

**ADDENDUM #1, QUESTIONS AND ANSWERS, RFP**

**REQUEST FOR PROPOSAL (RFP)  
WATER AND SEWER RATE STUDIES  
Deadline: January 7, 2013- 4:00 p.m.**

***You are hereby notified of the following changes, deletions, additions, and clarifications to the RFP for the Water and Sewer Rate Studies.***

1. Page 8. f. Ten Year Financial Plan. Add the following language:

f. Ten Year Financial Plan- Comprehensive revenue and expense projection for the next 10 years and the basis for the growth projection. This should cover the water and sewer revenue requirement. *The City is in the process of updating its 2005 Water and 2009 Sewer Master Plans which should be completed in mid 2013. The Ten Year Financial Plan should take into account how the updates to the 2005 Water and 2009 Sewer Master Plans can be incorporated.*
2. Page 9. Proposal Requirements, 3. Approach to the Project. Add the following language:

**3. Approach to the Project:** Describe your approach to this project and any special ideas, techniques or suggestions that you think might make the project proceed smoothly. *The City is in the process of updating its 2005 Water and 2009 Sewer Master Plans which should be completed in mid 2013. Describe your approach to the study that takes into account changes to the 2005 Water and 2009 Sewer Master Plans.*

**QUESTIONS AND ANSWERS**

**As of 12/17/12**

1. In Section A.2, please elaborate on the expected deliverable associated with a comparison of water and sewer system costs against appropriate industry benchmarks.

*Answer: The City is interested on how its water and sewer services costs compare to industry benchmarks so that the City can properly manage its utility. The Consultant may use benchmarks available from ICMA, AWWA, GFOA, or other industry respected sources. For example if the City makes a recommendation for a rate structure to attain certain revenues, we want to be able to justify that a certain revenue level is necessary because we need appropriate reserve for a decent debt service coverage ratio.*

2. In Section A.9, we want to verify that the City is requesting a detailed connection fee study.

*Answer: Below are the current rates for water and sewer services. There are also development related fees that the City Council adopts by resolution from time to time as well as Impact Fees. The study should focus on the rate structure affected by Proposition 218. The City sees the study as an opportunity to review its current rate structure and to expand the rate structure to ensure that the City is able to recover its current and future costs by way of an appropriate rate structure. Since the City is built out, a new water resource development fee may not be appropriate for the City.*

**WATER AND SEWER RATE SCHEDULE**

	FY 13 (Current)	Description
<u>Water Rate:</u>	\$2.92	Per 100 cubic feet
Ready to Service Charge:		
5/8"to 3/4"	\$14.73	Per month
1"	\$22.10	Per month
1"-1/2"	\$44.18	Per month
2"	\$66.27	Per month
3"	\$125.16	Per month
4"	\$220.88	Per month
6"	\$294.50	Per month
8"	\$515.39	Per month
Fire Line Size (Inches):		
1"	\$6.92	Bimonthly
1-1/2"	\$10.38	Bimonthly
2"	\$20.77	Bimonthly
3"	\$31.15	Bimonthly
4"	\$41.54	Bimonthly
6"	\$62.30	Bimonthly
8"	\$83.07	Bimonthly
10"	\$103.84	Bimonthly
Deposit	\$103.84	

Returned Check Charge			
NSF	\$25		
Water Reconnection Charges			
Before 3pm	\$40		
After 3pm for same day service			\$60
Water Service Turn-On Fees	\$99	Deposit	
<u>Sewer Rate</u>			
Residential Sewer Rate	\$7.79	Per month	
Commercial Sewer Rate	\$38.94	Per month	

3. In Section B.5, we want to verify that the City requesting a miscellaneous fee update.

*Answer: Above are the current rates for water and sewer services. There are also development related fees that the City Council adopts by resolution from time to time as well as Impact Fees. The study should focus on the rate structure affected by Proposition 218. The City sees the study as an opportunity to review its current rate structure and to expand the rate structure to ensure that the City is able to recover its current and future costs by way of an appropriate rate structure. The City's current rates may be dated or may exclude rates other utilities are charging.*

4. When was the last rate study completed? Who performed the study? Is a copy available for review?

*Answer: The last rate study was completed in 2006. The 2006 study was conducted in-house. Yes.*

5. When was the City's last water/sewer rate increase? (assume 2006)

*Answer: The last City's water and sewer rate increase was adopted on August 15, 2006 for a five-year schedule of rates.*

6. What is the City's current billing software?

*Answer: Eden Financial Management System by Tyler Technologies*

7. What are the major external factors and issues that might impact the District in the next 5 years?

*Answer: It is anticipated that the consultant selected for this study can assist the City identify major external factors. Preliminarily we see one of the major issues confronting the utility services is maintaining financial stability to ensure that the water and sewer system is able maintain its infrastructure in good working condition.*

8. What is budget for the rate study?

*Answer: On November 20, 2012, the City Council approved a budget of \$70,000 for the study and all Proposition 218 related expenses including printing of notices and public outreach.*

9. Does the City/Department have a public affairs officer? Who produces the newsletter?

*Answer: The City has a Public Relations Director. The City produces a monthly newsletter, "Lynwood n' Perspective" that is mailed out to all residential properties. The newsletter's layout is produced in-house and printing of the newsletter is contracted out.*

10. The RFP refers to using the 2005 Water System Master Plan data. Is there more recent project cost projection estimates available for this study?

*Answer: The most recent Water System Master Plan is the 2005 study. In March 2012, the City awarded the contract to Infrastructure Engineering Corporation for the preparation of the updates for the Water System Master Plan and Sewer Management Plan and GIS System. Unfortunately, the study is at the very initial stages. City staff intends to issue an addendum to the RFP asking responders to the RFP to address the timing problem caused by the anticipated completion of the updated Water and Sewer Master Plan in mid 2013 and the Water and Sewer Rate Studies that Staff would like to see completed in spring 2013.*

11. Are recycled water services within the city included in this study? If so, please elaborate.

*Answer: Currently, the City has limited connections to provide recycled water to its customers. It is something that the City would like to undertake in the future. Given the limited information, the City does not anticipate for the study to focus on recycled water services.*

12. The study scope includes a "readiness to serve" and a "connection" fee calculation. Are these both a one-time growth-related system development fee for new connections to the systems? Will this calculation be for both water and a sewer fee, or only for water?

*Answer: The "readiness to serve" charge is a monthly charge to water customers based on the size of water meter. Fire Line rate is charge to the water customers every two months based on the diameter of the pipe. There are also development related fees that the City Council adopts by resolution from time to time as well as Impact Fees.*

Ready to Service Charge:  
5/8"to 3/4"

Current  
\$14.73 Per month

1"	\$22.10	Per month
1"-1/2"	\$44.18	Per month
2"	\$66.27	Per month
3"	\$125.16	Per month
4"	\$220.88	Per month
6"	\$294.50	Per month
8"	\$515.39	Per month

Fire Line Size (Inches):

1"	\$6.92	Bimonthly
1-1/2"	\$10.38	Bimonthly
2"	\$20.77	Bimonthly
3"	\$31.15	Bimonthly
4"	\$41.54	Bimonthly
6"	\$62.30	Bimonthly
8"	\$83.07	Bimonthly
10"	\$103.84	Bimonthly

13. The study objectives call for a comparison of the systems costs against "appropriate industry benchmarks." Please elaborate on this objective, and specify the preferred benchmarking data source.

*Answer: The City is interested on how its water and sewer services costs compare to industry benchmarks so that the City can properly manage its utility. The Consultant may use benchmarks available from ICMA, AWWA, GFOA, or other industry respected sources. For example if the City makes a recommendation for a rate structure to attain certain revenues, we want to be able to justify that a certain revenue level is necessary because we need appropriate reserve for a decent debt service coverage ratio.*

14. What are the key drivers for the timing of this RFP?
- Current revenue inadequacy for the utility enterprises,
  - Routine updating of customer charges,
  - Upcoming project funding needs,
  - Rate equity concerns and or public complaints on rate fairness,
  - Other?

*Answer: The key drivers are to ensure that the utility is financially healthy to meet our customers' needs; that dramatic rate hikes are avoided by planning for the short-term as well as the long-term; and that the rate structure is fair.*

15. Who identified the need for the study: City council, city manager, public works director, other?

*Answer: Staff recommended to the City Council that a comprehensive water and sewer rate study be undertaken. The City Council in November 2012 approved staff's recommendation.*

16. What is the study budget?

*Answer: On November 20, 2012, the City Council approved a budget of \$70,000 for the study and all Proposition 218 related expenses including printing of notices and public outreach.*

17. Who is reviewing the proposals?

*Answer: City staff will review the proposals.*

18. The utility billing system was recently updated. Will customer data be available for the last two complete fiscal years?

*Answer: City staff will work with the consultant to provide customer data for the last two fiscal years. The City uses EDEN Financial System.*

19. Are there any other elements that the City wants to consider in the study proposal?

- Project prioritization,
- Asset replacement funding,
- Fixed asset inventory documentation (GASB 34),
- Additional public outreach workshops,
- Review of rate ordinance or resolution.

*Answer: The comprehensive water and sewer rate study should comply with Proposition 218 and any other state or federal mandates. The cost proposal should include attending one meeting with the City Council, one community meeting, and one public hearing.*

20. What is the primary driver (or reason for) the study?

*Answer: The key drivers are to ensure that the utility is financially healthy to meet our customers' needs; that dramatic rate hikes are avoided by planning for the short-term as well as the long-term; and that the rate structure is fair.*

21. Regarding A.10, is the City interested in developing pass-through rates for MWD water costs?

*Answer: Yes the City is interested in developing pass-through rates for MWD water costs.*

22. Can you provide us with the existing rates or direct us to where they might be online?

*Answer: Please see below.*

#### **WATER AND SEWER RATE SCHEDULE**

	FY 13	
	(Current)	Description
<u>Water Rate:</u>	\$2.92	Per 100 cubic feet

*Ready to Service Charge:*

5/8"to 3/4"	\$14.73	Per month	
1"	\$22.10	Per month	
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Deposit	\$103.84		
<i>Returned Check Charge</i>			
NSF	\$25		
<i>Water Reconnection Charges</i>			
Before 3pm	\$40		
After 3pm for same day service			\$60
Water Service Turn-On Fees	\$99	Deposit	
<u>Sewer Rate</u>			
Residential Sewer Rate	\$7.79	Per month	
Commercial Sewer Rate	\$38.94	Per month	

23. Are there any known issues with the existing rate structure?

*Answer: Staff is interested in improving the current rate structure to ensure that costs and revenues are aligned and that the rate classifications are equitable or fair.*

24. When was the rate last study completed and who completed it?

*Answer: The last rate study was completed in 2006. The 2006 study was conducted in-house. Yes.*

25. Does the City have a budget in mind for this current study?

*Answer: On November 20, 2012, the City Council approved a budget of \$70,000 for the study and all Proposition 218 related expenses including printing of notices and public outreach.*

26. Could you also please tell us the number of parcels and accounts in the City? Does the City have its own parcel list or does that need to be created?
27. We are working on an almost identical project for a special district in the desert. This district has 12,000 water accounts and 6,000 sewer accounts. Our original proposed contract was for \$86,000. There was also a supplemental contract for outsourcing for the public outreach for \$42,000 (and this it did not include cost of processing or mailing the Prop 218 notifications.) In order to stay within the budget, we have not billed for many hours of effort. Thus the number of parcels and mailing costs could be critical to the final cost of the project.
28. Could you please send us or direct us to where we can find copies of the water and sewer rate and connection fee ordinances?

*Answer: Please see below.*

**WATER AND SEWER RATE SCHEDULE**

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Before 3pm	\$40	
After 3pm for same day service		\$60



Water Service Turn-On Fees                      \$99    Deposit

Sewer Rate

Residential Sewer Rate                              \$7.79    Per month

Commercial Sewer Rate                             \$38.94    Per month

29. What is the budget for the project?

*Answer: On November 20, 2012, the City Council approved a budget of \$70,000 for the study and all Proposition 218 related expenses including printing of notices and public outreach.*

30. When were the last rate studies conducted and who conducted them?

*Answer: The last rate study was completed in 2006. The 2006 study was conducted in-house.*

31. When were the last connection fee studies conducted and who conducted them?

*Answer: The last rate study was completed in 2006. The 2006 study was conducted in-house. We also have development related fees and impact fees.*

32. Are there any problems with the rates or connection fees that are perceived by the public?

*Answer: We always want to improve the methodology used for establishing rates. We are hoping that a study conducted by a consultant will ensure that there is an alignment between costs and revenues and that the rate structure is easily understood by the customers.*

33. Are there any recent or pending legal challenges?

*Answer: Staff is not aware of any recent or pending legal challenges.*

34. Is the City's customer billing system capable of producing a download of one year of recent customer billing data in the event that tiered water rates or flow-based sewer rates need to be analyzed?

*Answer: The City uses the EDEN Financial System. Staff will work with the consultant to retrieve customer billing information. Staff can also ask EDEN support to provide us with report formats that staff may not be accustomed to retrieving.*

35. Could you also please tell us the number of parcels and accounts in the City? Does the City have its own parcel list or does that need to be created? Does the City have its own parcel list or does that need to be created?

*Answer: There are roughly 9,030 water accounts and 9,974 sewer accounts. The number of parcels is roughly 10,400. The City would need to create an updated list of affected parcels using the address for the owner shown at the last equalized assessment roll. The City can create a list of water and sewer account addresses since the City handles the billing for water and sewer services. City staff may need some guidance from the selected consultant on this RFP on creating this list on who to include on this list. The cost proposal should exclude the cost of printing and mailing out notices. Do include the cost on developing a notice of public hearing that complies with Proposition 218 notice requirement on increasing water and sewer rates.*

*Do include on your cost proposal the creation of public outreach material, excluding the mailing and printing cost that can be printed City's newsletter or released to the local newspapers. The City will print your outreach material and mail out or hand out the outreach material. The City has the ability to insert public outreach materials in the water bill as well.*

36. One follow-up question regarding Question 3 below, where you said "There are also development related fees that the City Council adopts by resolution from time to time as well as Impact Fees."

Follow-up question 3A): We assume there are a variety of water [and sewer?] development related fees, including connection fees, impact fees, tapping charges, etc. that are charged to new infill connections and new developments. In studies such as ours, some clarification is helpful to know what is expected in the proposal.

**Simply stated, are we to develop these fees for both water and sewer connections? What are the names and purposes of the different one-time growth-related fees to be evaluated?**

*Answer: There are also development related fees that the City Council adopts by resolution from time to time as well as Impact Fees. The City does charge development related fees and impact fees to new and expanded developments.*

*The Water and Sewer Rate Studies which is the subject of this RFP should focus on the water and sewer rate structure affected by Proposition 218, thus subject to noticing, public hearing and protests.*

*The City sees the Water and Sewer rate study as an opportunity to review its current rate structure and to expand the rate structure to ensure that the City is able to recover its current and future costs by way of an appropriate rate structure. Since the City is built out, a new water resource development fee may not be appropriate for the City.*

37. The RFP refers in Objective 9 to "evaluate existing water connection fee and make recommendations for any changes for the buy-in and [for?] new capacity and a new water resource development fee." Does this mean the connection fee has several elements evaluate?

*Answer: Below is the current City's Water and Sewer Rate, Development Related Fees and Impact Fees. The Water and Sewer Rate Studies which is the subject of this RFP should focus on the water and sewer rate structure affected by Proposition 218, thus subject to noticing, public hearing and protests. The City sees the study as an opportunity to review its current rate structure and to expand the rate structure to ensure that the City is able to recover its current and future costs by way of an appropriate rate structure. The City's current rates may be dated or may exclude rates other utilities are charging.*

*Water or sewer connection fees relating to new development are treated as Development Related Fees. The consultant under this RFP need not develop development related fees or impact fees. However, the consultant under this RFP is expected to evaluate whether development or impact fees should be a component of the Ten Year Financial Plan.*

#### **WATER AND SEWER RATE SCHEDULE**

	FY 13 (Current)	
<u>Water Rate:</u>	\$2.92	Per 100 cubic feet
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Deposit	\$103.84	
Returned Check Charge		
NSF	\$25	
Water Reconnection Charges		
Before 3pm	\$40	

After 3pm for same day service \$60  
 Water Service Turn-On Fees \$99 Deposit

Sewer Rate

Residential Sewer Rate \$7.79 Per month  
 Commercial Sewer Rate \$38.94 Per month

**Development Related Fees**

	Fee	Description
Sewer Manhole Construction	\$225.52	Fee per unit
Adjust Existing Manhole	\$225.52	Fee per unit
Sanitary Sewer Main and Lateral (linear ft)	\$153.14	Base fee
Sanitary Sewer Main and Lateral (linear ft)	\$2.49	Variable fee
Water Main Construction	\$153.14	Base fee
Water Main Construction	\$2.49	Variable fee
Sewer Saddle Inspection	\$225.52	Fee per unit
Water Service Construction	\$225.52	Fee per unit
Water Meters, Valve Construction	\$225.52	Fee per unit
Fire Hydrant Installation	\$249.39	Fee per unit
Storm Drain (linear foot)	\$153.14	Base fee
Storm Drain (linear foot)	\$2.49	Fee per unit
Catch basin construction	\$249.39	Fee per unit
Curb drain construction	\$225.52	Fee per unit

**Impact Fees**

Wastewater Facilities

<i>Single Family</i>	\$347.17	per unit
<i>Multi-Family</i>	\$208.30	per unit
<i>Commercial</i>	\$433.96	per 1,000 sq. ft
<i>Industrial</i>	\$267.32	per 1,000 sq. ft
<i>Office</i>	\$267.32	per 1,000 sq. ft

Water Facilities

<i>Single Family</i>	\$1,381.25	per unit
<i>Multi-Family</i>	\$1,381.25	per 1,000 sq. ft.
<i>Commercial</i>	\$2,244.53	per 1,000 sq. ft.
<i>Industrial</i>	\$1,381.25	per 1,000 sq. ft.
<i>Office</i>	\$1,381.25	per 1,000 sq. ft.

38. RFP Study Requirements 16, there is a reference to the system development charges (equity vs. incremental methods) and to the connection fee assessment timing. Please let us know if the current "Buy-in" connection fee is the equity calculation method for calculating a system development charge, and if we are to explain the pros and cons of using the incremental method to replace the buy-in method?

*Answer: The City sees the Water and Sewer rate study as an opportunity to review its current rate structure and to expand the rate structure to ensure that the City is able to recover its*

*current and future costs by way of an appropriate rate structure. Since the City is built out, a new water resource development fee may not be appropriate for the City. We are unsure if a buy-in fee or capital improvement fee would be appropriate for the City or whether the existing City's impact fees or the City's existing development related fees are appropriate enough in order to reimburse the City's water and sewer system for the development's proportionate share of utility improvements.*

**CITY OF LYNWOOD●PUBLIC WORKS DEPARTMENT  
WATER AND SEWER RATE STUDIES  
REQUEST FOR PROPOSAL**



Issue Date: December 4, 2012

Proposals Due By: January 7, 2013 at 4:00 PM PST

Email your proposal to the following staff:

[lhempe@lynwood.ca.us](mailto:lhempe@lynwood.ca.us)

For Questions on this RFP Contact:  
Lorry Hempe, Public Works Special Projects Manager  
City of Lynwood, Public Works Department by email at  
[lhempe@lynwood.ca.us](mailto:lhempe@lynwood.ca.us)

*City of Lynwood, Public Works Department*

**REQUEST FOR PROPOSAL**

**WATER AND SEWER RATE STUDIES**

**Deadline: January 7, 2013- 4:00 p.m.**

The City of Lynwood (“City”) is requesting proposals from qualified consultants to conduct comprehensive Water and Sewer rate studies. The intent of the studies is to independently assess and evaluate the City’s existing water and sewer rates and provide recommendations. The broad objective of each study is to adequately fund water and sewer utility operations, bond debts and capital costs while minimizing rates to the greatest degree possible.

Each study will be based on a comprehensive review of the City’s water and sewer funds and budgets, 2009 Sewer and 2005 Water Master Plans, capital improvement plans, customer classes, current usage data, future planned growth of the City and any other information deemed necessary.

In order to submit a proposal, please read and comply with Proposal Requirement and email a copy of the proposal in PDF format. The proposal shall be emailed to Lorry Hempe, Public Works Special Projects Manager at the following email address and marked - “**Proposal for Water and Sewer Rate Studies**” on the email subject heading:

Email: [lhemp@lynwood.ca.us](mailto:lhemp@lynwood.ca.us)

**Proposals will not be accepted after the date and time designated above.** It is the sole responsibility of the proposer to see that his/her proposal is delivered and received by the deadline. Any proposal received after said designated date and time shall not be considered.

Proposal must be signed by the person authorized to submit a proposal.

## Background

The City is a general law city incorporated in 1921. The City serves a population of approximately 70,257<sup>1</sup> in Los Angeles County and covers approximately 4.6 square miles. Today, the City provides water service over an area of approximately 2,946 acres, which excludes approximately 180 acres in southeast Lynwood that is served by Park Water Company (Figure 1). Although most of the water consumption is by residential water users, the largest water users in the City include industrial users, government and institutions. Water supply for the system is derived from local wells and is supplemented by potable water deliveries from the Metropolitan Water District of Southern California. The City's wastewater collection system consists of about 80 miles of gravity sewer pipe, 1,800 manholes, 30 inverted siphons and about 10,000 sewer lateral connections. The City's system conveys untreated wastewater into various County Sanitation Districts' trunk sewers for transmission, treatment and disposal.

The City is located in the southeast portion of Los Angeles County. The 105 Freeway roughly bisects the City on the north and south, and the Long Beach Freeway forms the City's eastern border. The City is located in southeast Los Angeles County between Compton on the south and South Gate on the north, Paramount on the east, and the community of Watts on the west.

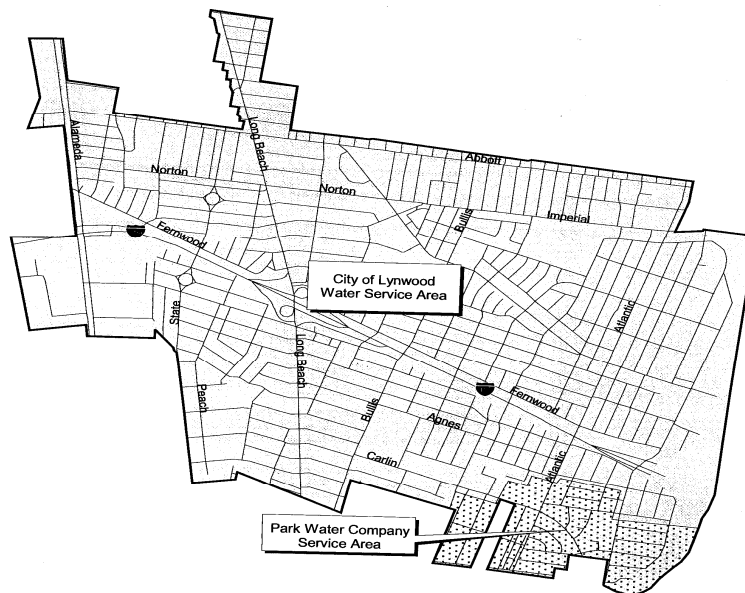


Figure 1 –City Boundary

<sup>1</sup> US Census Population, 2011 Estimate



## **A. STUDY OBJECTIVES**

The studies are to be performed in conformance with the following policy directions:

1. Review requirements, bond covenants, and other contractual requirements and operations.
2. Provide a comparison of current and sewer system costs (operations, capital improvements, bonded debt) against appropriate industry benchmarks.
3. Evaluate the existing water and sewer rate structures for conformance with existing statutory regulations and make recommendations for any changes that are necessary to achieve compliance.
4. Identify the various direct costs included in the City's budget including billing and collection and make recommendations for any changes necessary to ensure those direct operational costs are properly aligned with the appropriate enterprise fund or water classification (potable, non-potable surface, recycled water) within the water enterprise fund.
5. Evaluate the existing overhead distribution formulas and develop recommendations that will improve equity in the application of overhead between the water and wastewater enterprises and among the various water classifications in the water enterprise fund.
6. Develop an understanding of the cost of serving and the benefits derived by various water classifications and make recommendations as necessary to achieve equity between the various water classifications.
7. Evaluate the City's meter service fee structure and make recommendations to better align fixed operating costs with the fixed revenues inherent in the meter service fee.
8. Review the City's existing water commodity rate structure within each water classification and develop recommendations for improvements that will ensure the structure promotes realization of various statewide initiatives, City goals and best meets the City's operational needs.
9. Evaluate the existing water connection fee and make recommendations for any changes for "buy-in" and new capacity and a new water resource development fee to offset potable demand for future new service locations.
10. Recommend baseline rate structure required to fund water and sewer systems and consider annual inflationary, indexed adjustments to rates needed to maintain each utility.
11. Model needs to be a tool to easily supply meaningful information to the public, City Council, and Staff.

## **B. STUDY REQUIREMENTS**

1. Any recommendations made must consider or make provision for the following factors:

- a. Current and future cost of providing water and wastewater services in conformance with established or anticipated changes to standards and regulations.
  - b. Changes in projected demands.
  - c. Availability of water supply.
  - d. Age and condition of water and sewer systems and the need to fund long-term capital replacement.
  - e. Changes in various systems as proposed in the 2005 Water System Master Plan and 2009 Sewer System Management Plan.
  - f. Cash flow under drought scenarios with allocation cutbacks.
2. Develop an understanding of the existing rate structures and the assumptions underlying cost distribution to the various rate categories.
  3. Develop an understanding of the City reserve policy and other financial policies and ensure any recommendations for changes in rates meet the cash flow objectives of those policies.
  4. Comment as to the extent to which the projected revenues meet projected operating and capital needs satisfy bond covenants and required and/or recommended reserve levels.
  5. Assess existing customer service fee structure and identify other potential areas for service and system charges (shut-down activities, back-flow devices, plan reviews, water and sewer service shut-offs, etc.) and recommend changes, if appropriate. Assessment is to note any resulting increase in liability the City may incur as a result of assessing the fees.
  6. Develop an understanding of the 2005 Water System Master Plan, 2009 Sewer System Management Plan and Capital Improvement Plan (CIP) and the impacts of those plans on future rates.
  7. Develop an understanding of the costs and both the tangible and intangible benefits realized by operating the existing water and wastewater systems and quantify the expected changes that will occur with implementation of the City's 5-year CIP plan.
  8. Develop a proposed rate schedule and rate projection that forecasts rates to 10 years based on expected cost increases over time including increases in the cost of imported water. Must have ability to run CIP scenarios and quickly show impact on rates.
  9. Propose methodology for annual inflationary adjustments in compliance with Proposition 218.
  10. Reserve analysis must be part of the model.
  11. Demonstrate that costs from any proposed modifications are equitably distributed in proportion to the benefit received by the various rate payers.
  12. Provide justifications for any special classes of customers under the recommended rate structure.
  13. Demonstrate that any alternative rate structure is easy to understand and administer and can be accommodated within the existing City's billing system.
  14. Demonstrate that any proposed rate structure is in compliance with the rate covenants of the outstanding 2003 Enterprise Revenue Bonds, the 2008 Series A

Enterprise Revenue Bonds. The 2009 Series A Enterprise Revenue Bonds and Proposition 218.

15. Demonstrate that any proposed modifications to the rates and fees are in keeping with the City's other policy documents.
16. Calculation of Readiness to Serve Fee and Fire Line Fee - Many of the capital projects included in the 2005 Water System Master Plan and 2009 Sewer System Management Plan are growth related. The consultant is requested to review the readiness to serve fee and fire line fee and recommend appropriate fees for water. At a minimum, the consultant is requested to explain the advantages and disadvantages of the equity method and incremental cost method of calculating system development charges. Recommendation for the appropriate timing of the assessment of the water connection fee is also requested.
17. Modify the existing rate model or deliver a new spreadsheet model that reflects any changes to the rate structure accepted by the Council and provide training to staff in running "scenarios" that will allow staff to fully understand how the model operates and how the results of various future recommendations that may be proposed can be illustrated.
18. Model must have user friendly dashboard with interactive graphics that automatically produces a suite of reports and graphs as inputs are changed. The model will be the property of the City and may be used by the City for any purpose.

### **C. EACH STUDY ELEMENTS**

In making its rate recommendations, the final reports shall explicitly include the following elements and analysis:

1. **Current Rate Structure:** Assess the current rate structure's suitability for sustaining cost recovery based on customer demands.
2. **Equity:** Assess the equity of recommended water and sewer rates for all types of property ownership.
3. **Conservation Impacts:** Assess the interaction between the water conservation elements of the recommended rates and their impacts on the ability to fund water and sewer operations, as well as their impact on the economic well-being of the community.
4. **Drought or Loss of Supply Rate Structure:** Assess the impact on a rate structure due to drought, loss of supply or other water shortage factors. Evaluate and recommend a drought pricing program that mimics the different water stages of the City's emergency water supply shortage plan and continues to fund water operations and capital projects.
5. **Environmental Regulation:** The studies shall included an assessment of the revenue stream generated by the recommended rates and their ability to continue to

fully fund water and sewer system costs under the impacts of future water quality and statutory regulations and standards.

6. **Other Service Charges:** Assess existing customer service fee structure and identify other potential areas for service and system charges (shut-down activities, back-flow devices, plan reviews, water and sewer service shut-offs, etc.) and recommend changes, if appropriate. Assessment is to note any resulting increase in liability the City may incur as a result of assessing the fees.
7. **Electronic Rate Model:** Provided an easy-to-use electronic rate model for the City to use in future rate setting.

**D. SERVICES TO BE PROVIDED BY CONSULTANT**

1. Conduct analyses as required to address the scope of work.
2. Conduct a detailed review of the existing water and sewer rates and status of the water and sewer funds, and develop a general familiarity with the City's billing system.
3. Meet or confer with staff as needed.
4. Attend one meeting with the City Council at a Council Meeting to present the study result if needed and obtain their input.
5. Attend one community meeting to discuss proposed water and sewer rates. Consultant shall be prepared to present the study to the residents in a public format.
6. Attend the public hearing on the proposed water and sewer rates.
7. Supply a time schedule for developing the draft reports, draft final reports and final reports.
8. Report(s): The consultant shall prepare a Draft and a Final Report which include the following:
  - a. Executive Summary- A narrative to summarize the scope of the study, consultant's findings and recommendations. The narrative should also include proposed water and sewer rates for the next five years starting with July 1, 2013;
  - b. Introduction - A brief description of the organizational structure, population, service area, water and sewer system, including facilities, capacity, etc.;
  - c. Methodology Used- A description of the methodology used for analyzing the water and sewer rates and how the study complies with Proposition 218 and other applicable laws;
  - d. Overview of financial operations over the last 5 years and Current Financial Condition, including factors attributable to any rate covenant shortfall and corrective recommendations;
  - e. A description of the capital improvement program, including State and Federal regulatory requirements, a 5 year summary of proposed capital expenditures, and a statement regarding the sufficiency of improvements

to meet operating needs and regulatory requirements and reasonableness of the cost estimates.

- f. Ten Year Financial Plan- Comprehensive revenue and expense projection for the next 10 years and the basis for the growth projection. This should cover the water and sewer revenue requirement
  - g. Proposed new rate structure that provides adequate revenues generated from rates, that is defensible and equitable across customer classes, and complies with Proposition 218 rate setting. The report shall describe the methodology for the determination of cost responsibility, which may be identified by reference to appropriate industry rate making principles, including guidance associated with designing and developing water rates and charges issued by the American Waterworks Association or guidance associated with other comparable industry principles recognized by public agencies providing public utility service.
  - h. Proposed adjustment schedule using an inflationary formula that is clearly defined and does not exceed the cost of providing the service.
  - i. Proposed rate schedule and rate projection that forecasts rates to 10 years and proposed typical bill if proposed rates are adopted.
  - j. Comparison of monthly bills with other communities.
9. Draft Reports
- a. Prepare preliminary studies reports and tentative rates.
  - b. Submit one electronic copy.
  - c. Incorporate staff comments.
10. Draft Final Reports
- a. Submit 10 copies of each report, plus one reproducible copy and one electronic copy.
  - b. Present preliminary reports and tentative rates to the City Council at a Council Meeting.
  - c. Incorporate changes pursuant to comments received at the City's Study Session.
11. Final Reports
- a. Submit 10 copies of each report, plus one reproducible copy.
  - b. Provide an electronic copy with report in MS Word format, with spreadsheets in Excel format.
  - c. Present the final reports and recommended rates to the Council and members of the public at a City Council formal public hearing.
12. Proposition 218- The consultant will provide guidance and advice to City staff to assure compliance with the Proposition 218 process as it applies to water and wastewater services. Provide the City with a *written notice* to the record owner on the proposed rate adjustment. Provide the City with a public outreach material that can be released in the City's newsletter. It is the intent of the City to complete and adopt, if at all, the Water and Sewer rates together at the conclusion of the Proposition 218 process at a public hearing.

13. Provide an easy-to-use electronic rate model for the City to use in future rate setting.

#### **E. SERVICES TO BE PROVIDED BY THE CITY**

The services to be provided by the City include, but are not necessarily limited to the following:

1. Furnish all reasonably available records and information, including financial reports, budget, consumption data, meter sizes and customer classes.
2. Provide a copy of the 2005 Water System Master Plan and 2009 Sewer System Management Plan.
3. Provide information on the most recent Capital Improvement Project lists.
4. Provide staff support and assistance as required and agreed to in advance of the studies.

#### **PROPOSAL REQUIREMENTS**

Each individual or firm (Proposer) submitting a proposal shall meet all of the terms and conditions specified in the Request for Proposal (RFP). By its proposal submittal, the Proposer acknowledges agreement with the acceptance of all provisions of the RFP.

#### **A. Proposal Format and Content**

The following information is to be submitted as part of the proposal. One electronic copy in PDF format of the proposal is to be provided by email. The proposal is to be organized as follows:

1. **Cover Letter**- A signature by a principal or officer having the authority to negotiate and contractually bind and extend the terms of the written proposals is required.
2. **Executive Summary** – In a brief, non-technical narrative, describe the proposed solution by setting forth the overall approach and plans to meet the requirements of the RFP. The contents of this narrative are to convince the City that the Consultant understands the Study Objectives, Study Requirements, Study Elements, and Services to be provided by the Consultant.
3. **Approach to the Project**: Describe your approach to this project and any special ideas, techniques or suggestions that you think might make the project proceed smoothly.
4. **Experience**: Describe the experience of the firm and of the individuals assigned with related projects of a similar nature. The team's experience with creating various rate structures, including the MWD rate structure, and potable, non-potable, recycled and sewer rate structures will be considered during the review process.
5. **References**: List at least 3 references, including name, address, and contact person, email and phone number.

6. **Qualification:** Describe your staff's unique qualifications and training for this type of work. If using subconsultants, provide the company profile and define the responsibilities and services to be provided by the subconsultants.
7. **Schedule:** Describe your plan/schedule for completing the work. A shorter timeline is preferred and will be given added value in the evaluation of the proposals. It is the City's objective to hold a Public Hearing and count protest votes on May 21, 2013 on the proposed water and sewer rates.
8. **Cost Proposal:** Provide a not to exceed and all inclusive Cost Proposal for the studies. List all hourly rates for additional contract work as may be necessary.
9. **Copy of A Rate Study** – Include a copy of a rate study performed by the Consultant that most closely fit the Study Objectives, Study Requirements, Study Elements, and Services to be provided by the Consultant.

## **B. CITY NOTICES**

- a. Any questions related to this RFP are to be directed by e-mail to the City's contact person:  
Lorry Hempe, Public Works Special Projects Manager at  
[lhemp@lynwood.ca.us](mailto:lhemp@lynwood.ca.us)
- b. The City reserves the right to:
  - i. Reject all submittals,
  - ii. Request clarification of any submitted information,
  - iii. Not enter into any agreement,
  - iv. Not select any consultant,
  - v. Cancel this process at any time,
  - vi. Amend this process at any time,
  - vii. Issue similar RFPs in the future,
  - viii. Request additional information during the selection process.
- c. Addendum - It shall be the responsibility of the consultant to check the City's website to determine if any addenda have been posted to the website prior to the proposal opening date. The City's website address is [www.lynwood.ca.us](http://www.lynwood.ca.us) Click on "City Services", and then select "Bids and RFPs".
- d. Any and all costs arising from the preparation of this RFP and

## **C. AGREEMENT**

A copy of a proposed agreement is attached, as Attachment A. Evidence of Insurance must be received prior to agreement implementation.

## D. CALENDAR OF EVENTS

Event	Date <sup>2</sup>
RFP Issued	December 4, 2012
Deadline for Emailed Questions	December 17, 2012
Submission Deadline	January 7, 2012 by 4pm
Award of Contract	February 5, 2012
Public Outreach	April – May 2013
Written Notice Mailed Out	April 1, 2013
Protest Hearing	May 21, 2013
Effective date of rate adjustment	July 1, 2013

## E. DEADLINE FOR SUBMISSION OF PROPOSALS

1. Interested firms should email proposals by 4:00 P.M. January 7, 2013 to Public Works Department at the following email address and marked - **“Proposal for Water and Sewer Rate Studies”** on the email subject heading:

Email: [lhemp@lynwood.ca.us](mailto:lhemp@lynwood.ca.us)

2. To anticipate any technical issues in emailing your proposal or to receive an email receipt of your submission, please call Lorry Hempe at 310-603-0220, ext 500 no later than 12 noon of the submission due date.

## SELECTION OF CONSULTANT

Proposals will be evaluated on the basis of experience, qualifications, your approach to the project, degree of City staff time required to complete the project, cost and any innovative ideas you have for making the project go quickly and smoothly.

Final selection will be based on the evaluation of proposals unless it is deemed necessary to conduct interviews of closely scored consultants. The consultant determined best qualified to perform this project will be recommended to the City Council for contract award.

The City reserves the right to reject any and all proposals for any reason deemed appropriate by the City.

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<sup>2</sup> Dates subject to change.



## ATTACHMENT A

### PROFESSIONAL/SPECIAL/CONSULTING SERVICES AGREEMENT

This agreement ("Agreement") is made as of \_\_\_\_\_ by and between the **City of Lynwood ("City")**, a public body, corporate and politic, and \_\_\_\_\_ (FEIN \_\_\_\_\_), a wholly owned subsidiary of \_\_\_\_\_. ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a "Party" and collectively referred to as the "Parties."

#### RECITALS

**WHEREAS**, City desires to utilize the services of Consultant as an independent contractor to provide consulting services to City as set forth in the attached **Exhibit A**; and

**WHEREAS**, Consultant represents that it is fully qualified to perform such consulting services by virtue of its experience and the training, education and expertise of its principals and employees.

**NOW, THEREFORE**, in consideration of performance by the Parties of the covenants and conditions herein contained, the Parties hereto agree as follows:

#### 1. Consultant's Services.

A. Scope of Services. The nature and scope of the specific services to be performed by Consultant are as described in **Exhibit A**.

B. Time of Performance. Consultant shall complete the specific services according to the schedule of performance which is also set forth in **Exhibit A**.

2. **Term of Agreement**. This Agreement shall be for a term of \_\_\_\_\_ months, commencing on \_\_\_\_\_ (the "Commencement Date") and terminating on \_\_\_\_\_ (the "Termination Date"), unless sooner terminated pursuant to the provisions of this Agreement.

#### 3. Compensation.

A. City agrees to compensate Consultant for services under this Agreement in compliance with the schedule set forth in **Exhibit A**. Payment will be made only after submission of proper monthly invoices in the form and manner specified by City. Each invoice shall include a breakdown of all monthly services performed together with the hours spent on each service. City shall endeavor to pay invoices bearing correct and authorized charges within forty five (45) days of the date they are received; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment

will occur within this time period. City shall not be responsible to Consultant for any additional charges, interest or penalties due to a failure to pay within such period.

B. Total payment to Consultant pursuant to this Agreement shall not exceed \_\_\_\_\_ (\$\_\_\_\_\_) which shall be payable as set forth in the Compensation Schedule in the attached **Exhibit A**.

C. If at the request of the City, Consultant is required to incur out of pocket expenses (including but not limited to, out-of-town travel and lodging) which are above and beyond the ordinary expenses associated with performance of this Agreement; Consultant shall be entitled to reimbursement of such expenses. Consultant shall only be reimbursed for those expenses which: (i) appear on Consultant's monthly invoices; (ii) are accompanied by a copy of the City's written authorization for Consultant to incur such expenses; and (iii) receipts documenting such expenses.

**4. General Terms and Conditions.** The General Terms and Conditions set forth in **Exhibit B** are incorporated as part of this Agreement. In the event of any inconsistency between the General Terms and Conditions and any other exhibit to this Agreement, the General Terms and Conditions shall control unless it is clear from the context that both Parties intend the provisions of the other exhibit(s) to control.

**5. Addresses.**

**City**

Roger L. Haley  
City of Lynwood  
11330 Bullis Road  
Lynwood, CA 90262  
Attn: City Manager

**Consultant**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Tel (\_\_\_\_) \_\_\_\_\_  
Fax (\_\_\_\_) \_\_\_\_\_

**6. Exhibits.** All exhibits referred to in this Agreement are listed here and are incorporated and made part of this Agreement by this reference.

- Exhibit A** – Scope of Services, Time of Performance and Compensation Schedule (Two (2) pages)
- Exhibit B** – General Terms and Conditions (Eight (8) pages)

///

**SIGNATURES ON FOLLOWING PAGE**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates written below.

**CITY**

**CITY OF LYNWOOD**

By: \_\_\_\_\_  
Roger L. Haley  
City of Lynwood

\_\_\_\_\_ Date

**CONSULTANT**

By: \_\_\_\_\_

\_\_\_\_\_ Date

**ATTEST:**

By: \_\_\_\_\_  
Maria Quinones, Secretary

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Fred Galante, City Attorney

## EXHIBIT A

### SCOPE OF SERVICES, TIME OF PERFORMANCE AND COMPENSATION SCHEDULE

#### SCOPE OF SERVICES

Below is a list of specific tasks that the CONSULTANT shall perform: \_\_\_\_\_

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#### TIME OF PERFORMANCE

CONSULTANT shall deliver draft report no later than \_\_\_\_\_ days from the award of contract and deliver final report \_\_\_\_\_ days from the draft report delivery.

#### COMPENSATION SCHEDULE

Compensation shall be a firm fixed price of \$\_\_\_\_\_ for the scope of services in Exhibit A. This covers all professional services and expenses related to completion of this scope of work according to this schedule.

## EXHIBIT B

### GENERAL TERMS AND CONDITIONS

#### 1. Status as Independent Contractor.

A. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City.

B. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. In the event that City is audited by any Federal or State City regarding the independent contractor status of Consultant and the audit in any way fails to sustain the validity of a wholly independent contractor relationship between City and Consultant, then Consultant agrees to reimburse City for all costs, including accounting and attorney's fees, arising out of such audit and any appeals relating thereto.

C. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section 1.

#### 2. Standard of Performance.

A. Consultant shall perform all work to the highest professional standards and in a manner reasonably satisfactory to the Executive Director or his/her designee. The Executive Director or his/her designee may from time to time assign additional or different tasks or services to Consultant, provided such tasks are within the scope of services described in **Exhibit A**. However, no additional or different tasks or services shall be performed by Consultant other than those specified in **Exhibit A**, or those so assigned in writing to Consultant by the City Manager or his/her designee.

B. The City Manager or his designee, shall, until further notice to Consultant, administer this Agreement and provide for immediate supervision of Consultant with respect to the services to be provided hereunder.

### **3. Indemnification.**

A. Consultant is skilled in the professional calling necessary to perform the services and duties agreed to be performed under this Agreement, and City is relying upon the skill and knowledge of Consultant to perform said services and duties.

B. City and its respective elected and appointed boards, officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or any other person for, and Consultant shall indemnify, defend, protect and hold harmless Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which Indemnitees may suffer or incur or to which Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or other loss occurring as a result of or allegedly caused by the Consultant's performance of or failure to perform any services under this Agreement or by the negligent or willful acts or omissions of Consultant, its agents, officers, directors, subcontractors, subconsultants or employees, committed in performing any of the services under this Agreement. Notwithstanding the foregoing, the provisions of this subsection shall not apply to Claims occurring as a result of the City's sole negligence or willful acts or omissions.

C. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth in this Section from each and every subcontractor, subconsultant or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required in this Section, Consultant agrees to be fully responsible according to the terms of this Section. Failure of the City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Indemnitees as set forth herein shall survive the termination of this Agreement and is in addition to any rights which City may have under the law. This indemnity is effective without reference to the existence or applicability of any insurance coverages which may have been required under this Agreement or any additional insured endorsements which may extend to City.

D. Notwithstanding the foregoing, City agrees that Consultant's total liability to City for any and all damages whatsoever arising out of or in any way related to this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed an amount that equals ten (10) times the fees paid to Consultant. In no event shall Consultant be liable for special, indirect, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if contractor has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

#### **4. Insurance.**

A. Without limiting Consultant's indemnification of Indemnitees pursuant to Section 3 of this Agreement, Consultant shall obtain and provide and maintain at its own expense during the term of this Agreement the types and amounts of insurance as described below:

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

(ii) Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits shall be no less than 1,000,000 per accident, combined single limit. If consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described in the preceding subsection. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

(iii) Workers' Compensation insurance on a state approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.

(iv) Professional Liability or Errors and Omissions Insurance as appropriate to the profession, written on policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy limit shall be not less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.

B. City, its officers, officials, employees and volunteers shall be named as additional insureds on the policy(ies) as to commercial general liability and automotive liability.

C. All insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California with a Best's rating of no less than A:VII.

D. All insurance policies shall provide that the insurance coverage shall not be non-renewed, canceled, reduced, or otherwise modified (except through the addition of additional insureds to the policy) by the insurance carrier without the insurance carrier giving City thirty (30) days' prior written notice thereof. Any such thirty (30) day notice shall be submitted to City via certified mail, return receipt requested, addressed to "Risk Manager," City of Lynwood, 11330 Bullis Road, Lynwood, California, 90262. Consultant agrees that it will not cancel, reduce or otherwise modify said insurance coverage.

E. Consultant shall submit to City (i) insurance certificates indicating compliance with the minimum worker's compensation insurance requirements above, and (ii) insurance policy endorsements indicating compliance with all other minimum insurance requirements above, not less than one (1) day prior to beginning of performance under this Agreement. Endorsements shall be executed on City's appropriate standard forms entitled "Additional Insured Endorsement".

F. The Consultant's insurance shall be primary as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees and volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

G. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, and such insurance is available at a reasonable cost, City may take out the necessary insurance and pay the premium thereon, and the repayment thereof shall be deemed an obligation of Consultant and the cost of such insurance may be deducted, at the option of City, from payments due Consultant.

H. Consultant agrees to waive subrogation which any insurer of contractor may acquire from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation. The workers' compensation policy shall be endorsed to contain a waiver of subrogation in favor of the entity for all work performed by the consultant, its agents, employees, independent contractors and subcontractors.

**5. Confidentiality.** Consultant in the course of its duties may have access to confidential data of City, private individuals, or employees of the City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this section shall survive the termination of this Agreement.

**6. Ownership of Work Product.** All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Such material shall not be the subject of a copyright application by Consultant.

**7. Conflict of Interest.**

A. Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. Consultant further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Consultant shall avoid the appearance of having any interest which would conflict in any manner with the performance of its services pursuant to this Agreement.



B. Consultant covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to City as a result of the performance of this Agreement, or the services that may be procured by the City as a result of the recommendations made by Consultant. Consultant's covenant under this section shall survive the termination of this Agreement.

## **8. Termination.**

Should Consultant materially breach the terms and conditions of this Agreement, the City may terminate this Agreement upon fifteen (15) days prior written notice to Consultant which notice shall specify the nature of the default and the effective termination date. Upon such notice of termination, Consultant shall be entitled to the opportunity to cure any such default prior to the effective date of termination. Consultant shall be deemed in default under this Agreement and this Agreement terminated if Consultant fails to completely cure such breach within fifteen (15) days after the date of such notice.

Unless expressly agreed upon in writing by the City, the City shall not be obligated to pay for any services rendered nor any costs or expenses paid or incurred after the date of termination. The effective date of termination shall be upon the date specified in the notice of termination. Consultant agrees that in the event of such termination, City's obligation to pay Consultant shall be limited to payment only for those services satisfactorily rendered prior to the effective date of termination. Immediately upon receiving written notice of termination, Consultant shall discontinue performing services, preserve the product of the services, and turn over to City the product of the services in accordance with written instruction of City.

## **9. Personnel.**

Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services under this Agreement. All of the services required under this Agreement will be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City's premises.

## **10. Financial Condition.**

Prior to entering into this Agreement, Consultant has submitted documentation acceptable to the City Manager, establishing that it is financially solvent, such that it can reasonably be expected to perform the services required by this Agreement. Within thirty (30) days of the first anniversary of the effective date of this Agreement, and each year thereafter throughout the term of this Agreement, Consultant shall submit such financial information as may be appropriate to establish to the satisfaction of the City Manager that Consultant is in at least as sound a financial position as was the case prior to entering into this Agreement. Financial information submitted to the City Manager shall be returned to Consultant after review and shall not be retained by City.

**11. Non-Discrimination and Equal Employment Opportunity.**

A. Consultant shall not discriminate as to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation, in the performance of its services and duties pursuant to this Agreement, and will comply with all rules and regulations of City relating thereto. Such nondiscrimination shall include but not be limited to the following: employment, upgrading, demotion, transfers, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition, or sexual orientation.

C. Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

**12. Assignment.**

Consultant shall not assign or transfer any interest in this Agreement nor the performance of any of Consultant's obligations hereunder, without the prior written consent of City, and any attempt by Consultant to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

**13. Performance Evaluation.**

For any Agreement in effect for twelve months or longer, a written annual administrative performance evaluation shall be required within ninety (90) days of the first anniversary of the effective date of this Agreement, and each year thereafter throughout the term of this Agreement. The work product required by this Agreement shall be utilized as the basis for review, and any comments or complaints received by City during the review period, either orally or in writing, shall be considered. City shall meet with Consultant prior to preparing the written report. If any noncompliance with the Agreement is found, City may direct Consultant to correct the inadequacies, or, in the alternative, may terminate this Agreement as provided herein.

**14. Compliance with Laws.**

Consultant shall keep itself informed of State, Federal and Local laws, ordinances, codes and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if Consultant is an out-of-state corporation or LLC, it must be qualified or registered to do business in the state of California pursuant to sections 2105 and 17451 of California Corporations Code. The

City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

**15. Licenses.**

At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses (including a City business license) required of it by law for performance of the services hereunder.

**16. Non-Waiver of Terms, Rights and Remedies.**

Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

**17. Attorney's Fees.**

In the event that either party to this Agreement shall commence any legal or equitable action or proceeding to enforce or interpret the provisions of this Agreement, the prevailing party in such action or proceeding shall be entitled to recover its costs of suit, including reasonable attorney's fees and costs, including costs of expert witnesses and consultants.

**18. Notices.**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during Consultant's regular business hours or by facsimile before or during Consultant's regular business hours; or (b) on the third business day following deposit in the United States mail, postage prepaid, to the addresses heretofore set forth in the Agreement, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to the provisions of this section.

**19. Governing Law.** This Agreement shall be interpreted, construed and enforced in accordance with the laws of the State of California.

**20. Counterparts.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

**21. Severability.**

If any provision or any part of any provision of this Agreement is found to be invalid or unenforceable, the balance of this Agreement shall remain in full force and effect.

**22. Entire Agreement.**

This Agreement, and any other documents incorporated herein by specific reference, represents the entire and integrated agreement between Consultant and City. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by the Parties which expressly refers to this Agreement. Amendments on behalf of the City will only be valid if signed by the appropriate officer of the City as set forth in subsection 6-3.1 et seq. of the Lynwood Municipal Code and attested by the City Clerk.

**23. Authority.**

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