

REQUEST FOR QUALIFICATIONS



RFQ Release Date
12/16/2016

Deferred Compensation Plan Provider Study

Qualifications Due
01/12/2017
@ 4:00 PM

City of West Hollywood
Attention: City Clerk
8300 Santa Monica Blvd
West Hollywood, CA 90069

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1. General Information

The City of West Hollywood is located in an urban and vibrant part of Los Angeles County, with Beverly Hills to the west, Hollywood to the east, the Hollywood Hills to the north, and the Fairfax District to the south. The City includes national destinations and landmarks such as the Sunset Strip, the West Hollywood Design District, the Pacific Design Center, and a gay and lesbian nightlife area. The City is 1.9 square miles in size and home to approximately 36,000 residents.

The City of West Hollywood employs approximately 220 regular employees and approximately 50 seasonal or temporary employees. All regular employees have access to the City's deferred compensation plans (hereinafter, "Plans"), which permit employers and/or employees to contribute pre-tax and after-tax dollars towards retirement savings accounts. The City maintains three different Plans that are available to the City's three bargaining units and/or employees covered by employee contracts. Those Plans include:

- 457(b) Deferred Compensation Plans
- 401(a) Profit-Sharing Plans
- Retirement Health Savings (RHS) Plans

The Plans are currently being provided by two separate record-keepers, ICMA-RC and Empower Retirement. The Plans provide participants with an attractive and diversified array of investment options. Total assets in these plans are approximately \$22 million. Current administrative fees (fund fees, record-keeping fees and investment advisory fees) range from approximately 1.25% to 1.50%, and are all paid by plan participants.

A Plan Review Committee (hereinafter, "Committee") consisting of finance staff, human resources staff and representatives of each of the City's bargaining units review each of the record-keepers' Plans on an annual basis. The City of West Hollywood, along with the Committee, is seeking a qualified consultant to perform a comprehensive review and fee analysis of the Plans. The consultant will analyze the current Plans and recordkeeping fees; issue a Request for Proposal (hereinafter, "RFP") to record-keeping providers; propose options for Plans going forward; and could possibly, at the City's sole discretion, provide on-going review and advisory services for the Plans. A complete scope of service is included with this RFQ.

1.1 Scope of Services

The selected firm will be responsible for providing the following services to the City of West Hollywood:

- A. Review and conduct a full comprehensive study of the City's two existing record-keepers, ICMA-RC and Empower Retirement, and identify any areas of concern pertaining to the City's fiduciary responsibility which include, but are not limited to:
 - a. Review and identify all fees paid, including plan-level asset fees, participant fees, investment fund fees/expenses, transaction fees, sales charge fees, and market value adjustments, as well as any other charges paid by participants
 - b. Review City procedures to ensure that the City is meeting its fiduciary duty as the plan sponsor, including but not limited to:
 - i. Range of investment options, discrimination testing, educational material, information on legislative changes, etc.
 - ii. The effectiveness of the program, including the issuance of accurate and timely participant statements, enrollment options, loan options, aggregate participant activities, performance versus benchmark reviews, fee disclosures, and stability of company's providing funds
 - c. Assess contract provisions to see if they are open or restrictive
 - d. Identify and compare participant services to see if participants have access to equal services within the Plans (for example: web/phone services, investment advice, retirement tools, participant statements, onsite services and distribution options)
 - e. Identify plan pricing discrepancies, if any
 - f. Review fund line-ups to assess quality, performance, styles, duplication, overweighting/underweighting
- B. Issue an RFP to existing and potential record keeping providers and seek information that includes, but is not limited to:
 - a. Company details and contract provisions
 - b. Participant Services
 - c. City Services
 - d. Non-protected participant information (number of participants, contributions, distributions, etc.)
 - e. Investment information (performance, revenue sharing, etc.) and guaranteed interest fund options
 - f. Plan fees, expenses, and performance guarantees
 - g. Appropriate general and administrative overhead allocations and rates
 - h. Asset-based revenue requirement
 - i. Any issues identified by the review above

- C. Analyze RFPs and provide recommendations, including but not limited to:
 - a. Single or multiple record-keeper(s)
 - b. Unbiased plan/investment adviser, plan marketing & negotiations, and architecture/mutual fund line-ups
 - c. Low fees, competitive interest rates, and investment liquidity
 - d. Employer & employee advocacy, investment policy, and review processes
 - e. Strategic planning (education, savings goals, etc.)
 - f. Tactical implementation (meetings, communications, tools, etc.)
 - g. Ability to deliver proposed services
- D. Present all milestones to Committee for review and decision, including reporting on any matters revealed during the course of the evaluation that the City should consider addressing
- E. Provide a complete written report to document process and recommendation for the selection of the record-keeper(s) and Plans process going forward

2. Proposal Instructions

2.1 Access to RFQ:

An electronic copy of the RFQ can be found on the City's website:

<http://www.weho.org/city-hall/city-clerk/public-notice/rfp-rfq-bid-notice>

2.2 RFQ Communication and Questions:

The City's principal contact for this proposal will be Yaasmin Mauris, Human Resources Analyst, (323) 848-6345, ymauris@weho.org. Communication or solicitation with other City of West Hollywood officials or employees regarding any aspect of this RFQ is expressly prohibited and may result in disqualification. Communication or solicitation with record-keepers to pre-negotiate fees for this RFQ is expressly prohibited and may result in disqualification.

2.3 Schedule of Events:

The timing of the qualification's review and selection process is subject to change, depending on the needs of the City, but is anticipated as follows:

Request for Qualifications Released:	December 16, 2016
Statement of Qualifications Due:	January 12, 2017
City Review of Qualifications:	January 13-26, 2017
Candidate Interviews:	February 1-9, 2017
Consultant Selection:	February 21, 2017

Implementation Start:

March 1, 2017

2.4 RFQ Amendments:

The City reserves the right to change the RFQ schedule or issue amendments to the RFQ at any time. The City also reserves the right to cancel or reissue the RFQ.

2.5 Procedure for Submitting Qualifications:

Failure to comply with the requirements of this RFQ may result in disqualification. Each submittal must include all the sections listed in the “Format and Contents” section (Section 2.6). **Five hard copies of the proposal must be submitted to the City Clerk’s Office at 8300 Santa Monica Boulevard, West Hollywood, CA 90069, no later than 4:00 pm on Thursday, January 12th.** Submittals received after deadline will be rejected; postmarks will not be accepted. Submittals should be as concise as possible and must not contain any promotional, advertising or display material.

2.6 Format and Contents

The City is requesting concise statements of qualifications in letter form, of no more than five pages (excluding Appendix forms) in response to this RFQ. Each submittal should include a description of your firm, the firm’s experience with similar projects, and the firm’s typical approach to similar projects. Specifically, each submittal shall include the following information, in the following order:

- A. Name and address of your firm and the individual/corporate officer authorized to execute this agreement.
- B. A brief description of your firm’s history, ownership, organizational structure, location, and licenses to do business in the State of California.
- C. The names, experience, and qualifications of the individuals primarily responsible for servicing the City and any other person(s) with specialized skills that would be assigned to service the City.
- D. A description of your firm’s experience and knowledge related to performing work similar to the requested scope of service, specifically:
 - a. Reviewing deferred compensation plans
 - b. Negotiating recordkeeping fees
 - c. Establishing and advising local governments on Plans
- E. Descriptions of three similar projects within the last three years, including references (contact person, email, and phone number).
- F. A listing of clients for which you have performed similar work.
- G. A description of your firm’s general approach to performing the work requested in the scope of services.

- H. Your firm's proposed timeline for completing the requested scope of work.
- I. Proposed compensation amount and structure, including total not-to-exceed amount and hourly rates for additional services upon request and approval by the City.
- J. Certification of Statement of Qualifications – Include a fully completed copy of Appendixes A & B (not included in the five page maximum).

2.7 Qualifications Evaluation and Selection

- A. Qualifications shall be examined and evaluated by the City to determine whether each proposal meets the requirements of this RFQ. No single criterion, including price, will dictate the City's ultimate selection. The relative importance of these factors involves judgment on the part of the City staff and will include both objective and subjective analysis. The selected consultant will be based on the following criteria:
 - a. Demonstrated knowledge and experience with similar projects.
 - b. Qualifications, capacity and technical capabilities.
 - c. Project approach and proposed work plan.
 - d. Firm's reputation and its staff qualifications and experience.
 - e. Cost of services.
 - f. How well the overall response meets the City's needs.
- B. A submittal that fails to address any one or more critical specification of the RFQ will not be considered.
- C. A Notification of Intent to Award may be sent to any firm selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing firms unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City may negotiate a contract with next best proposer (as determined by the City) or withdraw the RFQ.

2.8 Firm Interviews and Presentations

The City may request that firms make an oral presentation of their proposal to City during the RFQ evaluation period. This presentation will provide firms the opportunity to detail their work plan, experience, and approach to ensure thorough and mutual understanding. All expenses incurred by the firm for participating in the oral presentations will be the responsibility of the firm.

2.9 General Requirements

- A. Inclusion of Qualifications - The qualifications submitted in response to this RFQ may be incorporated as part of the final contract with the selected firm.
- B. Right to Reject Any or All Qualifications - The City reserves the right to reject any or all responses, to waive technicalities or formalities, and to accept any response deemed to be in the best interest of the City. Where two or more firms are deemed equal, the City reserves the right to make the award to one of the two firms.
- C. Validity Period - Submission of a statement of qualifications will signify the firm's agreement that the proposal is valid for 180 days from the Statement of Qualifications Due Date specified in Section 2.3.
- D. Costs of Preparation - Each submittal prepared in response to this RFQ shall be done at the sole cost and expense of each proposing firm and with the express understanding that no claims against the City for reimbursement will be accepted.
- E. Public Records and Right to Submitted Documents - All submittals, inquires, responses, or correspondence related to or in reference to this RFQ, and all reports, charts, displays, schedules, exhibits, and other documentation submitted by the firm will become the property of the City when received.

The City of West Hollywood is subject to California law regarding the disclosure of public records. Firms must clearly identify any information they regard as proprietary in the proposal. Any such information should be marked "Proprietary" or "Confidential." Information that is proprietary within the meaning of California law will be withheld from any public records requests. All other information is subject to disclosure.

- F. Assignment - The successful firm will not assign, transfer, convey, or otherwise dispose of the contract, or right, title of interest, or power to execute such a contract to any person, any other firm, or corporation without previous consent in writing from the City.
- G. Termination of Contract - The contract will provide that either party reserves the right to terminate the contract at any time upon thirty (30) days prior written notice of the intent to terminate the contract. The City may terminate the contract for cause with five (5) days written notification.
- H. Right to Request Additional Information - During the evaluation process, the evaluation committee reserves the right, where it may serve the City's best interest, to request additional information or clarifications from firms, or to allow corrections of errors or omissions. At the discretion of the evaluation committee, firms submitting

qualifications may be requested to make oral presentations as part of the evaluation process.

- I. Additional Services - The general service requirements outlined above describe the minimum work to be accomplished. Upon final selection of the firm, the scope of service may be modified during negotiations with the City.
- J. Undue Influence - The firm declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award of this RFQ, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City will receive compensation, directly or indirectly, from the firm, or from any officer, employee or agent of the firm, in connection with the award of the Agreement or any work to be conducted as a result of the Agreement. Violation of this Section shall be a material breach of the Agreement entitling the City to any and all remedies of the law.
- K. Contracts and Insurance Requirements - The selected firm must provide and maintain in force at all times during the term of the service insurance for Workers' Compensation, General Liability, Professional Liability, and Automobile Liability, in amounts consistent with the services provided, as determined by the City. Such policies should be issued by companies admitted in the State of California.

It is recognized that the formal basis of any agreement between the firm and the City will be a contract rather than a proposal. The City maintains various policies related to contractual service providers. Among these are anti-discrimination, a living wage, and equal benefits policy. By submitting qualifications, firms are indicating that they are prepared to comply with City ordinances and policies. As part of the contract or during contract negotiations, the City may request that the selected firm sign a statement affirming its compliance with these policies. Appendix C provides a sample of City's standard contract provisions and Appendix D provides insurance requirements.

Appendix A
Certification of Qualifications to the City

1. The undersigned hereby submits its statement of qualifications and, by doing so, agrees to furnish services to the City in accordance with the Request for Qualifications (RFQ), dated December 16, 2016, and to be bound by the terms and conditions of the RFQ.
2. The firm has carefully reviewed its submittal and understands and agrees that the City is not responsible for any errors or omissions on the part of the firm and that the firm is responsible for them.
3. It is understood and agreed that the City reserves the right to accept or reject any or all submittals and to waive any informality or irregularity in any submittal received by the City.
4. The submittal includes all of the commentary, figures and data required by the Request for Qualifications, dated December 16, 2016, and any addendums released thereafter but prior to the RFQ due date.
5. This firm has carefully read and fully understands all of the items contained in the General Requirements. The firm agrees to all of the General Requirements except for those listed on an attachment.
6. The Statement of Qualifications, including the fee proposal, by this proposer is an irrevocable offer and shall be valid for 180 days from **January 12, 2017**.

Name of Firm: _____

By: _____
(Authorized Signature)

Print Name: _____

Title: _____

Address: _____

Telephone Number: _____

Email: _____

Date: _____

Appendix B
Summary Sheet

Firm Name: _____

Address: _____

Telephone: _____ Fax: _____

Federal TIN _____ State TIN _____

Number of years in existence: _____

Number of employees: _____

Employees at the location responsible for this engagement: _____

Management person responsible for direct contact with the City and services required
for this Request for Qualifications (RFQ):

Name: _____ Title: _____

Telephone: _____ Fax: _____

Email: _____

Person responsible for day-to-day servicing of the project:

Name: _____ Title: _____

Telephone: _____ Fax: _____

Email: _____

Location (address) of closest office to the City of West Hollywood

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SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES

Appendix C
Standard Contract

This Agreement is made on this ____th day of _____, 2016, at West Hollywood, California, by and between the City of West Hollywood, a municipal corporation, 8300 Santa Monica Boulevard, West Hollywood, California 90069 (hereinafter referred to as the "CITY") and XYZ Company, 1500 Main Street, City, CA 90000 (hereinafter referred to as the "CONTRACTOR").

RECITALS

- A. The CITY proposes to contract for professional services as outlined below;
- B. The CONTRACTOR is willing to perform such services and has the necessary qualifications by reason of experience, preparation, and organization to provide such services;
- C. NOW, THEREFORE, the CITY and the CONTRACTOR, mutually agree as follows:
1. **SERVICES.** The CONTRACTOR shall perform those services set forth in "Exhibit A," which is attached hereto and incorporated herein by reference.
 2. **TERM OF AGREEMENT.** The term of this contract shall commence upon execution by both parties and shall expire on June 30, 20__ unless extended in writing in advance by both parties.
 3. **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 satisfaction, in accordance with the schedule incorporated in "Exhibit A," unless extended in writing by the CITY.
 4. **PAYMENT FOR SERVICES.** The CONTRACTOR shall be compensated in an amount not to exceed \$_____ for services provided pursuant to this Agreement as described in "Exhibit A." Compensation shall under no circumstances be increased except by written amendment of this Agreement. The CONTRACTOR shall be paid within forty-five (45) days of presentation of an invoice to the CITY for services performed to the CITY's satisfaction. The CONTRACTOR shall submit invoices monthly describing the services performed, the date services were performed, a description of reimbursable costs, and any other information requested by the CITY.
 5. **CONTRACT ADMINISTRATION.**
 - 5.1. **The CITY's Representative.** Unless otherwise designated in writing, _____ shall serve as the CITY's representative for the administration of the project. All activities performed by the CONTRACTOR shall be coordinated with this person.
 - 5.2. **Manager-in-Charge.** For the CONTRACTOR, _____ shall be in charge of the project on all matters relating to this Agreement and

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any agreement or approval made by her/him shall be binding on the CONTRACTOR. The Manager-in-Charge shall not be replaced without the written consent of the CITY.

- 5.3. **Responsibilities of the CITY.** The CITY shall provide all relevant documentation in its possession to the CONTRACTOR upon request in order to minimize duplication of efforts. The CITY's staff shall work with the CONTRACTOR as necessary to facilitate performance of the services.
- 5.4. **Personnel.** The CONTRACTOR represents that it has or will secure at its own expense all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by the CONTRACTOR or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. The CONTRACTOR reserves the right to determine the assignment of its own employees to the performance of the CONTRACTOR's services under this Agreement, but the CITY reserves the right, for good cause, to require the CONTRACTOR to exclude any employee from performing services on the CITY's premises.

6. TERMINATION.

6.1. **Termination for Convenience.** Either party may terminate this Agreement without cause and in its sole discretion at any time by giving the other party thirty (30) days' written notice of such termination. In the event of such termination, the CONTRACTOR shall cease services as of the date of termination and shall be compensated for services performed to the CITY's satisfaction up to the date of termination.

6.2. **Termination for Cause.** All terms, provisions, and specifications of this Agreement are material and binding, and failure to perform any material portion of the work described herein shall be considered a breach of this Agreement. Should the Agreement be breached in any manner, the CITY may, at its option, terminate the Agreement not less than five (5) days after written notification is received by the CONTRACTOR to remedy the violation within the stated time or within any other time period agreed to by the parties. In the event of such termination, the CONTRACTOR shall be responsible for any additional costs incurred by the CITY in securing the services from another contractor.

7. **INDEMNIFICATION.** Contractor shall indemnify and hold harmless City from and against all liability arising out of or in connection with Contractor's negligent or wrongful acts, errors or omissions in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement. In the event that City is named as a party defendant in a lawsuit alleging injury as a result of Contractor's negligent or wrongful performance under this Agreement, Contractor shall defend City with counsel approved by CITY, which approval will not be unreasonably withheld, and bear responsibility for attorney's fees, expert fees and all other costs and expenses of litigation. Should conflict of interest principles preclude a single lawyer from representing both City and Contractor, or should City otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the City

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its costs of defense, including without limitation reasonable attorney's fees, expert fees and all other costs and expenses of litigation. Contractor shall promptly pay any final, non-appealable judgment rendered against the CITY. 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 but the indemnity obligation will exclude such loss or damage which is determined to be caused by the sole negligence or willful misconduct of the City. The obligations established by this paragraph will survive termination of this Agreement.

For purposes of this paragraph:

- City means the City Council and its subordinate bodies, elected and appointed City officials and officers, City employees and authorized agents and volunteers of the City.
- Liability means any claims or causes of action raised or asserted by, damage to, loss or expense incurred by or judgments rendered in favor of persons or entities not a party to this Agreement.
- The types of damages included within this indemnity obligation include, but are not limited to, personal injury, bodily injury, death, loss of use, and damage to or loss of real and personal property.
- The indemnity obligation of this paragraph includes all forms of negligent acts, errors and omissions, wrongful behavior and willful misconduct (including but not limited to breaches of professional standards of care, if applicable, and breach of contract) by Contractor and any of its officers, agents employees and subcontractors.

8. INSURANCE REQUIREMENTS.

8.1. The CONTRACTOR, at the CONTRACTOR's own cost and expense, shall procure and maintain, for the duration of the contract, the following insurance policies:

8.1.1. **Workers' Compensation Coverage.** The CONTRACTOR shall maintain Workers' Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, the CONTRACTOR shall require any and every subcontractor to similarly maintain Workers' Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's 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.

This provision shall not apply if the CONTRACTOR has no employees performing work under this Agreement. If the CONTRACTOR has no employees for the purposes of this Agreement, the CONTRACTOR shall sign the "Certificate of

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Exemption from Workers' Compensation Insurance" which is attached hereto and incorporated herein by reference as "Exhibit B."

- 8.1.2. **General Liability Coverage.** The CONTRACTOR 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.
- 8.1.3. **Automobile Liability Coverage.** The CONTRACTOR shall maintain automobile liability insurance covering bodily injury and property damage for all activities of the CONTRACTOR 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 three hundred thousand dollars (\$300,000) combined single limit for each occurrence. If CONTRACTOR or CONTRACTOR's employees will use personal autos in any way on this project, CONTRACTOR shall obtain evidence of personal auto liability coverage for each such person.
- 8.1.4. **Professional Liability Coverage.** The CONTRACTOR shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from the CONTRACTOR's operations under this Agreement, whether such operations be by the CONTRACTOR 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.
- 8.2. **Endorsements.** Each general liability and automobile liability insurance policy shall be issued by insurers possessing a Best's rating of no less than A-:VII. Each general liability insurance policy shall be endorsed with the specific language of Section 8.2.1 below. CONTRACTOR also agrees to require all contractors, and subcontractors to do likewise.
- 8.2.1. "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 CONTRACTOR, including materials, parts, or equipment furnished in connection with such work or operations."
- 8.2.2. 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.

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- 8.2.3. 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.
- 8.2.4. Notwithstanding the provisions included in any of the ISO Additional Insured Endorsement forms, CONTRACTOR acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amounts of coverage required. Any insurance proceeds available to the CITY in excess of the limits and coverage required in this agreement and which is applicable to a given loss will be available to the CITY.
- 8.2.5. The insurer waives all rights of subrogation against the CITY, its elected or appointed officers, officials, employees, or agents regardless of the applicability of any insurance proceeds, and agrees to require all subcontractors to do likewise.
- 8.2.6. 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.
- 8.2.7. The insurance provided by this policy shall not be suspended, voided or reduced in coverage or in limits except after thirty (30) days' written notice has been submitted to the CITY and approved of in writing, except in the case of cancellation, for which ten (10) days' written notice shall be provided.
- 8.2.8. Contractor 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.
- 8.3. **Self Insured Retention/Deductibles.** All 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 Owner (as the named insured) should Owner 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. Owner understands and agrees that satisfaction of this requirement is an express condition precedent to the effectiveness of this Agreement. Failure by Owner as primary insured to pay its SIR or deductible constitutes a material breach of this Agreement. Should City pay the SIR or deductible on Owner's behalf upon the Owner'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 Owner for breach of this Agreement in addition to any other damages incurred by City due to the breach.
- 8.4. **Certificates of Insurance.** The CONTRACTOR shall provide certificates of insurance with original endorsements to the CITY as evidence of the

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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. The CONTRACTOR shall provide written evidence of current automobile coverage to comply with the automobile insurance requirement.

- 8.5. **Failure to Procure Insurance.** Failure on the part of the CONTRACTOR to procure or maintain required insurance shall constitute a material breach of contract under which the CITY may terminate this Agreement pursuant to Section 6.2 above.
9. **ASSIGNMENT AND SUBCONTRACTING.** The parties recognize that a substantial inducement to the CITY for entering into this Agreement is the professional reputation, experience, and competence of the CONTRACTOR. Assignments of any or all rights, duties, or obligations of the CONTRACTOR under this Agreement will be permitted only with the express consent of the CITY. The CONTRACTOR shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the CITY. If the CITY consents to such subcontract, the CONTRACTOR shall be fully responsible to the CITY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between the CITY and subcontractor nor shall it create any obligation on the part of the CITY to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise is required by law.
10. **COMPLIANCE WITH LAWS, CODES, ORDINANCES, AND REGULATIONS.** The CONTRACTOR shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.
- 10.1. **Taxes.** The CONTRACTOR agrees to pay all required taxes on amounts paid to the CONTRACTOR under this Agreement, and to indemnify and hold the CITY harmless from any and all taxes, assessments, penalties, and interest asserted against the CITY by reason of the independent contractor relationship created by this Agreement. In the event that the CITY is audited by any Federal or State agency regarding the independent contractor status of the CONTRACTOR and the audit in any way fails to sustain the validity of a wholly independent contractor relationship between the CITY and the CONTRACTOR, then the CONTRACTOR agrees to reimburse the CITY for all costs, including accounting and attorneys' fees, arising out of such audit and any appeals relating thereto.
- 10.2. **Workers' Compensation Law.** The CONTRACTOR shall fully comply with the workers' compensation law regarding the CONTRACTOR and the CONTRACTOR's employees. The CONTRACTOR further agrees to indemnify and hold the CITY harmless from any failure of the CONTRACTOR to comply with applicable workers' compensation laws. The CITY shall have the right to offset against the amount of any compensation due to the CONTRACTOR under this Agreement any amount due to the CITY from the CONTRACTOR as a result of the CONTRACTOR's failure to promptly pay to the CITY any reimbursement or indemnification arising under this Section.

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- 10.3. **Licenses.** The CONTRACTOR represents and warrants to the CITY that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of the CONTRACTOR to practice its profession. The CONTRACTOR represents and warrants to the CITY that the CONTRACTOR shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance, and approvals which are legally required of the CONTRACTOR to practice its profession. The CONTRACTOR shall maintain a City of West Hollywood business license, if required under CITY ordinance.
11. **CONFLICT OF INTEREST.** The CONTRACTOR confirms that it has no financial, contractual, or other interest or obligation that conflicts with or is harmful to performance of its obligations under this Agreement. The CONTRACTOR shall not during the term of this Agreement knowingly obtain such an interest or incur such an obligation, nor shall it employ or subcontract with any person for performance of this Agreement who has such incompatible interest or obligation.
12. **NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY.** The CONTRACTOR represents and agrees that it does not and will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity, political affiliation or opinion, medical condition, or pregnancy or pregnancy-related condition. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, political affiliation or opinion, medical condition, or pregnancy or pregnancy-related condition. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoffs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to include in all solicitations or advertisements for employment and to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
13. **LIVING WAGE ORDINANCE.** The CONTRACTOR shall abide by the provisions of the West Hollywood Living Wage Ordinance. During the term of this Agreement, the CONTRACTOR shall keep on file sufficient evidence of its employee compensation to enable verification of compliance with the West Hollywood Living Wage Ordinance.
14. **EQUAL BENEFITS ORDINANCE, No. 03-662.** The CONTRACTOR shall abide by the provisions of the West Hollywood Equal Benefits Ordinance. During the term of this Agreement, the CONTRACTOR shall keep on file sufficient evidence of its employee compensation and any applicable benefits packages, as those benefits relate to the coverage of the domestic partners of contractor's employees, which shall include; bereavement leave; family medical leave, and health insurance benefits, to enable verification of compliance with the West Hollywood Equal Benefits Ordinance.
15. **RESTRICTIONS: Arab League Boycott of Israel.** The CONTRACTOR hereby affirms it does not honor the Arab League Boycott of Israel.

**CITY OF WEST HOLLYWOOD
SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

16. **RECORDS AND AUDITS.** The CONTRACTOR shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to this Agreement and such other records as may be deemed necessary by the CITY or any authorized representative. All records shall be made available at the request of the CITY, with reasonable notice, during regular business hours, and shall be retained by the CONTRACTOR for a period of three years after the expiration of this Agreement.
17. **OWNERSHIP OF DOCUMENTS.** It is understood and agreed that the CITY shall own all documents and other work product of the CONTRACTOR, except the CONTRACTOR's notes and workpapers, which pertain to the work performed under this Agreement. The CITY shall have the sole right to use such materials in its discretion and without further compensation to the CONTRACTOR, but any re-use of such documents by the CITY on any other project without prior written consent of the CONTRACTOR shall be at the sole risk of the CITY. The CONTRACTOR shall at its sole expense provide all such documents to the CITY upon request.
18. **INDEPENDENT CONTRACTOR.** The CONTRACTOR is and shall at all times remain as to the CITY a wholly independent CONTRACTOR. Neither the CITY nor any of its agents shall have control over the conduct of the CONTRACTOR or any of the CONTRACTOR's employees or agents, except as herein set forth. The CONTRACTOR shall not at any time or in any manner represent that it or any of its agents or employees are in any manner agents or employees of the CITY. The CONTRACTOR shall have no power to incur any debt, obligation, or liability on behalf of the CITY or otherwise act on behalf of the CITY as an agent.
19. **NOTICE.** All Notices permitted or required under this Agreement shall be in writing, and shall be deemed made when delivered to the applicable party's representative as provided in this Agreement. Additionally, such notices may be given to the respective parties at the following addresses, or at such other addresses as the parties may provide in writing for this purpose.

Such notices 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.

City of West Hollywood
8300 Santa Monica Blvd.
West Hollywood, CA 90069-6216

Attention: _____

CONTRACTOR:
Organization Name
Street Address, City State ZIP

Attention: _____

20. **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of California.

**CITY OF WEST HOLLYWOOD
SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

21. **ENTIRE AGREEMENT; MODIFICATION.** This Agreement supersedes any and all other agreements, either oral or written, between the parties, and contains all of the covenants and agreements between the parties. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein. Any agreement, statement, or promise not contained in the Agreement, and any modification to the Agreement, will be effective only if signed by both parties.
22. **WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this agreement. Payment of any invoice by the CITY shall not constitute a waiver of the CITY's right to obtain correction or replacement of any defective or noncompliant work product.
23. **EXECUTION.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
24. **AUTHORITY TO ENTER AGREEMENT.** The CONTRACTOR has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

**CITY OF WEST HOLLYWOOD
SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

IN WITNESS WHEREOF, the parties have executed this Agreement the ____ day of _____, 20__.

CONTRACTOR:

Name, Title

CITY OF WEST HOLLYWOOD:

Department Director

Paul Arevalo, City Manager

ATTEST:

Yvonne Quarker, City Clerk

**CITY OF WEST HOLLYWOOD
SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

Scope of Services:

Include specific tasks, in-person meetings, interim work products (if any) and at least one final work product (e.g., a report or memo).

Time of Performance:

Include a schedule or timeline for delivering interim and final work products. May include specific dates or the number of weeks (e.g., within 30 days of project initiation).

Special Payment Terms:

(only if additional to section C.4. on page 1)

E.g., include a pricing sheet or hourly rate, if required or implied. Otherwise, state "None".

**CITY OF WEST HOLLYWOOD
SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

**Certificate of Exemption from
Workers' Compensation Insurance**

<i>TO:</i>	City of West Hollywood
<i>SUBJECT:</i>	Sole Proprietor/Partnership/Closely Held Corporation with No Employees

Please let this memorandum notify the City of West Hollywood that I am a

- sole proprietor
- partnership
- nonprofit organization
- closely held corporation

and **do not have any employees whose employment requires me to carry workers' compensation insurance.** Therefore, I do not carry worker's compensation insurance coverage.

Contractor Signature _____

Printed Name of Contractor _____

Date _____

Appendix D
Insurance Provisions

**REQUEST FOR EVIDENCE OF INSURANCE – PLEASE PROVIDE THIS TO YOUR
INSURANCE AGENT FOR PROPER PROCESSING**

Dear Vendor:

As part of your contract with the City of West Hollywood you are required to provide evidence of insurance coverage as outlined below. Kindly return your completed **ACORD Form Certificate of Insurance and the proper policy endorsements** to your City representative.

Certificate Holder: The City of West Hollywood
8300 Santa Monica Blvd.
West Hollywood, California 90046

Required Coverages & Endorsements:

- Commercial general liability insurance (including Products, Ongoing & Completed Operations coverage) in an amount of not less than \$2,000,000 per occurrence/\$2,000,000 general aggregate.
- Automobile Liability with minimum combined single limit of \$300,000 (for owned, non-owned, hired, rented vehicles as necessary), if vehicles will be utilized for transport.
- Workers' Compensation Insurance as required by applicable law & Employers' Liability Insurance with minimum limits of \$1,000,000.
- The CITY OF WEST HOLLYWOOD, its elected or appointed officers, officials, employees, agents, and volunteers are to be covered as additional insureds as their interests may appear (excluding Workers Compensation and Professional Liability). ***REQUIRES A POLICY ENDORSEMENT**
- Include a **Waiver of Subrogation Endorsement** for the following:
 - ✓ Commercial General Liability
 - ✓ Workers Compensation Coverage
- Named insured must state their insurance is primary and non-contributory by policy endorsement.
- Professional Liability Coverage with limits of no less than \$1,000,000 per occurrence and \$1,000,000 in the aggregate.
- Certificate should indicate a 30 day notice of cancellation or reduction in limits applies.

Please note: not providing the proper insurance documentation may delay the processing of your contract. Refer to your specific contract for additional terms and requirements as necessary.

RETURN INSURANCE DOCUMENTS TO YOUR CITY REPRESENTATIVE