shall not constitute, nor be deemed, a release of the responsibility and liability of the CONSULTANT, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the CITY for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

20. **CORRECTIONS.** In addition to the above indemnification obligations, the CONSULTANT shall correct, at its expense, all errors in the work which may be disclosed during the City’s review of the Consultant’s report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the CITY, and the cost thereof shall be charged to the CONSULTANT. In addition to all other available remedies, the City may deduct the cost of such correction from any retention amount held by the City or may withhold payment otherwise owed CONSULTANT under this Agreement up to the amount of the cost of correction.

21. **NON-APPROPRIATION OF FUNDS.** Payments to be made to CONSULTANT by CITY for services preformed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that CITY does not appropriate sufficient funds for payment of CONSULTANT’S services beyond the current fiscal year, the Agreement shall cover payment for CONSULTANT’S only to the conclusion of the last fiscal year in which CITY appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

22. **NOTICES.** All communications to either party by the other party will be deemed made when received by such party at its respective name and address as follows:

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<thead>
<tr>
<th>CITY</th>
<th>CONSULTANT</th>
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<tbody>
<tr>
<td>City of Lomita</td>
<td></td>
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<tr>
<td>24300 Narbonne Avenue</td>
<td></td>
</tr>
<tr>
<td>Lomita, CA 90717</td>
<td></td>
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</tbody>
</table>
ATTN: City Manager

Any such written communications by mail will be conclusively deemed to have been received by the addressee upon deposit thereof in the United States Mail, postage prepaid and properly addressed as noted above. In all other instances, notices will be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph. Courtesy copies of notices may be sent via electronic mail, provided that the original notice is deposited in the U.S. mail or personally delivered as specified in this Section.

23. SOLICITATION. CONSULTANT maintains and warrants that it has not employed nor retained any company or person, other than CONSULTANT’s bona fide employee, 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 CONSULTANT’s bona fide employee, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Should CONSULTANT breach or violate this warranty, CITY may rescind this Agreement without liability.

24. THIRD PARTY BENEFICIARIES. This Agreement and every provision herein is generally for the exclusive benefit of CONSULTANT and CITY and not for the benefit of any other party. There will be no incidental or other beneficiaries of any of CONSULTANT’s or CITY’s obligations under this Agreement.

25. INTERPRETATION. This Agreement was drafted in, and will be construed in accordance with the laws of the State of California, and exclusive venue for any action involving this agreement will be in Los Angeles County.

26. ENTIRE AGREEMENT. This Agreement, and its Attachments, sets forth the entire understanding of the parties. There are no other understandings, terms or other agreements expressed or implied, oral or written.

27. RULES OF CONSTRUCTION. Each Party had the opportunity to independently review this Agreement with legal counsel. Accordingly, this Agreement will be construed simply, as a whole, and in accordance with its fair meaning; it will not be interpreted strictly for or against either Party.

28. AUTHORITY/MODIFICATION. The Parties represent and warrant that all necessary action has been taken by the Parties to authorize the undersigned to execute this Agreement and to engage in the actions described herein. This Agreement may be modified by written amendment with signatures of all parties to this Agreement. CITY’s city administrator, or designee, may execute any such amendment on behalf of CITY.

29. ACCEPTANCE OF FACSIMILE OR ELECTRONIC SIGNATURES. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or
electronic mail copies will be treated in all respects as having the same effect as an original signature.

30. **FORCE MAJEURE.** Should performance of this Agreement be impossible due to fire, flood, explosion, war, embargo, government action, civil or military authority, the natural elements, or other similar causes beyond the Parties’ control, then the Agreement will immediately terminate without obligation of either party to the other.

31. **TIME IS OF ESSENCE.** Time is of the essence to comply with dates and schedules to be provided.

32. **ATTORNEY’S FEES.** The parties hereto acknowledge and agree that each will bear his or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

33. **STATEMENT OF EXPERIENCE.** By executing this Agreement, CONSULTANT represents that it has demonstrated trustworthiness and possesses the quality, fitness and capacity to perform the Agreement in a manner satisfactory to CITY. CONSULTANT represents that its financial resources, surety and insurance experience, service experience, completion ability, personnel, current workload, experience in dealing with private consultants, and experience in dealing with public agencies all suggest that CONSULTANT is capable of performing the proposed contract and has a demonstrated capacity to deal fairly and effectively with and to satisfy a public agency.

34. **DISCLOSURE REQUIRED.** (City and Consultant initials required at one of the following paragraphs)

By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a “consultant” for the purposes of the California Political Reform Act because Consultant’s duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18701(a)(2) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City’s Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City’s Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials ______
Consultant Initials ______

**OR**

By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice
Commission Regulation 18701(a)(2)(A) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.
City Initials ______
Consultant Initials ______

IN WITNESS WHEREOF the parties hereto have executed this contract the day and year first hereinabove written.

CITY OF LOMITA

________________________________________
City Manager

CONSULTANT

By: ______________________________________

TITLE

ATTEST:

________________________________________
City Clerk

Taxpayer ID No.

APPROVED AS TO FORM:

________________________________________
CHRISTI HOGIN, City Attorney
Downtown Commercial Zone
(Excluding City and County Properties)

Exhibit B