NOTICE OF REQUEST FOR PROPOSALS

July 6, 2023

Re: Notice to Consultants – Request for Proposals (“RFP”) No. 24-01 – Downtown Specific Plan Housing Constraints Analysis: Open Space and Parking

Notice is hereby given that the City of Escondido, a California municipal corporation (“City”), is soliciting proposals from qualified consultants, firms, and/or a team comprised of different companies for preparation of a two-part project targeting the City’s Downtown Specific Plan area, consisting of an assessment and recommendations for modifying open space requirements, and a downtown parking study, standards, and management plan (“Project”).

Prospective consultants must submit one proposal to Veronica Morones, Principal Planner, at vmorones@escondido.org no later than 5 p.m. on Thursday, August 17, 2023 (“Submission Deadline”). Any proposals received after the Submission Deadline will not be accepted.

Questions or comments concerning this RFP may be submitted via e-mail to Veronica Morones at vmorones@escondido.org no later than 5 p.m. on Wednesday, July 19, 2023 (“Questions Deadline”). Any questions or comments regarding this RFP received after the Questions Deadline will be disregarded. Emails concerning this RFP should state the following in the subject line: “RFP No. 24-01 – Downtown Specific Plan Housing Constraints Analysis: Open Space and Parking.” Any communication regarding or relating to this RFP with any City employee or official other than Veronica Morones is strictly prohibited. A summary of questions from prospective Consultants and City responses will be posted on the City’s website at https://www.escondido.org/purchasing by 5 p.m. on July 24, 2023.

Each proposal shall be in accordance with specifications, instructions, and information contained in this RFP. The City reserves the right to reject any or all proposals for any reason it deems necessary, to waive defects or irregularities in any proposal, and to accept the proposal deemed the most advantageous to the City. This RFP does not commit the City to award a contract or to pay any costs incurred in the preparation of a response to this request.

Sincerely,

Veronica Morones, Principal Planner
City of Escondido
1. **Introduction**

   1.1. **City Context**

The City of Escondido is located in north San Diego County, approximately 30 miles north of the City of San Diego, California. Escondido is an established community incorporated on October 8, 1888 under the general laws of the State of California. The City’s current population is approximately 152,200.

The City of Escondido is a full-service city that operates under a City Council/City Manager form of government. Day-to-day activities of the City are carried out under the direction of the City Manager. The City provides the following services to its residents: Police, Fire, Water, Wastewater, Streets, Planning, Engineering, Building, and Community Services.

Downtown Escondido is part of the Downtown Specific Plan (“DSP”) (see link below) and is envisioned as a dynamic, attractive, economically vital city center providing social, cultural, economic, and residential focus while respecting its historic character. The environment is pedestrian oriented, attracting local and non-local visitors year-round, to experience an atmosphere that is entertaining and vibrant with activity occurring throughout the day, evening and weekend hours.

The City intends to award one contract resulting from this RFP to a responsible Consultant that best meets the City’s objectives and qualification criteria. The City is committed to selecting an excellent team that will produce a high-quality work product and deliver a high level of customer service. The consultant awarded the Project (“Consultant”) will study City standards and needs both Citywide and in the downtown area. The Consultant will use this information, along with any previous work the City may offer, to conduct a two-fold assessment of the DSP’s open space and parking requirements. Specifically, the Consultant will 1) assess the DSP’s open space requirements for constraints on affordable housing resulting in findings, recommendations, and modified language for open space requirements, and 2) conduct a downtown parking study of public and private spaces to identify parking need at DSP buildout and provide a parking management plan for implementation. The Consultant shall be prepared to enter into a Consulting Services Agreement in substantially the same form as the City’s standard Consulting Service Agreement (“Agreement”), which is attached to this RFP as Exhibit 1 and incorporated herein by this reference.

The Project will focus on how to make affordable housing production more financially feasible through modifications to both the DSP’s open space and parking requirements. The open space assessment will take into consideration the potential for reductions to existing requirements, as well as new strategies, such as green roofs and community gardens to aid in reducing barriers to affordable housing production. The parking study will inventory and map existing public and private parking; analyze parking needs and opportunities; and provide recommendations for parking management and revised parking standards. The Consultant must be an expert in compiling and analyzing parking information and data, creating parking demand projections, and making recommendations to address parking concerns, including public policies, programs, and management, public-private partnerships, and bicycle and pedestrian connectivity, including Americans with Disabilities Act (“ADA”) considerations.

   1.2. **RFP Document Location**

The website for the RFP and related documents is: [https://www.escondido.org/purchasing](https://www.escondido.org/purchasing). All Project correspondence will be posted on the City’s purchasing webpage. It is the responsibility of prospective consultants to check the website regularly for information updates and RFP clarifications, as well as any RFP addenda.

   1.3. **Right to Submitted Material**

This RFP does not commit the City of Escondido to award a contract, to pay any costs incurred in the
preparation of a contract or proposal, or to procure or contract for, any services. The City reserves the right to accept or reject any or all proposals received as a result of this RFP, or to amend, cancel (in part or in whole) this RFP if it is in the City’s best interest to do so. All proposals, reports and data submitted to the City shall become the property of the City of Escondido and may not be returned.

2. Project Description and Scope of Services

2.1. Background and Purpose

The Project will be funded through the Local Early Action Planning (“LEAP”) grant program administered by the State Department of Housing and Community Development (“HCD”). The City was awarded grant funding by the State of California to prepare the Downtown Specific Plan Housing Constraints Analysis as a part of the City’s 6th cycle housing element implementation program.

The City’s DSP, adopted in 2012, defines the future urban development of the specific plan area, with an emphasis on pedestrian orientation and mixed-use development. The downtown area (Figure 1 – Study Area) supports specialty retail, dining, and nightlife, as well as local and regional events and arts. The DSP’s dwelling unit capacity at buildout accommodates 5,275 residential units. The DSP provides an existing definition and standards for open space, along with requirements for each DSP district (beginning p. III-24). The DSP established two parking districts (Districts 1 and 2) through special assessments, paid by the property owners whose businesses are located within each district. These districts allow for only non-residential uses to satisfy their parking requirements even when physically unmet onsite. The DSP can be found here:


The Project’s purpose is to:

1) Reduce barriers to affordable housing production within the City’s downtown area in an effort to promote smart growth development within an identified mobility hub and transit priority area, as identified in the 2021 Regional Plan (“RTP”). The City seeks to do so through modification of the existing open space standards, and establishment of new parking standards for the DSP.

The Project goals are:

1) Right size the DSP’s parking standards to reduce unnecessary burdens on housing developers, especially senior and affordable housing developers;
2) Make parking more convenient for community members, businesses and their employees, and visitors; and
3) Ensure more efficient use of existing and future parking, while exploring options to make the study area more pedestrian-, bicycling-, and public transit-friendly.

The Project objectives are:

1) Inventory:
   a. Existing public open space within the DSP.
   b. Public and private parking spaces within the study area across all days and seasons, especially April through September;(including bicycle parking, as well as ADA parking spaces). On street parking is to be included.
   c. Public transit options available, (existing and planned), within the study area that may allow for alternative modes of transportation to the study area.
2) Identify:
   a. Community needs for open space access and actions for integrating innovative green space.
   b. Public perception of parking availability, and ease of access.
c. Where people are coming from. (maybe ask for transportation analytics to determine O-Ds both weekday, weekends and special events).
d. Peak parking demand.
e. Parking needs and opportunities based on the above inventories, with a focus on various building types.
f. Various existing and potential Transportation Demand Management (TDM) strategies and measures specific to the study area and the potential to offset parking needs.
g. Triggers to determine where existing parking availability is no longer adequate and when a parking structure (or structures) are warranted.
h. Feasible locations and funding strategies for two parking garages within the study area (unless determined these are not necessary based on existing parking capacity).
i. Feasibility and process of transferring or selling surplus parking on City-owned lots to affordable housing developers.

3) Develop:
a. Right-sized and equitable open space and parking standards for all development types identified within the DSP, with an emphasis on senior and affordable housing.
b. Recommendations and implementation for the DSP’s open space and parking standards in line with the purpose of the Project.
c. Management strategy/plan to maximize the efficient use of the available and anticipated parking capacity in the study area, including public-private partnerships (to make parking available during non-business hours).

Parking within the study area intersects with various existing and forthcoming City policy documents, programs, and projects—including those related to transportation, economic development, and climate action planning. Therefore, parking strategies should take into consideration the following Citywide initiatives:

- Downtown Specific Plan
- General Plan (Mobility Element) – update underway
- Comprehensive Active Transportation Strategy (CATS) – forthcoming
- Climate Action Plan
- Comprehensive Economic Development Strategy (CEDS) – update underway
- Escondido Municipal Code
- Grand Avenue Vision Project – construction underway
- NCTD Route 471 Rapid Bus Plan
The Consultant awarded the Project will provide the City with a parking study for the DSP, which will include any recommended changes to parking standards, as well as a management plan, along with any GIS deliverables and technical appendices/reports. The City was awarded grant funding by the State of California to prepare the downtown parking study as a part of the City’s 6th cycle housing element implementation program. Components of the Scope of Work included in Exhibit 1 of this RFP must be based on the above goals and objectives.

2. Proposal Deadlines and Schedule

The funds under the LEAP Program shall be expended no later than December 31, 2023, which requires final invoices due to HCD for the Project due no later than September 30, 2023. The City acknowledges these expenditure deadlines may not be feasible.

HCD is yet to formally extend the LEAP grant program deadline; however, the City understands the opportunity for extension may be forthcoming. Therefore, the expenditure dates and this RFP are subject to change.
The following is an estimated schedule relating to this RFP and is not binding on the City:

<table>
<thead>
<tr>
<th>Activity</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Questions Deadline</td>
<td>July 19, 2023</td>
</tr>
<tr>
<td>Response to Questions Released</td>
<td>July 24, 2023</td>
</tr>
<tr>
<td>Proposal Submission Deadline</td>
<td>August 17, 2023</td>
</tr>
<tr>
<td>Staff Review of Proposals</td>
<td>August 2023</td>
</tr>
<tr>
<td>Award of Contract</td>
<td>September, 2023</td>
</tr>
</tbody>
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Note: The City reserves the right to make modifications to the estimated schedule outlined above.

3. **Proposal Content and Instructions**

Prospective consultants are responsible for preparing and timely submitting an effective, clear, and concise proposal. Proposals must be limited to **25 double-sided pages, excluding attachments**. Each proposal shall demonstrate the qualifications, competence, and capacity of the prospective consultant to perform the services described in and in conformity with the requirements of this RFP.

By submitting a proposal in response to this RFP, prospective consultants certify that they take no exceptions to the terms and requirements of this RFP, including the terms of the City’s form Consulting Agreement which is attached to this RFP as **Exhibit 1** and incorporated by this reference. **Any proposed waiver, or change to the resulting Consulting Agreement (Exhibit 1) must be clearly identified in prospective consultant’s proposal.**

To be considered responsive, proposals must contain the following information in the order listed:

1. **Cover Letter:** A cover letter introducing the company and the individual who act as the company’s project manager. Must include the name, address, and telephone number of the company, and must be signed by the person(s) authorized to represent the firm.

2. **Summary:** An executive summary should briefly describe the proposal.

3. **Qualifications and Experience:**
   a. Firm contact information, which must include information about the firm and disclose who is authorized to negotiate contract conditions for the Project;
   b. A list of qualifications and experience in the area directly related to this RFP for each person who will be assigned by the prospective consultant or sub-consultant to work on the Project;
   c. A list of at least one project previously completed by the prospective consultant and/or sub-consultant that are similar in size and scope to the Project, including contact information for the agency for whom the project was prepared. Consultant will demonstrate relevant work experience by providing plans and/or images of relatable work, and highlight the participation in such work by the key personnel proposed for assignment to the City.
   d. At list of at least three references for completed work similar to that in the scope of work section contained in this RFP, including contact information for the agency for whom the project was prepared. The contact information shall be of the person most knowledgeable about the work performed.

4. **Work Schedule and Plan:**
   a. Include a proposed schedule of work or timeline and phased milestones for completion of
the scope of work. The goal is to complete the Project by September 30, 2024; however, proposals should develop reasonable timelines to complete the scope of work.

b. Describe the proposed approach and work plan for completing the services specified in the scope of work. The description of the proposed approach shall discuss the services in sufficient detail to demonstrate the prospective consultant's ability to accomplish the City's goals for this Project.

c. Describe approach to managing resources, including a description of the role(s) of any sub-consultants, if applicable, their specific responsibilities, and how their work will be supervised. Identify methods that prospective consultant will use to ensure quality, budget, and schedule control.

5. Fee Schedule and Cost Estimate (Under Separate Cover): The Project has a NTE budget of $115,000.00. Provide a task-based fee schedule for all work to be completed. List travel costs and any other direct or indirect costs association with performing the required services. Provide a detailed cost breakdown, including the costs for each task necessary for the proposed scope of work identified above. Costs should include hours and staff assignments for each task. Budget should include cost for all administrative, reproduction and material costs. Specify whether the costs are a flat fee or based on actual hours worked with a NTE price.

6. Conflict of Interest – Address possible conflicts of interest with other clients affected by consultants’ actions performed by the firm on behalf of the City.

The selected Consultant’s proposal submitted in response to this RFP will become part of the resulting Consulting Agreement (Exhibit 1). All contracts, and any addenda thereto, shall be subject to the City’s sole discretion and approval. The requirements and service standards of this RFP and the responses of the successful consultant will be incorporated by reference into the resulting agreement regarding the Project. The successful consultant shall enter into a contract within 30 days of the City’s notice of award in substantially the same form as Exhibit 1.

4. **Selection Process**

The contract resulting from this RFP will be awarded to the most responsive and responsible consultant whose proposal conforms to the requirements of this RFP and is considered to be the most advantageous to the City, taking into consideration not just the proposal price, but also the evaluation criteria set forth in this RFP.

The City will act as the sole judge of the merit and qualifications of the materials and services offered and accept whatever proposal is deemed to be in the best interest of the City. The award of the contract will be all or nothing to one Consultant. If two or more proposals receive the same number of points, the City will consider the fully-burdened hourly rates.

The City reserves the right to:

1. Reject any or all proposals;
2. Request additional information or clarification of any submitted information;
3. Waive any informalities or irregularities in any proposal;
4. Cancel or amend this process at any time;
5. Not enter into negotiations with one or more consultants; and/or
6. Issue similar solicitations in the future. A panel of City staff will evaluate all proposals. Proposals will be evaluated on the following criteria:
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Description</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expertise</td>
<td>Technical expertise, size and structure of the firm and personnel assigned to RFP tasks; firm’s ability to perform and complete the work in a professional and timely manner.</td>
<td>25%</td>
</tr>
<tr>
<td>Skill</td>
<td>Past experience of the firm and, in particular, experience of the team working on projects of similar scope for other governmental agencies.</td>
<td>20%</td>
</tr>
<tr>
<td>Approach</td>
<td>Responsiveness of the proposal, based upon a clear understanding of the work to be performed.</td>
<td>15%</td>
</tr>
<tr>
<td>Public Participation</td>
<td>Innovative approaches to noticing and engaging community members outside the minimum regulatory requirements.</td>
<td>15%</td>
</tr>
<tr>
<td>Cost</td>
<td>Cost or cost effectiveness</td>
<td>25%</td>
</tr>
</tbody>
</table>

5. **General Conditions**

PLEASE READ CAREFULLY. THE FOLLOWING GENERAL TERMS AND CONDITIONS ARE A PART OF ALL PROPOSALS SUBMITTED IN RESPONSE TO THIS RFP AND THE RESULTING CONTRACT.

This RFP as advertised, the specification requirements detailed in this RFP (including the following General Provisions), and documents on file with the City pertaining to the California Department of Housing and Community Development’s Local Early Action Planning (“LEAP”) Grant program are subject to all provisions of the Ordinances of the City of Escondido. Each prospective consultant submitting a response to this RFP warrants that the submitted proposal is genuine and non-collusive, or made in the interest of any person, firm, or corporation. A non-collusion declaration shall be properly completed and returned with the proposal documents. The non-collusion form is attached to this RFP as Exhibit 2 and incorporated herein by this reference.

In submitting a proposal in response to this RFP, each prospective consultant agrees to the following general terms and conditions:

1. Public Information: The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal in response to this RFP indicates the prospective consultant’s acceptance of all terms and conditions contained in this RFP, including all exhibits and attachments hereto, unless clearly and specifically stated otherwise.

2. Confidential Information: Any information deemed confidential or proprietary should be clearly identified by the prospective consultant as such. Information identified as confidential or proprietary will be protected and treated with confidentiality to the extent permitted by applicable local, state, and federal law.

3. Addenda: The City reserves the right to amend, alter, or revoke this RFP at any time. Any modifications, clarification, or additions will be distributed via email as an addendum.
4. Proposal Preparation Cost: The City is not obligated to reimburse any prospective consultant for expenses incurred in preparing proposals in response to this RFP. All Prospective consultants shall bear their own costs, fees, and expenses incurred in preparing proposals in response to this RFP.

5. Withdrawal of Proposal: A prospective consultant may modify or withdraw their proposal, either personally or by written request via email, at any time prior to the Submission Deadline. Such requests should be directed to the City’s Project Manager.

6. Inaccuracies or Misinterpretations: Subject to the City’s sole discretion, the City may terminate a prospective consultant from the RFP process or terminate any agreement with the Prospective consultant if the City determines that said Prospective consultant has: (i) made a material misstatement, (ii) made a material misrepresentation, or (iii) provided materially inaccurate information.

7. Optional Items: Prospective consultants may elect to provide recommendations and pricing for optional items. Pricing for optional items shall not be included in the minimum requirements pricing.

8. Business License: The successful consultant shall be required to obtain a City of Escondido Business License pursuant to the terms of Exhibit 1.

9. Signature: All proposals shall be signed in the name of the prospective consultant and shall bear the original signature in longhand of the persons duly authorized to sign the proposal. Obligations assumed by such signature shall be fulfilled.

10. Right to Reject Proposal: The City reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items. The City is not obligated to explain or justify its selection or rejection of any Prospective consultant. All proposals submitted in response to this RFP shall immediately become property of the City.

11. Right to Conduct Personal Interviews: The City reserves the right to conduct personal interviews or require oral presentations of any or all prospective consultants prior to selection.

12. Right to Request Additional Information: Prospective consultants shall furnish additional information as the City may reasonably require. The City reserves the right to investigate the qualifications of prospective consultants as it deems appropriate.

13. Right to Determine Financial Responsibility and Viability: The City reserves the right to request information pertaining to the financial stability of a prospective consultant to allow an appraisal of a prospective consultant’s current financial condition.

14. Understanding the Services to be Performed: By submitting a proposal in response to this RFP, each prospective consultant certifies that they have fully read and understand this RFP and have full knowledge of the scope, nature, quantity, and quality of services to be performed. Each prospective consultant understands that, if successful, they will be required to enter into a written contract in substantially the same form as Exhibit 1.

15. Award of Contract: Proposals submitted in response to this RFP will be analyzed and the contract awarded to the responsible prospective consultant whose proposal conforms to this RFP and is considered to be the most advantageous to the City, taking into consideration not just the proposal price, but also the evaluation criteria set forth in this RFP. If the prospective consultant does not execute a contract in substantially the same form as Exhibit 1 within 30 days after notification of award, the City may, subject to its sole discretion, (i) give notice to the Prospective consultant of
the City's intent to select from the remaining Prospective consultants or (ii) issue a new RFP for the services.

16. Contract Funding: The City’s funding of any agreement resulting from this RFP shall be on a fiscal year basis and is subject to grant funding. Prospective consultant acknowledges that the City is a municipal corporation, is precluded by the State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this RFP shall constitute an obligation of future legislative bodies of the City or State to appropriate funds for any agreement resulting from this RFP. Accordingly, prospective consultants acknowledge and agree that the funding for any agreement resulting from this RFP shall be contingent upon grant funding.

17. Grant Funding Requirements: By submitting a proposal in response to this RFP, each prospective consultant acknowledges that funding for any resulting contract shall be subject to and comply with the LEAP Standard Agreement between the City and HCD (“Grant Agreement”). A copy of the Grant Agreement is attached to this RFP as Exhibit 3 and incorporated herein by this reference. The successful consultant shall comply with: (1) the City’s reasonable requests relating to Grant Agreement requirements and (2) all terms and conditions of the Grant Agreement that shall directly apply to the successful consultant, including but not limited to reporting, accounting, and auditing requirements.

18. City Provisions to Prevail: The terms of this RFP and the terms of any agreement resulting from this RFP shall govern the services. Any standard terms and conditions of the successful consultant shall not be acceptable to the City unless expressly agreed to by the City by separate document. The City reserves the right to reject a proposal containing unacceptable conditions as non-responsive as a condition of evaluation or award of the proposal.

19. Equal Employment Opportunity: The consultant awarded the Project shall comply with all equal employment opportunity provisions of federal, state, and local non-discrimination laws, orders, regulations and guidelines as may be applicable to the consultant and be in effect during the performance of any agreement resulting from this RFP.

20. Public Services Agreement: Consultants submitting a proposal in response to this RFP shall be prepared to use the City’s standard contract form (Exhibit 1) rather than its own contract form. Services may not commence until Agreement for services is executed.

21. Prospective Consultant’s Invoices: Invoices shall be prepared and submitted to the Development Services Department, ATTN: Veronica Morones, 201 N. Broadway, Escondido, CA 92025 or via email to vmorones@escondido.org. Invoices shall be submitted on a monthly basis and contain the following information: Purchase Order number, description of services rendered, rates, quantities, extended totals, and remaining balances. Invoices should include all applicable sales or other taxes, and shall be remitted to appropriate agencies on the City’s behalf. All payments made pursuant to this contract are not assignable and shall only be made payable to the seller.

22. Payment Terms: The City’s payment terms are Net 30 days from date of invoice. No pre-payment or partial up front down payment will be made for any services or equipment. The time period allowed for payment, as indicated on the face hereof or offered by quote, bid, or proposal shall commence upon receipt of Prospective consultant’s invoice or upon receipt of the goods or services, whichever is later.

23. Insurance Requirements: The successful consultant must have insurance in accordance with the requirements listed in Exhibit 1.
EXHIBIT 1
Form Consulting Agreement
CITY OF ESCONDIDO

CONSULTING AGREEMENT

This Consulting Agreement ("Agreement") is made and entered into as of the last signature date set forth below ("Effective Date"),

Between: CITY OF ESCONDIDO
a California municipal corporation
201 N. Broadway
Escondido, CA 92025
Attn: Veronica Morones, Principal Planner
760-839-4548
("CITY")

And: [Name]
[Entity Type: e.g., “a California corporation”]
[Street address]
[City, state, zip code]
Attn: [name of contact]
[Telephone number]
("CONSULTANT").

(The CITY and CONSULTANT each may be referred to herein as a “Party” and collectively as the “Parties.”)

WHEREAS, the CITY has determined that it is in the CITY’s best interest to retain the professional services of a consultant to prepare a Housing Constraints Analysis on open space and parking within the Downtown Specific Plan area of the City;

WHEREAS, CONSULTANT is considered competent to perform the necessary professional services for the CITY; and

WHEREAS, the CITY and CONSULTANT desire to enter into this Agreement for the performance of the Services described herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions set forth herein, and the mutual benefits derived therefrom, the Parties hereby agree as follows:
1. **Description of Services.** CONSULTANT shall furnish all of the Services described in the Scope of Work, which is attached to this Agreement as Attachment "A", and incorporated herein by this reference ("Services").

2. **Compensation.** In exchange for CONSULTANT’s completion of the Services, the CITY shall pay, and CONSULTANT shall accept in full, an amount not to exceed the sum of [Dollar Amount]. CONSULTANT shall be compensated only for performance of the Services described in this Agreement. No compensation shall be provided for any other work or services without the CITY’s prior written consent.

3. **Performance.** CONSULTANT shall faithfully perform the Services in a proficient manner, to the satisfaction of the CITY, and in accord with the terms of this Agreement. CONSULTANT shall be responsible for the professional quality, technical accuracy, timely completion, and coordination of all reports and other information furnished by CONSULTANT pursuant to this Agreement, except that CONSULTANT shall not be responsible for the accuracy of information supplied by the CITY.

4. **Personnel.** The performance of the Services by certain professionals is significant to the CITY. As such, CONSULTANT shall only assign the persons listed on Attachment "B", attached to this Agreement and incorporated herein by this reference ("Personnel List"), to perform the Services. CONSULTANT shall not add or remove persons from the Personnel List without the City’s prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City’s prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City’s prior written consent.

5. **Termination.** The Parties may mutually terminate this Agreement through a writing signed by both Parties. The CITY may terminate this Agreement for any reason upon providing CONSULTANT with 10 days' advance written notice. CONSULTANT agrees to cease all work under this Agreement on or before the effective date of any notice of termination. If the CITY terminates this Agreement due to no fault or failure of performance by CONSULTANT, then CONSULTANT shall be compensated based on the work satisfactorily performed at the time of such termination. In no event shall CONSULTANT be entitled to receive more than the amount that would be paid to CONSULTANT for the full performance of the Services.

6. **City Property.** All original documents, drawings, electronic media, and other materials prepared by CONSULTANT pursuant to this Agreement immediately become the exclusive property of the CITY, and shall not be used by CONSULTANT for any other purpose without the CITY’s prior written consent.

7. **Insurance Requirements.**
   a. CONSULTANT shall procure and maintain, at its own cost, during the entire term of this Agreement, insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the Services, and the results of such work, by CONSULTANT, its agents, representatives, employees, or subcontractors. Insurance coverage shall be at least as broad as the following:
      
      (1) **Commercial General Liability.** Insurance Services Office ("ISO") Form CG 00 01 covering Commercial General Liability on an “occurrence” basis, including products and completed operations, property damage, bodily injury, and personal & advertising injury, with limits no less than $2,000,000 per occurrence and $4,000,000 general aggregate.
      
      (2) **Automobile Liability.** ISO Form CA 00 01 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired (Code 8) and non-owned autos (Code 9), with limits no less
than $1,000,000 per accident for bodily injury and property damage, unless waived by the CITY and approved in writing by the CITY’s Risk and Safety Division.

(3) **Workers’ Compensation.** Worker’s Compensation as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limits of no less than $1,000,000 per accident for bodily injury or disease.

(4) **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) appropriate to CONSULTANT’s profession, with limits no less than $2,000,000 per occurrence or claim and $2,000,000 aggregate.

(5) If CONSULTANT maintains broader coverage and/or higher limits than the minimums otherwise required by this Agreement, the CITY requires and shall be entitled to the broader coverage and/or the higher limits maintained by CONSULTANT.

b. Each insurance policy required by this Agreement must be acceptable to the City Attorney and shall meet the following requirements:

(1) **Acceptability of Insurers.** Insurance coverage must be provided by an insurer authorized to conduct business in the state of California with a current A.M. Best’s rating of no less than A-: FSC VII, or as approved by the CITY.

(2) **Additional Insured Status.** Both the Commercial General Liability and the Automobile Liability policies must name the CITY (including its officials, officers, agents, employees, and volunteers) specifically as an additional insured under the policy on a separate endorsement page. The Commercial General Liability additional insured endorsement shall be at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38, and CG 20 37 if a later edition is used. The Automobile Liability endorsement shall be at least as broad as ISO Form CA 20 01.

(3) **Primary Coverage.** CONSULTANT’s insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 with respect to the CITY, its officials, officers, agents, employees, and volunteers. Any insurance or self-insurance maintained by the CITY, its officials, officers, agents, employees, or volunteers shall be in excess of CONSULTANT’s insurance and shall not contribute with it.

(4) **Notice of Cancellation.** Each insurance policy shall provide that coverage shall not be canceled, except with prior written notice to the CITY.

(5) **Subcontractors.** If applicable, CONSULTANT shall require and verify that all subcontractors maintain insurance meeting all the requirements stated within this Agreement, and CONSULTANT shall ensure that the CITY (including its officials, officers, agents, employees, and volunteers) is an additional insured on any insurance required from a subcontractor.

(6) **Waiver of Subrogation.** CONSULTANT hereby grants to the CITY a waiver of any right to subrogation that any insurer of CONSULTANT may acquire against the CITY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this subsection shall apply regardless of whether or not the CITY has received a waiver of subrogation endorsement from the insurer. Any Workers’ Compensation policy required by this Agreement shall be endorsed with a waiver of subrogation in favor of the CITY for
all work performed by the CONSULTANT, its agents, representatives, employees, and subcontractors.

(7) **Self-Insurance.** CONSULTANT may, with the CITY’s prior written consent, fulfill some or all of the insurance requirements contained in this Agreement under a plan of self-insurance. CONSULTANT shall only be permitted to utilize such self-insurance if, in the opinion of the CITY, CONSULTANT’s (i) net worth and (ii) reserves for payment of claims of liability against CONSULTANT are sufficient to adequately compensate for the lack of other insurance coverage required by this Agreement. CONSULTANT’s utilization of self-insurance shall not in any way limit the liabilities assumed by CONSULTANT pursuant to this Agreement.

(8) **Self-Insured Retentions.** Self-insured retentions must be declared to and approved by the CITY.

c. **Verification of Coverage.** At the time CONSULTANT executes this Agreement, CONSULTANT shall provide the CITY with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting the insurance coverage required by this Agreement), which shall meet all requirements under this Agreement. The CITY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this Agreement, at any time.

d. **Special Risks or Circumstances.** The CITY reserves the right, at any point during the term of this Agreement, to modify the insurance requirements in this Agreement, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

e. **No Limitation of Obligations.** The insurance requirements in this Agreement, including the types and limits of insurance coverage CONSULTANT must maintain, and any approval of such insurance by the CITY, are not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by CONSULTANT pursuant to this Agreement, including but not limited to any provisions in this Agreement concerning indemnification.

f. Failure to comply with any of the insurance requirements in this Agreement, including, but not limited to, a lapse in any required insurance coverage during the term of this Agreement, shall be a material breach of this Agreement. In the event that CONSULTANT fails to comply with any such insurance requirements in this Agreement, in addition to any other remedies the CITY may have, the CITY may, at its sole option, (i) immediately terminate this Agreement; or (ii) order CONSULTANT to stop work under this Agreement and/or withhold any payment that becomes due to CONSULTANT until CONSULTANT demonstrates compliance with the insurance requirements in this Agreement.

8. **Indemnification, Duty to Defend, and Hold Harmless.**

a. CONSULTANT (including CONSULTANT’s agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, in law or equity, including without limitation the payment of all consequential damages and attorney’s fees and other related litigation costs and expenses (collectively, “Claims”), of every nature caused by, arising out of, or in connection with CONSULTANT’s performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except where caused by the active negligence, sole negligence, or willful misconduct of the CITY, and
only to the extent such Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT. Further, in no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT’s proportionate percentage of fault.

b. CONSULTANT (including CONSULTANT’s agents, employees, and subcontractors, if any) shall indemnify, defend, and hold harmless the CITY, its officials, officers, agents, employees, and volunteers from and against any and all Claims caused by, arising under, or resulting from any violation, or claim of violation, of the San Diego Municipal Storm Water Permit (Order No. R9-2013-0001, as amended) of the California Regional Water Quality Control Board, Region 9, San Diego, that the CITY might suffer, incur, or become subject to by reason of, or occurring as a result of, or allegedly caused by, any work performed pursuant to this Agreement.

c. All terms and provisions within this Section 8 shall survive the termination of this Agreement.

9. Anti-Assignment Clause. Because the CITY has relied on the particular skills of CONSULTANT in entering into this Agreement, CONSULTANT shall not assign, delegate, subcontract, or otherwise transfer any duty or right under this Agreement, including as to any portion of the Services, without the CITY’s prior written consent. Any purported assignment, delegation, subcontract, or other transfer made without the CITY’s consent shall be void and ineffective. Unless CONSULTANT assigns this entire Agreement, including all rights and duties herein, to a third party with the CITY’s prior written consent, CONSULTANT shall be the sole payee under this Agreement. Any and all payments made pursuant to the terms of this Agreement are otherwise not assignable.

10. Attorney's Fees and Costs. In any action to enforce the terms and conditions of this Agreement, the prevailing Party shall be entitled to reasonable attorney’s fees and costs.

11. Independent Contractor. CONSULTANT is an independent contractor, and no agency or employment relationship is created by the execution of this Agreement.

12. Amendment. This Agreement shall not be amended except in a writing signed by the CITY and CONSULTANT.

13. Merger Clause. This Agreement, together with its attachments or other documents described or incorporated herein, if any, constitutes the entire agreement and understanding of the CITY and CONSULTANT concerning the subject of this Agreement and supersedes and replaces all prior negotiations, understandings, or proposed agreements, written or oral, except as otherwise provided herein. In the event of any conflict between the provisions of this Agreement and any of its attachments or related documents, if any, the provisions of this Agreement shall prevail.

14. Anti-Waiver Clause. None of the provisions of this Agreement shall be waived by the CITY because of previous failure to insist upon strict performance, nor shall any provision be waived because any other provision has been waived by the CITY, in whole or in part.

15. Severability. This Agreement shall be performed and shall be enforceable to the full extent allowed by applicable law, and the illegality, invalidity, waiver, or unenforceability of any provision of this Agreement shall not affect the legality, validity, applicability, or enforceability of the remaining provisions of this Agreement.

16. Governing Law. This Agreement and all rights and obligations arising out of it shall be construed in accordance with the laws of the State of California. Venue for any action arising from this Agreement shall be conducted only in the state or federal courts of San Diego County, California.
17. **Counterparts.** This Agreement may be executed on separate counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument. Delivery of an executed signature page of this Agreement by electronic means, including an attachment to an email, shall be effective as delivery of an executed original. The Agreement on file with the City is the copy of the Agreement that shall take precedence if any differences exist between or among copies or counterparts of the Agreement.

18. **Provisions Cumulative.** The foregoing provisions are cumulative to, in addition to, and not in limitation of any other rights or remedies available to the CITY.

19. **Notice.** Any statements, communications, or notices to be provided pursuant to this Agreement shall be sent to the attention of the persons indicated herein, and the CITY and CONSULTANT shall promptly provide the other Party with notice of any changes to such contact information.

20. **Business License.** CONSULTANT shall obtain a City of Escondido Business License prior to execution of this Agreement and shall maintain such Business License throughout the term of this Agreement.

21. **Compliance with Laws, Permits, and Licenses.** CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements in effect during the term of this Agreement. CONSULTANT shall obtain any and all permits, licenses, and other authorizations necessary to perform the Services. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

22. **Prevailing Wages.** If applicable, pursuant to California Labor Code section 1770 et seq., CONSULTANT agrees that a prevailing rate and scale of wages, in accordance with applicable laws, shall be paid in performing this Agreement. CONSULTANT shall keep itself informed of and comply with all applicable federal, state, and local laws, statutes, codes, ordinances, regulations, rules, and other legal requirements pertaining to the payment of prevailing wages. The prevailing rate and scale to be paid shall be the same as the applicable “General Prevailing Wage Determination” approved by the Department of Industrial Relations as of the Effective Date of this Agreement, which are available online at [http://www.dir.ca.gov/oprl/dpewagedetermination.htm](http://www.dir.ca.gov/oprl/dpewagedetermination.htm) and incorporated into this Agreement by this reference. Neither the CITY, nor any elected or appointed boards, officers, officials, employees, or agents of the CITY, shall be liable, at law or in equity, as a result of any failure of CONSULTANT to comply with this section.

23. **Immigration Reform and Control Act of 1986.** CONSULTANT shall keep itself informed of and shall comply with the Immigration Reform and Control Act of 1986 ("IRCA"). CONSULTANT represents and warrants that all of its employees and the employees of any subcontractor retained by CONSULTANT who perform any of the Services under this Agreement, are and will be authorized to perform the Services in full compliance with the IRCA. CONSULTANT affirms that as a licensed contractor and employer in the State of California, all new employees must produce proof of eligibility to work in the United States within the first three days of employment and that only employees legally eligible to work in the United States will perform the Services. CONSULTANT agrees to comply with the IRCA before commencing any Services, and continuously throughout the performance of the Services and the term of this Agreement.

24. **Effective Date.** Unless a different date is provided in this Agreement, the effective date of this Agreement shall be the latest date of execution set forth by the names of the signatories below.
IN WITNESS WHEREOF, this Agreement is executed by the Parties or their duly authorized representatives as of the Effective Date:

CITY OF ESCONDIDO

Date: ____________________________  
Sean McGlynn, City Manager

[CONSULTANT COMPANY NAME]

Date: ____________________________  
Signature

______________________________  
Name & Title (please print)

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY  
MICHAEL R. MCGUIINNESS, CITY ATTORNEY

BY: ____________________________

THE CITY OF ESCONDIDO DOES NOT DISCRIMINATE AGAINST QUALIFIED PERSONS WITH DISABILITIES.
ATTACHMENT “A”

Scope of Work

A. General

[Company, Inc., a California corporation] (“Consultant”) will provide the City of Escondido, a California municipal corporation (“City”) with professional planning services necessary to produce a Downtown Specific Plan Housing Constraints Analysis to guide the development of open space and parking standards that reduce barriers to housing production within the Downtown Specific Plan Area (“Project”).

B. Location

Consultant will provide services at various locations including the City’s facility located at 201 N. Broadway Ave., Escondido, CA 92025.

C. Services

Refer to the Project Purpose, Goals, and Objectives detailed on pages 3 and 4 of the RFP for reference.

Task 1. Project Initiation and Administration

Task 1.1 Project Kickoff Meeting with City Staff

The City will hold a kick-off meeting with the Consultant team to discuss a final work plan, communication, procedures and Project expectations, including invoicing, quarterly reporting, and all other relevant Project information.

Task 1.2 General Project Administration

The Consultant will manage all aspects of the Project, including managing the consultant team and all work products, and ensuring adequate Project progress.

Task 1.3 Project Management

The Consultant will be responsible for maintaining a joint-access, web-based depository of Project-related documents, including schedules, meeting minutes, contact lists, resources, photos, and other key documents. Options for Project management software might include Drop Box, Box, SharePoint, etc. Such options must be vetted though the City’s Information Services group to ensure appropriate security. In addition, the Consultant will be responsible for preparing and maintaining access to meeting minutes. Project schedule shall be created and maintained on Microsoft Project or City-approved equal. Responsibilities include invoicing and quarterly reporting as outlined in the Professional Services Agreement.

Task 1.4 Stakeholder Working Group Development

Consultant will work with the City to organize and develop both internal and external Stakeholder Working Groups. Internal participants in the Stakeholder Working Group will likely include City staff from Traffic Engineering, Planning, Parks and Recreation, Escondido Police Department, Information Systems (GIS), Economic Development and Communications. External members will likely consist of residents, the local business community, community leaders, and local organizations who have interest in the development of the downtown area, such as the Downtown Business Association, Chamber of Commerce, Old Escondido Neighborhood Association, the members of the Transportation and
Community Safety Commission, Planning Commission, North County Transit District, Escondido Senior Service Council, VisitEscondido, the ADA community, and local business associations, among others. Consultant will share information on various phases of the Project and solicit feedback as appropriate.

**Task 1.5 Stakeholder Working Group Meetings**
The Stakeholder Working Groups will meet as needed to review documents and/or to provide insight on the Project’s progression.

<table>
<thead>
<tr>
<th>Task</th>
<th>Deliverables</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1</td>
<td>Final work plan, agenda, minutes, and meeting materials</td>
</tr>
<tr>
<td>1.2</td>
<td>Project Management Website</td>
</tr>
<tr>
<td>1.3</td>
<td>Invoicing and Quarterly Reports</td>
</tr>
<tr>
<td>1.4</td>
<td>Stakeholder Working Groups list of contacts</td>
</tr>
<tr>
<td>1.5</td>
<td>Stakeholder Working Group meeting coordination and minutes</td>
</tr>
</tbody>
</table>

**Task 2. Community Outreach and Meeting Attendance**
Community outreach and engagement are crucial in the planning process. As a part of responses to this proposal, Respondents should outline their public outreach strategies for reaching stakeholders within the study area and Citywide, as many stakeholders live outside the study area and travel to the downtown for its amenities. The City is looking for innovative methods for reaching stakeholders and engaging them in a way that provides the largest and most diverse reach. Outreach and engagement materials should include English and Spanish translation for both written and oral outreach and engagement and speak to equity considerations in the public outreach strategies. City staff anticipate at minimum, some of the following methods:

- In-person and web-based public meetings, workshops, and/or forums
  - Consultant shall propose their preferred methodology, including such traditional methods like exhibits, boards, large-format prints, and comment cards.
- Ongoing community events
  - Ideas include the Escondido Farmers’ Market, Cruisin’ Grand, and Escondido 5K.
- Survey
- Mailers
- Social Media campaign
- Trusted Messenger Model

Community outreach tasks shall not exceed a budget of $39,000.

In addition to community outreach and engagement meetings/events, the Consultant will be present for the following meetings, required decision-making meetings/forums. For meetings with action taken by a decision-making body, the Consultant will be responsible for answering any relevant questions and presenting information relevant to their process and findings/recommendations.

- Attend at least one monthly meeting in person or virtually to update City staff on the progress. Provide an optional task for additional meetings in the event more than one meeting per month is necessary.
- Transportation & Community Safety Commission
- Historic Preservation Commission
- Planning Commission
City of Escondido  
RFP No. 24-01 – Downtown Specific Plan Housing  
Constraints Analysis: Open Space and Parking  
Page 21

- City Council

Responses to this RFP should include an innovative Outreach Framework outlining the selected approach to community outreach throughout the Project, which should be based on best practices, identifying multilingual components. The report will detail key outreach events, timelines, social and traditional media engagement opportunities, and language/translation needs, among other elements.

<table>
<thead>
<tr>
<th>Task</th>
<th>Deliverable</th>
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<tbody>
<tr>
<td>2.</td>
<td>Draft and Final Outreach Framework</td>
</tr>
<tr>
<td></td>
<td>Outreach materials, such as flyers, mailers, and summary of comments received</td>
</tr>
<tr>
<td></td>
<td>Up to three community workshops and all materials, including meeting notice, exhibits, and summary of comments received</td>
</tr>
<tr>
<td></td>
<td>Ongoing Community Events reporting</td>
</tr>
</tbody>
</table>

**Task 3. Data Collection and Analyses**

**Task 3.1 Review of Existing Policies and Procedures**

The Consultant will review existing policies and procedures that are related to open space and parking and familiarize themselves with existing regulations within the DSP and citywide. Specifically, compare the City's open space and parking standards and options within the DSP to those of similar "smart growth" cities (based on qualitative data methods), and identify best practices.

The consultant will provide an assessment of the existing policies and procedures applicable to the DSP along with comparable cities (i.e., document review), highlighting aspects that can be improved as it relates to the DSP area.

**Task 3.2 Open Space/Parking Existing Conditions and Inventory**

**Open Space**: Inventory existing open spaces, including but not limited to parks, public passive recreation space, community gardens, etc. Information/GIS data regarding existing parks and open space will be provided to the Consultant; however, additional data collection may be required.

The Consultant will provide a memo outlining findings of the existing policies, procedures, comparable review of other jurisdictions, along with recommendations to the DSP’s open space standards. Recommendations will be specific, measurable, realistic, and include recommended timing (if they are implementation actions).

**Parking Study**: The parking study process shall account for both real (empirical) and perceived need.

- Inventory current parking spaces in the DSP including public parking lots, on-street parking (marked and unmarked), and private, non-residential parking lots available for customers and employees to determine the baseline conditions.
- Perform parking occupancy and parking turnover studies of parking on-street and in parking lots, both private and public in the DSP area. This should include how long spaces with time limits are actually utilized and what the demand is attributed to, such as transit ridership, employment, shopping/dining, etc. Parking data should be collected during the morning, mid-day, evening, during the week, weekends, summer and off-season and during ongoing special events (e.g., the Farmers’ Market) and at least one large special event (e.g., Grape Day Festival,
Escondido 5K) to provide a diverse parking representation. The inventory and data shall be provided to the City in an ArcGIS spatial data layer (polygon shapefile or feature class) with fields and attributes designating parking inventory, occupancy, turnover data, time limits, use information, etc.

- Conduct outreach and engagement methods for determining perceived parking need from the general public and organized stakeholders, such as through surveys, interviews, focus groups, town hall, etc. The perceived need will collect both qualitative and quantitative data, and the Consultant shall use qualitative data methods for analyzing the data.

In addition to the required items outlined in this RFP, the Consultant will use GIS analysis as applicable for the Project’s process. For example, GIS may be used to identify existing open space areas within the DSP (both passive and active). In addition, GIS may be utilized to determine spatial analyses for identifying potential sites for two City-owned/operated parking garages.

**Task 3.3 Future Parking Needs Assessment**

**Parking Study:** The Consultant will assess the requisite data for the purpose of identifying ultimate future parking demand for buildout of the DSP area. The parking demand at buildout will include public/private, on-/off-street parking spaces, ADA, and bicycle parking. Respondents should include what method for parking demand scenario planning they anticipate utilizing, and substantiate their identified build out scenario. The identified parking demand will inform the Consultant’s recommended parking standards for the DSP area, and will provide a draft of those standards for incorporation into the DSP.

The Consultant will also review, determine, and provide findings to the feasibility of transferring surplus parking spaces on City-owned lots (if identified through Task 3.2) to housing developers.

<table>
<thead>
<tr>
<th>Task</th>
<th>Deliverable</th>
</tr>
</thead>
<tbody>
<tr>
<td>3.1</td>
<td>Assessment of Existing Policies and Procedures and Identification of Best Practices/Case Studies</td>
</tr>
<tr>
<td>3.2</td>
<td>Open Space/Parking Existing Conditions data. Open Space/Parking Assessments and Inventory Technical Memo, including recommendations/findings. Digital files in ESRI shapefile and/or geodatabase format. Outreach materials such as survey, etc. (TBD). Any reports/maps documenting existing inventory and issues.</td>
</tr>
<tr>
<td>3.3</td>
<td>Parking study identifying future parking need at DSP buildout, detailing methodology. Draft recommended parking standards, including findings for transfer of surplus parking, for the DSP.</td>
</tr>
</tbody>
</table>

**Task 4. Final Documents**

**Task 4.1 Draft Open Space Modifications**

Using input from the Stakeholder Working Group, public outreach, and the relevant assessments and inventory, consultant will develop updated language for the DSP pertaining to Open Space. The revised language should provide the context for any open space changes, including content relating to its constraint on housing development. The Consultant will also provide the Open Space standards for the
DSP. The standards may be in the same format as those already incorporated into the DSP (i.e., by district) or can be proposed in an alternative format.

The Consultant shall provide the draft modifications to the Open Space standards to City staff prior to finalization, and allow for two rounds of consolidated comments from the City and stakeholders. The final format and delivered document shall be in the City’s draft ordinance format* for the purposes of a specific plan amendment at a future time.

**Task 4.2 Parking Management Plan**

Based on the Stakeholder Working Group, public outreach, relevant assessments, inventory, and modeling, the Consultant will develop a Parking Management Plan for the DSP, which will include a draft report provided to City staff prior to finalization delivered in Microsoft Word format. The Consultant shall address and respond to two rounds of consolidated comments of the draft PMP from the City and stakeholders.

The Parking Management Plan (“PMP”) will include parking solutions that center both safety and equity, while maximizing parking efficiency (especially for residential developments, as outlined in the purposes and goals section) and improve mobility around the DSP. All parking solutions should be realistically implementable. The parking management plan should include various implementation timelines (e.g., short-, medium-, long-term) and identify potential funding sources, such as local, regional, state, or federal funding opportunities, including one-time funding opportunities. Potential funding sources should be detailed and if based on fee-collection (e.g., paid parking) outline how such a fee structure would be implemented by the City.

The Parking Management Plan will establish the final parking standards, management, and implementation for the DSP area. The PMP will include such strategies and actions that are in line with goals and objectives of this Project, and may include a City-owned surplus parking transfer program, creation of new parking supplies, development of communications strategies, wayfinding signage and locations, transportation demand management, etc. The PMP will include recommendations on how to manage and implement the PMP, including but not limited to phasing, program structure, staffing, operations and management technology, and budgeting/financing. Establishment of parameters for any monitoring of parking by the City or others should be included in the PMP recommendations. Such recommendations will be specific and measurable.

The final PMP shall include an appendix that provides a final draft of the recommended parking content language and standards in the City’s draft ordinance format* for the purposes of a specific plan amendment at a future time.

- If parking garages are identified as reasonable strategy, detailed information on feasible locations (i.e., lot identification), along with estimated cost of acquisition (if site is not located on a City-owned property; however, priority shall be on City-owned lots) construction, and operation. Detailed information on funding such garage(s) shall also be included.
- If a surplus of parking spaces on City-owned lot is identified, the PMP shall include discussion and recommendations on a transfer program for housing developers, with a preference for those who include affordable units. The PMP shall include a framework of the program, if feasible, and include this program as a component of the appendix mentioned above.
- If monitoring is suggested through any tracking forms, templates may be added as an optional task.
D. Scheduling

Consultant shall submit a proposed schedule to be organized by task. The proposed schedule shall not be longer than 14 months.

E. Contract Price and Payment Terms

The contract price shall not exceed $115,000. Please note that proposals in response to this RFP in excess of $115,000 will not be considered. The contract price includes all labor, materials, equipment, and transportation required to perform the work. Services will be billed as services are performed. Payment will be made after services have been performed and within 30 days of receipt of an invoice for those services.

Proposals submitted in response to this RFP shall adhere to the following limitations:

- The parking study shall not exceed a budget of $25,000.
- The PMP shall not exceed a budget of $45,000.
- Ordinance drafting for potential changes to the Open Space and Parking Standards shall not exceed a budget of $6,000.

F. Term

The term of this Agreement shall be for 14 months, commencing on the Effective Date of the Agreement.
Pursuant to Section 4 of the Agreement, CONSULTANT shall only assign performance of Services to persons listed below. [Please indicate “N/A” if no person is designated (e.g., if CONSULTANT is a sole proprietor and will not use additional personnel).]

1. [Name, Title, Email Address, Company]; and

2. [Name, Title, Email Address, Company].

CONSULTANT shall not add or remove persons from this Personnel List without the City’s prior written consent. If CONSULTANT has not designated a person to perform a component of the Services, CONSULTANT shall not assign such component of the Services to a person without obtaining the City’s prior written consent. CONSULTANT shall not subcontract any component of the Services without obtaining the City’s prior written consent.

Acknowledged by:

Date: ____________________________

[CONSULTANT Name/Title]
EXHIBIT 2
Noncollusion Declaration
NONCOLLUSION DECLARATION

TO BE EXECUTED BY PROSPECTIVE CONSULTANT AND SUBMITTED WITH PROPOSAL

The undersigned declares:

The foregoing proposal submitted in response to the City of Escondido’s Request for Proposals – Downtown Specific Plan Housing Constraints Analysis is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The proposal is genuine and not collusive or sham. The prospective consultant has not directly or indirectly induced or solicited any other prospective consultant to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any prospective consultant or anyone else to put in a sham proposal, or to refrain from submitting a proposal. The prospective consultant has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the prospective consultant or any other prospective consultant, or to fix any overhead, profit, or cost element of proposal price, or of that of any other prospective consultant. All statements contained in the proposal are true. The prospective consultant has not, directly or indirectly, submitted their proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal, and has not paid, and will not pay, any person or entity for such purpose.

Each individual executing this declaration on behalf of a prospective consultant that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that they have full power to execute, and does execute, this declaration on behalf of the prospective consultant.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on ________________.

Date

___________________________________  __________________________
Signature  Signature

Title _______________________________  Title _______________________________

Of _______________________________  Of _______________________________

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY
MICHAEL R. MCGUINNESS, City Attorney

By: ________________________________
EXHIBIT 3
Grant Agreement
Mike Strong  
Director of Community Development  
City of Escondido  
201 N Broadway Ave  
Escondido, CA 92025

RE: Grant 20-LEAP-15701

Dear Mike Strong:

Congratulations on your 2019 Local Early Action Planning (LEAP), NOFA award. Attached is an electronic copy of the Standard Agreement ("Agreement") with Exhibits A through E:

A. **Standard Agreement Contents (STD 213 and Exhibits A through E)**

   **STD 213 - Cover page**

   **Exhibit A** - Authority, Purpose and Scope of Work

   **Exhibit B** - Budget Detail and Payment Provisions

   **Exhibit C** - State of California General Terms and Conditions - GTC 04/2017

   *Exhibit C is now incorporated by reference; please see the STD 213 for additional information.*

   **Exhibit D** – LEAP Terms and Conditions

   **Exhibit E** - Special Conditions

B. For expeditious handling of the contract, the Department offers two options for returning signed STD 213; please complete the following:

   1. Review the entire Agreement thoroughly and, if necessary, discuss the requirements with your legal and financial advisors.

   2. The person or persons authorized by the Resolution(s), must provide an original signature, printed name, title and date, must use blue ink, on the lower left-hand section entitled "Contractor" on the STD 213 and/or on page 2 of the STD 213, if applicable.

   3. **Option One:** For electronic signature processing, reply to this Standard Agreement email notification with the attached, fully signed STD 213 page(s). All signatures
must be original and in blue ink. All signers must be included in the reply email and confirm acceptance of e-signing the Agreement.

4. **Option Two:** Print five copies of the Standard Agreement, STD 213. Do not send photocopies of the signed STD 213 page(s). All five copies must be an original signature with wet, blue ink; do not return the Exhibits to HCD.

5. **Note:** If the resolution did not authorize a designated official to sign the STD 213 and amendments thereto, your governing body **must** adopt a resolution authorizing a designated official(s) to sign the STD 213 and any subsequent amendments. If the authorized designee as reflected in the resolution, the awarded NOFA amount or your entity status has changed, you are required to provide, to the Department, a new resolution consistent with the terms of the NOFA award and adopted by your Board.

6. Return the e-signed copy or the five signed copies of the STD 213; and, if applicable, the certified resolution **within 30 days from the date of this letter** to the following address:

   **Department of Housing and Community Development**
   **Business & Contract Services Branch**
   **Contracts Office, Attn. Kelvin Singh**
   **2020 West El Camino Avenue, Suite 130**
   **Sacramento, CA 95833**

7. Maintain a complete electronic version of the contract Agreement, STD 213 and Exhibits, for your pending file. **Note: The contract is not effective until it is signed by the Awardee’s designated official and the Department.**

The Department reserves the right to cancel any pending Standard Agreement in its entirety if not returned within the required 30-day period.

Please contact Planning Grants Program Manager, Paul McDougall, at paul.mcdougall@hcd.ca.gov, if you have any questions regarding the Standard Agreement or the provisions therein.

Sincerely,

[Signature]

Kelvin Singh
Contract Analyst

Attachment

cc: Local Early Action Planning, John Buettner
1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

**CONTRACTING AGENCY NAME**
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

**CONTRACTOR'S NAME**
City of Escondido

2. The term of this Agreement is:

**START DATE**
Upon HCD Approval

**THROUGH END DATE**
09/30/2024

3. The maximum amount of this Agreement is:
$500,000.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement:

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**TOTAL NUMBER OF PAGES ATTACHED**
16

*Items shown with an asterisk (*) are hereby incorporated by reference and made part of this agreement as if attached hereto.*

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

**CONTRACTOR**

**CONTRACTOR NAME** (if other than an individual, state whether a corporation, partnership, etc.)
City of Escondido

**CONTRACTOR BUSINESS ADDRESS**
201 North Broadway

**PRINTED NAME OF PERSON SIGNING**
Adam Finestone, AICP

**CONTRACTOR AUTHORIZED SIGNATURE**

**STATE OF CALIFORNIA**

**CONTRACTING AGENCY NAME**
Department of Housing and Community Development

**CONTRACTING AGENCY ADDRESS**
2020 W. El Camino Ave., Suite 130

**PRINTED NAME OF PERSON SIGNING**
Shaun Singh

**CONTRACTING AGENCY AUTHORIZED SIGNATURE**

California Department of General Services Approval (or exemption, if applicable)

Exempt per, SCM Vol. 1 4.04.A.3 (DGS memo dated 6/12/1981)
EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. **Authority**

   Pursuant to Chapter 3.1 of the California Health and Safety Code (Ch. 159, Sec. 11, Stats. 2019), the State of California Department of Housing and Community Development (the "Department" or "State") has established the Local Early Action Planning Grants Program ("LEAP," or the "Program"), as defined in Health and Safety Code Section 50515, et seq., for Local Governments and Localities. In furtherance of the purpose of the Program, the Department has issued a Notice of Funding Availability ("NOFA") dated January 27, 2020. This Standard Agreement, along with all its exhibits (the "Agreement"), is entered into under the authority of, and in furtherance of, the purpose of the Program.

2. **Purpose**

   In accordance with the authority cited above, the Grantee has been awarded financial assistance in the form of a grant from the Program. The Department has agreed to make the grant to provide financial assistance for technical assistance, preparation and adoption of planning documents, and process improvements to accelerate housing production and facilitate compliance to implement the sixth cycle of the regional housing needs assessment, pursuant to the terms of the NOFA, which includes associated forms, and this Agreement. By entering into this Agreement and thereby accepting the award of the Program funds, the Grantee agrees to comply with the terms and conditions of the NOFA, this Agreement, subsequent amendments to this agreement when necessary, the representations contained in the application and the requirements of the authority cited above. Based on the representations made by the Grantee, the State shall provide a grant in the amount shown in Exhibit B, Section 2.

3. **Definitions**

   Terms herein shall have the same meaning as definitions in Section VIII of the LEAP NOFA.

4. **Scope of Work**

   Preparation and adoption of planning documents and process improvements that accelerate housing production and facilitate compliance in implementing the sixth cycle of the regional housing needs assessment in accordance with the Grantee’s Attachment 1: Project Timeline and Budget and Project Description as provided by the Grantee in the LEAP application used for subsequent approval by the Department.

5. **Department Contract Coordinator**

   The Contract Coordinator of this Agreement for the Department is the Housing Policy Development Program Manager, or the Manager’s designee. Unless otherwise informed, any

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notice, report, or other communication required by this Agreement shall be mailed by first class mail to the Department Contract Coordinator at the following address:

Department of Housing and Community Development
Housing Policy Development
Attention: LEAP Program Manager
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833
EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Application for Funds

A. The Department is entering into this Standard Agreement ("Agreement") on the basis of, and in reliance on, facts, information, assertions and representations contained in the Application and any subsequent modifications or additions thereto approved by the Department. The Application and any approved modifications and additions thereto are hereby incorporated into this Agreement.

B. The Grantee warrants that all information, facts, assertions and representations contained in the Application and approved modifications and additions thereto are true, correct, and complete to the best of the Grantee's knowledge. In the event that any part of the Application and any approved modification and addition thereto is untrue, incorrect, incomplete, or misleading in such a manner that would substantially affect the Department's approval, disbursement, or monitoring of the funding and the grant or activities governed by this Agreement, the Department may declare a breach hereof and take such action or pursue such remedies as are provided for breach.

2. Grant and Reimbursement Limit

The Department's decision to approve or deny an application or request for funding pursuant to the Program, and its determination of the amount of funding provided, shall be final. The maximum total amount granted and reimbursable to the Grantee pursuant to this Agreement shall not exceed $500,000.00.

3. Grant Timelines

A. This Agreement is effective upon the date of the Department representative’s signature on page one of the fully executed Standard Agreement, STD 213, (the "Effective Date").

B. All Grant funds must be expended by the Grantee on or before December 31, 2023. To ensure that the Grantee is reimbursed on or before December 31, 2023, the Grantee shall deliver to the Department all final invoices for reimbursement on or before September 30, 2023. Under special circumstances, as determined by the Department, the Department may modify the September 30, 2023 deadline.

It is the responsibility of the Grantee to monitor the project and timeliness of draws within the specified dates.

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4. **Allowable Uses of Grant Funds**

   A. The Department shall not disburse funds unless it determines that the grant funds shall be expended in compliance with the terms and provisions of the NOFA and this Agreement.

   B. Grant funds shall only be used by the Grantee for eligible activities pursuant to Section VII of the NOFA and only for activities that were approved by the Department, and as stated in Attachment 1: Project Timeline and Budget and Project Description in the Grantee’s approved LEAP Application, and/or any and all documentation incorporated into this Agreement and made a part thereof.

   C. Grant funds may not be used for administrative costs of persons employed by the Grantee for activities not directly related to the preparation and adoption of the proposed activity. The Grantee shall use no more than five percent of the total grant amount for costs related to administration of the project.

   D. A Grantee that receives funds under this Program may use a subcontractor. The subcontract shall provide for compliance with all the requirements of the Program. The subcontract shall not relieve the Grantee of its responsibilities under the Program.

   E. After the contract has been executed by the Department and all parties, approved and eligible costs for eligible activities may be reimbursed upon completion of deliverables in accordance with Attachment 1: Project Timeline and Budget and Project Description, and subject to the terms and conditions of this Agreement.

   F. Only approved and eligible costs incurred for work after the NOFA date, continued past the date of full execution of the Agreement, and completed during the grant term, will be reimbursable.

   G. Approved and eligible costs incurred prior to the NOFA date are ineligible and will not be reimbursed.

5. **Performance**

   A. The Grantee shall take such actions, pay such expenses, and do all things necessary to complete all activities as incorporated into the LEAP application and in accordance with the schedule for completion set forth in the Statement of Work, the Grantee’s Project Description and Attachment 1: Project Timeline and Budget, and within the terms and conditions of this Agreement.

   B. The Department may monitor expenditures and activities of Grantee, as the department deems necessary, to ensure compliance with program requirements.

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C. The Department may request repayment of funds from Grantee or pursue other remedies available to it by law for failure to comply with program requirements.

6. Fiscal Administration

A. The Grantee is responsible for maintaining records which fully disclose the activities funded by the LEAP grant. Adequate documentation for each reimbursable transaction shall be maintained to permit the determination, through an audit if requested by the State, of the accuracy of the records and the allowability of expenditures charged to LEAP grant funds. If the allowability of expenditure cannot be determined because records or documentation are inadequate, the expenditure may be disallowed, and the State shall determine the reimbursement method for the amount disallowed. The State’s determination of the allowability of any expense shall be final, absent fraud, mistake or arbitrariness.

B. Work must be completed prior to requesting reimbursement. The Department may make exceptions to this provision on a case by case basis. In unusual circumstances, the Department may consider alternative arrangements to reimbursement and payment methods based on documentation demonstrating cost burdens, including the inability to pay for work.

C. Prior to receiving reimbursement, the Grantee shall submit the following documentation:

1) Government Agency Taxpayer ID Form (GovTIN; Fi$cal form);

2) A Request for Reimbursement form provided by the Department on the Department’s Local Early Action Planning (LEAP) Grants webpage; and

3) Any and all documentation requested by the Department in the Request for Reimbursement form and manner as outlined in the following subsection D.

D. Grantee shall submit all required reimbursement documentation to the following address:

Department of Housing and Community Development
Housing Policy Development
Attention: LEAP Program Manager
2020 West El Camino Avenue, Suite 500
Sacramento, CA 95833

E. The Grantee shall submit invoices for reimbursement to the Department. All invoices shall be subject to the Department’s approval and submitted in accordance with the following schedule:

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1) At maximum, once per quarter; or

2) Upon completion of a deliverable; and

3) At minimum, one invoice for reimbursement annually.

The Department will use the 2020 calendar year beginning from the date of the release of the NOFA on January 27, 2020 as the basis for scheduling reimbursements, with first requests for reimbursement accepted upon full execution of the Agreement by the Grantee and the Department.

F. The Request for Reimbursement must be for a minimum of fifteen percent (15%) of the maximum grant amount awarded. The Department may consider exceptions to the minimum amount requested on a case-by-case basis. All invoices shall reference the contract number and shall be signed and submitted to the Department’s Program Manager at the address provided above in Section 6, Subsection D of this part. Invoices shall include at a minimum the following information:

1) Names of the Grantee’s personnel performing work;

2) Dates and times of project work;

3) Itemized costs in accordance with Attachment 1: Project Timeline and Budget, and Project Description, including identification of each employee, contractor or subcontractor who provided services during the period of the invoice, the number of hours and hourly rates for each of the Grantee’s employees, contractor(s), sub-recipient(s) or subcontractor’s staff member(s), authorized expenses with receipts, and contractor, sub-recipient and subcontractor invoices; and

4) Any other documents, certifications, or evidence deemed necessary by the Department prior to disbursement of grant funds.

G. The Department will reimburse the Grantee directly for all allowable project costs as promptly as the Department’s fiscal procedures permit upon receipt of an itemized signed invoice.

H. The Department recognizes that budgeted deliverable amounts are based upon estimates and conditions and circumstances may change. Grantees may request adjustments to Attachment 1: Project Timeline and Budget and Project Description in the Grantee’s approved LEAP Application in writing (such as a budget adjustment across deliverables), as long as the total budget does not exceed the maximum amount awarded to the Grantee. All adjustments shall be subject to written approval by the Department.

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I. Grant funds shall not be disbursed until this Agreement has been fully executed.

J. Grant fund payments will be made on a reimbursement basis; advance payments are not allowed. The Grantee, its subcontractors and all partners, must have adequate cash flow to pay all grant-related expenses prior to requesting reimbursement from the Department. The Department may consider alternative arrangements for reimbursement and payment methods based on documentation demonstrating cost burdens, including the inability to pay for work.

K. The Grantee will be responsible for compiling and submitting all invoices, supporting documentation and reporting documents. Invoices must be accompanied by reporting materials where appropriate. Invoices without the appropriate reporting materials will not be paid.

   1) Supporting documentation may include, but is not limited to; purchase orders, receipts, progress payments, subcontractor invoices, timecards, or any other documentation as deemed necessary and requested by the Department to support the reimbursement to the Grantee for expenditures incurred.

L. The Grantee will submit for reimbursements to the Department based on actual costs incurred, and must bill the State based on clear and completed objectives and deliverables as outlined in the application, in Attachment 1: Project Timeline and Budget and the Project Description, and/or any and all documentation incorporated into this Agreement and made a part thereof.

M. The Department may withhold ten percent (10%) of the grant until grant terms have been fulfilled to the satisfaction of the Department and the final close-out report submitted, no later than December 31, 2024 pursuant to Health and Safety Code section 50515.04(c)(2).

N. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall immediately terminate and be of no further force and effect. In this event, the State and Contractor shall be relieved of any and all obligations under this Grant Agreement.

O. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the sole discretion to cancel this Agreement without cause, no liability occurring to the State, or amend the current Grant Agreement and amount allocated to Contractor.

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LEAP TERMS AND CONDITIONS

1. Reporting

   A. During the term of this Standard Agreement ("Agreement") the Grantee shall submit, upon request of the Department, a performance report that demonstrates satisfaction of all requirements identified in this Agreement.

   B. Pursuant to Health and Safety Code Section 50515.04, subsection (a), during the term of the Agreement, the Grantee shall submit an annual report containing all required information by April 1 of the year following receipt of the Grant funds. The annual reports shall be due from the Grantee until Program funds have been expended, but no later than February 28, 2023. A Grantee may, in lieu of providing a separate annual report as identified in Health and Safety Code Section 50515.04, subsection (a), provide the information as part of its Annual Progress Report.

   C. Upon completion of all deliverables required to fulfill this Agreement pursuant to the Grantee’s Attachment 1: Project Timeline and Budget as approved in the LEAP Application, the Grantee shall submit a final close out report in accordance with the January 27, 2020 LEAP NOFA. The close out report shall be submitted with the final Request for Reimbursement by September 30, 2023, in accordance with the final invoices due pursuant to Exhibit B, Section 3.

2. Accounting Records

   A. The Grantee, its staff, contractors and subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), to enable the determination of incurred costs at interim points of completion and provide support for reimbursement payment vouchers or invoices.

   B. The Grantee must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the scope of work, project timeline and budget. Separate bank accounts are not required.

   C. The Grantee shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project in accordance with GAAP.

   D. The Grantee agrees that the state or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of the Agreement.

   E. Subcontractors employed by the Grantee and paid with moneys under the terms of this
EXHIBIT D

Agreement shall be responsible for maintaining accounting records as specified above. Grantee shall monitor and enforce subcontracts accordingly.

3. Audits

A. At any time during the term of this Agreement, the Department may perform or cause to be performed a financial audit of any and all phases of the award. At the Department's request, the Grantee shall provide, at its own expense, a financial audit prepared by a certified public accountant. The State of California has the right to review project documents and conduct audits during and over the project life.

1) The Grantee agrees that the Department or the Department's designee shall have the right to review, obtain, and copy all records and supporting documentation pertaining to performance of this Agreement.

2) The Grantee agrees to provide the Department or the Department's designee, with any relevant information requested.

3) The Grantee agrees to permit the Department or the Department's designee access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees who might reasonably have information related to such records and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with statutes and this Agreement.

B. If a financial audit is required by the Department, the audit shall be performed by an independent certified public accountant. Selection of an independent audit firm shall be consistent with procurement standards contained in Exhibit D, Section 8 subsection A. of this Agreement.

1) The Grantee shall notify the Department of the auditor's name and address immediately after the selection has been made. The contract for the audit shall allow access by the Department to the independent auditor's working papers.

2) The Grantee is responsible for the completion of audits and all costs of preparing audits.

3) If there are audit findings, the Grantee must submit a detailed response acceptable to the Department for each audit finding within ninety (90) days from the date of the audit finding report.

C. The Grantee agrees to maintain such records for possible audit after final payment pursuant to Exhibit D, Section 3, subsection E. below, unless a longer period of records retention is stipulated.

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1) If any litigation, claim, negotiation, audit, monitoring, inspection or other action has been started before the expiration of the required record retention period, all records must be retained by the Grantee, contractors and sub-contractors until completion of the action and resolution of all issues which arise from it. The Grantee shall include in any contract that it enters into in an amount exceeding $10,000.00, the Department’s right to audit the contractor’s records and interview their employees.

2) The Grantee shall comply with the caveats and be aware of the penalties for violation of fraud and for obstruction of investigation as set forth in California Public Contracts Code Section 10115.10.

D. The determination by the Department of the eligibility of any expenditure shall be final.

E. The Grantee shall retain all books and records relevant to this Agreement for a minimum of three (3) years after the end of the term of this Agreement. Records relating to any and all audits or litigation relevant to this Agreement shall be retained for five (5) years after the conclusion or resolution of the matter.

4. Remedies of Non-performance

A. The Department may monitor expenditures and activities of an applicant, as the Department deems necessary, to ensure compliance with Program requirements.

B. The Department may, as it deems appropriate or necessary, request repayment of funds from an applicant, or pursue any remedies available to it by law for failure to comply with Program requirements.

C. Any dispute concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by the Department’s Housing Policy Development Manager, or the Manager’s designee, who may consider any written or verbal evidence submitted by the Grantee. The decision of the Department’s Housing Policy Development Manager or Designee shall be the Department’s final decision regarding the dispute.

D. Neither the pendency of a dispute nor its consideration by the Department will excuse the Grantee from full and timely performance in accordance with the terms of this Agreement.

E. In the event that it is determined, at the sole discretion of the Department, that the Grantee is not meeting the terms and conditions of the Agreement, immediately upon receiving a written notice from the Department to stop work, the Grantee shall cease all work under the Agreement. The Department has the sole discretion to determine that the Grantee meets the terms and conditions after a stop work order, and to deliver a written notice to the grantee to resume work under the Agreement.
EXHIBIT D

F. Both the Grantee and the Department have the right to terminate the Agreement at any time upon thirty (30) days written notice. The notice shall specify the reason for early termination and may permit the grantee or the Department to rectify any deficiency(ies) prior to the early termination date. The Grantee will submit any requested documents to the Department within thirty (30) days of the early termination notice.

G. There must be a strong implementation component for the funded activity through this Program, including, where appropriate, agreement by the locality to formally adopt or complete the planning document. Localities that do not formally adopt or complete the funded activity could be subject to repayment of the grant.

H. The following shall each constitute a breach of this Agreement:

1) Grantee’s failure to comply with any of the terms and conditions of this Agreement.

2) Use of, or permitting the use of, grant funds provided under this Agreement for any ineligible costs or for any activity not approved under this Agreement.

3) Any failure to comply with the deadlines set forth in this Agreement unless approved by the Program Manager.

I. In addition to any other remedies that may be available to the Department in law or equity for breach of this Agreement, the Department may at its discretion, exercise the following remedies:

1) Disqualify the Grantee from applying for future Department administered grant programs.

2) Revoke existing LEAP award(s) to the Grantee.

3) Require the return of unexpended LEAP funds disbursed under this Agreement.

4) Require repayment of LEAP Funds disbursed and expended under this Agreement.

5) Seek a court order for specific performance of the obligation defaulted upon, or the appointment of a receiver to complete the obligations in accordance with the LEAP Program requirements.

6) Other remedies available at law, or by and through this Agreement. All remedies available to the Department are cumulative and not exclusive.

7) The Department may give written notice to the Grantee to cure the breach or violation within a period of not less than fifteen (15) days.
5. **Indemnification**

Neither the Department nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents, its contractors, its sub-recipients or its subcontractors under or in connection with any work, authority or jurisdiction conferred upon the Grantee under this Agreement. It is understood and agreed that the Grantee shall fully defend, indemnify and save harmless the Department and all of the Department’s staff from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by the Grantee, its officers, employees, agents contractors, sub-recipients, or subcontractors under this Agreement.

6. **Waivers**

No waiver of any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce at any time the provisions of this Agreement, or to require at any time, performance by the Grantee of these provisions, shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions.

7. **Relationship of Parties**

It is expressly understood that this Standard Agreement is an agreement executed by and between two independent governmental entities and is not intended to, and shall not be construed to, create the relationship of agent, servant, employee, partnership, joint venture or association, or any other relationship whatsoever other than that of an independent party.

8. **Third-Party Contracts**

A. All state-government funded procurements must be conducted using a fair and competitive procurement process. The Grantee may use its own procurement procedures as long as the procedures comply with all City/County laws, rules and ordinances governing procurement, and all applicable provisions of California state law.

B. Any contract entered into as a result of this Agreement shall contain all the provisions stipulated in the Agreement to be applicable to the Grantee’s sub-recipients, contractors, and subcontractors. Copies of all agreements with sub-recipients, contractors, and subcontractors shall be submitted to the Department’s program manager upon request.

C. The Department does not have a contractual relationship with the Grantee’s sub-recipients, contractors, or subcontractors, and the Grantee shall be fully responsible for all work performed by its sub-recipients, contractors, or subcontractors.

D. In the event the Grantee is partnering with another jurisdiction or forming a collaborative effort between the Grantee and other jurisdictions who are grantees of the Local Early
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Action Planning Grants Program, the Grantee acknowledges that each partner and/or all entities forming the Local Early Action Planning Grants Program collaborative are in mutual written agreement with each other but are contractually bound to the Department under separate, enforceable contracts.

E. In the event the Grantee is partnering with another jurisdiction or forming a collaborative effort with other entities that are not grantees of the Local Early Action Planning Grants Program, the Department shall defer to the provisions as noted in subsections 8(B) and 8(C) of this part.

9. Compliance with State and Federal Laws, Rules, and Regulations

A. The Grantee agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant, the Grantee, its contractors or subcontractors, and any other grant activity.

B. During the performance of this Agreement, the Grantee assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.

C. The Grantee shall include the nondiscrimination and compliance provisions of this clause in all agreements with its sub-recipients, contractors, and subcontractors, and shall include a requirement in all agreements with all of same that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under the Program.

D. The Grantee shall, in the course of performing project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

E. The Grantee shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the LEAP project to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 CFR 92.351.

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10. **Litigation**

   A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.

   B. The Grantee shall notify the Department immediately of any claim or action undertaken by or against it, which affects or may affect this Agreement or the Department, and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

11. **Changes in Terms/Amendments**

   This Agreement may only be amended or modified by mutual written agreement of both parties.

12. **State-Owned Data**

   A. Definitions

      1) **Work:**

      The work to be directly or indirectly produced by the Grantee, its employees, or by and of the Grantee’s contractor’s, subcontractor’s and/or sub-recipient’s employees under this Agreement.

      2) **Work Product:**

      All deliverables created or produced from Work under this Agreement including, but not limited to, all Work and Deliverable conceived or made, or made hereafter conceived or made, either solely or jointly with others during the term of this Agreement and during a period of six months after the termination thereof, which relates to the Work commissioned or performed under this Agreement. Work Product includes all deliverables, inventions, innovations, improvements, or other works of authorship Grantee and/or Grantee’s contractor subcontractor and/or sub-recipient may conceive of or develop in the course of this Agreement, whether or not they are eligible for patent, copyright, trademark, trade secret or other legal protection.

      3) **Inventions:**

      Any ideas, methodologies, designs, concept, technique, invention, discovery, improvement or development regardless of patentability made solely by the Grantee or jointly with the Grantee’s contractor, subcontractor and/or sub-recipient and/or Grantee’s contractor, subcontractor, and/or sub-recipient’s employees with one or more employees of the Department during the term of this Agreement and in performance of any Work...
under this Agreement, provided that either the conception or reduction to practice thereof occurs during the term of this Agreement and in performance of Work issued under this Agreement.

B. Ownership of Work Product and Rights

1) All work Product derived by the Work performed by the Grantee, its employees or by and of the Grantee’s contractor’s, subcontractor’s and/or sub-recipient’s employees under this Agreement, shall be owned by the Department and shall be considered to be works made for hire by the Grantee and the Grantee’s contractor, subcontractor and/or subrecipient for the Department. The Department shall own all copyrights in the work product.

2) Grantee, its employees and all of Grantee’s contractor’s, subcontractor’s and sub-recipient’s employees agree to perpetually assign, and upon creation of each Work Product automatically assigns, to the Department, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Grantee’s contractor, subcontractor and/or subrecipient from the Department. From time to time upon the Department’s request, the Grantee’s contractor, subcontractor and/or subrecipients, and/or its employees, shall confirm such assignments by execution and delivery of such assignment, confirmations or assignment or other written instruments as the Department may request. The Department shall have the right to obtain and hold in its name all copyright registrations and other evidence of rights that may be available for Work Product under this Agreement. Grantee hereby waives all rights relating to identification of authorship restriction or limitation on use or subsequent modification of the Work.

3) Grantee, its employees and all Grantee’s contractors, subcontractors and sub-recipients hereby agrees to assign to the Department all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority thereunder and the same shall become and remain the Department’s property regardless of whether such protection is sought. The Grantee, its employees and Grantee’s contractor, subcontractor and/or subrecipient shall promptly make a complete written disclosure to the Department of each Invention not otherwise clearly disclosed to the Department in the pertinent Work Product, specifically noting features or concepts that the Grantee, its employees and/or Grantee’s contractor, subcontractor and/or subrecipient believes to be new or different.

4) Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications and estimates, produced as part of this Agreement will automatically be vested in Department and no further agreement will be necessary to transfer ownership to Department.

Local Early Action Planning (LEAP)
NOFA Date: January 27, 2020
Approved Date: May 29, 2020
Prep. Date: December 7, 2020
13. **Special Conditions**

The State reserves the right to add any special conditions to this Agreement it deems necessary to assure that the policy and goals of the Program are achieved.