



CITY OF ANTIOCH
REQUEST FOR PROPOSAL
FOR
PROFESSIONAL AUDITING SERVICES

CITY HALL - THIRD & "H" STREETS, ANTIOCH, CA 94509-0504

MAILING ADDRESS - P.O. BOX 5007, ANTIOCH, CA 94531-5007

**CITY OF ANTIOCH
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II. NATURE OF SERVICES REQUIRED

A. General

The City of Antioch is soliciting the services of qualified firms of certified public accountants to audit its financial statements for the fiscal years ending June 30, 2010, 2011 and 2012 (see list of required audits on page 2, Note II D), with the option to audit the City of Antioch's financial statements for each of the two subsequent fiscal years. These audits are to be performed in accordance with the provisions contained in this request for proposal.

B. Scope of Work to Be Performed

The City of Antioch desires the auditor to express an opinion on the fair presentation of its basic financial statements in conformity with generally accepted accounting principles including GASB 34.

The City of Antioch also desires the auditor to express an opinion on the fair presentation of its combining and individual fund statements and schedules in conformity with generally accepted accounting principles. The auditor is not required to audit the supporting schedules contained in the comprehensive annual financial report. However, the auditor is to provide an "in-relation-to" opinion on the supporting schedules based on the auditing procedures applied during the audit of the basic financial statements and the combining and individual fund financial statements and schedules. The auditor is not required to audit the statistical section of the report.

The auditor shall also be responsible for performing certain limited procedures involving required supplementary information required by the Governmental Accounting Standards Board as mandated by generally accepted auditing standards.

At the completion of this contract, the auditor will make available all work papers to the successor auditor in a timely manner.

C. Auditing Standards to Be Followed

To meet the requirements of this request for proposal, these audits are to be performed in accordance with all applicable and generally accepted auditing standards including but not limited to: the standards set forth for financial audits by the Governmental Accounting Standards Board (GASB), in the General Accounting Office's (GAO) Government Auditing Standards, and the U.S. Office of Management and Budget (OMB) Circular A-133, Audits of State and Local Governments and Non-Profit Organizations.

D. Financial Statements to Be Issued

Following the completion of the audit of the City of Antioch, the following reports and financial statements are to be issued:

1. City of Antioch Comprehensive Annual Financial Report
2. Antioch Development Agency Component Unit Financial Statements
3. City of Antioch Public Financing Authority Component Unit Financial Statements
4. Antioch Area Public Facilities Financing Agency Financial Statements
5. City of Antioch Single Audit Report
6. Appropriation Limit Letter
7. Management and Internal Control Recommendations

Reporting to the City Council. Auditors shall assure themselves that the City of Antioch's City Council is informed of each of the following:

1. The auditor's responsibility under generally accepted auditing standards.
2. Significant accounting policies.
3. Management judgments and accounting estimates.

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4. Significant audit adjustments.
5. Other information in documents containing audited financial statements.
6. Disagreements with management.
7. Management consultation with other accountants.
8. Major issues discussed with management prior to retention.
9. Difficulties encountered in performing the audit.

E. Reports

1. The City of Antioch will send its comprehensive annual financial report to the Government Finance Officers Association of the United States and Canada for review in their Certificate of Achievement for Excellence in Financial Reporting program. It is anticipated that the auditor will be required to provide limited assistance to the City of Antioch to meet the requirements of that program.
2. The City of Antioch has determined that the United States Department of Housing and Urban Development will function as the cognizant agency in accordance with the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133 Audits of State and Local Governments and Non-Profit Organizations.
3. The schedule of federal financial assistance and related auditor's report, as well as the reports on the internal controls and compliance are not to be included in the comprehensive annual financial report, but are to be issued separately.

III. DESCRIPTION OF THE GOVERNMENT

A. The auditor's principal contact with the City of Antioch will be Jo Castro, Assistant Finance Director, (925)779- 6134. Due to the ongoing economic crisis and its impact to the City's budget, City Offices are closed every Friday for the foreseeable future.

B. Background Information

The City of Antioch serves an area of approximately 28 square miles with a population of 100,957. The City of Antioch's fiscal year begins on July 1 and ends on June 30.

The City of Antioch provides the following services to its citizens: police protection; water services; sewer maintenance; construction and maintenance of streets, roads, and infrastructure; planning and zoning; parks and recreation; and general administration and support services. The City of Antioch has a total annual payroll of approximately \$32 million covering 400 employees.

C. Fund Structure

The City of Antioch uses the following fund types and account groups in its financial reporting:

Fund Type	Number of Funds and Discretely Presented Component Units	Number of Funds with Legally Adopted Annual Budgets
General Fund	1	1
Special Revenue	33	33
Debt Service	4	4
Capital Project	13	13
Enterprise	7	7
Internal Service	7	7
Agency	9	1

D. Budgetary Basis of Accounting

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Budgets for the General, Special Revenue and Debt Service Funds are adopted on a basis consistent with generally accepted accounting principles. The modified accrual basis of accounting is employed in the preparation of the budget. At fiscal year end, budget appropriations lapse. Capital projects are budgeted on a multiyear basis. Incomplete capital improvement budget appropriations are carried over in the following fiscal year.

E. Pension Plans

The City of Antioch contributes to the California Public Employees' Retirement System (PERS), an agent multiple-employer public employee retirement system that acts as a common investment and administrative agent for participating public entities within the State of California. The City also offers a 457 deferred compensation plan to all employees. The City of Antioch also participates, in the case of certain employees, in 401 (a) plans. Some part time employees are covered under a PARS plan.

The City of Antioch provides postretirement medical benefits to all eligible employees and their surviving spouses under the provision of three formal City-sponsored plans. The City's contributions are advanced-funded on a actuarially determined basis and recorded in the CalPERS Trust (CERBT).

F. Component Units

The City of Antioch is defined, for financial reporting purposes, in conformity with the Governmental Accounting Standards Board's Codification of Governmental Accounting and Financial Reporting Standards, Section 2100. Using these criteria, the Antioch Development Agency and the Antioch Public Financing Authority are included in the City of Antioch's financial statements.

G. Joint Ventures

The City of Antioch and the Antioch Unified School District are members of the Antioch Public Facilities Financing Agency (AAPFFA), a community facilities district comprising part of the City and the School District. The AAPFFA was formed to finance construction and acquisition of school facilities for the School District and public facilities for the City.

The City of Antioch and Contra Costa County are members of the Contra Costa Home Mortgage Financing Authority (Home Mortgage). The Home Mortgage issued 1984 Home Mortgage Revenue Bonds for the purpose of facilitating the financing of low income home mortgages in the City and County. The Home Mortgage is governed by a board consisting of representatives of the County and City. The board controls the operations and finances of the Authority, independent of influence by the City. Therefore, the Home Mortgage is excluded from the City's reporting entity.

H. Financial Operations

The City of Antioch's Finance Department is headed by Dawn Merchant, Finance Director, and consists of the following:

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Function	No. of Employees
Department Administration	1
Accounting (accounting and reporting, payroll, accounts payable)	5
Operations (utility billing and collection, business licenses, cashiering, accounts receivable)	5
Purchasing	1
Mail Room and Printing	1

I. Computer System

The City of Antioch's main financial applications operate on a Unix System located in Chico (ASP site) and are networked to users. Accounting software is Bi-Tech from SunGard.

J. Availability of Prior Audit Reports

Interested proposers who wish to review prior years' audit reports and management letters can review this information by contacting the Finance Department.

IV. TIME REQUIREMENTS

A. Key Dates for Proposal Evaluation and Selection:

Request for Proposal Issued	November 2, 2009
Due Date for Proposals	November 30, 2009 (4:00 PM)
Interview with Finalists*	Week of December 7, 2009
Selected Firm Notified*	December 14, 2009

*Projected dates, subject to change

B. Date Audit May Commence

The City of Antioch will have all records ready for preliminary audit field work and all management personnel available to meet with the firm's personnel as of April 2010.

C. Schedule for the 2009-10 Fiscal Year Audit (similar schedules will be developed in subsequent years).

Each of the following should be completed by the auditor no later than the dates indicated:

1. Entrance Conference - April 2010 - The purpose of this meeting will be to discuss any prior audit problems and the interim work to be performed. This meeting will also be used to establish overall liaison for the audit and to make arrangements for work space and other needs of the auditor.
2. Detailed Audit Plan - June 2010 - The auditor shall provide both a detailed audit plan and a list of all schedules to be prepared by the City of Antioch.
3. Interim and Field Work - To be set as agreed upon between City and auditor. City staff shall have balance sheet reconciliations and draft financial statements ready for auditor fieldwork by October 18, 2010.
4. Draft Reports - The auditor shall have drafts of the audit reports and recommendations to management available for review. The Finance Director and Assistant Finance Director

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will complete their review of the draft report as expeditiously as possible. It is not expected that this process should exceed one week. During that period, the auditor should be available for any meetings that may be necessary to discuss the audit reports.

5. Date Final Report is Due -

CAFR complete and ready to print by	November 30, 2010
Antioch Area Public Facilities Financing Agency	November 30, 2010
Single Audit and Other Reports	February 15, 2011

V. ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION

A. Finance Department and Clerical Assistance

The Finance Department staff and responsible management personnel will be available during the audit to assist the firm by providing direction to needed sources of information, documentation and explanations. The City of Antioch will prepare the confirmation letters.

B. Statements and Schedules to be prepared by City staff

Finance Department staff will prepare the lead schedules, financial statements, notes, statistics and required supplementary schedules. However, auditor assistance may be required with certain note disclosures or schedules.

C. Report Preparation

The City of Antioch will be responsible for preparation and printing of the following: Comprehensive Annual Financial Report, Antioch Development Agency Report, and Antioch Area Public Facilities Financing Agency Report. Report preparation, editing and typing of the Single Audit shall be the responsibility of the auditor. We request that the selected firm prepare the statements for the Antioch Public Financing Authority Report.

VI. PROPOSAL REQUIREMENTS

A. General Requirements

1. Inquiries - Inquiries regarding the proposal process and submittals should be directed to Jo Castro, Assistant Finance Director.

CONTACT WITH PERSONNEL OF THE CITY OF ANTIOCH OTHER THAN JO CASTRO, ASSISTANT FINANCE DIRECTOR, OR DAWN MERCHANT, FINANCE DIRECTOR, REGARDING THIS REQUEST FOR PROPOSAL MAY BE GROUNDS FOR ELIMINATION FROM THE SELECTION PROCESS

2. Submission of Proposals - The following material is required to be received by November 30, 2009, 4:00 PM, for a proposing firm to be considered:
 - a. A Master Copy (so marked) and five copies of the Technical Proposal to include the following:
 - i. Title Page - Title page showing the request for proposals subject; the firm's name; the name, address and telephone number, and e-mail address of the contact person; and the date of the proposal.
 - ii. Table of Contents
 - iii. Transmittal Letter - A signed letter of transmittal briefly stating the proposer's understanding of the work to be done, the commitment to

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perform the work within the time period, a statement why the firm believes itself to be best qualified to perform the engagement and a statement that the proposal is a firm and irrevocable offer for a minimum of 60 days.

- iv. Detailed Proposal - The detailed proposal should follow the order set forth in Section VI B of this request for proposals.
 - v. Executed copies of Proposer Guarantees and Proposer Warranties, attached to this request for proposal (Appendix B and Appendix C, respectively).
- b. The proposer shall submit five copies of a dollar cost bid in a separate sealed envelope marked as follows:

**SEALED DOLLAR COST BID PROPOSAL
FOR CITY OF ANTIOCH
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B. Technical Proposal

1. General Requirements

THERE SHOULD BE NO DOLLAR UNITS OR TOTAL COSTS INCLUDED IN THE TECHNICAL PROPOSAL DOCUMENT

The purpose of the Technical Proposal is to demonstrate the qualifications, competence and capacity of the firms seeking to undertake an independent audit of the City of Antioch in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than their form or manner of presentation. The Technical Proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposal's requirements.

2. Independence

The firm should provide an affirmative statement that it is independent of the City of Antioch as defined by generally accepted auditing standards. In addition, the firm shall give the City of Antioch written notice of any professional relationships entered into during the period of this agreement.

3. License to Practice in the State of California

An affirmative statement should be included that the firm and all assigned key professional staff are properly licensed to practice in the State of California.

4. Firm Qualifications and Experience

The proposer should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis.

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If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal auditor should be noted, if applicable.

The firm is also required to submit a copy of the report on its most recent external quality control review, with a statement whether that quality control review included a review of specific government engagements.

The firm shall also provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state regulatory bodies or professional organizations.

5. Partner, Supervisory and Staff Qualifications and Experience

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists, who would be assigned to the engagement. Indicate whether each such person is registered or licensed to practice as a certified public accountant in California. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past three (3) years and membership in professional organizations relevant to the performance of this audit.

Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this engagement. Indicate how the quality of staff over the term of the agreement will be assured.

The proposer should identify the extent to which staff to be assigned to the audit reflect the City of Antioch's commitment to Affirmative Action.

Engagement partners, managers, other supervisory staff and specialists may be changed if those personnel leave the firm, are promoted or are assigned to another office. These personnel may also be changed for other reasons with the express prior written permission of the City of Antioch. However, in either case, the City of Antioch retains the right to approve or reject replacements.

Consultants and firm specialists mentioned in response to this request for proposal can only be changed with the express prior written permission of the City of Antioch, which retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the proposer provided that replacements have substantially the same or better qualifications or experience.

6. Similar Engagements with Other Government Entities

For the firm's office that will be assigned responsibility for the audit, list the most significant engagements performed in the last five years that are similar to the engagement described in this request for proposal. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

7. Specific Audit Approach

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The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposal. In developing the work plan, reference should be made to such sources of information as the City of Antioch's budget and related materials, manuals and programs and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- a. Proposed segmentation of the engagement
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement.
- c. Sample size and the extent to which statistical sampling is to be used in the engagement.
- d. Extent of use of EDP software in the engagement.
- e. Type and extent of analytical procedures to be used in the engagement.
- f. Approach to be taken to gain and document an understanding of the City of Antioch's internal control structure.
- g. Approach to be taken in determining laws and regulations that will be subject to audit test work.
- h. Approach to be taken in drawing audit samples for purposes of tests of compliance.

8. Identification of Anticipated Potential Audit Problems

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the City of Antioch.

9. Report Format

The proposal should include sample formats for required reports.

NO DOLLARS SHOULD BE INCLUDED IN THE TECHNICAL PROPOSAL

C. Sealed Dollar Cost Bid

1. Total All-Inclusive Maximum Price

The sealed dollar cost bid shall contain all pricing information relative to performing the audit engagement for each of the three contract years as described in this request for proposal. The total all-inclusive maximum price to be bid is to contain all direct and indirect costs including all out-of-pocket expenses. In addition, please specify the amount of the total all-inclusive maximum price which pertains to the Antioch Area Public Facilities Financing Agency Financial Statements.

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The City of Antioch will not be responsible for expenses incurred in preparing and submitting the technical proposal or the sealed dollar cost bid. Such costs should not be included in the proposal.

The first page of the sealed dollar cost bid should include the following information:

- a. Name of Firm
 - b. Certification that the person signing the proposal is entitled to represent the firm, empowered to submit the bid, and authorized to sign a contract with the City of Antioch.
 - c. A Total All-Inclusive Maximum Price for each year of the engagement.
2. Rates by Partner, Specialist, Supervisory and Staff Level Times Hours Anticipated for Each

The second page of the sealed dollar cost bid should include a schedule of professional fees and expenses, presented in the format provided in the attachment (Appendix C), which supports the total all inclusive maximum price.

3. Out-Of-Pocket Expenses Included in the Total All-Inclusive Maximum Price and Reimbursement Rates

All estimated out-of-pocket expenses to be reimbursed should be presented on the second page of the sealed dollar cost bid in the format provided in the attachment (Appendix D). All expense reimbursements will be charged against the total all-inclusive maximum price submitted by the firm.

4. Rates for Additional Professional Services

If it should become necessary for City of Antioch to request the auditor to render any additional services to either supplement the services requested in this RFP or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the City of Antioch and the firm. Any such additional work agreed to between the City of Antioch and the firm shall be performed at the same rates set forth in the schedule of fees and expenses included in the sealed dollar cost bid.

5. Manner of Payment

Progress payments will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's dollar cost bid proposal. Interim billing shall cover a period of not less than a calendar month.

VII. EVALUATION PROCEDURES

- A. Interview Committee

Proposals submitted will be evaluated by staff selected by the Finance Director.

- B. Review of Proposals

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City staff will use a point formula during the review process to score proposals. Each staff person will first score each technical proposal by each of the criteria described in Section VII C below. Staff will then convene to review and discuss these evaluations and to combine the individual scores to arrive at a composite technical score for each firm. At this point, firms with an unacceptably low technical score will be eliminated from further consideration.

After the composite technical score for each firm has been established, the sealed dollar cost bid will be opened and additional points will be added to the technical score based on the price bid. The maximum score for price will be assigned to the firm offering the lowest total all-inclusive maximum price. Appropriate fractional scores will be assigned to other proposers.

The City of Antioch reserves the right to retain all proposals submitted and use any idea in a proposal regardless of whether that proposal is selected.

C. Evaluation Criteria

Proposals will be evaluated using three sets of criteria. Firms meeting the mandatory criteria will have their proposals evaluated and scored for both technical qualifications and price. The following represent the principal selection criteria which will be considered during the evaluation process.

1. Mandatory Elements

- a. The audit firm is independent and licensed to practice in California.
- b. The firm has no conflict of interest with regard to any other work performed by the firm for the City of Antioch.
- c. The firm adheres to the instructions in this request for proposal on preparing and submitting the proposal.
- d. The firm submits a copy of its last external quality control review report and the firm has a record of quality audit work.

2. Technical Qualifications: (Maximum Points - 60)

- a. Expertise and Experience
 - i. The firm's past experience and performance on comparable government engagements.
 - ii. The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.
- b. Audit Approach
 - i. Adequacy of proposed staffing plan for various segments of the engagement.
 - ii. Adequacy of sampling techniques
 - iii. Adequacy of analytical procedures.

3. Price: (Maximum Points - 40)

**COST WILL NOT BE THE PRIMARY FACTOR IN THE SELECTION OF AN
AUDIT FIRM**

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D. Oral Presentations

During the evaluation process, City Staff may request any one or all firms to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions City Staff may have on a firm's proposal. Not all firms may be asked to make such oral presentations.

E. Final Selection

The City of Antioch will select a firm based upon the recommendation of City staff.

It is anticipated that a firm will be selected by December 14, 2009. Following notification of the firm selected, it is expected a contract will be executed between both parties by January 31, 2010.

F. Right to Reject Proposals

Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of Antioch and the firm selected.

The City of Antioch reserves the right without prejudice to reject any or all proposals.

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APPENDIX A

PROPOSER GUARANTEES

- I. The proposer certifies it can and will provide and make available, as a minimum, all services set forth in Section II, Nature of Services Required.
- II. The proposer has read the Request for Proposal and agrees that the rights and prerogatives as detailed in that document are retained by the City of Antioch.
- III. The proposer agrees to be bound by the contractual requirements delineated in the Request for Proposal.

Signature of Official: _____

Name (print) _____

Title: _____

Firm: _____

Date: _____

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APPENDIX B

PROPOSER WARRANTIES

- A. Proposer warrants that it is willing and able to comply with State of California laws with respect to foreign (non-state of California) corporations.
- B. Proposer warrants that it is willing and able to obtain an errors and omissions insurance policy providing a prudent amount of coverage for the willful or negligent acts, or omissions of any officers, employees or agents thereof.
- C. Proposer warrants that it will not delegate or subcontract its responsibilities under an agreement without the prior written permission of the City of Antioch.
- D. Proposer warrants that all information provided by it in connection with this proposal is true and accurate.

Signature of Official: _____

Name (print) _____

Title: _____

Firm: _____

Date: _____

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APPENDIX C

**SCHEDULE OF PROFESSIONAL FEES AND EXPENSES FOR THE AUDIT OF THE 2009/10
FINANCIAL STATEMENTS:
COMBINING SCHEDULE - ALL SERVICES
DESCRIBED IN RFP SECTION II E**

Nature of Service to be Provided	Total Price	Schedule

EACH SERVICE DESCRIBED IN RFP SECTION II E SHOULD BE SUPPORTED BY AN INDIVIDUAL SCHEDULE

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APPENDIX D

**SCHEDULE OF PROFESSIONAL FEES AND EXPENSES
FOR THE AUDIT OF THE FINANCIAL STATEMENTS**

	Hours	Standard Hourly Rates	Quoted Hourly Rates	Total
Partners				
Managers				
Supervisory Staff				
Other (specify): _____ _____				
Subtotal				
Total for services described in Section III E of the RFP (detail on subsequent pages)				
Out -of- pocket expenses: _____				
Meals and lodging				
Transportation				
Other (specify): _____ _____				
Total all-inclusive maximum price for 2009/10 audit				
Inflation rate				
Total all-inclusive maximum price for 2010/11 audit				
Inflation rate				
Total all-inclusive maximum price for 2011/12 audit				
Inflation rate				

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APPENDIX E

**SAMPLE CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF ANTIOCH AND
[NAME OF CONSULTANT]**

THIS AGREEMENT for consulting services is made by and between the City of Antioch ("City") and _____ ("Consultant") as of _____, 200_.

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 **Term of Services.** The term of this Agreement shall begin on the date first noted above and shall end on _____, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City' right to terminate the Agreement, as provided for in Section 8.

1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession.

1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agree to pay Consultant a sum not to exceed _____, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth below. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;

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- At City' option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services. The Consultant's signature.

2.2 Payment Schedule.

2.2.1 City shall make incremental payments, based on invoices received, according to the payment schedule attached as Exhibit B, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements of Section 2.1 to pay Consultant.

2.2.2 City shall pay the last 10% of the total sum due pursuant to this Agreement within sixty (60) days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the following fee schedule: _____

2.5 Reimbursable Expenses. Reimbursable expenses are specified below, and shall not exceed _____ (\$ _____). Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

2.6 Payment of Taxes. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.7 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, shall procure "occurrence coverage" insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work by the Consultant and its agents, representatives, employees, and subcontractors. Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until

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Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000.00) per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and their officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.2 **Commercial General and Automobile Liability Insurance.**

- 4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000.00) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

- 4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (ed. 11/88) or Insurance Services Office form number GL 0002 (ed. 1/73) covering comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (ed. 12/90) Code 1 ("any auto"). No endorsement shall be attached limiting the coverage.

- 4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- a. City and their officers, employees, agents, and volunteers shall be covered as insureds with respect to each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied, or used by Consultant; and automobiles owned, leased, or used by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City or their officers, employees, agents, or volunteers.
- b. The insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- c. An endorsement must state that coverage is primary insurance with respect to the City and their officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

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- d. Any failure of CONSULTANT to comply with reporting provisions of the policy shall not affect coverage provided to CITY and its officers, employees, agents, and volunteers.
- e. An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
- f. The policy must contain a cross liability or severability of interest clause.

4.3 **Professional Liability Insurance.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than ONE MILLION DOLLARS (\$1,000,000) covering the licensed professionals' errors and omissions.

4.3.1 Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 An endorsement shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

4.3.3 The following provisions shall apply if the professional liability coverages are written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the Agreement or the work. The City shall have the right to exercise, at the Consultant's sole cost and expense, any extended reporting provisions of the policy, if the Consultant cancels or does not renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this Agreement.

4.4 **All Policies Requirements.**

4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance and with original endorsements effecting coverage. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The City reserve the right to require complete, certified copies of all required insurance policies, at any time.

4.4.3 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

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- 4.4.4 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

During the period covered by this Agreement, only upon the prior express written authorization of Contract Administrator, Consultant may increase such deductibles or self-insured retentions with respect to City and their officers, employees, agents, and volunteers. The Contract Administrator may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 4.4.5 **Notice of Reduction in Coverage.** In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five days after Consultant is notified of the change in coverage.

- 4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES

5.1. CONSULTANT shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the CITY) and hold harmless CITY, and its employees, officials, volunteers and agents ("Indemnified Parties") from and against any and all losses, claims, damages, costs and liability arising out of any personal injury, loss of life, damage to property, or any violation of any federal, state, or municipal law or ordinance, arising out of or resulting from the performance of this Agreement by CONSULTANT, its officers, employees, agents, volunteers, subcontractors or sub-consultants, excepting only liability arising from the sole negligence, active negligence or intentional misconduct of CITY.

5.2. In the event that Consultant or any employee, agent, sub-consultant or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, sub-consultants or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

5.3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

5.4. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant

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only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.

- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other

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materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in their sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City' remedies shall include, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement; and/or
- 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant in which case the City may charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

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- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

- 10.1 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 10.2 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.3 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.4 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.5 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.6 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*
Consultant shall not employ any official of City in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.
- 10.7 **Inconsistent Terms.** If the terms or provisions of this Agreement conflict with or are inconsistent with any term or provision of any attachment or Exhibit attached hereto, then the terms and provisions of this Agreement shall prevail.
- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by _____ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

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10.10 **Notices.** Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:

City Manager
City of Antioch
P. O. Box 5007
Antioch, CA 94531-5007

10.11 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibit A, and all other attachments, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

CITY:

CITY OF ANTIOCH

CONSULTANT:

[NAME OF CONSULTANT]

Jim Jakel, City Manager

[NAME, TITLE]

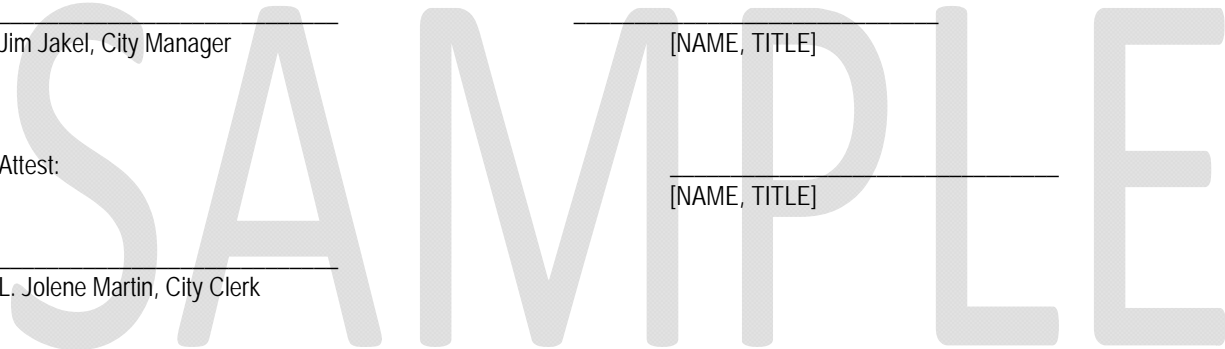
Attest:

L. Jolene Martin, City Clerk

[NAME, TITLE]

Approved as to Form:

Lynn Tracy Nerland, City Attorney



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SAMPLE CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF ANTIOCH AND
[NAME OF CONSULTANT]

EXHIBIT A- SCOPE OF SERVICES

Specific Scope of services to be inserted based on agreed upon terms

SAMPLE

**CITY OF ANTIOCH
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SAMPLE CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF ANTIOCH AND
[NAME OF CONSULTANT]

EXHIBIT B- PAYMENT SCHEDULE

Payment Schedule to be inserted based on agreed upon terms

SAMPLE