

# The City of Bellflower

*Families. Businesses. Futures.*

16600 Civic Center Drive, Bellflower, CA 90706

Tel 562.804.1424 Fax 562.925.8660 [www.bellflower.org](http://www.bellflower.org)



September 8, 2014

Interested Consultants

**Subject: Request for Proposal for Construction Management**

Dear Consultant:

The City of Bellflower is requesting proposals to provide Construction Management services for the Fire Museum & Event Center design/build Project.

## **Project Schedule and Milestones**

The design/build Request for Qualifications (RFQ) is anticipated to be released to the public on September 26, 2014. The design/build Request for Proposal (RFP) is anticipated to be released to the public on November 14, 2014. The contract is anticipated to be awarded to the design/build entity on January 15, 2015. The desire of the City is to have the Construction Manager under contract to assist the City with the review of the RFQs and RFPs for the design/build entity. Therefore, it is anticipated the Construction Management agreement will be awarded on October 13, 2014.

It is also anticipated the Construction Manager will begin working pursuant to the terms of the agreement within seven (7) calendar days after the approval of the agreement by City Council. Therefore, within the aforementioned seven (7) calendar day period, the Construction Manager is required to provide all necessary insurance documents.

## **Important Dates**

- Request for Information (RFI) on RFP is due in writing on or before September 17, 2014, to the City of Bellflower, 16600 Civic Center Drive, at the Economic Development Department, Attn: Brian K. Lee. RFIs submitted via e-mail should be addressed to Brian K. Lee and e-mailed to [jnguyen@bellflower.org](mailto:jnguyen@bellflower.org). Subject line should indicate RFI – Construction Management for the Fire Museum and Event Center.
- Mandatory Pre-selection Construction Manager Meeting at 10:00 a.m. on Tuesday, September 23, 2014 (in the Council Chambers at Bellflower City Hall located at 16600 Civic Center Drive). At this meeting, a presentation of the Fire Museum and Event Center Project will be provided.
- Response to RFI will also be provided on September 23, 2014, at the Pre-selection Construction Manager Meeting.

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- Proposals will be received in the Office of the City Clerk until 5:00 p.m. on Wednesday, October 1, 2014.
- City Council approval of Construction Management Agreement on October 13, 2014.

**Content of Proposal**

It is requested the following be submitted with your proposal:

- A. A brief review of the Project and work plan containing any suggestions you might have to expedite the Project or special concerns the City should be advised of.
- B. A conceptual schedule indicating stages of work and all associated time frames.
- C. An organization chart and staffing plan including identifying personnel who will perform work on this Project; and a brief resume on each individual (two pages max per person) and recent projects they have worked on of similar type. Identify the Construction Manager with a detailed resume, and the individual authorized to negotiate the contract on behalf of the consulting firm.
- D. A listing of similar projects that your firm has completed within the last five (5) years. Information should include a description of work, year completed, cost, and agency/client name along with the agency contact person.
- E. Ability to comply with consultant agreement requirements.
- F. Submittal of **Five (5)** duplicate proposals.

**Fee Schedule**

The Project duration is anticipated to be 18 months. The professional services contract will not be awarded based upon low fees alone. It is desired that fees be submitted separately in a separate marked sealed envelope. The fee schedule should show the hourly costs of personnel per task, with a not-to-exceed amount. The estimated not-to-exceed amount is between \$150,000 to \$200,000 (includes all relevant and approved reimbursables). The Construction Manager's cost proposal for the prime and subcontractors must contain a breakdown of all cost components including labor base rate, other direct costs, overhead, and fees.

**Note: Ten percent (10%) of all invoiced amounts of the total contract fee will be withheld until 35 days after the Project is complete and accepted by the City<sup>1</sup>.**

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<sup>1</sup> No sooner than 35 days after Final Certificate of Occupancy (C of O) issue date.

## **Evaluation Criteria**

- A. **Qualification of the Firm** - Technical experience in performing work of a closely similar nature, record of completing work on schedule; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors, if any; and assessment by client references.
- B. **Management Approach** - Qualification of key personnel, particularly the Construction Manager; key personnel's level of involvement in performing related work; logic of project organization; adequacy of labor commitment; concurrence in the restrictions of changes in key personnel; and approach taken for quality and budget control.
- C. **Work Plan** - Depth of Construction Manager's understanding of City requirements and overall quality of work plan; logic clarity and specificity of work plan and variances proposed to the work plan; and utility of technical or procedural innovations.
- D. **Miscellaneous** - Acceptability of exceptions and deviations, if any; completeness of response in accordance with RFP; and other relevant factors not considered elsewhere.

After review of the proposals received, the City will conduct interviews with short-listed firms. The selected firm will be recommended to City Council for formal approval.

## **Contract Changes**

Any change in the scope of work resulting in a contract increase or decrease in fee shall be approved by the City in writing prior to commencement of actual change in work. No fee adjustment will be allowed unless said prior approval is authorized exclusively in writing by the City, without exception.

## **Right to Reject all Proposals**

The City of Bellflower reserves the right to reject any or all proposals submitted, and no representation is made hereby that any contract will be awarded pursuant to this request for proposal, or otherwise. All costs incurred in the preparation of the proposal, in the submission of additional information, and/or in any other aspect of a proposal prior to the award of a written contract will be borne by respondent. The City will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind that may be incurred by a respondent. All proposals submitted to the City of Bellflower in response to this request for proposals shall become the property of the City.

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Enclosed is the City of Bellflower's Professional Services standard agreement and sample certificate of insurance for reference in preparing the proposal. The minimum insurance and endorsement requirements are stated within the enclosed documents.

If your firm is interested in this Project, then please submit hardcopies both the 5 duplicate *proposals* and *fees* to the Office of the City Clerk, City of Bellflower, 16600 Civic Center Drive, on or before **5:00 p.m., Wednesday, October 1, 2014.** **FEES MUST BE SUBMITTED SEPARATELY IN A SEPARATE MARKED SEALED ENVELOPE.** POSTMARKS WILL NOT BE ACCEPTED FOR EITHER SUBMITTAL. All proposals and fees must be clearly marked, "PROPOSAL TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE CITY OF BELLFLOWER FIRE MUSEUM & EVENT CENTER – DO NOT OPEN WITH REGULAR MAIL" and "FEES TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE CITY OF BELLFLOWER FIRE MUSEUM & EVENT CENTER – DO NOT OPEN WITH REGULAR." Both submittals shall be delivered during the City business hours of 8:00 a.m. to 5:30 p.m., Monday through Thursday, except holidays, and on alternating Fridays 8:00 a.m. to 4:30 p.m.

By submitting a proposal, proposer understands the terms and conditions in the attached agreement. Proposer acknowledges they meet the Scope of Services as laid out in the agreement.

Sincerely,

A handwritten signature in black ink, appearing to read 'B.K. Lee', with a long horizontal flourish extending to the right.

Brian K. Lee  
Director of Economic Development

Enclosure (2):

Scope of Services for Fire Museum and Event Center Project Construction Management  
Agreement for Professional Services: Construction Management for the Fire Museum and Event Center

# **SCOPE OF SERVICES FOR FIRE MUSEUM AND EVENT CENTER PROJECT CONSTRUCTION MANAGEMENT**

## **I. INTRODUCTION AND PURPOSE**

The City of Bellflower is seeking proposals and statements of qualifications for construction management services for the Fire Museum and Event Center design/build Project. These services generally include, contract administration, construction management, and other services as outlined in this scope of work.

## **II. PROJECT DESCRIPTION**

The proposed Fire Museum and Event Center (“Project”) is located in the heart of Downtown Bellflower. The proposed building is modest in size, with the proposed building footprint measuring approximately 12,000 square feet. The total square footage of the two-story building measures approximately 23,000 square feet. The estimated total Project cost is \$7,500,000.

The Project is envisioned to be a multi-purpose facility, in that, in addition to a venue for the display of historic Los Angeles County firefighting apparatus, the facility will also provide a flexible and contemporary meeting facility. Community and business meetings, governmental meetings, conferences and mixers, and private functions could be accommodated within the proposed facility.

The Fire Museum portion of the Project will feature historic and memorable Los Angeles County related firefighting apparatus that will be displayed in both a diorama format and static display. The display of historic artifacts will create an educational venue for those visitors interested in the history of fire science in general and the historical aspect of Los Angeles County fire service in specific. In addition to the display of historical firefighting equipment, the museum portion will provide a thematic element that can be carried throughout the Event Center portion of the facility.

The Event Center portion of the facility will provide a venue that may accommodate approximately 280-300 guests in a large event area setting or provide facilities for two or three simultaneous conferences or meetings. The Fire Museum theme can be carried throughout the facility with the display of smaller articles and historic photographs on the 2<sup>nd</sup> floor Event Center portion of the facility.

Behind the scenes, the facility’s “back of the house” will provide the appropriate infrastructure to make events run smoothly. The catering kitchen will incorporate a food preparation area, dry storage room, a walk-in cooler, various kitchen equipment, and room for tables to “plate” meals.

### **III. SCOPE OF SERVICES**

Design work is anticipated to begin on or before February 15, 2015 with construction work to commence mid-to-late May 2015 or sooner; and extend for 248 working days. Even though the management of the project is being performed by the Construction Manager, the final number of personnel and exact duration of assignments may be adjusted by the City prior to executing the contract and the notice to proceed. Authorization of a Construction Management contract is exclusively at the discretion of the City and contingent on funding availability. Construction Manager's personnel shall be available within seven (7) calendar days of approval by the City Council on October 13, 2014 or by October 20, 2014, and shall be available for up to a maximum of six (6) weeks after City's final acceptance of the construction Project.

It is imperative that the selected Construction Manager's personnel have extensive construction background with public facility buildings as well as construction management experience. The selected Construction Manager's personnel shall provide complete construction management services including: processing change orders and Requests for Information (RFI's), construction management, coordination, scheduling, administration, quality assurance, drawing submittal review and approval coordination, project records, and preparing project close-out documents.

The Construction Manager shall provide complete technical and administrative services to ensure successful project completion on time and under budget, and provide coordination oversight for all activities taken by outside entities in connection with the project including utility companies, and adjacent business owners. The Construction Manager shall maintain a close liaison with the City's Project Manager.

**The minimum qualifications for the position of Construction Manager (CM) shall be as follows:**

- a) A minimum of four years of project management experience on similar public facilities construction projects.
- b) At the time of contract award, the Construction Manager (CM) shall be a currently licensed Design Professional (Architecture or Engineer) in the State of California. The licensed Design Professional must either be in the CM role or in direct supervision of the CM. A licensed State of California Contractor may also apply under the same parameters as the licensed Design Professional, so long as the immediate supervisor of Contractor is a licensed Design Professional.
- c) Ability to use typical computer programs such as Microsoft WORD, EXCEL, and PROJECT.

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- d) Accessible to the City at all times during working hours, within close proximity of project site (preference for a primary location within 50 miles or less).
- e) In-depth experience in complying with State contract administration records and report requirements.
- f) Knowledge of construction practices, physical characteristics of project construction materials, and testing methods of construction materials.
- g) Ability to work independently.
- h) Ability to use typical computer programs such as Microsoft Word and Excel.
- i) Clear and complete experience in dealing with public utilities.

The City's Project Manager will administer the Construction Management contract and provide general direction to the Construction Manager. Resumes of personnel shall be submitted to City for review and approval prior to assignment to a task. The City and the Construction Manager will have the responsibility of determining the quality and quantity of work performed by the Construction Managers employees. If, at any time, the level of performance is below expectations, the City may request the release of the Construction Manager's personnel and request another person be assigned as needed.

When an employee is on leave or absent, the Construction Manager shall provide an equally qualified replacement employee until the assigned employee returns to work. The replacement employee shall meet all the requirements of a permanently assigned employee.

The City will provide access to office space, office supplies, telephone, fax, copy machine and similar typical office supplies. The typical workday includes all hours worked by the construction contractor, generally between 7:00 a.m. and 6:00 p.m. Monday thru Friday, excluding holidays. The hours worked may exceed 40 hours per week. If ordered by the City, overtime for the Construction Manager's employees may be required. In the event overtime becomes necessary, the Construction Manager shall modify his/her schedule to the satisfaction of the City, so as not to require overtime pay. The construction contractor's operations may be restricted to specific hours during the week, which shall become the normal workday for Construction Manager's personnel. On days when work is not performed by the construction contractor, such as rainy or unsuitable weather days as determined by the Construction Manager by his/her sole authority, services for on-site review shall not be provided unless authorized by the City's Project Manager. The City's on site review Project Manager will provide 8 hours advance notice if construction management services are not required.

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All personnel shall be knowledgeable of and comply with all applicable local regulations. The Construction Manager shall cooperate and consult with City officials during the course of the contract, and perform other duties as may be required to ensure that the construction is being performed in accordance with the project plans and specifications. The Construction Manager's personnel shall keep records and document work in accordance with standard construction practices.

**General duties provided by the Construction Manager shall include:**

- In coordination with the design/build firm identify actual and potential problems associated with the construction project and recommend to the City sound solutions after review with appropriate design professional for the Project to the City. Analyze the plans and specifications for possible errors and deficiencies and report such findings to the City.
- Maintain awareness of safety and health requirements, and of applicable regulations and contract provisions for the protection of the public and project personnel.
- Maintain continuous communications with the field personnel, construction administration and City staff, and with project neighbors to resolve community project problems and to advise them of work conditions affecting businesses and the neighborhood.
- Prepare records, reports, and correspondence related to project activities.
- If the City determines changes are necessary, the Construction Manager's personnel shall prepare Change Orders in accordance with City procedures.
- Prepare claims reports and be available for any claims settlement meetings.
- Process monthly progress payment reimbursement requests for Federal compliance portions of work.
- Review contractor's Critical Path Method (CPM) schedule (3-6 week "look-ahead" plan) and construction staging plans, and issue comments.
- Recommend recovery schedules when needed.
- Oversee Construction Contractor's Storm Water Pollution Prevention Plan (SWPPP) responsibilities and compliance of same.
- Ensure design/build entity meets milestones and scheduling to prevent project delays.



**Tasks to be provided by the Construction Manager shall include, but not be limited to:**

**Design Build RFQ & RFP Consultation (Phase I)**

- Assist City review submittals received from design/build Request for Qualifications (RFQ).
- Assist City review submittals received from design/build Request for Proposal (RFP).
- Assist City with negotiations and consultations with the selection of the design/build entity.
- Participate with design/build entity with the development of the construction schedule.
- Participate in discussions with City and design/build entity on the design of the project.
- Consult with City and design/build entity on the selection of materials, fixtures, and other equipment or items related to the finish of the project.

**Initial-Construction Phase (Phase II)**

- Conduct a review of construction PS&E to become familiar with the Project, and comment on potential constructability issues.
- Initiate project control system compatible with the City's existing computer system.
- Help with preconstruction coordination regarding the design/build entities construction schedule, mobilization, and identification of staging area.
- Review project storm water control plans.
- Assist in implementing public relations outreach plan to include two evening informational workshops.
- Review and comment on Construction Contractor's submitted Schedule of Work.
- Review Construction Contractor's notifications to utilities and proposed scheduling with utilities.

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- Review and coordinate analysis of Construction Contractor's submittals with the City's Project Manager.
- Conduct pre-construction conference.

**Construction Phase (Phase III)**

Provide all construction management services including:

- Responsible to ensure that for all required compliance inspections occur thru Design/Build firm.
- Provide quality control inspectors for on-the-job continuous quality control review of work. The inspectors shall make reasonable efforts to guard against defects and deficiencies in the work of the Contractor and ensure that provisions of the contract documents are being fulfilled.
- Prepare daily reports documenting observed construction activities.
- Take and maintain digital photographs providing documentation of construction activities; bind, label, and date photographs.
- Prepare field blue-line, as built, with contractor input, set of drawings to incorporate the Contractor record drawing markups.
- Assist in monthly progress payment recommendations by making measurements of bid items.
- Conduct weekly project OAC (Owner, Architect, Contractor) meetings at the initial phase of construction that may be changed to biweekly meetings towards the end of the Project; prepare minutes and distribute to designated parties.
- Monitor project budget, purchases, and payments.
- Review the updated construction schedules and maintain records.
- **Establish and process job control documents including:**
  - ❖ Daily inspection diaries, daily weather data included
  - ❖ Weekly and/or bi-weekly progress OAC (Owner, Architect, Contractor) reports ~ monthly construction payments

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- ❖ Requests for Information (RFI) Owner/Arch/Contractor
- ❖ Material receipts
- ❖ Weight certificates
- ❖ Material submittals
- ❖ Weekly statements of working days ~ construction change orders
- **Review of schedule updates:**
  - ❖ Compare work progress with planned schedule and notify the Construction Contractor of project slippage. Review the Construction Contractor's plan to get back on schedule.
  - ❖ Obtain weekly updates from the Construction Contractor on the construction schedule incorporating actual progress, weather delays, and change order impacts.
  - ❖ Analyze the schedule to determine the impact of weather, unforeseen conditions, and extra work.
  - ❖ Assist City's Project Manager to negotiate time extensions due to change orders or other delays.
  - ❖ At the end of each month, submit to City's Project Manager a progress report based on actual work accomplished consisting of a written narrative describing the overall progress, significant problems, proposed corrective action, and status of major changes. Progress payments shall be based on substantiated (earned value) reporting.
- **Assist City's Project Manager in negotiation of change orders:**
  - ❖ Perform quantity and cost analysis as required for negotiation of change orders.
  - ❖ Analyze additional compensation claims that are submitted during the construction period and prepare responses.
  - ❖ Perform claims administration including coordinating and monitoring claims responses, logging claims, and tracking claim status.

- **Assist and consult with Architectural Information (AI) if needed:**
  - ❖ Prepare City request for AI-related construction issues, if applicable.
  - ❖ Construction Manager to review all AI packets
  - ❖ Transmit product and design-related AI's to the City's Project Manager for review and approval if needed.
  - ❖ Conduct meetings with the Construction Contractor and other parties as needed to discuss and resolve AI's.
- Evaluate cost reduction/incentive proposals and provide recommendations to the City's Project Manager for acceptance or denial.
- Monitor and enforce Construction Contractor's compliance with water quality control plans.
- Identify actual and potential problems associated with the construction project and consult with the City's Project Manager and the design/build team.
- Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.
- Facilitate any necessary utility coordination with all utility companies and the Construction Contractor. Coordinate, schedule, implement, and monitor utility relocations.
- Review and approve monthly progress payment requests; negotiate differences over amount with the Construction Contractor, and process payments through the City's Project Manager.

**Quality Assurance** - The Construction Manager shall enforce the quality assurance plan, in conformance with the plans and specifications.

**Community Coordination** - The Construction Manager shall be responsible for overseeing construction coordination with the business community in the project vicinity. Community coordination work shall include:

- ❖ Serve as primary contact and authority on all construction activities to the adjacent business community.

- ❖ Compile a file on all queries and discussions with the business community, identifying the business and contact name, phone number, address, the nature and date of the discussion, and any action taken.
- ❖ Review Construction Contractor's construction "Public Notices" relative to dates, times, and type of work proposed, to avoid business impacts. Assure Construction Contractor releases notices to each building unit and property owner within and in proximity to the work area well in advance of work.
- ❖ Closely monitor daily construction activities and provisions to assure no negative business impacts occur.
- ❖ On work focused in specific areas, coordinate with the Construction Contractor to release focused Public Notices as they pertain to each business.
- ❖ Assure safe and acceptable access provisions are maintained throughout the project during all open business hours, without exception.
- ❖ Notify the City's Project Manager immediately of any significant issue.

**Traffic Control and Safety** - As required to safely complete the required inspection or survey work; the Construction Manager shall review and coordinate the Construction Contractor's traffic control plan, including lane closures, in accordance with City Requirements. For this project, the City Engineer shall be the lead approval.

- The Construction Manager shall conform to State and Federal safety provisions. However, it is understood that the Contractor shall be solely responsible for all construction means, methods, techniques and procedures, and for the adequacy of all safety provisions associated with their work.
- The Construction Manager's personnel shall wear white hard hats, OSHA-approved vests, protective eye protection devices (glasses), and rubber-soled shoes at all times while working in the field.
- The Design/Build entity Contractor shall provide appropriate safety training with Construction Manager oversight on monthly basis for all their personnel required to work on and near highways and supply City with written verification of same.
- All safety equipment for the Construction Manager and his/her personnel shall be furnished by the Construction Management firm.

**Post-Construction Phase (Phase IV)**

- Prepare initial punch list, and all associated final punch lists, and consolidate comments into final punch list.
- Finalize the bid items, claims, change orders, punch list items, and correct shop drawings.
- Oversee completion of record drawings.
- Prepare Report of Expenditures Checklist including all necessary attachments.
- Transmit all project files and record drawings to City's Project Manager for archiving.
- Assist with release of mechanic liens
- Support construction claims analysis and litigation.
- Be available for any audits, including City internal audits.
- Review and approve final release of 10% retention fund, comply with advertising and notice of final payment criteria
- Close out document retrieval and submittal of same to City Project Manager

**Miscellaneous Equipment, Vehicles, and Tools** - The Construction Manager shall provide all necessary instruments, tools, and safety equipment required for their personnel to perform their work accurately, efficiently, and safely, including:

- Other field materials, such as safety equipment for use by City staff on the project.
- All necessary safety equipment required to perform the work efficiently and safely.
- Construction Manager's personnel shall be provided with cellular phones, digital cameras, and personal protective equipment suitable for the location and nature of work involved, without associated costs to the City.

**CITY OF BELLFLOWER**

**AGREEMENT FILE NO. XXX**

**AGREEMENT FOR PROFESSIONAL SERVICES  
INSERT NAME OF CONTRACTED PARTY HERE**

**Construction Management for the Fire Museum and Event Center**

**THIS AGREEMENT** is made and effective as of (Insert Date Here), between the City of Bellflower, a municipal corporation (“City”), and (Name of Contracted Party Here), [Choose one of the following: **a sole proprietorship, partnership, limited liability partnership, corporation [i.e., a California corporation], limited liability corporation**] (“Consultant”). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on (Insert Date Here), and shall remain and continue in effect until tasks described herein are completed, but in no event later than (Insert Termination Date Here), unless sooner terminated pursuant to the provisions of this Agreement.

**2. SERVICES**

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

**3. PERFORMANCE**

Consultant shall at all times faithfully, competently, and to the best of his/her ability, experience, and talent perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

**4. CITY MANAGEMENT**

City’s Director of Economic Development shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks To Be Performed or change the compensation due to Consultant. City’s City Manager shall be authorized to act on City’s behalf and to execute all necessary documents which enlarge the Tasks To Be Performed or change Consultant’s compensation, subject to **Section 5** hereof.

**5. PAYMENT**

(a) City agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit C, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed (Insert Amount of Compensation Here in "words") dollars (\$XXXX.XX insert "numerical figure" of this amount here) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services. The City Manager may approve amendments to this Agreement for additional work up to the amount authorized pursuant to the most recent Council-approved administrative and budget policies relating to the City Manager's authority and threshold to enter into new agreements, currently Twenty Thousand Dollars (\$20,000). Any additional work in excess of the City Manager's authority and threshold shall be approved by the City Council.

(c) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days after receipt of each invoice as to all non-disputed fees. If City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days after receipt of an invoice of any disputed fees set forth on the invoice.

**6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon Consultant at least ten-days' (10-days') prior written notice. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless notice provides otherwise. If City suspends or terminates a portion of the Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, City shall pay to Consultant the actual value of the work performed up to the time of termination; provided, that the work performed is of value to City. Upon termination of the Agreement pursuant to this Section, Consultant will submit an invoice to City pursuant to Section 5.



**7. DEFAULT OF SERVICE PROVIDER**

(a) Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to Consultant following notice of default and an opportunity to cure, as set forth in subsection (b) of this Section. If such failure by Consultant to make progress in the performance of work hereunder arises out of causes beyond Consultant's control, and without fault or negligence of Consultant, it shall not be considered a default.

(b) Role of Construction Manager is to supervise the work of the design/build entity. Any conflict of interest including but not limited to ownership, joint services, subsidiaries shall constitute a default for cause of this Agreement and City may immediately terminate Agreement.

(c) If the City Manager, or his/her delegate, determines Consultant is in default in the performance of any of the terms of this Agreement, he/she shall cause to be served upon Consultant a written notice of the default. Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

**8. OWNERSHIP OF DOCUMENTS**

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by City that relates to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City and may be used, reused, or otherwise disposed of by City without the permission of Consultant. With respect to computer files, Consultant shall make available to City, at

Consultant's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

## **9. INDEMNIFICATION**

(a) Indemnification for Professional Liability. When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and each of its officers, employees, and agents (the "Indemnified Parties") from and against any and all losses, liabilities, damages, costs, and expenses, including attorneys' fees and costs to the extent same are caused in whole or in part by any negligent or wrongful act, error, or omission of Consultant, its officers, agents, employees, or subcontractors (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement.

(a) Indemnification for Other Than Professional Liability. Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless the Indemnified Parties from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, whether actual, alleged, or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including, but not limited to, officers, agents, employees, or subcontractors of Consultant.

(b) General Indemnification Provisions. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on the Indemnified Parties and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend the Indemnified Parties as set forth herein is binding on the successors, assigns, or heirs of Consultant and shall survive the termination of this Agreement or this Section. The indemnification and defense obligations set forth in this Section shall apply whether or not there is active negligence, passive negligence, or any act for which any of the Indemnified Parties may be strictly liable; provided, however, that such obligations shall not be applicable to liability caused by the sole negligence or willful misconduct of any of the Indemnified Parties.

**10. INSURANCE**

During the entire term of this Agreement, Consultant shall maintain insurance coverage as specified in Exhibit B, attached hereto and hereby made part of this Agreement.

**11. INDEPENDENT CONTRACTOR**

(a) Consultant is and shall at all times remain as to City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

**12. LEGAL RESPONSIBILITIES**

Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws and regulations. City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

**13. UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms, or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Consultant, or from any officer, employee, or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.

**14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over responsibilities with respect to the Fire Museum and Event Center Project during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

**15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST**

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization. Consultant, its officers, employees, agents, or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

(b) Consultant shall promptly notify City should Consultant, its officers, agents, or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

**16. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by 1) personal service; 2) delivery by a reputable document delivery service, such as, but not limited to, Federal Express, which provides a receipt showing date and time of delivery; or 3) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as the party may later designate by notice.

To City: City of Bellflower  
Attention: Brian K. Lee,  
Director of Economic Development  
16600 Civic Center Drive  
Bellflower, CA 90706

To Consultant: *CONSULTANT/COMPANY NAME*  
Attention: *NAME OF CONTACT*  
*ADDRESS*  
*CITY, STATE ZIP CODE*  
*TELEPHONE NUMBER*  
*EMAIL ADDRESS*

**17. ASSIGNMENT**

Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior consent of City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only [INSERT "CONSULTANT" or THE NAME OF THE ACTUAL INDIVIDUAL HERE] shall perform the services described in this Agreement.

Consultant may use assistants, under its direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen-days' (14-days') notice prior to the departure of *NAME OF PERSON DOING ACTUAL WORK FOR CONSULTANT* from Consultant's employ. Should he/she leave Consultant's employ, City shall have the option to immediately terminate this Agreement. Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and Consultant.

**18. LICENSES**

At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses required of it by law for the performance of the services described in this Agreement.

**19. GOVERNING LAW**

City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the state or federal district court with jurisdiction over the City of Bellflower.

**20. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**21. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL**

Consultant is bound by the contents of City's Request for Proposal, Exhibit A hereto and incorporated herein by this reference, and the contents of the proposal submitted by Consultant, Exhibit A hereto. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in Consultant's proposals.

**22. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed.

**CITY OF BELLFLOWER,**  
**a general law city**

**CONSULTANT/FIRM'S NAME**

**By:** \_\_\_\_\_  
**Jeffrey L. Stewart, City Manager**

**By:** \_\_\_\_\_  
**[Insert Name and Title]**

**Attest:**

\_\_\_\_\_  
**Debra D. Bauchop, City Clerk**

**Approved As To Form:**

\_\_\_\_\_  
**Joseph W. Pannone, City Attorney**

**ATTACHMENTS:**

- Exhibit A: Scope of Services/Schedule of Performance
- Exhibit B: Insurance Requirements
- Exhibit C: Payment Schedule

**CITY OF BELLFLOWER  
AGREEMENT FILE NO. XXX – EXHIBIT A**

**SCOPE OF SERVICES/SCHEDULE OF PERFORMANCE**

**General duties provided by the Construction Manager shall include:**

- In coordination with the design/build firm identify actual and potential problems associated with the construction project and recommend to the City sound solutions after review with appropriate design professional for the Project to the City. Analyze the plans and specifications for possible errors and deficiencies and report such findings to the City.
- Maintain awareness of safety and health requirements, and of applicable regulations and contract provisions for the protection of the public and project personnel.
- Maintain continuous communications with the field personnel, construction administration and City staff, and with project neighbors to resolve community project problems and to advise them of work conditions affecting businesses and the neighborhood.
- Prepare records, reports, and correspondence related to project activities.
- If the City determines changes are necessary, the Construction Manager's personnel shall prepare Change Orders in accordance with City procedures.
- Prepare claims reports and be available for any claims settlement meetings.
- Process monthly progress payment reimbursement requests for Federal compliance portions of work.
- Review contractor's Critical Path Method (CPM) schedule (3-6 week "look-ahead" plan) and construction staging plans, and issue comments.
- Recommend recovery schedules when needed.
- Oversee Construction Contractor's Storm Water Pollution Prevention Plan (SWPPP) responsibilities and compliance of same.
- Ensure design/build entity meets milestones and scheduling to prevent project delays.



**Tasks to be provided by the Construction Manager shall include, but not be limited to:**

**Design Build RFQ & RFP Consultation (Phase I)**

- Assist City review submittals received from design/build Request for Qualifications (RFQ).
- Assist City review submittals received from design/build Request for Proposal (RFP).
- Assist City with negotiations and consultations with the selection of the design/build entity.
- Participate with design/build entity with the development of the construction schedule.
- Participate in discussions with City and design/build entity on the design of the project.
- Consult with City and design/build entity on the selection of materials, fixtures, and other equipment or items related to the finish of the project.

**Initial-Construction Phase (Phase II)**

- Conduct a review of construction PS&E to become familiar with the Project, and comment on potential constructability issues.
- Initiate project control system compatible with the City's existing computer system.
- Help with preconstruction coordination regarding the design/build entities construction schedule, mobilization, and identification of staging area.
- Review project storm water control plans.
- Assist in implementing public relations outreach plan to include two evening informational workshops.
- Review and comment on Construction Contractor's submitted Schedule of Work.
- Review Construction Contractor's notifications to utilities and proposed scheduling with utilities.
- Review and coordinate analysis of Construction Contractor's submittals with the City's Project Manager.

- Conduct pre-construction conference.

### **Construction Phase (Phase III)**

Provide all construction management services including:

- Responsible to ensure that for all required compliance inspections occur thru Design/Build firm.
- Provide quality control inspectors for on-the-job continuous quality control review of work. The inspectors shall make reasonable efforts to guard against defects and deficiencies in the work of the Contractor and ensure that provisions of the contract documents are being fulfilled.
- Prepare daily reports documenting observed construction activities.
- Take and maintain digital photographs providing documentation of construction activities; bind, label, and date photographs.
- Prepare field blue-line, as built, with contractor input, set of drawings to incorporate the Contractor record drawing markups.
- Assist in monthly progress payment recommendations by making measurements of bid items.
- Conduct weekly project OAC (Owner, Architect, Contractor) meetings at the initial phase of construction that may be changed to biweekly meetings towards the end of the Project; prepare minutes and distribute to designated parties.
- Monitor project budget, purchases, and payments.
- Review the updated construction schedules and maintain records.
- **Establish and process job control documents including:**
  - ❖ Daily inspection diaries, daily weather data included
  - ❖ Weekly and/or bi-weekly progress OAC (Owner, Architect, Contractor) reports ~ monthly construction payments
  - ❖ Requests for Information (RFI) Owner/Arch/Contractor
  - ❖ Material receipts
  - ❖ Weight certificates

- ❖ Material submittals
- ❖ Weekly statements of working days ~ construction change orders
- **Review of schedule updates:**
  - ❖ Compare work progress with planned schedule and notify the Construction Contractor of project slippage. Review the Construction Contractor's plan to get back on schedule.
  - ❖ Obtain weekly updates from the Construction Contractor on the construction schedule incorporating actual progress, weather delays, and change order impacts.
  - ❖ Analyze the schedule to determine the impact of weather, unforeseen conditions, and extra work.
  - ❖ Assist City's Project Manager to negotiate time extensions due to change orders or other delays.
  - ❖ At the end of each month, submit to City's Project Manager a progress report based on actual work accomplished consisting of a written narrative describing the overall progress, significant problems, proposed corrective action, and status of major changes. Progress payments shall be based on substantiated (earned value) reporting.
- **Assist City's Project Manager in negotiation of change orders:**
  - ❖ Perform quantity and cost analysis as required for negotiation of change orders.
  - ❖ Analyze additional compensation claims that are submitted during the construction period and prepare responses.
  - ❖ Perform claims administration including coordinating and monitoring claims responses, logging claims, and tracking claim status.
- **Assist and consult with Architectural Information (AI) if needed:**
  - ❖ Prepare City request for AI-related construction issues, if applicable.
  - ❖ Construction Manager to review all AI packets
  - ❖ Transmit product and design-related AI's to the City's Project Manager for review and approval if needed.

- ❖ Conduct meetings with the Construction Contractor and other parties as needed to discuss and resolve AI's.
- Evaluate cost reduction/incentive proposals and provide recommendations to the City's Project Manager for acceptance or denial.
- Monitor and enforce Construction Contractor's compliance with water quality control plans.
- Identify actual and potential problems associated with the construction project and consult with the City's Project Manager and the design/build team.
- Maintain an awareness of safety and health requirements and enforce applicable regulations and contract provisions for the protection of the public and project personnel.
- Facilitate any necessary utility coordination with all utility companies and the Construction Contractor. Coordinate, schedule, implement, and monitor utility relocations.
- Review and approve monthly progress payment requests; negotiate differences over amount with the Construction Contractor, and process payments through the City's Project Manager.

**Quality Assurance** - The Construction Manager shall enforce the quality assurance plan, in conformance with the plans and specifications.

**Community Coordination** - The Construction Manager shall be responsible for overseeing construction coordination with the business community in the project vicinity. Community coordination work shall include:

- ❖ Serve as primary contact and authority on all construction activities to the adjacent business community.
- ❖ Compile a file on all queries and discussions with the business community, identifying the business and contact name, phone number, address, the nature and date of the discussion, and any action taken.
- ❖ Review Construction Contractor's construction "Public Notices" relative to dates, times, and type of work proposed, to avoid business impacts. Assure Construction Contractor releases notices to each building unit and property owner within and in proximity to the work area well in advance of work.
- ❖ Closely monitor daily construction activities and provisions to assure no negative business impacts occur.

- ❖ On work focused in specific areas, coordinate with the Construction Contractor to release focused Public Notices as they pertain to each business.
- ❖ Assure safe and acceptable access provisions are maintained throughout the project during all open business hours, without exception.
- ❖ Notify the City's Project Manager immediately of any significant issue.

**Traffic Control and Safety** - As required to safely complete the required inspection or survey work; the Construction Manager shall review and coordinate the Construction Contractor's traffic control plan, including lane closures, in accordance with City Requirements. For this project, the City Engineer shall be the lead approval.

- The Construction Manager shall conform to State and Federal safety provisions. However, it is understood that the Contractor shall be solely responsible for all construction means, methods, techniques and procedures, and for the adequacy of all safety provisions associated with their work.
- The Construction Manager's personnel shall wear white hard hats, OSHA-approved vests, protective eye protection devices (glasses), and rubber-soled shoes at all times while working in the field.
- The Design/Build entity Contractor shall provide appropriate safety training with Construction Manager oversight on monthly basis for all their personnel required to work on and near highways and supply City with written verification of same.
- All safety equipment for the Construction Manager and his/her personnel shall be furnished by the Construction Management firm.

#### **Post-Construction Phase (Phase IV)**

- Prepare initial punch list, and all associated final punch lists, and consolidate comments into final punch list.
- Finalize the bid items, claims, change orders, punch list items, and correct shop drawings.
- Oversee completion of record drawings.
- Prepare Report of Expenditures Checklist including all necessary attachments.
- Transmit all project files and record drawings to City's Project Manager for archiving.
- Assist with release of mechanic liens

- Support construction claims analysis and litigation.
- Be available for any audits, including City internal audits.
- Review and approve final release of 10% retention fund, comply with advertising and notice of final payment criteria
- Close out document retrieval and submittal of same to City Project Manager

**Miscellaneous Equipment, Vehicles, and Tools** - The Construction Manager shall provide all necessary instruments, tools, and safety equipment required for their personnel to perform their work accurately, efficiently, and safely, including:

- Other field materials, such as safety equipment for use by City staff on the project.
- All necessary safety equipment required to perform the work efficiently and safely.
- Construction Manager's personnel shall be provided with cellular phones, digital cameras, and personal protective equipment suitable for the location and nature of work involved, without associated costs to the City.

**CITY OF BELLFLOWER  
AGREEMENT FILE NO. XXX - EXHIBIT B**

**INSURANCE REQUIREMENTS**

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below, and for five (5) years thereafter. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this Section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross-liability for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 (One Million Dollars) per occurrence for all covered losses and no less than \$2,000,000 (Two Million Dollars) general aggregate.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 (One Million Dollars) per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers' Compensation on a State-approved form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 (One Million Dollars) per accident or disease.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect acts, errors or omissions of Consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be no less than \$1,000,000 (One Million Dollars) per occurrence or claim and \$2,000,000 policy in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of contract work.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests rating of A or better and a minimum financial size VII. Other carriers will be considered on a case-by-case basis at the sole discretion of the City. Other carriers to be considered must be submitted for review. City’s acceptance of alternate carriers must be in writing.

General conditions pertaining to provisions of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insured City, its officers, employees, and agents using standard ISO endorsement No. CG 20 10 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise. Other additional insured endorsement forms will be considered on a case-by-case basis at the sole discretion of the City. Other forms to be considered must be submitted for review. City’s acceptance of forms other than CG 20 10 must be in writing.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant’s employees or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverage required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.



5. No liability policy shall contain any provision or definition that would serve to eliminate so-called “third party action over” claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification, and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect City’s protection without City’s prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverage required and an additional insured endorsement to Consultant’s general liability policy, shall be delivered to the City Clerk at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City’s option.
8. Certificate(s) are to reflect that the insurer will provide thirty-days’ (30-days’) notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will “endeavor” (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Consultant, or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, architect, engineer, or other entity or person in any way involved in the performance of work on the project contemplated by this Agreement to self-insure its obligations to City. If

Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of the Contract or Agreement to change the amounts and types of insurance required by giving the Consultant ninety-days' (90-days') advance notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City, or its employees or agents, face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. **Proof that such coverage has been ordered shall be submitted to the City Clerk prior to expiration. A certificate of insurance and additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five (5) days after the expiration of the coverage.**
17. The provisions of any Workers' Compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officers, and agents.
18. Requirements of specific coverage features or limits contained in this Section are not intended as limitations on coverage, limits, or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impair the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves that right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City of any loss against Consultant 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.

**CITY OF BELLFLOWER  
AGREEMENT FILE NO. XXX - EXHIBIT C**

**PAYMENT SCHEDULE**

The Construction Manager will submit invoices monthly for actual services performed up to 100% of Agreement amount, through the duration of the project for the following Phases:

Phase I – Design Build RFQ & RFP Consultation – 10%

Phase II – Initial-Construction Phase -10%

Phase III – Construction Phase – 70%

Phase IV – Post Construction – 10%, will be paid as follows:

**Note: Ten percent (10%) of all invoiced amounts of the total contract fee will be withheld until 35 days after the Project is complete and accepted by the City<sup>1</sup>.**

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<sup>1</sup> No sooner than 35 days after Final Certificate of Occupancy (C of O) issue date.