



**THE CITY OF CHULA VISTA
REQUEST FOR PROPOSAL
RFP P29-2024**

Notice is hereby given that proposals will be received until 3:00 P.M. on Monday, May 20, 2024, Pacific Standard Time (PST), furnishing the City of Chula Vista with:

University Innovation District (UID) Feasibility Study

Prospective Proposers are hereby referred to the proposal instructions, general provisions, and terms and conditions contained in this request for proposal. All proposals must be submitted through PlanetBids by the due date and time. Late proposals or proposals received via email/fax will not be considered. If you experience technical difficulties submitting your proposal, you must first contact PlanetBids (818) 992-1771 to receive technical assistance. If PlanetBids is unable to address your issue, you must notify Victor De La Cruz / vdelacruz@chulavistaca.gov.

Questions related to the proposal must be submitted through PlanetBids. Questions must be received by 3:00 P.M. Thursday, May 9, 2024. Answers will be uploaded to PlanetBids no later than 5:00 P.M. Tuesday May 14, 2024.

The City reserves the right to reject any or all proposals received any portion of any proposal and to waive any irregularities or informalities in proposals or the RFP process. Any addenda that are issued through this RFP must be signed and returned with your submittal.

Victor De La Cruz
Procurement Services Analyst



Schedule

| Activity | Date |
|---------------------------------------|---------------------------------------|
| RFP Posted to PlanetBids | May 3, 2024 |
| Question Submittal through PlanetBids | May 9, 2024, by 3:00 P.M. |
| Response to Questions Released | May 14, 2024, no later than 5:00 P.M. |
| RFP Response and Proposal Due | May 20, 2024, no later than 3:00 P.M. |
| Presentations/Interviews | May 29 & 30 2024 |
| Selection of Consultant | May 31, 2024 |
| Council Adoption | June 11, 2024 |
| Contract Inception | June 11, 2024 |

Objective

The City of Chula Vista requests information and qualifications from interested planning firms to provide feasibility study services including conceptual planning and estimating for the first phase of the Chula Vista University and Innovation District (UID). The UID Sectional Planning Area Plan (SPA Plan) was completed and adopted in 2018. The City envisions the first phase of development will encompass at least 20 acres within the 383.8-acre UID site. The objective of this Request for Proposal (RFP) is to contract for the development of a feasibility study for the first phase of the City of Chula Vista UID. Responses must demonstrate a track record of delivering similar studies for municipal and university end users.

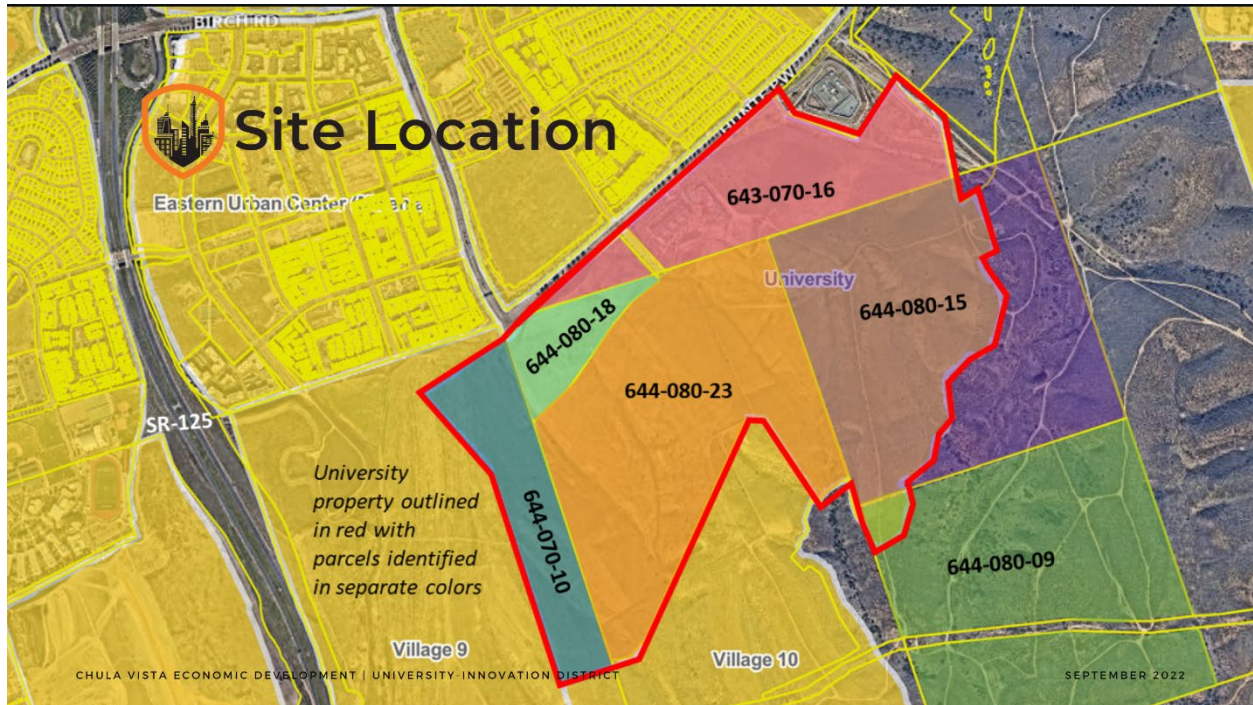
Background

The City of Chula Vista is located in southern San Diego County, approximately seven miles north of the international border with Mexico. Chula Vista is the second largest City in the County, the 15th largest in California and the 75th largest City in the United States. With a population of 277,000 residents, the City of Chula Vista is one of largest employers in the county with over 1,000 regular employees.

The City of Chula Vista is a full-service charter city providing a range of services including police, fire, animal care, library, public works, parks and recreation, development services, and economic development.

The City of Chula Vista strives to preserve its fiscal health by utilizing continuous improvement tools and best practices, ensuring strong and secure neighborhoods though maximizing police and fire services, increasing local land use control through policy, planning, infrastructure and services that are fundamental to an economically strong city, and supporting an environment that fosters health and wellness for our residents.

University and Innovation District



The Chula Vista UID contains 383.8 acres of land envisioned as a multi-institutional campus which enables the City to recruit and co-locate a mix of academic partners reflecting the CaliBaja region’s educational and employment needs. The City has established the following objectives for the UID:

- 1) Provide higher education opportunities for Chula Vista residents and the broader San Diego-Tijuana region.
- 2) Prepare students for post-university careers that allow for lasting personal and professional growth.
- 3) Develop a financially viable university entity that incorporates the newest educational delivery models.
- 4) Attract a wide range of educational and research partners.
- 5) Assist in developing creative solutions to critical environmental, social, and economic issues facing the world and the community.
- 6) Serve as an economic engine that contributes to the growth of the City and region, thereby enhancing the quality of life for South Bay residents.
- 7) Provide a source of high-quality jobs and contribute to diversifying the City’s economy.
- 8) Become an integral part of the fabric of the community, fostering arts and cultural enrichment for the residents of Chula Vista and the region.
- 9) Develop a flexible campus that allows for ongoing growth and innovation, is physically well-integrated and connected to the surrounding neighborhood and region.
- 10) Maximize accessibility to the campus by providing multi-modal streets, access to transit and trails, and amenities that support and encourage alternative modes.

Development of the UID is subject to the phasing requirements contained in Government Code Section [54221\(f\)\(1\)\(P\)](#).



Existing Documents

The following documents are linked or attached and shall inform the development of the feasibility study:

Link A) UID SPA Plan - <https://www.chulavistaca.gov/departments/development-services/planning/planning-digital-library/spa-plan>

Link B) UID EIR - <https://www.chulavistaca.gov/departments/development-services/planning/planning-digital-library/eir>

Link C) State Lands Act Exemption:

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=2.&title=5.&part=1.&chapter=5.&article=8.

Attachment A) UID 2' topo - University2FtContourCAD & Attachment A.1 University2FtContourCAD.dwg

Attachment B) SDGE Easement

Scope of Work (SOW)

Vendors must be able to, **at a minimum**, provide the services outlined below. The Vendor Question section of the RFP will address your organization's approach and method for satisfying each of the listed items. All quoted fees should include providing the requested services outlined below.

1. (2 weeks) Research and Analysis.

Provide approach for analysis, confirmation, and documentation of key goals including design approach, phasing, location/orientation, and site selection.

2. (2 weeks) Develop and Present Alternatives.

Complete three development options for presentation/selection of preferred option to City stakeholders:

Each option will communicate the vision, scale, phasing, program data, and parking; include preliminary blocking plans with key identity elements; general information in graphic and tabular form regarding building SF, floor plates, heights, hard/landscape, parks & open space active residential open space, other public use (including public trails), education, public mass transit elements, vehicular and pedestrian circulation.

Develop a subconsultant budget schedule and participate in selecting subconsultants as needed to complete the phase 1 study.

Present value proposition between options for City selection.



3. (2 Weeks) Concept Development.

All materials will be formally produced and provided to City.

A. Master Plan Analysis:

Compare the conceptual phase 1 vision plan to existing University Innovation District plan for the site (program, key elements, density, traffic, open space, etc.).

B. Transportation:

Collaborate with the City on Pedestrian and Vehicular circulation and design integration.

C. Architecture:

Preliminary architectural massing, sample elevations and sections will be conceptualized and presented for comment.

D. Code Analysis:

Preliminary code review with the City of Chula Vista Development Services Department and any other key agencies related to the project.

E. Phasing:

Preliminary Project Phasing plan.

F. Estimating:

Conceptual costs for sitework/infrastructure

G. Presentation:

Present the option to City for selection as the final program and study for Phase 1 of the University Innovation District.

4. (2 Weeks) Feasibility Study Deliverable

Develop concept plan that meets University Innovation District guidelines for use in Public Meetings and Presentations. Include technical studies, finalized architectural concepts, financial modeling, and contractor conceptual pricing related to the development.

Include exhibits/artistic renderings along with a 3D Model that can be used for dynamic tour of the site and option within masterplan. Photo realistic renderings are highly desirable.

Other

City shall have the right to use all materials produced by the architect for marketing, media, and any other purposes. All work product/s will be transmitted to the Owner's Environmental Consultant, Traffic and Civil Engineer.

Proposal Form and Content

The City will accept proposals in accordance with the instructions and specifications in this Request for Proposal (RFP).

- A. Provide one (1) original PDF document uploaded in PlanetBids on or before the date identified in this RFP.
- B. PREPARATION: Proposals should be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP and should address how your firm would provide the services identified in the Scope of Work.
- C. PROPOSAL FORMAT: Proposals shall adhere to the following format for organization and content. Proposals must be divided into the individual sections listed below.
- D. GENERAL INFORMATION AND EXPERIENCE: Provide a brief description of your organizational structure. Identify the number of years of experience in providing services, similar in size and scope to that requested in the RFP.
- E. CAPABILITIES: This relates to the individual/firm's capabilities to provide the professional services described in the Scope of Services. Please demonstrate the individual/firm's capabilities, using specific accomplishments, the individual/firm's role in the process, and key points of contact lobbied and/or coordinated with to achieve a successful outcome. Provide five (5) client references for which your Firm has provided similar services. References shall include date and description of service, project location, completion dates, organization's name, contact person, title, address, and telephone number.
- F. POINT OF CONTACT: Identify the primary contact for the City and other subconsultants that are proposed to be used. Backgrounds or biographies should be provided.
- G. FIRM'S METHODOLOGY AND APPROACH TO WORK: This should include a description of your proposed working conditions, assumptions, and methodology to provide the requested services that were used to develop the fee proposal.
- H. FIRM'S PHILOSOPHY AND ETHICAL STANDARDS: Provide a detailed description of the firm's philosophy and ethical standards.
- I. FEE PROPOSAL: The proposal shall provide their fee proposal per task identified in the SOW including a not to exceed total. Fee proposals should include the proposed teams' hourly rates and for any services that may arise outside the SOW.
- J. TABLE OF CONTENTS - The table of contents shall identify the contents of the proposal in a format consistent with the proposal requirements and format set forth herein.
- K. **Respondent shall provide information regarding any previous security breaches.**

Evaluation Method

All proposals shall be reviewed to verify that the Respondent has met the minimum requirements. Proposals that have not complied with requirements, do not meet minimum content and quality standards, or make unacceptable exceptions to the Solicitation Terms and Conditions or 2-party agreement, will be eliminated from further consideration. Proposals will be reviewed and evaluated by an evaluation committee comprised of City of Chula Vista personnel. The City of Chula Vista intends to accept the proposal it determines to be in the best interests of the City, based on the overall proposal, not exclusively on cost or any other specific factor. The City reserves the right to amend, modify, reject, negotiate, or accept any proposal in whole or in part at its sole discretion.

Evaluation Criteria

The award to the successful Respondent will be based upon response to the requirements outlined in this RFP, and an estimate of the quality and effectiveness of each it's services in the following areas (not listed in order of importance):

- a. Experience/Past Performance/References (Must have demonstrated experience providing similar services for municipalities and university users) – Consideration will be given based upon the firm's experience, years in business, past and current client references; technical expertise and professional competence in areas directly related to this RFP; number of years' experience in performing similar services for California municipalities and universities.
- b. Personnel – Respondent shall submit resumes of all primary professional staff members who will be performing services under the contract. Respondent should demonstrate that all key personnel have been successfully involved with projects of similar scope and magnitude.
- c. Qualifications – This category will evaluate the Respondent's ability to take upon itself the responsibilities set forth in the Scope of Work and produce the required outcome in a timely manner. Consideration will be given for the overall quality of the proposal, including a demonstrated understanding of the purpose, scope and objective of the services to be performed. It is the intention of the City of Chula Vista to award a contract to the Respondent who furnishes satisfactory evidence that the Respondent has the requisite experience and ability to enable the Respondent to prosecute the work successfully and properly, and to complete services in a timely manner. To determine the degree of responsibility to be credited to the Respondent, the City of Chula Vista will weigh the evidence that the Respondent has performed satisfactorily other contracts of like nature, magnitude and comparable difficulty and comparable rates of progress.
- d. Proposed Cost
- e. Optional Interview – In the event the City decides that interviews are necessary, Respondents who are finalists will be notified as promptly as possible. Each interview will consist of a presentation of no longer than one (1) hour. Notice of confirmation of the interview date/time will be given by telephone or in writing.



GENERAL CONDITIONS

Payment Terms Terms: _____ % _____ Days

Prompt payment discounts offered for less than fifteen (15) days will *not* be considered in evaluating bids for award. However, discounts offered of less than fifteen (15) days will be taken if payment is made by the City within the discount period. In the absence of terms, payment shall be Net Thirty (30) Days.

Payment Method

The City’s preferred payment method is J.P. Morgan’s Single-Use Accounts (SUA) virtual card payment program ******(see below for SUA benefits), or EFT/ACH. Please confirm whether your company accepts these forms of payment for invoices.

SUA: Yes No **EFT:** Yes No

If SUA is not accepted, the City will make payments through Electronic Funds Transfer (EFT or ACH) and will need the information below:

Bank ABA # _____ Bank Account # _____
Bank Name _____
Bank Address _____
Checking or Savings Account _____

**** Benefits of SUA Virtual Card Payment Program**

There are many benefits when accepting SUA payment, including:

- accelerated payments that will help reduce days sales outstanding (DSO)
- a simplified process that eliminates the cost of processing checks
- the ability to reduce administration expenses, account collections and follow-ups
- upon your enrollment in our SUA program, we will convert your payment terms to Net 15 days

Enrolling in this initiative can help strengthen our business relationship, and we are strongly committed to achieving 100% participation from our valued suppliers.

Public Agency Participation

Other public agencies (e.g. city, county, public corporation, political subdivision, school district, or water authority) may want to participate in any award as a result of this bid. The City of Chula Vista shall incur no financial responsibility in connection with any purchase by another public agency. The public agency shall accept sole responsibility for placing orders and making payments to the successful respondent. This option will *not* be considered in bid evaluation. Please indicate whether this will be granted.

Yes _____ No _____

Business License

A Business License is required as outlined in the Chula Vista Municipal Code Section 5.02.020, which states: *It is unlawful for any person, or for any person as agent, clerk or employee, either for himself or for any other person, within the corporate limits of the City, to transact, engage in, or carry on any business, show, exhibition or game hereinafter specified without first having procured a license.*

Signature

Date

This page must be completed and returned with response.



CONSULTANT LEVINE ACT DISCLOSURE

California Government Code section 84308, commonly referred to as the Levine Act, prohibits any City of Chula Vista Officer¹ (“Officer”) from taking part in decisions related to a contract if the Officer received a political contribution totaling more than \$250 within the previous twelve months, and for twelve months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. The Levine Act does not apply to competitively bid, labor, or personal employment contracts.

- A. The Levine Act (Govt. Code §84308) DOES NOT apply to this Agreement.
- B. The Levine Act (Govt. Code §84308) does apply to this Agreement and the required disclosure is as follows:

Current Officers can be located on the City of Chula Vista’s websites below:

- Mayor & Council - <https://www.chulavistaca.gov/departments/mayor-council>
- City Attorney - <https://www.chulavistaca.gov/departments/city-attorney/about-us>
- Planning Commissioners – www.chulavistaca.gov/pc
- Candidate for Elected Office – www.chulavistaca.gov/elections

1. Have you or your company, or any agent on behalf of you or your company, made political contributions totaling more than \$250 to any Officer in the 12 months preceding the date you submitted your proposal, the date you completed this form, or the anticipated date of any Council action related to this Agreement?

YES: If yes, which Officer(s): Click or tap here to enter text.

NO:

2. Do you or your company, or any agent on behalf of you or your company, anticipate or plan to make political contributions totaling more than \$250 to any Officer in the 12 months following the finalization of this Agreement or any Council action related to this Agreement?

YES: If yes, which Officer(s): Click or tap here to enter text.

NO:

Answering yes to either question above may not preclude the City of Chula Vista from entering into or taking any subsequent action related to the Agreement. However, it may preclude the identified Officer(s) from participating in any actions related to the Agreement.

Company: _____

Date: _____

Signature: _____

Title: _____

¹ “Officer” means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency. [GC § 84308](#)



BYRD ANTI-LOBBYING ACKNOWLEDGEMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING – REQUIRED FOR CONTRACTS OVER \$100,000

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor’s Authorized Official: _____

Name and Title of Contractor’s Authorized Official: _____

Date: _____

**PROPOSAL GENERAL PROVISIONS**

Please Read Carefully

These Provisions Are a Part of Your Proposal and any Contract Awarded

The bidder agrees that:

- A. Bidder has carefully examined the specifications, and all provisions relating to the item(s) to be furnished or the work to be done; understands the meaning, intent, and requirements; and
- B. Bidder will enter into a written contract and furnish the item(s) or complete the work in the time specified, and in strict conformity with the City of Chula Vista specifications for the prices quoted.

Note: Bidder is defined as any individual, partnership, or corporation submitting a bid, proposal, or quotation in response to a request for bid, request for proposal, or request for quotation. A bidder may also be referred to as consultant, contractor, operator, supplier, or vendor.

Bid is defined as any bid, proposal, or quotation submitted in response to this solicitation.

1. **Items Offered**

If the item offered has a trade name, brand and/or catalog number, such shall be stated in the bid. If the bidder proposes to furnish an item of a manufacturer or vendor other than that mentioned on the face hereof, bidder must specify maker, brand, quality, catalog number, or other trade designation. Unless such is noted on the bid form, it will be deemed that the item offered is that designated even though the bid may state or equal.

2. **Samples**

Samples may be required for bid evaluation and testing purposes. Bidders shall agree to provide samples within forty-eight (48) hours upon request and at no additional cost to the City

3. **Verify Quotations**

Prices shall be verified prior to bid submittal, as withdrawal or correction may not be permitted after the bid has been opened.

4. **Firm Prices**

Prices on bid shall be firm prices not subject to escalation. In the event the specifications provide for escalation, the maximum limit shall be shown, or the bid shall not be considered. In the event of a decline in market price below a price bid, the City shall receive the benefit of such decline.

5. **Modification or Withdrawal of Bids**

Bids may be modified or withdrawn by written or facsimile notice received prior to the exact hour and date specified for receipt of bid. A bid may also be withdrawn in person by a bidder, or authorized representative, prior to the exact hour and date set for receipt of bids. Telephone withdrawals are not permitted.

6. **Late Bids, Modifications, or Withdrawals**

- a) Bids, modifications of bids, or bid withdrawals received after the exact time and date specified for receipt will not be considered unless receipt is before the contract is awarded and the City determines that late receipt was due solely to City error.

- b) Modification of a successful bid that makes the terms of the bid more favorable to the City will be considered at any time.

**7. Mistake in Bid**

- a) If the bidder discovers a mistake in bid prior to the hour and date specified for receipt of bid, bidder may correct the mistake by modifying or withdrawing the bid in accordance these provisions.
- b) If within seventy-two hours of the bid closing and prior to the issuance of a purchase order or a contract, the bidder discovers a mistake in its bid of a serious and significant nature which is unfavorable to bidder, bidder may request consideration be given to modifying the bid if it remains the lowest bid or to withdrawal of the bid if the result of the correction of the mistake makes another bidder lowest and best bidder. The mistake must be evident and provable. The right is reserved by the City to reject any and all requests for correction of mistakes in bids received after the hour and date of the bid closing. The decision of the Purchasing Agent is final as regards acceptance or rejection of requests for correction of bids.
- c) A mistake in bid cannot be considered once a purchase order or contract is issued.

8. Signature

All bids shall be signed, and the title and firm name indicated. A bid by a corporation shall be signed by an authorized officer, employee or agent with his or her title.

9. Alternative Proposals

To be responsive to the bid, bidder must submit a proposal that meets all specific bid requirements. Once bidder has proposed a product which is responsive to the specification, bidder may include with the bid any additional proposals or alternative products that bidder believes can meet or exceed the City's requirements and that may offer additional advantages, benefits, or cost savings. The City reserves the right to evaluate, and accept or reject, such alternatives as though they were part of the original specifications without advertising for further bids, when in the best interests of the City. Any awards so made will be based on operational and cost analysis considerations that would result in the optimum economic advantage to the City.

10. Environmentally Preferable Purchasing (EPP)

The City defines Environmentally Preferable Purchasing (EPP) as the procurement or acquisition of goods and services that have a lesser or reduced effect on human health and the environment when compared with competing goods or service that serve the same purpose. With few exceptions, environmentally preferable products shall only be purchased when determined to be cost-effective while considering a true cost during its lifecycle from use, management and disposal. EPP requires attention to numerous environmental considerations, including energy efficiency, postconsumer recycled content, water efficiency, low/zero hazardous substances and responsible manufacturing, to name just a few. Testing and evaluation of environmentally preferable products is one allowable exception and may be requested at any time during the solicitation process.

For more information, please consult the CalRecycle website at: <https://www.calrecycle.ca.gov/epp>.

11. Quality

Unless otherwise required in the specifications, all goods furnished shall be new and unused.

12. Litigation Warranty

The bidder, by bidding, warrants that bidder is not currently involved in litigation or arbitration concerning the materials or bidder's performance concerning the same or similar material or service to be supplied pursuant to this contract of specification, and that no judgments or awards have been made against bidder on the basis



of bidder's performance in supplying or installing the same or similar material or service, unless such fact is disclosed to the City in the bid. Disclosure may not disqualify the bidder. The City reserves the right to evaluate bids on the basis of the facts surrounding such litigation or arbitration and to require bidder to furnish the City with a surety bond executed by a surety company authorized to do business in the State of California and approved by The City of Chula Vista in a sum equal to one hundred percent (100%) of the contract price conditional on the faithful performance by bidder of the contract in the event the bid is awarded to bidder, notwithstanding the litigation or arbitration.

13. Performance Standards

Performance of work and acceptability of equipment or materials supplied pursuant to any contract or award shall be to the satisfaction of the City.

14. Warranties

a) All material, labor or equipment provided under the contract shall be warranted by bidder and/or manufacturer for at least twelve (12) months after acceptance by City. Greater warranty protection will be accepted. Lesser warranty protection must be indicated by bidder on the bid proposal as an exception

b) Bidder shall be considered primarily responsible to the City for all warranty service, parts and labor applicable to the goods or equipment provided by bidder under this bid or award, irrespective of whether bidder is an agent, broker, fabricator or manufacturer's dealer. Bidder shall be responsible for ensuring that warranty work is performed at a local agency or facility convenient to City and that services, parts and labor are available and provided to meet City's schedules and deadlines. City may require bidder to post a performance bond after contract award to guarantee performance of these obligations. Bidder may establish a service contract with a local agency satisfactory to City to meet this obligation if bidder does not ordinarily provide warranty service.

15. Addenda

The effect of all addenda to the bid documents shall be considered in the bid and said addenda shall be made part of the bid documents and shall be returned with them. Before submitting a bid, each bidder shall ascertain whether or not any addenda have been issued, and failure to cover in this bid any such addenda issued may render the bid invalid and result in its rejection.

16. Specifications to Prevail

The detailed requirements of the specifications shall supersede any conflicting reference in these General Provisions that are in conflict therewith.

17. Taxes

The City will furnish Exemption Certificates for Federal Excise Tax. The City is liable for State, City and County Sales Taxes. Do not include this tax in the amount bid. However, tax is to be added by the successful bidder to the net amount invoiced. All or any portion of the City Sales Tax returned to the City will be considered in the evaluation of bids.

18. Conflict of Interest

No City employee or elected or appointed member of City government, or member of the employee's immediate family, may participate directly or indirectly in the procurement process pertaining to this bid if they:

a) Have a financial interest or other personal interest that is incompatible with the proper discharge of their official duties in the public interest or would tend to impair their independence, judgment or action in the performance of their official duties.



b) Are negotiating for or have an arrangement concerning prospective employment with bidder. The bidder warrants to the best of his knowledge that the submission of the bid will not create such conflict of interest. In the event such a conflict occurs, the bidder is to report it immediately to the Purchasing Agent. For breach or violation of this warranty, the City shall have the right to annul this contract without liability at its discretion, and bidder may be subject to damages and/or debarment or suspension.

19. Gratuities

The City may rescind the right of the bidder to proceed under this agreement if it is found that gratuities in the form of entertainment, gifts, or otherwise are offered or given by the bidder, or any agent or representative of the bidder, to any officer or employee of the City with the intent of influencing award of this agreement or securing favorable treatment with respect to performance of this agreement.

20. Faithful Performance Bond

Successful bidder may be required to furnish the City with a surety bond conditioned upon the faithful performance of the contract. This may take the form of a bond executed by a surety company authorized to do business in the State of California and approved by the City of Chula Vista, an endorsed Certificate of Deposit, or a money order or a certified check drawn on a solvent bank. The bond shall be in a sum equal to one hundred percent (100%) of the amount of the contract price. Such bond or deposit shall be forfeited to the City in the event that bidder receiving the contract shall fail or refuse to fulfill the requirements and all terms and conditions of the contract.

21. Insurance

Bidder shall provide proof of liability and property damage insurance prior to performance of duties. Coverage shall be from a company authorized to transact business in the State of California and shall be in an amount not less than \$1,000,000 combined single limit (CSL), unless otherwise specified. The City of Chula Vista shall be named as an additional insured and thirty (30) days' notice of cancellation shall be indicated. Worker's Compensation coverage for each employee engaged in work on City premises is required. Bidder is solely responsible for all insurance premium payments.

22. Indemnification

Bidder shall defend, indemnify, protect and hold harmless the City, its elected and appointed officers, employees, and agents, from and against all claims for damages, liability, and expenses (including attorney's fees) arising out of this agreement and/or bidder's performance hereunder, except as to such damages, liability, and expenses due to the sole negligence or willful acts of the City, its officers, employees or agents.

23. Award of Contract

a) Bids will be analyzed, and award will be made to the lowest, responsive and responsible bidder whose bid conforms to the solicitation and whose bid is considered to be most advantageous to the City, price and other factors considered. Factors to be considered may include, but are not limited to: bidder's past performance, total unit cost, economic cost analysis, life cycle costs, warranty and quality, maintenance cost, durability, the operational requirements of the City and any other factors which will result in the optimum economic benefit to the City.

b) The City reserves the right to reject any item or items, to waive informalities, technical defects and minor irregularities in bids received; and to select the bid(s) deemed most advantageous to the City. The City will, however, consider bids submitted on an "all or nothing" basis if the bid is clearly designated as such.

c) The City reserves the right to award one or more contracts on the bids submitted, either by award of all items to one bidder or by award of separate items or groups of items to various bidders as the interests of the City may require, unless the bidder clearly specifies otherwise in his bid.

- d) For the purpose of evaluating bids for multiple awards, the sum of \$100.00 is considered to be the administrative cost to the City for issuing and administering each contract awarded under this solicitation, and individual awards will be made for the items and combinations of items which result in the lowest aggregate price to the City, including such administrative cost.
- e) Upon acceptance by the City of Chula Vista, the solicitation, bid, proposal, or price quotation and a purchase order issued to the successful bidder shall be deemed to result in a binding contract incorporating those terms and these General Provisions without further action required by either party. Items are to be furnished as described in the bid and in strict conformity with all instructions, conditions, specifications, and provisions in the complete contract, as defined by this clause 28 or any related integrated agreement.

24. Protests

Protests by unsuccessful bidders to the selection for award shall be submitted in writing to the Purchasing Agent no later than ten (10) calendar days after award recommendation. The unsuccessful bidder shall have the right to appear at the City Council to protest any award to be confirmed by Council. Failure to submit a timely written protest to the Purchasing Agent shall bar consideration of such protest.

25. Documentation

Due to the time constraints that affect contract performance, all required documents, certificates of insurance and bonds shall be provided to the City within ten (10) calendar days following award or date of request by City, whichever is later. Any failure to comply may result in bid being declared non-responsive and rejected, and at City's option the bid bond may be attached for damages suffered.

26. Seller's Invoice

Invoices shall be prepared and submitted in duplicate to address shown on the Purchase Order. Separate invoices are required for each Purchase Order. Invoices shall contain the following information: Purchase Order number, item number, description of supplies or services, sizes, unit of measure, quantity, unit price and extended totals.

27. Document Ownership

- a) All technical documents and records originated or prepared pursuant to this contract, including papers, reports, charts, and computer programs, shall be delivered to and become the exclusive property of the City and may be copyrighted by the City. Bidder assigns all copyrights to City by undertaking this agreement
- b) All inventions, discoveries, enhancements, changes, or improvements of computer programs developed pursuant to this contract shall be the property of the City, and all patents or copyrights shall be assigned to City, unless otherwise agreed. Bidder agrees that City may make modifications to computer software furnished by bidder without infringing bidder's copyright or any license granted to City.

28. Advertisements, Product Endorsements

City employees and agencies or organizations funded by the City are prohibited from making endorsements, either implied or direct, of commercial products or services without written approval of the City Manager. No bidder may represent that the City of Chula Vista has endorsed their product or service without the Purchasing Agent's prior written approval.

29. City Provisions to Prevail



Except as indicated in the specifications, the City's standard General Provisions shall govern any contract award. Any standard terms and conditions of bidder submitted by bidder shall not be acceptable to City unless expressly agreed to by the City. The City reserves the right to reject bidder's bid as non-responsive, to consider the bid without bidder's standard terms and conditions, or to require bidder to delete reference to such as a condition of evaluation or award of the bid. If, after award of contract, bidder (contract vendor) shall provide materials or services accompanied by new or additional standard terms or conditions, they too shall be considered void and City may require deletion as a further condition of performance by Bidder. To the extent not otherwise provided for by the contract documents, the California Commercial Code shall apply.

30. Invalid Provisions

In the event that any one or more of the provisions of this agreement shall be found to be invalid, illegal or unenforceable, the remaining provisions shall remain in effect and be enforceable.

31. Amendments and Modifications

The Purchasing Agent may at any time, by written order, and without notice to the sureties, make a modification to the contract or an amendment to the Purchase Order, within the general scope of this contract, in (1) quantity of materials or service, whether more or less; (2) drawings, designs, or specifications, where the supplies to be furnished are to be specially manufactured for the City; (3) method of shipment or packing; and (4) place of delivery. If any such change causes an increase or decrease in the cost or the time required for the performance of this contract, an equitable adjustment shall be made by written modification of the contract or amendment to the Purchase Order. Any claim by the bidder for adjustment under this clause must be asserted within 30 calendar days from the notification date.

32. Assignment

Bidder shall not assign or delegate duties or responsibilities under this agreement, in whole or in part, without prior written approval of the City.

33. Disputes

Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Purchasing Agent, who shall reduce this decision to writing and mail a copy to the bidder. The decision of the Purchasing Agent shall be final and conclusive, unless bidder requests mediation within ten (10) calendar days. Pending final decision of a dispute, the bidder shall proceed diligently with the performance of the contract and in accordance with the Purchasing Agent's decision.

34. Mediation

Should an unresolved dispute arise out of this agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within thirty (30) days of a request. The mediator shall be agreed to by the mediating parties; in the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a Blindfold@ process.

The cost of mediation shall be borne equally by both parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than sixty (60) days, unless the maximum time is extended by both parties.

35. Lawful Performance



Bidder shall abide by all Federal, State and Local Laws, Ordinances, Regulations, and Statutes as may be related to the performance of duties under this agreement. In addition, all applicable permits and licenses required shall be obtained by the bidder, at bidder's sole expense.

36. Business License

Chula Vista Municipal Code Section 5.02.020 requires all firm/entities doing business with the City to obtain a Business License. Section 5.02.20 states: *It is unlawful for any person, or for any person as agent, clerk or employee, either for himself or for any other person, within the corporate limits of the City, to transact, engage in, or carry on any business, show, exhibition or game hereinafter specified without first having procured a license.*

37. Annual Appropriation of Funds

Multi-year term supply and service contracts and leases are subject to annual appropriation of funds by the City Council. Payments made under term contracts and leases are considered items of current expense. Purchase Orders are funded when issued; therefore, they are current expense items and are not subject to any subsequent appropriation of funds.

In the event sufficient funds are not appropriated for the payment of lease payments or anticipated term contract payments required to be paid in the next occurring lease or contract term, and if no funds are legally available from other sources, the lease or contract may be terminated at the end of the original term or renewal term and the City shall not be obligated to make further payments beyond the then current original or renewal term. The City will provide notice of its inability to continue the lease or contract at such time as the Purchasing Agent is aware of the non-appropriation of funds. However, failure to notify does not renew the term of the lease or contract. The City has no monetary obligation in event of termination or reduction of a term contract since such contracts represent estimated quantities and is not funded as a contract except to the extent of the Purchase Orders issued.

38. Extension

When in the City's best interest, this agreement may be extended on a daily, month-to-month, or annual basis by mutual agreement of both parties. Services and/or materials received under an extension shall be in accordance with pricing, terms, and conditions, as described herein.

39. Debarment

The Purchasing Agent may recommend to the City Council that the person or business be debarred from consideration for award of contracts. The period of debarment will be contingent upon the severity of cause. Causes for debarment include:

- a) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or other offense indicating a lack of business integrity or business honesty
- b) Violation of contract provisions which is regarded by the Purchasing Agent to be so serious as to justify debarment action, including:
 - i. Deliberate failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or
 - ii. A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, or
 - iii. Two or more claims of computational error in bid submission within a two-year period.



- c) Debarment by another governmental entity.
- d) Any other cause the Purchasing Agent deems to be so serious and compelling as to affect responsibility as a City bidder. A bidder may be permanently debarred for the following causes:
 - i. Collusion in bidding
 - ii. Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a contract or subcontract with the City of Chula Vista or in the performance of such contract or subcontract.
 - iii. Conviction under State or Federal antitrust statutes arising out of the submission of bids or proposals.

40. Venue

This agreement shall be governed by and interpreted according to the laws of the State of California, and venue for any proceeding shall be in the County of San Diego.

(REV February 2021)



This sample agreement has been provided for the proposer’s review and comment. If a proposer wishes to take exception to any of the terms and conditions contained in the consultant agreement, these should be identified specifically; otherwise, it will be assumed that the proposer is willing to enter into the agreement as it is written. Any exceptions to terms, conditions, or other requirements must be clearly stated. Failure to identify contractual issues of dispute can later be the basis for the City disqualifying a proposer. The City will consider such exceptions as part of the evaluation process, which may constitute grounds for rejection of the proposal.

**CITY OF CHULA VISTA
CONSULTANT SERVICES AGREEMENT
WITH CITY OF CHULA VISTA
TO PROVIDE [SERVICES TO BE PROVIDED]**

This Agreement is entered into effective as of Enter Date (“Effective Date”)² by and between the City of Chula Vista, a chartered municipal corporation (“City”) and **City of Chula Vista**, Entity Type (e.g. A California Corporation) (“Consultant”) (collectively, the “Parties” and, individually, a “Party”) with reference to the following facts:

RECITALS

WHEREAS, Enter Recitals To Describe Basis For Service – See example below ³; and

WHEREAS, Enter Recitals To Describe Consultant Selection Process – See example below ⁴; and

Enter Additional Recitals As Needed Or Delete This Line

² If City Council approved, insert date of City Council approval. Otherwise, insert a date no later than date Consultant’s work commences.

³ For example: “WHEREAS, City requires _____ [e.g., civil engineering] services in order to _____ [e.g., design a new intersection at X and Y streets];” and

⁴ For example: “WHEREAS, In order to procure these services City solicited proposals in accordance with Chula Vista Municipal Code Section _____ [2.56.080 for contracts exceeding \$100,000; 2.56.090 for contracts of \$100,000 or less; 2.56.110 for “professional services” e.g., architects, lawyers, engineers, environmental], received __ proposals, and selected Consultant as the most qualified amongst those submitting; and”
[OR, if the project was sole-sourced]

“WHEREAS, In order to procure these services Consultant was chosen based on Consultant’s unique qualifications, including _____; on this basis, Consultant was awarded the contract on a “sole source” basis under the authority of Chula Vista Municipal Code Section _____ [2.56.070.B.4. for contracts approved by City Council; 2.56.090.B.3. for contracts approved at a staff level].”

[OR, if an alternative procurement process is used]

“WHEREAS, In order to procure these services Consultant was chosen _____.”

Consult with the City Attorney’s Office if none of these apply



WHEREAS, Consultant warrants and represents that it is experienced and staffed in a manner such that it can deliver the services required of Consultant to City in accordance with the time frames and the terms and conditions of this Agreement.

[End of Recitals. Next Page Starts Obligatory Provisions.]

OBLIGATORY PROVISIONS

NOW, THEREFORE, in consideration of the above recitals, the covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, City and Consultant hereby agree as follows:

1. SERVICES

1.1 Required Services. Consultant agrees to perform the services, and deliver to City the “Deliverables” (if any) described in the attached Exhibit A, incorporated into the Agreement by this reference, within the time frames set forth therein, time being of the essence for this Agreement. The services and/or Deliverables described in Exhibit A shall be referred to herein as the “Required Services.”

1.2 Reductions in Scope of Work. City may independently, or upon request from Consultant, from time to time, reduce the Required Services to be performed by the Consultant under this Agreement. Upon doing so, City and Consultant agree to meet and confer in good faith for the purpose of negotiating a corresponding reduction in the compensation associated with the reduction.

1.3 Additional Services. Subject to compliance with the City’s Charter, codes, policies, procedures and ordinances governing procurement and purchasing authority, City may request Consultant provide additional services related to the Required Services (“Additional Services”). If so, City and Consultant agree to meet and confer in good faith for the purpose of negotiating an amendment to Exhibit A, to add the Additional Services. Unless otherwise agreed, compensation for the Additional Services shall be charged and paid consistent with the rates and terms already provided therein. Once added to Exhibit A, “Additional Services” shall also become “Required Services” for purposes of this Agreement.

1.4 Standard of Care. Consultant expressly warrants and agrees that any and all Required Services hereunder shall be performed in accordance with the highest standard of care exercised by members of the profession currently practicing under similar conditions and in similar locations.

1.5 No Waiver of Standard of Care. Where approval by City is required, it is understood to be conceptual approval only and does not relieve the Consultant of responsibility for complying with all laws, codes, industry standards, and liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of the Consultant or its subcontractors.

1.6 Security for Performance. In the event that Exhibit A Section 5 indicates the need for Consultant to provide additional security for performance of its duties under this Agreement, Consultant shall provide such additional security prior to commencement of its Required



Services in the form and on the terms prescribed on Exhibit A, or as otherwise prescribed by the City Attorney.

1.7 Compliance with Laws. In its performance of the Required Services, Consultant shall comply with any and all applicable federal, state and local laws, including the Chula Vista Municipal Code.

1.8 Business License. Prior to commencement of work, Consultant shall obtain a business license from City.

1.9 Subcontractors. Prior to commencement of any work, Consultant shall submit for City's information and approval a list of any and all subcontractors to be used by Consultant in the performance of the Required Services. Consultant agrees to take appropriate measures necessary to ensure that all subcontractors and personnel utilized by the Consultant to complete its obligations under this Agreement comply with all applicable laws, regulations, ordinances, and policies, whether federal, state, or local. In addition, if any subcontractor is expected to fulfill any responsibilities of the Consultant under this Agreement, Consultant shall ensure that each and every subcontractor carries out the Consultant's responsibilities as set forth in this Agreement.

1.10 Term. This Agreement shall commence on the earlier to occur of the Effective Date or Consultant's commencement of the Required Services hereunder, and shall terminate, subject to Sections 6.1 and 6.2 of this Agreement, when the Parties have complied with all their obligations hereunder; provided, however, provisions which expressly survive termination shall remain in effect.

2. COMPENSATION

2.1 General. For satisfactory performance of the Required Services, City agrees to compensate Consultant in the amount(s) and on the terms set forth in Exhibit A, Section 4. Standard terms for billing and payment are set forth in this Section 2.

2.2 Detailed Invoicing. Consultant agrees to provide City with a detailed invoice for services performed each month, within thirty (30) days of the end of the month in which the services were performed, unless otherwise specified in Exhibit A. Invoicing shall begin on the first of the month following the Effective Date of the Agreement. All charges must be presented in a line item format with each task separately explained in reasonable detail. Each invoice shall include the current monthly amount being billed, the amount invoiced to date, and the remaining amount available under any approved budget. Consultant must obtain prior written authorization from City for any fees or expenses that exceed the estimated budget.

2.3 Payment to Consultant. Upon receipt of a properly prepared invoice and confirmation that the Required Services detailed in the invoice have been satisfactorily performed, City shall pay Consultant for the invoice amount within thirty (30) days. Payment shall be made in



accordance with the terms and conditions set forth in Exhibit A and section 2.4, below. At City's discretion, invoices not timely submitted may be subject to a penalty of up to five percent (5%) of the amount invoiced.

2.4 Retention Policy. City shall retain ten percent (10%) of the amount due for Required Services detailed on each invoice (the "holdback amount"). Upon City review and determination of Project Completion, the holdback amount will be issued to Consultant.

2.5 Reimbursement of Costs. City may reimburse Consultant's out-of-pocket costs incurred by Consultant in the performance of the Required Services if negotiated in advance and included in Exhibit A. Unless specifically provided in Exhibit A, Consultant shall be responsible for any and all out-of-pocket costs incurred by Consultant in the performance of the Required Services.

2.6 Exclusions. City shall not be responsible for payment to Consultant for any fees or costs in excess of any agreed upon budget, rate or other maximum amount(s) provided for in Exhibit A. City shall also not be responsible for any cost: (a) incurred prior to the Effective Date; or (b) arising out of or related to the errors, omissions, negligence or acts of willful misconduct of Consultant, its agents, employees, or subcontractors.

2.7 Payment Not Final Approval. Consultant understands and agrees that payment to the Consultant or reimbursement for any Consultant costs related to the performance of Required Services does not constitute a City final decision regarding whether such payment or cost reimbursement is allowable and eligible for payment under this Agreement, nor does it constitute a waiver of any violation by Consultant of the terms of this Agreement. If City determines that Consultant is not entitled to receive any amount of compensation already paid, City will notify Consultant in writing and Consultant shall promptly return such amount.

3. INSURANCE

3.1 Required Insurance. Consultant must procure and maintain, during the period of performance of Required Services under this Agreement, and for twelve months after completion of Required Services, the policies of insurance described on the attached Exhibit B, incorporated into the Agreement by this reference (the "Required Insurance"). The Required Insurance shall also comply with all other terms of this Section.

3.2 Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions relating to the Required Insurance must be disclosed to and approved by City in advance of the commencement of work.

3.3 Standards for Insurers. Required Insurance must be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of A V or better, or, if insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's

rating of no less than A X. For Workers' Compensation Insurance, insurance issued by the State Compensation Fund is also acceptable.

3.4 Subcontractors. Consultant must include all sub-consultants/sub-contractors as insureds under its policies and/or furnish separate certificates and endorsements demonstrating separate coverage for those not under its policies. Any separate coverage for sub-consultants must also comply with the terms of this Agreement.

3.5 Additional Insureds. City, its officers, officials, employees, agents, and volunteers must be named as additional insureds with respect to any policy of general liability, automobile, or pollution insurance specified as required in Exhibit B or as may otherwise be specified by City's Risk Manager.. The general liability additional insured coverage must be provided in the form of an endorsement to the Consultant's insurance using ISO CG 2010 (11/85) or its equivalent; such endorsement must not exclude Products/Completed Operations coverage.

3.6 General Liability Coverage to be "Primary." Consultant's general liability coverage must be primary insurance as it pertains to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers is wholly separate from the insurance provided by Consultant and in no way relieves Consultant from its responsibility to provide insurance.

3.7 No Cancellation. No Required Insurance policy may be canceled by either Party during the required insured period under this Agreement, except after thirty days' prior written notice to the City by certified mail, return receipt requested. Prior to the effective date of any such cancellation Consultant must procure and put into effect equivalent coverage(s).

3.8 Waiver of Subrogation. Consultant's insurer(s) will provide a Waiver of Subrogation in favor of the City for each Required Insurance policy under this Agreement. In addition, Consultant waives any right it may have or may obtain to subrogation for a claim against City.

3.9 Verification of Coverage. Prior to commencement of any work, Consultant shall furnish City with original certificates of insurance and any amendatory endorsements necessary to demonstrate to City that Consultant has obtained the Required Insurance in compliance with the terms of this Agreement. The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" or any similar language must be deleted from all certificates. The required certificates and endorsements should otherwise be on industry standard forms. The City reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.



3.10 Claims Made Policy Requirements. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are required and are provided on a claims-made form, the following requirements also apply:

a. The “Retro Date” must be shown, and must be before the date of this Agreement or the beginning of the work required by this Agreement.

b. Insurance must be maintained, and evidence of insurance must be provided, for at least five (5) years after completion of the work required by this Agreement.

c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a “Retro Date” prior to the effective date of this Agreement, the Consultant must purchase “extended reporting” coverage for a minimum of five (5) years after completion of the work required by this Agreement.

d. A copy of the claims reporting requirements must be submitted to the City for review.

3.11 Not a Limitation of Other Obligations. Insurance provisions under this section shall not be construed to limit the Consultant’s obligations under this Agreement, including Indemnity.

3.12 Additional Coverage. To the extent that insurance coverage provided by Consultant maintains higher limits than the minimums appearing in Exhibit B, City requires and shall be entitled to coverage for higher limits maintained.

4. INDEMNIFICATION

4.1. General. To the maximum extent allowed by law, Consultant shall timely and fully protect, defend, reimburse, indemnify and hold harmless City, its elected and appointed officers, agents, employees and volunteers (collectively, “Indemnified Parties”), from and against any and all claims, demands, causes of action, costs, expenses, (including reasonable attorneys’ fees and court costs), liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Consultant, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of the Required Services, the results of such performance, or this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses arising from the sole negligence or willful misconduct of the Indemnified Parties. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the Indemnified Parties which may be in combination with the active or passive negligent acts or omissions of the Consultant, its employees, agents or officers, or any third party.



4.2. Modified Indemnity Where Agreement Involves Design Professional Services. Notwithstanding the forgoing, if the services provided under this Agreement are design professional services, as defined by California Civil Code section 2782.8, as may be amended from time to time, the defense and indemnity obligation under Section 1, above, shall be limited to the extent required by California Civil Code section 2782.8.

4.3 Costs of Defense and Award. Included in Consultant's obligations under this Section 4 is Consultant's obligation to defend, at Consultant's own cost, expense and risk, and with counsel approved in writing by City, any and all suits, actions or other legal proceedings that may be brought or instituted against one or more of the Indemnified Parties. Subject to the limitations in this Section 4, Consultant shall pay and satisfy any judgment, award or decree that may be rendered against one or more of the Indemnified Parties for any and all related legal expenses and costs incurred by any of them.

4.4. Consultant's Obligations Not Limited or Modified. Consultant's obligations under this Section 4 shall not be limited to insurance proceeds, if any, received by the Indemnified Parties, or by any prior or subsequent declaration by the Consultant. Furthermore, Consultant's obligations under this Section 4 shall in no way limit, modify or excuse any of Consultant's other obligations or duties under this Agreement.

4.5. Enforcement Costs. Consultant agrees to pay any and all costs and fees City incurs in enforcing Consultant's obligations under this Section 4.

4.6 Survival. Consultant's obligations under this Section 4 shall survive the termination of this Agreement.

5. CONFLICTS OF INTEREST

5.1 Form 700 Filing. The California Political Reform Act and the Chula Vista Conflict of Interest Code require certain government officials and consultants performing work for government agencies to publicly disclose certain of their personal assets and income using a Statement of Economic Interests form (Form 700). In order to assure compliance with these requirements, Consultant shall comply with the disclosure requirements identified in the attached Exhibit C, incorporated into the Agreement by this reference.

5.2 Disclosures; Prohibited Interests. Independent of whether Consultant is required to file a Form 700, Consultant warrants and represents that it has disclosed to City any economic interests held by Consultant, or its employees or subcontractors who will be performing the Required Services, in any real property or project which is the subject of this Agreement. Consultant warrants and represents that it has not employed or retained any company or person, other than a bona fide employee or approved subcontractor working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants and represents that it has not paid or agreed to pay any company or person, other than a bona fide employee or approved subcontractor working solely for Consultant, any fee, commission, percentage, brokerage fee,



gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further warrants and represents that no officer or employee of City, has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds hereof, or in the business of Consultant or Consultant's subcontractors. Consultant further agrees to notify City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement. For breach or violation of any of these warranties, City shall have the right to rescind this Agreement without liability.

5.3 Levine Act. California Government Code section 84308, commonly known as the Levine Act, prohibits public agency officers from participating in any action related to a contract if such officer receives political contributions totaling more than \$250 within the previous twelve months, and for twelve months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. In order to assure compliance with these requirements, Consultant shall comply with the disclosure requirements identified in the attached Exhibit D, incorporated into the Agreement by this reference.

6. REMEDIES

6.1 Termination for Cause. If for any reason whatsoever Consultant shall fail to perform the Required Services under this Agreement, in a proper or timely manner, or if Consultant shall violate any of the other covenants, agreements or conditions of this Agreement (each a "Default"), in addition to any and all other rights and remedies City may have under this Agreement, at law or in equity, City shall have the right to terminate this Agreement by giving five (5) days written notice to Consultant. Such notice shall identify the Default and the Agreement termination date. If Consultant notifies City of its intent to cure such Default prior to City's specified termination date, and City agrees that the specified Default is capable of being cured, City may grant Consultant up to ten (10) additional days after the designated termination date to effectuate such cure. In the event of a termination under this Section 6.1, Consultant shall immediately provide City any and all "Work Product" (defined in Section 7 below) prepared by Consultant as part of the Required Services. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Consultant may be entitled to compensation for work satisfactorily performed prior to Consultant's receipt of the Default notice; provided, however, in no event shall such compensation exceed the amount that would have been payable under this Agreement for such work, and any such compensation shall be reduced by any costs incurred or projected to be incurred by City as a result of the Default.

6.2 Termination or Suspension for Convenience of City. City may suspend or terminate this Agreement, or any portion of the Required Services, at any time and for any reason, with or without cause, by giving specific written notice to Consultant of such termination or suspension at least fifteen (15) days prior to the effective date thereof. Upon receipt of such notice, Consultant shall immediately cease all work under the Agreement and promptly deliver all "Work Product" (defined in Section 7 below) to City. Such Work Product shall be City's sole and exclusive property as provided in Section 7 hereof. Consultant shall be entitled to

receive just and equitable compensation for this Work Product in an amount equal to the amount due and payable under this Agreement for work satisfactorily performed as of the date of the termination/suspension notice plus any additional remaining Required Services requested or approved by City in advance that would maximize City's value under the Agreement.

6.3 Waiver of Claims. In the event City terminates the Agreement in accordance with the terms of this Section, Consultant hereby expressly waives any and all claims for damages or compensation as a result of such termination except as expressly provided in this Section 6.

6.4 Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement against City unless a claim has first been presented in writing and filed with City and acted upon by City in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may be amended, the provisions of which, including such policies and procedures used by City in the implementation of same, are incorporated herein by this reference. Upon request by City, Consultant shall meet and confer in good faith with City for the purpose of resolving any dispute over the terms of this Agreement.

6.5 Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in San Diego County, State of California. Consultant hereby waives any right to remove any action from San Diego County as may otherwise be permitted by California Code of Civil Procedure section 394.

6.6 Service of Process. Consultant agrees that it is subject to personal jurisdiction in California. If Consultant is a foreign corporation, limited liability company, or partnership that is not registered with the California Secretary of State, Consultant irrevocably consents to service of process on Consultant by first class mail directed to the individual and address listed under "For Legal Notice," in section 1.B. of Exhibit A to this Agreement, and that such service shall be effective five days after mailing.

7. OWNERSHIP AND USE OF WORK PRODUCT

All reports, studies, information, data, statistics, forms, designs, plans, procedures, systems and any other materials or properties produced in whole or in part under this Agreement in connection with the performance of the Required Services (collectively "Work Product") shall be the sole and exclusive property of City. No such Work Product shall be subject to private use, copyrights or patent rights by Consultant in the United States or in any other country without the express, prior written consent of City. City shall have unrestricted authority to publish, disclose, distribute, and otherwise use, copyright or patent, in whole or in part, any such Work Product, without requiring any permission of Consultant, except as may be limited by the provisions of the Public Records Act or expressly prohibited by other applicable laws. With respect to computer files containing data generated as Work Product, Consultant shall



make available to City, upon reasonable written request by City, the necessary functional computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

8. GENERAL PROVISIONS

8.1 Amendment. This Agreement may be amended, but only in writing signed by both Parties.

8.2 Assignment. City would not have entered into this Agreement but for Consultant's unique qualifications and traits. Consultant shall not assign any of its rights or responsibilities under this Agreement, nor any part hereof, without City's prior written consent, which City may grant, condition or deny in its sole discretion.

8.3 Authority. The person(s) executing this Agreement for Consultant warrants and represents that they have the authority to execute same on behalf of Consultant and to bind Consultant to its obligations hereunder without any further action or direction from Consultant or any board, principle or officer thereof.

8.4 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement after each Party has signed such a counterpart.

8.5 Entire Agreement. This Agreement together with all exhibits attached hereto and other agreements expressly referred to herein, constitutes the entire Agreement between the Parties with respect to the subject matter contained herein. All exhibits referenced herein shall be attached hereto and are incorporated herein by reference. All prior or contemporaneous agreements, understandings, representations, warranties and statements, oral or written, are superseded.

8.6 Record Retention. During the course of the Agreement and for three (3) years following completion of the Required Services, Consultant agrees to maintain, intact and readily accessible, all data, documents, reports, records, contracts, and supporting materials relating to the performance of the Agreement, including accounting for costs and expenses charged to City, including such records in the possession of sub-contractors/sub-consultants.

8.7 Further Assurances. The Parties agree to perform such further acts and to execute and deliver such additional documents and instruments as may be reasonably required in order to carry out the provisions of this Agreement and the intentions of the Parties.

8.8 Independent Contractor. Consultant is and shall at all times remain as to City a wholly independent contractor. Neither City nor any of its officers, employees, agents or volunteers shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents ("Consultant Related Individuals"), except as set forth in this Agreement. No



Consultant Related Individuals shall be deemed employees of City, and none of them shall be entitled to any benefits to which City employees are entitled, including but not limited to, overtime, retirement benefits, worker's compensation benefits, injury leave or other leave benefits. Furthermore, City will not withhold state or federal income tax, social security tax or any other payroll tax with respect to any Consultant Related Individuals; instead, Consultant shall be solely responsible for the payment of same and shall hold the City harmless with respect to same. Consultant shall not at any time or in any manner represent that it or any of its Consultant Related Individuals are employees or agents of City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

8.9 Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any Party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such Party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement at the places of business for each of the designated Parties as indicated in Exhibit A, or otherwise provided in writing.

8.10 Electronic Signatures. Each Party agrees that the electronic signatures, whether digital or encrypted, of the Parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a Party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

(End of page. Next page is signature page.)



**SIGNATURE PAGE
CONSULTANT SERVICES AGREEMENT**

IN WITNESS WHEREOF, by executing this Agreement where indicated below, City and Consultant agree that they have read and understood all terms and conditions of the Agreement, that they fully agree and consent to bound by same, and that they are freely entering into this Agreement as of the Effective Date.

CITY OF CHULA VISTA

CITY OF CHULA VISTA

BY: _____
Enter Name Of Signatory
Enter Title Of Signatory

BY: _____
Choose a signatory.
Choose the signatory's title.

ATTEST⁵

BY:

Kerry K. Bigelow, MMC
City Clerk

APPROVED AS TO FORM

BY:

Marco Verdugo
City Attorney

⁵ Attestation signature only required if the Mayor signs the Agreement. If Mayor is not signing agreement, delete entire attestation signature block.



**EXHIBIT A
SCOPE OF WORK AND PAYMENT TERMS**

INSTRUCTIONS: ENTER INFORMATION AS REQUESTED. FOR SECTIONS THAT PROVIDE OPTIONS, SELECT THE CORRECT OPTION. IF YOU WISH TO ATTACH ADDITIONAL INFORMATION RELATED TO EXHIBIT A, PLEASE ATTACH AND LABEL AS EXHIBIT A, ATTACHMENT (1,2, ETC.) DELETE OPTIONS NOT SELECTED AND ALL INSTRUCTIONS..

1. Contact People for Contract Administration and Legal Notice

- A. City Contract Administration:
 - Enter City Staff Person Name
 - Enter Mailing Address
 - Enter Phone Number
 - Enter Email Address

For Legal Notice Copy to:
 City of Chula Vista
 City Attorney
 276 Fourth Avenue, Chula Vista, CA 91910
 619-691-5037
 CityAttorney@chulavistaca.gov

- B. Consultant Contract Administration:
 - CITY OF CHULA VISTA
 - Enter Mailing Address
 - Enter Phone Number
 - Enter Email Address

For Legal Notice Copy to:
 Enter Consultant Staff Person Name
 Enter Mailing Address
 Enter Phone Number
 Enter Email Address

2. Required Services

- A. General Description:
 - Enter Summary Of Work To Be Performed (e.g. Consultant XYZ Will Provide Customer Service Trainings To City Staff)

- B. Detailed Description:



Enter Detailed Information About Each Task To Be Performed, Including Task Description, Associated Deliverables, And Completion Date. May Be Written As Narrative Or Table, As Illustrated Below. Delete Table If Not Used.

| Task | Description | Deliverables | Completion Date |
|------|---|--|-----------------|
| 1 | Example: Conduct trainings for City staff | Provide copy of training materials, sign-in sheet and list of agreed-upon next steps | |
| 2 | Enter Additional Lines For Tasks As Needed; Delete Excess Lines | | |
| 3 | | | |
| 4 | | | |

3. Term: In accordance with Section 1.10 of this Agreement, the term of this Agreement shall begin Enter Date and end on Enter Date for completion of all Required Services.

4. Compensation: SELECT ONE OF THE FOLLOWING OPTIONS THEN DELETE ANY OPTION THAT IS NOT APPLICABLE, AS WELL AS THESE INSTRUCTIONS

A. Form of Compensation

Single Fixed Fee. For performance of all of the Required Services by Consultant as herein required, City shall pay a single fixed fee of \$Enter Contract Amount, upon completion of all Required Services to City’s satisfaction.

OR

Fixed Fee Paid in Increments. For the completion of each Deliverable of the Required Services, as identified in section 2.B., above, City shall pay the fixed fee associated with each Deliverable, in the amounts set forth below:

| Task No. | Deliverable | Amount |
|----------|-------------|--------|
| | | |
| | | |

OR

Time and Materials. For performance of the Required Services by Consultant as identified in Section 2.B., above, City shall pay Consultant for the productive hours of time spent by Consultant in the performance of the Required Services, at the rates or amounts as indicated below:

Enter Applicable Hourly Rates



B. Reimbursement of Costs

None, the compensation includes all costs

OR

Invoiced or agreed-upon amounts as follows:
Enter or Attach And Reference Any Agreed-Upon Cost Reimbursements

Notwithstanding the foregoing, the maximum amount to be paid to the Consultant for services performed through Enter End of Contract Date shall not exceed Enter Amount.

5. Special Provisions: CHECK ANY THAT APPLY OR SELECT “NONE,” AND DELETE ALL INSTRUCTIONS.

Permitted Sub-Consultants: List Permitted Sub-Consultants or Indicate “None”

Security for Performance: See City Attorney or Indicate “None” if Not Applicable

Notwithstanding the completion date set forth in Section 3 above, City has option to extend this Agreement for Insert Number of Terms additional one-year terms or Enter Specific Date Range for Terms (i.e., “January 1, 2027 through December 31, 2027 and January 1, 2028 through December 31, 2028”). The City Manager or Director of Finance/Treasurer shall be authorized to exercise the extensions on behalf of the City. If the City exercises an option to extend, each extension shall be on the same terms and conditions contained herein, provided that the amounts specified in Section 4 above may be increased by up to Insert Percentage of Increase or Actual Dollar Amount for each extension. The City shall give written notice to Consultant of the City’s election to exercise the extension via the Notice of Exercise of Option to Extend document.

Other: Describe Special Provisions (Delete Line If Not Applicable)

None



**EXHIBIT B
INSURANCE REQUIREMENTS**

Consultant shall adhere to all terms and conditions of Section 3 of the Agreement and agrees to provide the following types and minimum amounts of insurance, as indicated by checking the applicable boxes (x).

| | Type of Insurance | Minimum Amount | Form |
|--------------------------|--|---|---|
| <input type="checkbox"/> | General Liability: Including products and completed operations, personal and advertising injury | \$2,000,000 per occurrence for bodily injury, personal injury (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Agreement or the general aggregate limit must be twice the required occurrence limit Additional Insured Endorsement or Blanket AI Endorsement for City* Waiver of Recovery Endorsement | Insurance Services Office Form CG 00 01 <i>*Must be primary and must not exclude Products/Completed Operations</i> |
| <input type="checkbox"/> | Automobile Liability | \$1,000,000 per accident for bodily injury, including death, and property damage | Insurance Services Office Form CA 00 01 Code 1-Any Auto Code 8-Hired Code 9-Non Owned |
| <input type="checkbox"/> | Workers' Compensation Employer's Liability | \$1,000,000 each accident \$1,000,000 disease policy limit \$1,000,000 disease each employee Waiver of Recovery Endorsement | |
| <input type="checkbox"/> | Professional Liability (Errors & Omissions) | \$1,000,000 each occurrence \$2,000,000 aggregate | |

Other Negotiated Insurance Terms: ENTER ANY ADDITIONAL TERMS OR "NONE"



**EXHIBIT C
CONSULTANT CONFLICT OF INTEREST DESIGNATION**

The Political Reform Act⁶ and the Chula Vista Conflict of Interest Code⁷ (“Code”) require designated state and local government officials, including some consultants, to make certain public disclosures using a Statement of Economic Interests form (Form 700). Once filed, a Form 700 is a public document, accessible to any member of the public. In addition, consultants designated to file the Form 700 are also required to comply with certain ethics training requirements.⁸

- A. Consultant IS a corporation or limited liability company and is therefore EXCLUDED⁹ from disclosure.
- B. Consultant NOT a corporation or limited liability company and disclosure designation is as follows:

APPLICABLE DESIGNATIONS FOR INDIVIDUAL(S) ASSIGNED TO PROVIDE SERVICES

(Category descriptions available at www.chulavistaca.gov/departments/city-clerk/conflict-of-interest-code.)

| <i>Name</i> | <i>Email Address</i> | <i>Applicable Designation</i> |
|---|-------------------------|--|
| Enter Name of Each Individual Who Will Be Providing Service Under the Contract – <i>If individuals have different disclosure requirements, duplicate this row and complete separately for each individual</i> | Enter email address(es) | <input type="checkbox"/> A. Full Disclosure <input type="checkbox"/> B. Limited Disclosure (<i>select one or more of the categories under which the consultant shall file</i>): <input type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. Justification: <input type="checkbox"/> C. Excluded from Disclosure |

1. Required Filers

Each individual who will be performing services for the City pursuant to the Agreement and who meets the definition of “Consultant,” pursuant to FPPC Regulation 18700.3, must file a Form 700.

2. Required Filing Deadlines

Each initial Form 700 required under this Agreement shall be filed with the Office of the City Clerk via the City's online filing system, NetFile, within 30 days of the approval of the Agreement. Additional Form 700 filings will be required annually on April 1 during the term of the Agreement, and within 30 days of the termination of the Agreement.

3. Filing Designation

6 Cal. Gov. Code §§81000 *et seq.*; FPPC Regs. 18700.3 and 18704.

7 Chula Vista Municipal Code §§2.02.010-2.02.040.

8 Cal. Gov. Code §§53234, *et seq.*

9 CA FPPC Adv. A-15-147 (*Chadwick*) (2015); *Davis v. Fresno Unified School District* (2015) 237 Cal.App.4th 261; FPPC Reg. 18700.3 (Consultant defined as an “individual” who participates in making a governmental decision; “individual” does not include corporation or limited liability company).



The City Department Director will designate each individual who will be providing services to the City pursuant to the Agreement as *full disclosure*, *limited disclosure*, or *excluded from disclosure*, based on an analysis of the services the Consultant will provide. Notwithstanding this designation or anything in the Agreement, the Consultant is ultimately responsible for complying with FPPC regulations and filing requirements. If you have any questions regarding filing requirements, please do not hesitate to contact the City Clerk at (619)691-5041, or the FPPC at 1-866-ASK-FPPC, or (866) 275-3772 *2.

Pursuant to the duly adopted City of Chula Vista Conflict of Interest Code, this document shall serve as the written determination of the consultant's requirement to comply with the disclosure requirements set forth in the Code.

Completed by: Enter City Staff Person's Name



EXHIBIT D CONSULTANT LEVINE ACT DISCLOSURE

California Government Code section 84308, commonly referred to as the Levine Act, prohibits any City of Chula Vista Officer¹⁰ (“Officer”) from taking part in decisions related to a contract if the Officer received a political contribution totaling more than \$250 within the previous twelve months, and for twelve months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. The Levine Act does not apply to competitively bid, labor, or personal employment contracts.

- A. The Levine Act (Govt. Code §84308) DOES NOT apply to this Agreement.
- B. The Levine Act (Govt. Code §84308) does apply to this Agreement and the required disclosure is as follows:

Current Officers can be located on the City of Chula Vista’s websites below:

- Mayor & Council - <https://www.chulavistaca.gov/departments/mayor-council>
- City Attorney - <https://www.chulavistaca.gov/departments/city-attorney/about-us>
- Planning Commissioners – www.chulavistaca.gov/pc
- Candidate for Elected Office – www.chulavistaca.gov/elections

1. Have you or your company, or any agent on behalf of you or your company, made political contributions totaling more than \$250 to any Officer in the 12 months preceding the date you submitted your proposal, the date you completed this form, or the anticipated date of any Council action related to this Agreement?

- YES: If yes, which Officer(s): Click or tap here to enter text.
NO:

2. Do you or your company, or any agent on behalf of you or your company, anticipate or plan to make political contributions totaling more than \$250 to any Officer in the 12 months following the finalization of this Agreement or any Council action related to this Agreement?

- YES: If yes, which Officer(s): Click or tap here to enter text.
NO:

Answering yes to either question above may not preclude the City of Chula Vista from entering into or taking any subsequent action related to the Agreement. However, it may preclude the identified Officer(s) from participating in any actions related to the Agreement.

¹⁰ “Officer” means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency. [GC § 84308](#)