

GLENDALE REDEVELOPMENT AGENCY

REQUEST FOR PROPOSALS FOR ART INSTALLATION CONSULTANT

February 22, 2010

Due Date:

Statement of Proposals are due by Monday, March 8, 2010 at 5:00 PM to:

Annette Vartanian

Administrative Analyst

Community Redevelopment and Housing

633 East Broadway, Room 201, Glendale, CA 91206

Note: Please submit a minimum of five (5) copies to the above address.

Questions:

Questions regarding this RFP and/or the proposed scope of services must be made by Monday, March 1, 2010 and can be addressed to:

Annette Vartanian, Administrative Analyst

Phone: (818) 548-2005

Fax: (818) 409-7239

Email: avartanian@ci.glendale.ca.us

1. PROJECT OVERVIEW

The Glendale Redevelopment Agency (“Agency”) is requesting qualifications and proposals from art installation consultant teams that can provide the following services:

- A. Coordinate and manage installation of art displays in vacant storefronts; and
- B. Coordinate and manage temporary art galleries using vacant tenancies.

2. ABOUT GLENDALE

Over the past 100 years, Glendale has grown from a small community at the edge of Los Angeles into a cosmopolitan city as diverse in its culture as it is in opportunities. Today, Glendale is the third largest city in Los Angeles County and home to more than 207,000 residents.

Glendale Redevelopment Agency

The Agency was created in 1972 for the purpose of revitalizing the greater downtown area as it had become blighted and economically unproductive. The Community Redevelopment and Housing Department leads the City's efforts in all Redevelopment and Economic Development activities. The Agency is the body responsible for citywide economic development, including the implementation of projects and programs.

The Central Project Area was established with the intent of rejuvenating the City's central commercial core through the creation of a dynamic and diverse downtown. A visit to the project area provides testimony that the Agency is well on its way to achieving that goal. The Agency has been instrumental in facilitating the construction of over 4 million square feet of office use, attracting 1.6 million square feet of retail, and attracting a four-diamond Hilton Hotel and a recently completed Embassy Suites Hotel. The Financial District, a hub for financial, insurance, and real estate services, is also home to several corporate headquarters including Nestle USA, Cigna California, and IHOP. To the south, Agency assisted projects including the Glendale Galleria and The Americana at Brand have transformed the project area into a regional retail and entertainment center. The Agency has also been instrumental in preserving the historic and cultural resources of the community through the renovation of the Alex Theatre which anchors the more intimate Mid-Brand area of the downtown.

3. PROJECT BACKGROUND

The goals of the Central Glendale Redevelopment Project Area and the Downtown Specific Plan (DSP) include fostering, encouraging, and supporting arts and cultural activities in the downtown. The Agency has had an active role with the historic Alex Theatre and more recently is negotiating with the Museum of Neon Art (MONA) to occupy a vacant space on Brand Boulevard. A temporary art installation program is consistent with the community goals in offering residents and visitors a variety of cultural and civic venues while addressing stagnant and unkept vacant storefronts.

In late 2009, the Agency expressed an interest in temporary art installations to preserve visual continuity of storefront activity and pedestrian sidewalk traffic. The downtown art installation program would utilize ground floor vacancies as temporary art galleries or show windows and activate an otherwise static frontage. This program would create professional quality gallery installations at vacant storefronts to be viewed by pedestrians. It is anticipated that such a program could potentially enhance existing downtown cultural events and attract further creative events and programs.

Downtown Glendale is ideal for such a program as the primary streets experience high pedestrian traffic with wide and walkable sidewalks and active storefronts. This program is to be implemented in various vacant ground floor spaces in the downtown along Brand Boulevard, Central and Maryland Avenues, and Broadway. (see Figure A)

In late 2009, the Agency also directed staff to develop an **entertainment district** in the downtown centered on Maryland Avenue, between Wilson Avenue and Harvard Street. The intent of the district is to create an evening destination for the segment of the local and regional community that currently does not consider Glendale for entertainment. It is important for the art installation program to work hand in hand with the entertainment district to market downtown Glendale as a regional destination.

4. SCOPE OF SERVICES

The Agency is seeking qualified consultant teams who have demonstrated a history of coordinating the installation of temporary art displays and galleries in exterior environments, vacant storefronts, and non-gallery type of spaces. Responses to this RFP should relate to the proposed scope of services listed below, which will be used to evaluate proposals and make a final selection:

- A. Procurement and selection of artists.** Consultant is responsible to outreach to Glendale artists, curators, galleries, and institutions. Consultant shall follow City's guidelines in selecting art suitable for public viewing.
- B. Procurement of locations and spaces.** Consultant is responsible to work with local brokers and property owners and to assemble an inventory of available properties and secure locations for installation.
- C. Exhibit and installation setup and clean up.** Set up includes lighting, painting, building displays, installing signage, in addition to other responsibilities. Consultant will be required to clean up the space after the installation is removed and restore the location to its original condition.
- D. Insurance/Liability.** Consultant is responsible to secure insurance and liability to protect the property owner and artist from liability and general liability costs.
- E. Administration/Management of program.** Consultant is responsible for maintaining files, application, permits, supplies, artwork, personnel, phone, web hosting, and

other key documents. The consultant will work with artists, property owners, and government agencies to coordinate permitting, logistics, and other responsibilities.

F. Change out and rotation of Exhibits/Galleries. Consultant shall provide a minimum of 15 installations and galleries within a six (6) month period. In addition, exhibits and galleries shall be rotated and changed out on a routine basis.

G. Promotion and marketing of program. Consultant is responsible for promoting the installations, galleries, and program. Promotion and marketing includes, but is not limited to:

- i. Prepare and distribute press releases
- ii. Photography for promotional and marketing materials and archives
- iii. Design and distribution of monthly mailers (email, postcards, etc)
- iv. Design and maintain program website
- v. Opening with food, drinks, entertainment
- vi. Events/Art walks
- vii. Secure coverage in various media including radio, magazines, newspapers, television, blogs, and social networks

5. SUBMITTAL SCHEDULE

Issue Request for Proposals	February 22, 2010
Last date for questions regarding RFP	March 1, 2010
Proposals due	March 8, 2010
Selection of Firm	March 22, 2010
Award of Contract/Notice to Proceed	April 6, 2010

6. SUBMITTAL REQUIREMENTS

All responses shall at minimum contain the following:

- A. Scope of Services and Statement of Qualifications.** Describe in detail an understanding of the services requested. Respondents shall also submit a statement of qualifications that addresses the proposed scope of services, provide a company profile, and a description of major accomplishments.
- B. Description.** Description of overall knowledge of the City of Glendale and downtown Glendale.
- C. Business Organization.** State the full name of the organization and indicate whether the company operates as a partnership, corporation, or sole proprietorship. State the number of years the organization has been in business and include the name and business address of company owners. Identify the

individual by name and title authorized to negotiate contract terms and enter into legally binding commitments. Identify by name and position the staff persons assigned to the project and who will actually perform the services requested in his proposal.

- D. Project Management.** Provide a narrative explanation that describes the team's experience in managing projects of this type. Description should include a discussion of the materials or media used to create the art installation, project budgets, timelines for project development, and the types of collaborations involved in selecting and installing the artworks. The narrative should also detail the approach, methodology, deliverables, and client meetings.
- E. Samples of Previous Work.** Provide a description of the three most recent installations the team has consulted on including images of the projects. Each example should include date, timeline, location and client information. Catalogues, reviews, images and/or examples of project completed during the last five years. Please send this material either in paper form, on a CD in digital form, or as a list of links to web pages.
- F. References and Client List.** List three former clients for whom similar or comparable services have been performed. References must include name, address, phone number, email address, and a brief description how the referee would know your work. Provide a current list of your company's clients and identify any potential conflicts.
- G. Fee Structure.** Please provide information on your rate of compensation. If you are applying as a firm, include rates for individual staff members.
- H. Insurance.** Prospective consultants shall thoroughly review the City of Glendale insurance requirements (see Figure B) and the Professional Services Agreement (see Figure C) and be prepared to comply with those requirements upon entering into a contract with the Agency. A letter of intent shall be submitted to comply with contract insurance criteria.

6. EVALUATION CRITERIA

Consultant selection for this proposal will be qualifications based and will be evaluated subjectively on the basis of the response to the provisions of this RFP. The Agency will review the proposals in response to this RFP and may or may not interview the Firms and may use some of all of the following criteria in its evaluation and comparison of submittals:

A. Qualification and Experience

1. The team's demonstrated record of success and familiarity with work of a similar scope of services.
2. The experience and expertise of the team's key personnel.

3. Prior experience in managing and coordinating the installation of temporary artwork displays and galleries in vacant storefronts and spaces as described in Section 4 A – F.
4. Prior experience in managing marketing and promotion of public art programs and events as described in Section 4 G.

B. Quality of Submittal

1. Responsiveness to the requirements of the RFP.
2. Clarity, organization, format, and understandability of the RFP.
3. Demonstrated understanding of the project's scope and objectives.
4. Quality/experience of the Firm's personnel.

7. PROPOSAL PACKAGE/SUBMITTAL DEADLINE

- A. The Proposal must include a Statement of Qualifications:
 - Team's name, address, contact name, email address phone number, and fax number
- B. A minimum of five (5) copies of the Proposal must be received at the above address by the closing date and time. Teams mailing or shipping their Proposals must allow sufficient delivery time to ensure timely receipt by the time specified. Late Proposals will not be accepted.
- C. All proposal submitted by prospective teams will be retained by the Glendale Redevelopment Agency and may be retained for other current or future project Proposals.

Due Date: All Proposals must be received by March 8, 2010 by 5:00 p.m.

7. REQUEST FOR INFORMATION/QUESTIONS

Annette Vartanian, Administrative Analyst
Community Redevelopment and Housing
633 Broadway, Suite 201, Glendale, CA 91206-4387
Phone: (818) 548-2005 Fax: (818) 409-7239
Email: avartanian@ci.glendale.ca.us

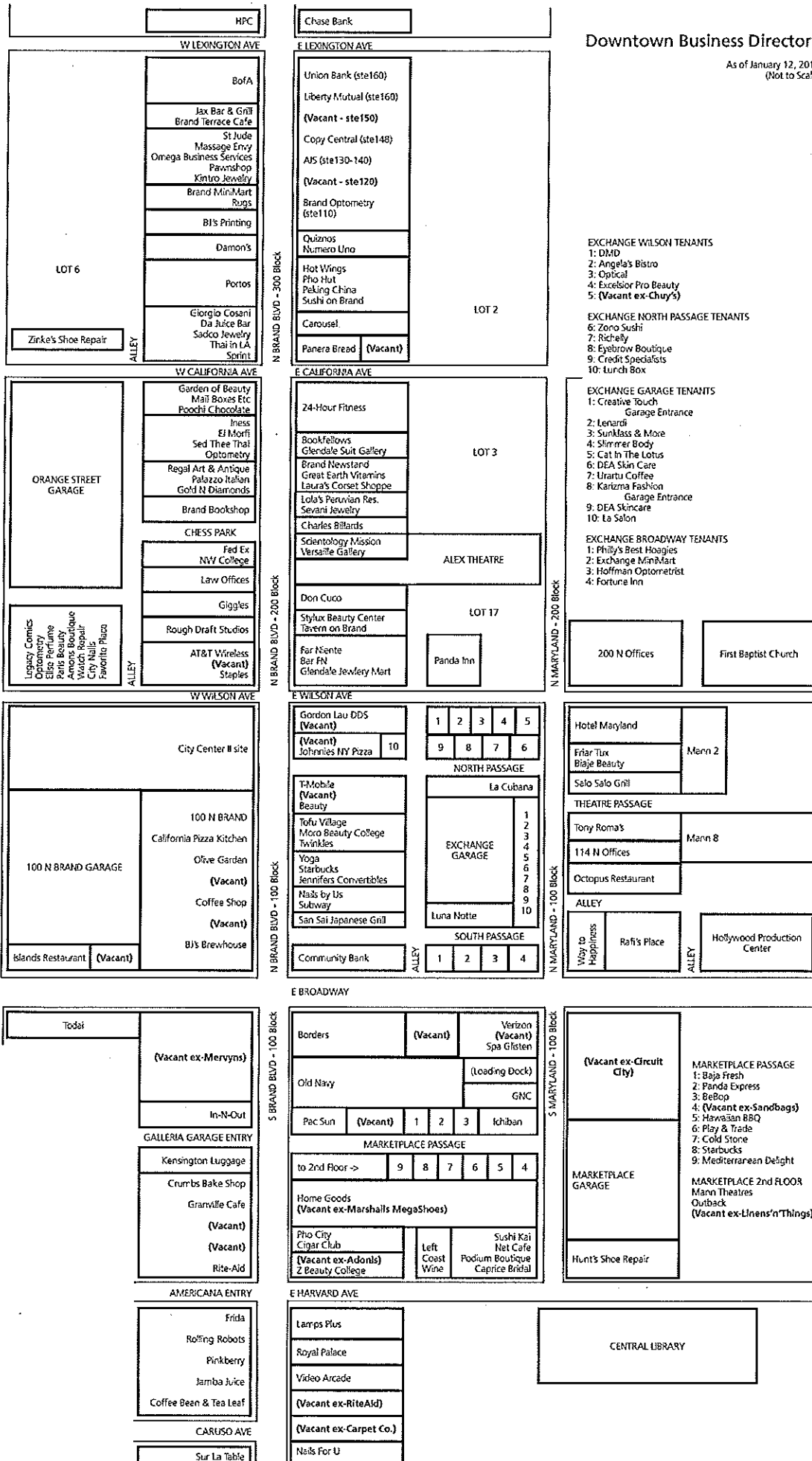
8. FIGURES

- A. Detailed Map of downtown Glendale
- B. City of Glendale Insurance Requirements
- C. Glendale Redevelopment Agency Professional Services Agreement

FIGURE A

Downtown Business Directory

As of January 12, 2010
(Not to Scale)



**GENERAL LIABILITY/AUTOMOBILE LIABILITY
SPECIAL ENDORSEMENT**

FOR THE GLENDALE REDEVELOPMENT AGENCY

PROJECT REFERENCE

This endorsement modifies insurance provided under the following:

- COMMERCIAL GENERAL LIABILITY INSURANCE COVERAGE PART**
- AUTOMOBILE LIABILITY INSURANCE COVERAGE PART**

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or in any endorsement which now or later attaches to the policy, the Company agrees as follows:

ADDITIONAL INSURED: The Glendale Redevelopment Agency and the City of Glendale, and their officers, agents and employees are included as additional insured, with respect to liability and defense of claims and suits arising out of the operations and uses performed by or on behalf of the named insured.

CONTRIBUTION WAIVED: The insurance is primary. The Glendale Redevelopment Agency and the City of Glendale's insurance program shall be excess of this insurance. The Company shall not seek contribution from the City and Agency and their insurers.

SEPARATION OF INSURED: This insurance applies separately to each insured against whom claims is made or suit is brought, except that the naming of multiple insureds shall not increase the Company's limits of liability. The inclusion of any person, organization, firm or entity as an insured under the policy shall not affect any right which such person, organization, firm or entity would have as a claimant if not so included.

CANCELLATION NOTICE: If the Company elects to cancel or terminate this insurance before the stated expiration date, or declines to renew a continuous policy, or reduces the stated limits other than by impairment of an aggregate limit, the Company shall mail written notice to the Agency and City at least 30 days in advance of such election. For non-payment of premium, the company shall give the City at least 10 days advance written notice of cancellation of termination.

Except as stated above, all other endorsements, provisions, conditions, limits and exclusions of this insurance shall remain unchanged.

Commercial General Liability Policy Number:

Automobile Liability Policy Number:

By my signature of this endorsement, I warrant that I have authority to bind the insurance company and do so bind the company to this endorsement:

AUTHORIZED REPRESENTATIVE'S SIGNATURE:	DATE SIGNED:
--	--------------

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

"PROFESSIONAL LIABILITY" INSURANCE

1.1 Without limiting CONSULTANT's liability and at its sole expense, CONSULTANT shall obtain, pay for, and maintain a Professional Liability Insurance policy.

1.2 The Professional Liability policy must:

- (A) Include "errors and omissions" coverage or "malpractice" coverage;
- (B) Afford "practice specific" or "project specific" coverage;
- (C) Provide limits of liability in an amount not less than:
 - (1) ONE MILLION DOLLARS (\$1,000,000) per claim; and
 - (2) ONE MILLION DOLLARS (\$1,000,000) in the aggregate;
- (D) Cover a claim or claims arising out of the performance of professional services by:
 - (1) CONSULTANT;
 - (2) CONSULTANT's Subconsultant(s);
 - (3) Anyone whom CONSULTANT or its Subconsultant(s) directly or indirectly employs or uses; or
 - (4) Anyone whose acts CONSULTANT or its Subconsultant(s) may be liable; and
- (E) Provide coverage for:
 - (1) The duration of this Agreement; and
 - (2) At least three (3) years after the Project's completion:
 - (a) CONSULTANT shall obtain, pay for, and maintain an endorsement that adds an "extended reporting period" ("ERP") or a "discovery" feature— to allow GRA/CITY to report a claim— for a period of not less than three (3) years following the initial policy's expiration, or following GRA's/CITY's recordation of its "notice of completion" for the Project, whichever date is later. The endorsement for the ERP or discovery feature must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above; or
 - (b) CONSULTANT shall obtain, pay for, and maintain successive renewal or replacement policies (with "prior acts" coverage), for a period of three (3) years following the initial policy's expiration, or following GRA's/CITY's recordation of its "notice of completion" for the Project, whichever date is later. Each policy must have a "retroactive date" that coincides with, or is earlier than, this Agreement's Effective Date. Additionally, each policy must provide identical policy limits, and meet the conditions, described in subparagraphs 1.2 (A) through (D) above.

1.3 All ERP or discovery endorsements, renewal policies, and replacement coverage policies are subject to GRA's/CITY's review and approval, in its sole discretion.

1.4 CONSULTANT shall pay the full amount of all deductibles and any self-insured retention per claim for coverage under the Professional Liability insurance policy.

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

"WORKERS' COMPENSATION" INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— for the duration of this Agreement:

- (A) Complete Workers' Compensation Insurance, meeting or exceeding the coverages and amounts that California law requires; and
- (B) Employer's Liability insurance in an amount not less than:
 - (1) ONE MILLION DOLLARS (\$1,000,000) per accident for bodily injury or disease;
 - (2) ONE MILLION DOLLARS (\$1,000,000) per employee for bodily injury or disease; and
 - (3) ONE MILLION DOLLARS (\$1,000,000) policy limit.

1.2 CONSULTANT shall provide CITY with a "*certificate of insurance*" and a subrogation endorsement, "*Waiver of Our Right to Recover From Others*"— on forms satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, this Agreement's workers' compensation insurance requirements.

1.3 CITY shall not be liable to CONSULTANT's personnel, or anyone CONSULTANT directly or indirectly employs or uses, for a claim at law or in equity arising out of CONSULTANT's failure to comply with this Agreement's workers' compensation insurance requirements.

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

"COMMERCIAL GENERAL LIABILITY" OR "BUSINESSOWNERS LIABILITY" INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a "Commercial General Liability" or a "Businessowners Liability" insurance policy on an occurrence basis to fully protect CONSULTANT and CITY from claims and suits for bodily injury, personal and advertising injury, property damage, and medical payments. The policy must add the Glendale Redevelopment Agency (GRA), the City of Glendale, its officers, agents, employees, and representatives as additional insureds.

1.2 The insurance must not be written for less than the limits of liability specified below or required by law, whichever coverage amount is greater:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury (including accidental death) to any one person;
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence for personal and advertising injury to any one person;
- (C) ONE MILLION DOLLARS (\$1,000,000) per occurrence for property damage; and
- (D) TWO MILLION DOLLARS (\$2,000,000) general aggregate limit.

1.3 The liability insurance must include all major divisions of coverage and must cover:

- (A) Premises Operations (including Explosion, Collapse, and Underground ["X,C,U"] coverages as applicable);
- (B) Independent CONSULTANT's Protective;
- (C) Independent Contractors;
- (D) Products and Completed Operations (maintain same limits as above until five (5) years after recordation of Notice of Completion);
- (E) Personal and Advertising Injury (with Employer's Liability Exclusion deleted);
- (F) Contractual Liability; and
- (G) Broad Form Property Damage.

1.4 CONSULTANT shall provide CITY/GRA with a "certificate of insurance," an "additional insured endorsement," and a subrogation endorsement, "Waiver of Transfer to Rights of Recovery Against Others"— on forms satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The "certificate of insurance" and an "additional insured endorsement" must state:

"The Glendale Redevelopment Agency, the City of Glendale, its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the /GRA/CITY. The GRA's/CITY's insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the GRA/CITY for any policy cancellation, termination, non-renewal, or reduction in coverage."

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

"BUSINESS AUTOMOBILE" LIABILITY INSURANCE

1.1 At its own expense, CONSULTANT shall obtain, pay for, and maintain— and shall require each of its Subconsultants to obtain and maintain— a "Business Automobile" insurance policy on an occurrence basis to fully protect CONSULTANT and GRA/CITY from claims and suits for bodily injury, property damage, and medical payments. The policy must add the Glendale Redevelopment Agency, the City of Glendale, its officers, agents, employees, and representatives as additional insureds.

1.2 The insurance must not be written for less than the limits of liability specified below or required by law, whichever coverage amount is greater:

- (A) ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury (including accidental death) to any one person; and
- (B) ONE MILLION DOLLARS (\$1,000,000) per occurrence for property damage; or
- (C) TWO MILLION DOLLARS (\$2,000,000) combined single limit ("CSL").

1.3 The liability insurance must include all major divisions of coverage and must cover all vehicles, whether rented, leased, hired, scheduled, owned or non-owned.

1.4 CONSULTANT shall provide GRA/CITY with a "certificate of insurance" and an "additional insured endorsement"— on forms satisfactory to the City Attorney or City's Risk Manager, and signed by the insurance carrier or its authorized representative— which fully meet the requirements of, and contain provisions entirely consistent with, all of the Insurance Requirements.

1.5 The "certificate of insurance" and an "additional insured endorsement" must state:

"The Glendale Redevelopment Agency, the City of Glendale, its officers, agents, employees, and representatives are included as additional insureds under the policy(s). This insurance is primary to all other insurance of the City. The City's insurance, or self-insurance, or both, will apply in excess of— and will not contribute with— this insurance. This insurance applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or a suit is brought. The issuing company shall mail thirty (30) days advance notice to the City for any policy cancellation, termination, non-renewal, or reduction in coverage."

~~EXHIBIT B~~
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

GENERAL REQUIREMENTS

1.1 At all times, the insurance company issuing the policy must meet all three of these requirements:

- (A) It must be "admitted" insurer by the State of California Department of Insurance or must be listed on the California Department of Insurance's "List of Surplus Line Insurers" ("LESLI");
- (B) It must be domiciled within, and organized under the laws of, a State of the United States; and
- (C) It must carry an A.M. Best & Company minimum rating of "A:VII".

1.2 If the Agreement requires any of the foregoing insurance coverages to remain in force after the Final Payment, and if they are reasonably available, CONSULTANT shall submit to GRA/CITY— with the final Application for Payment— all certificates and additional insured endorsements evidencing the coverages' continuation.

1.3 A deductible or self-insured retention is subject to GRA's/CITY's review and approval, in its sole discretion. The insurance company or its authorized representative must state either on the insurance certificate or in a separate correspondence:

- (A) The amount of the deductible, or self-insured retention, or both;
- (B) Whether a limit of insurance has been lowered by any pending or paid claim; and
- (C) The current limit amount, as lowered by the pending or paid claim.

1.4 Despite any conflicting or contrary provision in CONSULTANT's insurance policy:

- (A) If CONSULTANT's insurance company adds GRA/CITY, and its officers, agents, employees, and representatives (collectively, "its representatives") as additional insureds, then for all acts, errors, or omissions of GRA/CITY, or its representatives, or both, that insurer shall:
 - (1) Pay those sums that GRA/CITY, or its representatives, or both, become legally obligated to pay as damages; and
 - (2) Defend— and pay the costs of defending— GRA/CITY, or its representatives, or both;
- (B) CONSULTANT's insurance is primary;
- (C) Other insurance (whether primary, excess, contingent or self-insurance, or any other basis) available to GRA/CITY, or its representatives, or both, is excess over CONSULTANT's insurance;
- (D) GRA's/CITY's insurance, or self-insurance, or both, will not contribute with CONSULTANT's insurance policy;
- (E) CONSULTANT and CONSULTANT's insurance company waive— and shall not exercise— any right of recovery or subrogation that CONSULTANT or the insurer may have against GRA/CITY, or its representatives, or both;
- (F) CONSULTANT's insurance policy applies separately to each insured or additional insured who is seeking coverage, or against whom a claim is made or suit is brought, except that the naming of multiple insureds will not increase an insurance company's limits of liability;
- (G) CONSULTANT's insurance policy applies to a claim or suit brought by an additional insured against a Named Insured or other insured, arising out of bodily injury, personal injury, advertising injury, or property damage; and
- (H) GRA/CITY is not liable for a premium payment or another expense under CONSULTANT's policy.

1.5 At any time during the duration of this Agreement, GRA/CITY may do any one or more of the following:

- (A) Review this Agreement's insurance coverage requirements; or
- (B) Require that CONSULTANT:
 - (1) Obtain, pay for, and maintain more or less insurance depending on GRA's/CITY's assessment of any one or more of the following factors:
 - (a) GRA's/CITY's risk of liability or exposure arising out of, or in any way connected with, the services of CONSULTANT under this Agreement;
 - (b) The nature or number of accidents, claims, or lawsuits arising out of, or in any way connected with, the services of CONSULTANT under this Agreement; or
 - (c) The availability, or affordability, or both, of increased liability insurance coverage;
 - (2) Reduce or eliminate a deductible or self-insured retention as it applies to GRA/CITY; or
 - (3) Obtain, pay for, and maintain a bond (as a replacement for an insurance coverage) from a California corporate surety, guaranteeing payment to GRA/CITY for liability, or costs, or both, that GRA/CITY incurs during GRA's/CITY's investigation, administration, or defense of a claim or a suit arising out of this Agreement.

1.6 CONSULTANT shall maintain the insurance policy without interruption, from the Project's commencement date to the Final Payment date, or until a date that GRA/CITY specifies for any coverage that CONSULTANT must maintain after the Final Payment.

1.7 CONSULTANT's insurance company or self-insurance administrator shall mail GRA/CITY written notice at least thirty (30) days in advance of the policy's or the self-insurance program's cancellation, termination, non-renewal, or reduction in coverage.

1.8 CONSULTANT shall not allow any insurance to expire, cancel, terminate, lapse, or non-renew. Twenty-one (21) days before its insurance policy's expiration, cancellation, termination, or non-renewal, CONSULTANT shall deliver to GRA/CITY evidence of the required coverage as proof that CONSULTANT's insurance policy has been renewed or replaced with another insurance policy which, during the duration of this Agreement, meets all of this Agreement's insurance requirements.

1.9 At any time, upon GRA's/CITY's request, CONSULTANT shall furnish satisfactory proof of each type of insurance coverage required— including a certified copy of the insurance policy or policies; certificates, endorsements, renewals, or replacements; and documents comprising CONSULTANT's self-insurance program— all in a form and content acceptable to the City Attorney or City's Risk Manager.

1.10 If CONSULTANT hires, employs, or uses a subconsultant to perform work, services, operations, or activities on CONSULTANT's behalf, CONSULTANT shall ensure that the subconsultant:

- (A) Meets, and fully complies with, this Agreement's insurance requirements;
- (B) Delivers to GRA/CITY— for its review, or approval, or both— all insurance policies, certificates, and endorsements that this Agreement requires; and
- (C) Furnishes GRA/CITY, at any time upon its request, with a complete copy of the subconsultant's insurance policy or policies for GRA's/CITY's review, or approval, or both.

1.11 CONSULTANT's failure to comply with an insurance provision in this Agreement constitutes a breach upon which GRA/CITY may immediately terminate or suspend CONSULTANT's performance of this Agreement, or invoke another remedy that this Agreement or the law allows. At its discretion, GRA/CITY may obtain or renew the insurance, and GRA/CITY may pay all or part of the premiums. Upon demand, CONSULTANT shall repay GRA/CITY for all sums or monies that GRA/CITY paid to obtain, renew, or reinstate the insurance, or GRA/CITY may offset the cost of the premium against any sums or monies that GRA/CITY may owe CONSULTANT.

EXHIBIT D-
INSURANCE REQUIREMENTS
PROFESSIONAL SERVICES AGREEMENT

CONSULTANT'S SUBMITTAL OF CERTIFICATES AND ENDORSEMENTS

1.1 CONSULTANT shall have its insurance carrier(s) or self-insurance administrator(s) complete and execute the following insurance documents, unless an exception below applies. When CONSULTANT signs and delivers the Agreement to GRA/CITY, CONSULTANT also shall deliver:

- (A) A "certificate of insurance" for each required liability insurance coverage;
- (B) GRA's/CITY's "General Liability/Automobile Liability Special Endorsement" form (L-15), unless this Agreement does not require CONSULTANT to obtain and maintain Commercial General Liability coverage, Businessowners Liability coverage, or Automobile Liability coverage;
- (C) A subrogation endorsement, "**Waiver of Transfer to Rights of Recovery Against Others.**" for Commercial General Liability coverage or Businessowners Liability coverage;
- (D) A "certificate of insurance" for Workers' Compensation insurance; or
If CONSULTANT is self-insured for workers' compensation, a copy of the "Certificate of Consent to Self-insure" from the State of California; or
If CONSULTANT is lawfully exempt from workers' compensation laws, an "Affirmation of Exemption from Labor Code §3700" form;
- (E) A subrogation endorsement, "**Waiver of Our Right to Recover From Others.**" for Workers' Compensation coverage; and
- (F) A complete copy of CONSULTANT's Professional Liability insurance policy, including all forms and endorsements attached to it.

1.2 GRA/CITY will neither sign this Agreement nor issue a "Notice to Proceed" until the City Attorney or City's Risk Manager has reviewed and approved the insurance documents. GRA's/CITY's decision as to the acceptability of all insurance documents is final. Unless CONSULTANT obtains GRA's/CITY's written approval, CITY will not permit or allow a substitution of an insurance policy, or a change in a certificate's or an endorsement's form and content, or both.

INSURANCE OBLIGATION IS SEPARATE FROM INDEMNITY OBLIGATION

2.1 This Agreement's insurance provisions:

- (A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and
- (B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.

SAMPLE

PROFESSIONAL SERVICES AGREEMENT

BETWEEN THE GLENDALE REDEVELOPMENT AGENCY
AND

THIS AGREEMENT ("Agreement"), effective _____, 2010 ("Effective Date"), is between the GLENDALE REDEVELOPMENT AGENCY ("AGENCY"), a body corporate and politic, and _____ ("CONSULTANT"), a [(Name of State) corporation/ partnership/ limited partnership/ limited liability company/ a sole proprietor/ an individual] (collectively, "PARTIES" or individually, "PARTY").

RECITALS

A. AGENCY is a public body, corporate and politic organized and existing under pursuant of the California Health and Safety Code.

B. CONSULTANT represents that CONSULTANT is, and will continue to be for this Agreement's duration, a [(Name of State) corporation in good standing/ partnership/ limited partnership/ limited liability company/ a sole proprietorship/ an individual.] [**NOTE: staff must verify corporate status/ partnership/ LLC and Consultant's license, if any, and obtain proof.**] [**ADD, IF APPLICABLE: (which) (who) employs persons who are duly registered or licensed to practice in the State of California.**]

C. CONSULTANT possesses the competence, experience, expertise, skill, facilities, equipment, personnel, financial wherewithal, and other resources necessary to perform this Agreement's tasks in a professional and competent manner.

D. CONSULTANT desires to furnish and perform professional services for AGENCY, on the terms and conditions described in this Agreement. CONSULTANT has the legal authority to provide, engage in, and carry out the professional services set forth in this Agreement.

AGREEMENT

THEREFORE, AGENCY engages CONSULTANT's services, and in consideration of the PARTIES' mutual promises, the PARTIES agree as follows:

1.0 INCORPORATION OF RECITALS

1.1. The Recitals constitute the factual basis upon which AGENCY and CONSULTANT have entered into this Agreement. AGENCY and CONSULTANT acknowledge the Recitals' accuracy and, therefore, incorporate them into this Agreement.

2.0 TERM

[Select one of the following alternatives:]

2.1. **[OPTION 1]** This Agreement begins on the Effective Date, and continues in effect until completion of the work described in Article 3, unless this Agreement ends sooner according to the terms elsewhere in this document.

2.1. **[OPTION 2]** This Agreement's Term is [#] [months/ years], beginning on [DATE] and ending on [DATE], unless this Agreement ends sooner according to the terms elsewhere in this document.

3.0 SERVICES

3.1. **Scope of Work.** CONSULTANT shall [specify services to be provided] ("the Services") in accordance with the Scope of Work, which is attached as "Exhibit A" to this Agreement and is incorporated into it by this reference. **[NOTE: "Exhibit A" must set forth in detail the nature and extent of services that professional person or firm will render. Scope of Work should identify specific tasks, list and describe any deliverables, and specify procedures/ criteria for acceptance.]**

3.2. **Written Authorization.**

(A) CONSULTANT shall not make changes in the Scope of Work, perform any additional work, or provide any additional material, without first obtaining written authorization from AGENCY. If CONSULTANT provides additional services or materials without written authorization, or if CONSULTANT exceeds the Maximum Cost in Paragraph 7.4 of this Agreement, CONSULTANT proceeds at CONSULTANT's own risk and without payment.

(B) AGENCY will authorize CONSULTANT to proceed with discrete tasks by issuing written Task Orders. Receipt of a written Task Order, signed by AGENCY's Project Manager, is a prerequisite for CONSULTANT to proceed with each task. **[ADD, IF APPLICABLE:** Each Task Order will specify a not-to-exceed price and a schedule for completion of the task. CONSULTANT shall not exceed the not-to-exceed price in each Task Order.] In performing each phase or task, CONSULTANT shall not exceed the Maximum Cost in Paragraph 7.4 of this Agreement. Issuance of a Task Order neither authorizes CONSULTANT to incur expenditures in excess of the Maximum Cost, nor relieves CONSULTANT from its responsibility for completing all of the Services within the Maximum Cost.

3.3. **Professional Standard of Care.** During this Agreement's Term:

(A) CONSULTANT and its Subconsultants, subcontractors, employees, and agents (collectively, "CONSULTANT PARTIES") shall perform all of the Services in this Agreement in an expeditious and professional manner, using professionals properly licensed and duly qualified to perform the Services.

(B) CONSULTANT PARTIES shall perform the work described in this Agreement in accordance with generally accepted professional practices and principles, and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by members of CONSULTANT PARTIES' profession currently practicing in California. By delivering the completed work, CONSULTANT PARTIES represent and certify that their work conforms to: the requirements of this Agreement; all applicable (federal, state, county, local, AGENCY) laws, rules, regulations, orders, and procedures; and the professional standard of care in California.

(C) CONSULTANT PARTIES are responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation: site conditions; existing facilities; seismic, geologic, soils, hydrologic, geographic, climatic conditions; applicable (federal, state, county, local, AGENCY) laws, rules, regulations, orders, and procedures; and all other contingencies or design considerations. Data, calculations, opinions, reports, investigations, or any other information or documents that AGENCY provides relating to site, local, or other conditions are not warranted or guaranteed, either expressly or implied, by AGENCY.

(D) When the Scope of Work requires or permits AGENCY's review, approval, conditional approval, or disapproval, CONSULTANT acknowledges that AGENCY's review, approval, conditional approval, or disapproval:

- (1) Is solely for the purposes of administering this Agreement and determining whether CONSULTANT is entitled to payment for its Services;
- (2) Is not to be construed as a waiver of any breach, or acceptance by AGENCY, of any responsibility— professional or otherwise— for the Services or CONSULTANT's work product;
- (3) Does not relieve CONSULTANT of the responsibility for complying with the standard of performance or professional care; or laws, regulations, or industry standards; and

- (4) Does not relieve CONSULTANT from liability for damages arising out of CONSULTANT's: negligent acts, errors, or omissions; recklessness; willful misconduct; or noncompliance with industry standards.

(E) Without additional compensation to CONSULTANT and at no cost to AGENCY, CONSULTANT shall correct or revise all errors, mistakes, or deficiencies in its work product, studies, reports, designs, drawings, specifications, or other services.

4.0 TIME FOR PERFORMANCE

[Select one of the following alternatives:]

4.1. **[OPTION 1]** CONSULTANT shall complete all of the Services by [DATE] .

4.1. **[OPTION 2]** CONSULTANT shall perform the Services according to the Project Time Schedule, which is attached as "Exhibit B" to this Agreement and is incorporated into it by this reference. CONSULTANT shall complete all of the Services by [DATE] .

4.2. If the Project Time Schedule calls for performance of the Services in phases or discrete increments, CONSULTANT shall not proceed from one phase or increment to the next without written authorization from AGENCY's Project Manager.

4.3. **Force Majeure.** If an event or condition constituting a "force majeure"—including, but not limited to, an act of God, labor dispute, civil unrest, epidemic, or natural disaster—prevents or delays a PARTY from performing or fulfilling an obligation under this Agreement, the PARTY is not in Default, under Paragraph 13.1 of this Agreement, of the obligation. A delay beyond a PARTY's control automatically extends the time, in an amount equal to the period of the delay, for the PARTY to perform the obligation under this Agreement. The PARTIES shall prepare and sign an appropriate document acknowledging any extension of time under this Paragraph.

5.0 PERSONNEL

5.1. **Project Management.** Each PARTY shall appoint a Project Manager. The Project Managers shall meet [SET FORTH SPECIFIC TIMES: hourly/ daily/ weekly/ as needed] to coordinate, review, and ensure CONSULTANT's performance under this Agreement. AGENCY's Project Manager will oversee the administration of CONSULTANT's tasks under this Agreement.

5.2. **Key Personnel.** CONSULTANT's project team shall work under the direction of the following key personnel [IDENTIFY CONSULTANT'S KEY PERSONNEL AND TITLE] . [OR STATE: CONSULTANT shall employ the key personnel identified in "Exhibit A."] CONSULTANT shall minimize changes to its key personnel. AGENCY may request key personnel changes, and AGENCY may review and approve key personnel changes proposed by CONSULTANT. AGENCY will not unreasonably withhold approval of key personnel assignments and changes.

5.3. **Use of Agents or Assistants.** With AGENCY's prior written approval, CONSULTANT may employ, engage, or retain the services of persons or entities ("Subconsultants") that CONSULTANT may deem proper to aid or assist in the proper performance of CONSULTANT's duties. AGENCY is an intended beneficiary of all work that the Subconsultants perform for purposes of establishing a duty of care between the Subconsultants and AGENCY. CONSULTANT is as responsible for the performance of its Subconsultants as it would be if it had rendered the Services itself. All costs of the tasks performed or the expenses incurred by the Subconsultants are chargeable directly to CONSULTANT. Nothing in this Agreement constitutes or creates a contractual relationship between AGENCY and anyone other than CONSULTANT.

5.4. **Independent Contractor.**

(A) CONSULTANT understands and acknowledges that CONSULTANT is an independent contractor, not an employee, partner, agent, or principal of AGENCY. This Agreement does not create a partnership, joint venture, association, or employer-employee relationship between the PARTIES. At

its own expense, CONSULTANT is responsible for providing compensation; employment benefits; disability, unemployment, and other insurance; workers' compensation; training; permits and licenses; and office space for CONSULTANT and for CONSULTANT's employees and Subconsultants. CONSULTANT has, and shall retain, the right to exercise full control over the employment, direction, compensation, and discharge of all persons whom CONSULTANT uses in performing the Services under this Agreement. CONSULTANT shall provide the Services in CONSULTANT's own manner and method, except as this Agreement specifies. CONSULTANT shall treat a provision in this Agreement that may appear either to give AGENCY the right to direct CONSULTANT as to the details of doing the work, or to exercise a measure of control over the work, as giving CONSULTANT direction only as to the work's end result.

(B) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for AGENCY), and hold harmless AGENCY for any obligation; claim; suit; demand for tax or retirement contribution, including any contribution or payment to the Public Employees Retirement System (PERS); social security; salary or wages; overtime, penalty, or interest payment; or workers' compensation payment that AGENCY may be required to make on behalf of CONSULTANT, an employee of CONSULTANT, or any employee of CONSULTANT construed to be an employee of AGENCY, for the work done under this Agreement.

5.5. **Non-Discrimination in Employment.** CONSULTANT shall not discriminate against any employee or person who is subject to this Agreement because of race, color, religion, religious belief, national origin, ancestry, citizenship, age, sex, sexual orientation, marital status, pregnancy, parenthood, medical condition, or physical or mental disability.

5.6. **Disability Access Laws.** CONSULTANT represents and certifies that the work product, studies, reports, designs, drawings, and specifications that CONSULTANT prepares under this Agreement fully conform to all applicable disability access and design laws, regulations, and standards—including, but not limited to, the Americans with Disabilities Act (42 U.S.C. Sections 12101 *et seq.*) and Title 24 of the California Code of Regulations—when the Scope of Work requires or calls for compliance with those laws, regulations, or standards.

5.7. **Prevailing Wage Laws.** Services by persons deemed to be employees of CONSULTANT possibly may be subject to prevailing wages under California Labor Code Sections 1770-1781. CONSULTANT's sole responsibility is to comply with those requirements, should they apply. If a dispute based upon the prevailing wage laws occurs, CONSULTANT, at its expense, shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for AGENCY), and hold harmless AGENCY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, fines, penalties, wages, costs, or expenses pertaining to the prevailing wage laws.

5.8. **Workers' Compensation.** CONSULTANT understands and acknowledges that all persons furnishing services to AGENCY under this Agreement are, for the purpose of workers' compensation liability, employees solely of CONSULTANT and not of AGENCY. In performing the Services or the work under this Agreement, CONSULTANT is liable for providing workers' compensation benefits to CONSULTANT's employees, or anyone whom CONSULTANT directly or indirectly hires, employs, or uses. AGENCY is not responsible for any claims at law or in equity caused by CONSULTANT's failure to comply with this Paragraph.

6.0 **FACILITIES**

6.1. CONSULTANT shall provide all facilities necessary to fully perform and complete the Services. If CONSULTANT needs to use a AGENCY facility, CONSULTANT shall meet and confer with AGENCY before CONSULTANT begins the work that this Agreement requires, the PARTIES shall agree to any costs chargeable to CONSULTANT, and in an amendment to this Agreement, the PARTIES shall describe the facility's terms of use and its charges.

6.2. CONSULTANT shall pay for any damage to AGENCY property, facilities, structures, or streets arising out of CONSULTANT's use, occupation, operation, or activities in, upon, under, or over any portion of them.

7.0 **PAYMENT**

7.1. AGENCY's payment to CONSULTANT will be based upon CONSULTANT's Fee Schedule, which is attached as "Exhibit C" to this Agreement and is incorporated into it by this reference. **NOTE:**

"Exhibit C" must include a breakdown of the not-to-exceed amount, including hourly rates for project staff, any overtime rates, a list and the rate for any reimbursable expenses, or a statement that costs are included in the hourly rate, and an explanation of any mark-ups.] Except as itemized in the Fee Schedule, CONSULTANT shall pay for all expenses, including reimbursable or out-of-pocket expenses, that CONSULTANT incurs in performing the Services. The Fee Schedule will remain in effect for the Agreement's Term.

[Select one of the following provisions:]

7.2. **Fee.** [OPTION 1] AGENCY shall pay for the Services in a lump sum, which is not to exceed _____ dollars (\$ _____), upon CONSULTANT's satisfactory completion of the Services and CONSULTANT's delivery of the work product.

7.2. **Fee.** [OPTION 2] AGENCY shall pay for the Services that CONSULTANT performs in accordance with this Agreement at the hourly rate(s) specified in "Exhibit C," the TOTAL amount of which is not to exceed _____ dollars (\$ _____).

7.2. **Fee.** [OPTION 3] AGENCY shall pay for the Services in _____ [IF PAYMENTS ARE IN INTERVALS, SPECIFY A PERIOD (e.g., monthly/ quarterly) OR SPECIFY A QUANTITY (e.g., two, three, five)] installments, the TOTAL amount of which is not to exceed _____ dollars (\$ _____). Each installment will be payable upon satisfactory completion, in AGENCY's determination, of the work in each phase identified below, and in an amount proportionate to the work CONSULTANT performed or completed within each phase:

<u>Phase:</u>	<u>Description:</u>	<u>Amount:</u>
I -	[Example: Construction Documents]	\$ _____
II -	[Example: Bid Documents]	\$ _____
III -	[Example: Construction Support]	\$ _____
IV -	[Example: Project 's Closeout]	\$ _____
TOTAL		\$ _____

7.3. If AGENCY requires additional work not included in this Agreement, CONSULTANT and AGENCY shall negotiate the additional work, mutually agree on the amount of additional compensation, and memorialize the terms in either a separate written contract or an amendment to this Agreement.

7.4. **Maximum Cost.** CONSULTANT expressly acknowledges that the total cost to complete all tasks set forth in "Exhibit A" must not exceed _____ dollars (\$ _____) ("Maximum Cost"). When CONSULTANT has billed 75% of the Maximum Cost, CONSULTANT shall provide written notice to AGENCY's Project Manager that CONSULTANT has expended 75% of the Maximum Cost.

7.5. **Taxes.** CONSULTANT shall pay all applicable (federal, state, county, local, AGENCY) excise, sales, consumer use, possessory interest, or other similar taxes required by law that are levied upon this Agreement or upon CONSULTANT's services under this Agreement.

7.6. **Invoices.** CONSULTANT shall submit an original, itemized invoice to AGENCY for approval, before receiving compensation. CONSULTANT shall submit the invoice at no more than monthly intervals. All invoices must include a summary of total costs, description of the Services performed, a brief itemization of costs associated with each task or phase, and the total phase or project costs to date.

8.0 AUDIT BY AGENCY

8.1. During this Agreement's Term and for a period of four (4) years after the expiration, cancellation, or termination of this Agreement, or any extension of it, CONSULTANT shall:

(A) Keep and maintain, in their original form, all records, books, papers, or documents related to CONSULTANT's performance of this Agreement; and

(B) Permit AGENCY or its authorized representatives, at all reasonable times, to have access to, examine, audit, excerpt, copy, photocopy, photograph, or transcribe all records, books, papers, or documents related to CONSULTANT's performance of this Agreement including, but not limited to: direct and indirect charges, and detailed documentation, for work CONSULTANT has performed or will perform under this Agreement.

9.0 DATA, RECORDS, PROPRIETARY RIGHTS

9.1. **Copies of Data.** CONSULTANT shall provide AGENCY with copies or originals of all data that CONSULTANT generates, uses, collects, or stores in relation to all work associated with this Agreement. Data that CONSULTANT generates, uses, collects, stores, or provides must be in a form acceptable to, and agreed upon by, AGENCY.

9.2. **Ownership and Use.**

(A) Unless AGENCY states otherwise in writing, each document— including, but not limited to, each report, draft, record, drawing, or specification (collectively, "work product")— that CONSULTANT prepares, reproduces, or causes its preparation or reproduction for this Agreement is AGENCY's exclusive property.

(B) CONSULTANT acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work. CONSULTANT makes no representation of the work product's application to, or suitability for use in, circumstances not contemplated by the Scope of Work.

9.3. **Intellectual Property.**

(A) If CONSULTANT uses or incorporates patented, trademarked, or copyrighted work, ideas, or products— in whole or in part— into CONSULTANT's work product, CONSULTANT represents that:

- (1) CONSULTANT holds the patent, trademark, or copyright to the work, idea, or product; or
- (2) CONSULTANT is licensed to use the patented, trademarked, or copyrighted work, idea, or product.

(B) Unless AGENCY states otherwise in writing, all proprietary rights or intellectual property rights, including copyrights, that arise from creation of the work under this Agreement vest in AGENCY. CONSULTANT waives and relinquishes all claims to proprietary rights and intellectual property rights, including copyrights, in favor of AGENCY.

(C) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for AGENCY), and hold harmless AGENCY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, royalties, fines, penalties, costs, or expenses arising out of or alleging any infringement or misappropriation of a patent, copyright, trade secret, trade name, trademark, or other intellectual property right or proprietary right.

9.4. **Confidentiality.** CONSULTANT shall not use any information that it obtains from performing the Services for any purpose other than for fulfillment of CONSULTANT's Scope of Work. Without AGENCY's prior written authorization, CONSULTANT shall not disclose or publish— or authorize, permit, or allow others to disclose or publish— data, drawings, designs, specifications, reports, or other information relating to the Services or the work that AGENCY assigns to CONSULTANT or to which CONSULTANT has access.

9.5. **Public Records Act.**

(A) CONSULTANT acknowledges that this Agreement is a public record. This Agreement, its Exhibits, and all documents produced under this Agreement are subject to the California Public Records Act (Government Code Sections 6250 et seq.), including its exemptions.

(B) If AGENCY receives a Public Records Act request, AGENCY will immediately notify CONSULTANT. CONSULTANT shall identify— within the time period AGENCY specifies— all records, or portions of them, that CONSULTANT believes are exempt from production under the Public Records Act.

(C) If CONSULTANT claims a privilege against public disclosure or otherwise objects to the records' disclosure, then:

(1) CONSULTANT may seek protection from disclosure by timely applying for relief in a court of competent jurisdiction; or

(2) AGENCY may either decline to produce the requested information, or redact portions of the documents and produce the redacted records.

(D) If CONSULTANT fails to identify one or more protectable documents, or if CONSULTANT fails to respond to AGENCY within the time period that AGENCY sets, in AGENCY's sole discretion, and without its being in breach of this Agreement or its incurring liability to CONSULTANT, AGENCY may produce the records— in whole, in part, or redacted— or may decline to produce them.

(E) CONSULTANT shall indemnify, defend (including CONSULTANT's providing and paying for legal counsel for AGENCY), and hold harmless AGENCY, its officers, agents, employees, and representatives from and against all liability, claims, suits, demands, damages, fines, penalties, costs, or expenses arising out of or alleging AGENCY's refusal to publicly disclose one or more records that CONSULTANT identifies as protectable, or asserts is protectable.

10.0 CONFLICT OF INTEREST

10.1. CONSULTANT represents and certifies that:

(A) CONSULTANT's personnel are not currently officers, agents, employees, representatives, or elected officials of AGENCY;

(B) CONSULTANT will not employ or hire a AGENCY officer, agent, employee, representative, or elected official during this Agreement's Term;

(C) AGENCY's officers, agents, employees, representatives, and elected officials do not, and will not, have any direct or indirect financial interest in this Agreement; and

(D) During this Agreement's Term, CONSULTANT will inform AGENCY about any possible conflict of interest that may arise as a result of any change in circumstances.

11.0 INSURANCE

11.1. When CONSULTANT signs and delivers this Agreement to AGENCY, and during this Agreement's Term, CONSULTANT shall furnish AGENCY with insurance forms that fully meet the requirements of— and contain provisions entirely consistent with— all of the "Insurance Requirements," which are attached as "Exhibit D-_____" to this Agreement and are incorporated into it by this reference.

11.2. This Agreement's insurance provisions:

(A) Are separate and independent from the indemnification and defense provisions in Article 12 of the Agreement; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the indemnification and defense provisions in Article 12 of the Agreement.

12.0 INDEMNITY

12.1. To the maximum extent permitted by law— including, but not limited to, California Civil Code Section 2778— CONSULTANT, its employees, agents, Subconsultants, and persons whom CONSULTANT employs or hires (individually and collectively, "CONSULTANT INDEMNITOR") shall indemnify, defend, and hold harmless AGENCY, its officers, agents, employees, and representatives (individually and collectively, "AGENCY INDEMNITEE") from and against a "liability" [as defined in Subparagraph (A) below], or an "expense" [as

defined in Subparagraph (B) below], or both, that arise out of, pertain to, or relate to an act, error, or omission of a CONSULTANT INDEMNITOR:

(A) "**Liability**" means claims, suits, actions, causes of action, proceedings, judgments, decrees, awards, settlements, liens, losses, damages, injuries, or liability of any kind, whether the **liability** is:

- (1) Actual or alleged;
- (2) In contract or in tort; or
- (3) For bodily injury (including accidental death), personal injury, advertising injury, or property damage.

(B) "**Expense**" means fees, costs, sums, penalties, fines, charges, or expenses of any kind, including, but not limited to:

- (1) Attorney's fees;
- (2) Costs of an investigation, litigation, arbitration, mediation, administrative or regulatory proceeding, or appeal;
- (3) Fees of an accountant, expert witness, consultant, or other professional; or
- (4) Pre or post: judgment interest or settlement interest.

12.2. Under this Article, CONSULTANT INDEMNITOR's defense and indemnification obligations:

(A) Apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the actual or alleged passive negligence of a AGENCY INDEMNITEE; but

(B) Do not apply to a **liability**, or an **expense**, or both, that arise out of, pertain to, or relate to the sole active negligence or willful misconduct of a AGENCY INDEMNITEE.

12.3. To the extent that CONSULTANT INDEMNITOR's insurance policy provides an upfront defense to AGENCY, CONSULTANT INDEMNITOR's obligation to defend a AGENCY INDEMNITEE under this Article:

(A) Means that CONSULTANT INDEMNITOR shall provide and pay for legal counsel, acceptable to AGENCY, for the AGENCY INDEMNITEE;

(B) Occurs when a claim, suit, complaint, pleading, or action against a AGENCY INDEMNITEE arises out of, pertains to, relates to, or asserts an act, error, or omission of CONSULTANT INDEMNITOR; and

(C) Arises regardless of whether a claim, suit, complaint, pleading, or action specifically names or identifies CONSULTANT INDEMNITOR.

12.4. Paragraph 12.3 does not limit or extinguish CONSULTANT INDEMNITOR's obligation to reimburse a AGENCY INDEMNITEE for the costs of defending the AGENCY INDEMNITEE against a **liability**, or an **expense**, or both. A AGENCY INDEMNITEE's right to recover defense costs and attorney's fees under this Article does not require, and is not contingent upon, the AGENCY INDEMNITEE's first:

(A) Requesting that CONSULTANT INDEMNITOR provide a defense to the AGENCY INDEMNITEE; or

(B) Obtaining CONSULTANT INDEMNITOR's consent to the AGENCY INDEMNITEE's tender of defense.

12.5. If CONSULTANT subcontracts all or any portion of the Services under this Agreement, CONSULTANT shall provide AGENCY with a written agreement from each Subconsultant, who must indemnify, defend, and hold harmless AGENCY INDEMNITEE under the terms in this Article.

12.6. CONSULTANT INDEMNITOR's obligation to indemnify, defend, and hold harmless AGENCY will remain in effect and will be binding upon CONSULTANT INDEMNITOR whether the liability, or the expense, or both, accrues— or is discovered— before or after this Agreement's expiration, cancellation, or termination.

12.7. Except for Paragraph 12.3, this Article's indemnification and defense provisions are separate and independent from the insurance provisions in Article 11. In addition, the indemnification and defense provisions in this Article:

(A) Are neither limited to nor capped at the coverage amounts specified under the insurance provisions in Article 11; and

(B) Do not limit, in any way, the applicability, scope, or obligations of the insurance provisions in Article 11.

13.0 DEFAULT, REMEDIES, AND TERMINATION

13.1. Default. Default under this Agreement occurs upon any one or more of the following events:

to: (A) CONSULTANT refuses or fails— whether partially, fully, temporarily, or otherwise—

- (1) Provide or maintain enough properly trained personnel, or licensed personnel, or both, to perform the Services that this Agreement requires;
- (2) Pay for, obtain, maintain, or renew the insurance policies or coverages that this Agreement requires;
- (3) Comply with indemnification, defense, or hold harmless provisions that this Agreement requires; or

otherwise: (B) CONSULTANT, or its personnel, or both— whether partially, fully, temporarily, or

- (1) Disregards or violates a law, ordinance, rule, procedure, regulation, directive, or order;
- (2) Refuses or fails to pay for, obtain, maintain, or renew requisite licenses;
- (3) Refuses or fails to observe, perform, or fulfill a covenant, condition, obligation, term, or provision of this Agreement;
- (4) Commits an unlawful, false, fraudulent, dishonest, deceptive, or dangerous act while performing the Services under this Agreement; or

(C) CONSULTANT:

- (1) Or another party for or on behalf of CONSULTANT: institutes proceedings under any bankruptcy, reorganization, receivership or other insolvency; or assigns or transfers assets to its creditors;
- (2) Delegates— whether in whole, in part, temporarily, or otherwise— its duties or obligations under this Agreement, without notifying AGENCY, or without AGENCY's written authorization;
- (3) Assigns, transfers, pledges, hypothecates, grants, or encumbers— whether in whole, in part, temporarily, or otherwise— this Agreement or any interest in it, without notifying AGENCY, or without AGENCY's written authorization;

- (4) Or one of its partners, directors, officers, or general managers, or a person who exercises managerial authority on CONSULTANT's behalf, is convicted under state or federal law, during this Agreement's Term, of embezzlement, theft, fraud, forgery, bribery, deceptive or unlawful business practices, perjury, falsifying or destroying records or evidence, receiving stolen property, or other offense indicating a lack of business integrity or business honesty; or

(D) Any other justifiable cause or reason, as reasonably determined by the AGENCY Manager, or a designee.

13.2. **Notice of Default.** If AGENCY deems that CONSULTANT is in Default, or that CONSULTANT has failed in any other respect to satisfactorily perform the Services specified in this Agreement, AGENCY may give written notice to CONSULTANT specifying the Default(s) that CONSULTANT shall remedy within [SELECT: 5/ 10/ 14/ 30] days after receiving the notice. The Notice of Default will set forth one or more bases for any dissatisfaction and may suggest corrective measures.

13.3. **Remedies upon Default.** Within [SELECT THE SAME NUMBER IN PARAGRAPH 13.2 ABOVE: 5/ 10/ 14/ 30] days after receiving AGENCY's Notice of Default, if CONSULTANT refuses or fails to remedy the Default(s), or if CONSULTANT does not commence steps to remedy the Default(s) to AGENCY's reasonable satisfaction, AGENCY may exercise any one or more of the following remedies:

(A) AGENCY may, in whole or in part and for any length of time, immediately suspend this Agreement until such time as CONSULTANT has corrected the Default;

(B) AGENCY may provide for the Services either through its own forces or from another consultant, and may withhold any money due (or may become owing to) CONSULTANT for a task related to the claimed Default;

(C) AGENCY may withhold all moneys, or a sum of money, due CONSULTANT under this Agreement, which in AGENCY's sole determination, are sufficient to secure CONSULTANT's performance of its duties and obligations under this Agreement;

(D) AGENCY may immediately terminate the Agreement;

(E) AGENCY may exercise any legal remedy, or equitable remedy, or both, including, but not limited to, filing and action in court:

- (1) Seeking CONSULTANT's specific performance of all or any part of this Agreement; or
- (2) Recovering damages for CONSULTANT's Default, breach, or violation of this Agreement; or

(F) AGENCY may pursue any other available, lawful right, remedy, or action.

13.4. **Termination for Convenience.** Independent of the remedies provided in Paragraph 13.3, AGENCY may elect to terminate this Agreement at any time upon [SELECT: 10/ 14/ 30] days' prior written notice. Upon termination, CONSULTANT shall receive compensation only for that work which CONSULTANT had satisfactorily completed to the termination date. AGENCY shall not pay CONSULTANT for demobilization, takedown, disengagement, wind-down, or other costs incurred arising out of this Agreement's termination.

14.0 **GENERAL PROVISIONS**

14.1. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the PARTIES. This Agreement supersedes all prior and contemporaneous communications, negotiations, understandings, promises and agreements, either oral or written. Neither CONSULTANT nor AGENCY has made any promises or representations, other than those contained in this Agreement or those implied by law. The PARTIES may modify this Agreement, or any part of it, by a written amendment with AGENCY's and CONSULTANT's signature.

14.2. **Interpretation.** This Agreement is the product of negotiation and compromise by both PARTIES. Every provision in this Agreement must be interpreted as though the PARTIES equally participated in its drafting. Therefore, despite the provisions in California Civil Code Section 1654, if this Agreement's language is uncertain, the Agreement must not be construed against the PARTY causing the uncertainty to exist. In interpreting this Agreement and resolving any ambiguities, this Agreement will take precedence over any cover page or attachments. If a conflict occurs between a provision in this Agreement and a provision in an attachment, the following order of precedence applies, with the terms and conditions in the document higher on the list governing over those lower on the list:

- (1) The Agreement.
- (2) Exhibit D.
- (3) Exhibit B.
- (4) Exhibit A.
- (5) Exhibit C.

14.3. **Headings.** All headings or captions in this Agreement are for convenience and reference only. They are not intended to define or limit the scope of any term, condition, or provision.

14.4. **Governing Law.** California's laws govern this Agreement's construction and interpretation. Unless this Agreement provides otherwise, any reference to laws, ordinances, rules, or regulations include their later amendments, modifications, and successor legislation.

14.5. **Waiver of Breach.** If a PARTY waives the other PARTY's breach of a term in this Agreement, that waiver is not treated as waiving a later breach of the term and does not prevent the PARTY from later enforcing that term, or any other term. A waiver of a term is valid only if it is in writing and signed by the PARTY waiving it. This Agreement's duties and obligations:

(A) Are cumulative (rather than alternative) and are in addition to (rather than a limitation on) any option, right, power, remedy, or privilege; and

(B) Are not exhausted by a PARTY's exercise of any one of them.

14.6. **Attorney's Fees.** If AGENCY or CONSULTANT brings an action at law or in equity to enforce or interpret one or more provisions of this Agreement, the "prevailing party" is entitled to "reasonable attorney's fees" in addition to any other relief to which the prevailing party may be entitled. A "prevailing party" has the same meaning as that term is defined in California Code of Civil Procedure Section 1032(a)(4). "Reasonable attorney's fees" of the AGENCY Attorney's office means the fees regularly charged by private attorneys who:

(A) Practice in a law firm located in Los Angeles County; and

(B) Have an equivalent number of years of professional experience in the subject matter area of the law for which the AGENCY Attorney's services were rendered.

14.7. **Further Assurances.** Upon AGENCY's request at any time, CONSULTANT shall promptly:

(A) Take further necessary action; and

(B) Sign, acknowledge, and deliver all additional documents as may be reasonable, necessary, or appropriate to carry out this Agreement's intent, purpose, and terms.

14.8. **Assignment.**

(A) This Agreement does not give any rights or benefits to anyone, other than to AGENCY and CONSULTANT. All duties, obligations, and responsibilities under this Agreement are for the sole and exclusive benefit of AGENCY and CONSULTANT, and are not for the benefit of another person, entity, or organization. Without AGENCY's prior written authorization, CONSULTANT shall not do any one or more of the following:

- (1) Assign or transfer a right or interest— whether in whole, in part, temporarily, or otherwise— in this Agreement; or
- (2) Delegate a duty or obligation owed— whether in whole, in part, temporarily, or otherwise— under this Agreement.

(B) Any actual or attempted assignment of rights or delegation of duties by CONSULTANT, without AGENCY's prior written authorization, is wholly void and totally ineffective for all purposes; and does not postpone, delay, alter, extinguish, or terminate CONSULTANT's duties, obligations, or responsibilities under this Agreement.

(C) If AGENCY consents to an assignment of rights, or a delegation of duties, or both, CONSULTANT's assignee or legal representative shall agree in writing to personally assume, perform, and to be bound unconditionally by the covenants, obligations, terms, and conditions in this Agreement.

14.9. **Successors and Assigns.** Subject to the provisions in Paragraph 14.8, this Agreement is binding on the heirs, executors, administrators, successors, and assigns of the respective PARTIES.

14.10. **Time is of the Essence.**

(A) Except when this Agreement states otherwise, time is of the essence in this Agreement. CONSULTANT acknowledges that this Agreement's time limits and deadlines are reasonable for CONSULTANT's performing the Services under this Agreement.

(B) Unless this Agreement specifies otherwise, any reference to "day" or "days" means calendar and not business days. If the last day for giving notice or performing an act under this Agreement falls on a weekend, a legal holiday listed in either Glendale Municipal Code Section 3.08.010 or California's Government Code, or a day when AGENCY Hall is closed, the period is extended to and including the next day that AGENCY is open for business. A reference to the time of day refers to local time for Glendale, California.

14.11. **Recycled Paper.** CONSULTANT shall endeavor to submit all reports, correspondence, and documents related to this Agreement on recycled paper.

14.12. **Notices.**

(A) The PARTIES shall submit in writing all notices and correspondence that this Agreement requires or permits, and shall deliver the notices and correspondence to the places set forth below. The PARTIES may give notice by:

- (1) Personal delivery;
- (2) U.S. mail, first class postage prepaid;
- (3) "Certified" U.S. mail, postage prepaid, return receipt requested; or
- (4) Facsimile.

(B) All written notices or correspondence sent in the described manner will be presumed "given" to a PARTY on whichever date occurs earliest:

- (1) The date of personal delivery;
- (2) The third (3rd) business day following deposit in the U.S. mail, when sent by "first class" mail;
- (3) The date on which the PARTY or its agent either signed the return receipt or refused to accept delivery, as noted on the return receipt or other U.S. Postal Service form, when sent by "certified" mail; or
- (4) The date of transmission, when sent by facsimile.

(C) At any time, by providing written notice to the other PARTY, AGENCY or CONSULTANT may change the place, or facsimile number, for giving notice.

AGENCY: Philip S. Lanzafame, Director
Department of Development Services
Glendale Redevelopment Agency
633 E. Broadway, Suite 201
Glendale, CA 91206
Attn:

Telephone No. (818) 548-2005
Fax. No. (818) 409-7239

CONSULTANT: _____

Attn: _____

Telephone No. _____
Fax. No. _____

14.13. **Survival.** This Paragraph and the obligations set forth in Paragraphs 5.4, 5.6, 5.7, 5.8, 7.5, 8.1, 9.1, 9.2, 9.3, 9.4, 9.5, 11.1, 11.2, 12.1, 12.2, 12.3, 12.4, 12.5, 12.6, 12.7, 13.3, 14.5, 14.6, 14.7, 14.8, 14.9, and 14.12 survive this Agreement's expiration, cancellation, or termination.

14.14. **Severability.** The invalidity, in whole or in part, of any term of this Agreement will not affect this Agreement's remaining terms.

14.15. **Counterparts.** This Agreement may be executed in counterparts, each of which is an original, but all of which constitutes one and the same document. The PARTIES shall sign a sufficient number of counterparts, so that each PARTY will receive a fully executed original of this Agreement.

14.16. **Representations – Authority.** The PARTIES represent that:

(A) They have read this Agreement, fully understand its contents, and have received a copy of it;

(B) Through their duly authorized representative, they are authorized to sign this Agreement, and they are bound by its term; and

(C) They have executed this Agreement on the date opposite their signature.

Executed at Glendale, California.

GLENDALE REDEVELOPMENT AGENCY

By: _____
James E. Starbird
Executive Director

Date: _____

CONSULTANT

By: _____
(Name) _____
(Title) _____

Date: _____

APPROVED AS TO FORM

By: _____
Gillian van Muyden
General Counsel-Redevelopment

Date: _____

EXHIBIT LIST

EXHIBIT "A": Scope of Work
 (__ pages)

EXHIBIT "B": Project Time Schedule
 (__ pages)

EXHIBIT "C": Fee Schedule
 (__ pages)

EXHIBIT "D": Insurance Requirements
 (__ pages)

EXHIBIT "E": _____
 (__ pages)