

CITY OF RANCHO MIRAGE

**69825 HIGHWAY 111
RANCHO MIRAGE, CA 92270
(760) 324-4511**

**REQUEST FOR PROPOSALS
FOR
MARKETING, BRANDING, CAMPAIGN DEVELOPMENT
AND
STRATEGIC PLANNING SERVICES**

**ISSUED:
AUGUST 4, 2020**

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CITY OF RANCHO MIRAGE
REQUEST FOR PROPOSALS
FOR
MARKETING, BRANDING, CAMPAIGN DEVELOPMENT
AND
STRATEGIC PLANNING SERVICES

ANNOUNCEMENT:

The City of Rancho Mirage (“City”) invites proposals from qualified, competent, knowledgeable, and experienced marketing agencies that will provide strategic planning, brand development, marketing, advertising, social media strategy and design and assist the City of Rancho Mirage marketing department with drafting and finalizing a 4-year strategic marketing, communications and events plan, establishing brand positioning and guidelines and the creation of 3-4 brand campaign concepts the City’s marketing department can select and build out for use in the coming years and administer the duties and responsibilities set forth in this Request for Proposals (“RFP”) for the benefit of the City of Rancho Mirage (“City”), in compliance with all applicable laws, regulations, policies and procedures. Firms submitting proposals must be prepared to immediately enter into a contract (“Agreement”) for the services and duties as set forth in this RFP.

BACKGROUND:

The City of Rancho Mirage is in the Coachella Valley, near Palm Springs, California. Situated between Cathedral City (to the West) and Palm Desert (to the East). Rancho Mirage has a population of approximately 18,000 residents. Median age is 64 years old and Median income is \$80,000.

The Coachella Valley is a seasonal resort area within Southern California. Rancho Mirage seeks to encourage new business, domestic and international tourism and maintain the high quality of life and services to residents.

The City of Rancho Mirage has an opportunity to create a 4-year strategic plan and define its branding and positioning.

FUTURE

Recently, the City approved of a project that would provide for a mix of resort hotel, residential, commercial, and open space/recreation uses oriented around a Grand Oasis Crystal Lagoon. The Project would allow development of up to 1,932 residential units,

400 hotel/resort units, and 175,000 square feet of nonresidential development, including combined restaurant and entertainment destinations, retail, and service space. This next generation community, located south of Gerald Ford Drive and east of Bob Hope Drive, will be a world-class destination that includes a series of elegant desert neighborhoods and artfully designed park spaces, together with a vibrant Town Center featuring shopping, dining, entertainment, galleries and high-end resort hotels. The entire community will be organized around a 34-acre swimmable clear water Crystal Lagoon®, known as the Grand Oasis, surrounded by picturesque desert landscapes and sandy beach shorelines.

The Grand Oasis will feature numerous opportunities for aquatic recreation, including rowing, sailing, stand-up paddle boarding, and a professionally managed public beach park as the focal point of the Town Center. More details will be unfolding on this exciting project in the months ahead.

The City of Rancho Mirage celebrates its 50th anniversary in 2023.

The Rancho Mirage Writers Festival celebrates its 10th anniversary in 2023.

The Rancho Mirage Observatory celebrates its 5th year anniversary in 2023.

PROPOSALS/OFFER SUBMITTAL:

Proposals will be accepted until **4:00 P.M. MONDAY, AUGUST 31, 2020**, and each must be submitted in a sealed envelope plainly marked on the outside **"SEALED BID FOR MARKETING, BRANDING, CAMPAIGN DEVELOPMENT AND STRATEGIC PLANNING SERVICES - DO NOT OPEN WITH REGULAR MAIL"** to:

City of Rancho Mirage
Attn: Gabe Codding, Marketing Director and Hayley Tice, Marketing & Events Specialist
69-825 Highway 111
Rancho Mirage, California 92270

SCOPE OF SERVICES:

Preference will be given to agencies providing a broad range of services and an understanding of the unique nature of city and tourism marketing and branding. Work within the City's Pillars of Focus, Tourism, Community Relations, Economic Development and Public information.

Stage I: Research, Discovery and Strategic Planning

(September 2020 – October 2020)

- Significant primary and secondary research and analysis – locally, domestically and globally
- Perception analysis of Rancho Mirage domestically, including comparison to other cities/regions
- Various workshop sessions with Rancho Mirage marketing department
- Review of current branding and previous brand audits for basis of recommendations
- Identify key areas of focus and priorities by each year
- Identify specific objectives and tactics to be deployed for all areas including branding, communications, events, content creation, social media, database management, marketing, advertising, key partnerships and sponsorships
- Recommend Key Performance Indicators (KPI) and qualitative assessments to monitor success

Stage II: Brand Identity Concepts and Final Campaign Development

(November 2020 – December 2020)

- Ideation and presentation of multiple brand and visual options
- Development and presentation of multiple, preliminary brand identity options – including color palettes, taglines, mission statement, event alignment and other associated elements
- Recommendations for print, digital and additional brand assets
- Refinement of final brand identity
- Complete branding buildout of finally selected campaign to include all source files
- Production and launch of final brand identity release including video, social, photo, ads, etc.

Stage III: Brand Guidelines and Standards of City and Tourism Campaigns

(January 2021 – February 2021)

- Production of final brand toolkit and style guide
- Comprehensive presentation of the brand essence with embedded source files of logos, brand themes, advertisements, etc.

Deliverables:

Stage I: 4-Year Strategic Marketing, Communications and Events Plan

(September 2020 – October 2020)

- This plan should be a comprehensive detailed road map of the objectives and tactics associated with each area of opportunity across each core pillar, as well as marketing, communication, and events platform.
- This plan must include detailed specific and measurable results and KPI for year over year evaluation
- This plan should be in presentation format to ensure key stakeholder's stay informed of current and future strategy.

Stage II: 3-4 Brand Campaign concepts for approval and then a full developed brand campaign with the selected concept.

(November 2020 – December 2020)

- The provider shall produce 3-4 branding and marketing concepts in a presentation style to propose to the Rancho Mirage marketing team and potentially City Council.
- The provider will then be expected to develop the final concept into a comprehensive brand theme and organized source files for the City of Rancho Mirage marketing department.

Stage III: Brand Guidelines and Standards

(January 2021 – February 2021)

- Production of final brand toolkit and style guide
- Comprehensive presentation of the brand essence with embedded source files of logos, brand themes, advertisements, etc.

The Proposal Should Address the Following Questions:

- What process will the provider use to gather data and what type of analysis will be carried out?
- What is the anticipated timeframe for completing the scope of work and the cost associated with each milestone/stage?

- What additional tools and information will be necessary to complete the scope of work?
- How does the provider communicate project progress?
- How does the provider address obstacles and challenges that may arise during the project?

GENERAL INSTRUCTIONS FOR SUBMITTAL:

A. Proposal Submittal

The proposer shall submit one (1) original and three (3) copies by **4:00 P.M. (Pacific Standard Time), MONDAY, AUGUST 31, 2020.**

City of Rancho Mirage

Attn: Gabe Coddling, Marketing Director and Hayley Tice, Marketing & Events Specialist

69825 Highway 111

Rancho Mirage, California 92270

B. Due Date and Time

Proposals submitted after **4:00 P.M. on MONDAY, AUGUST 31, 2020**, may, at the sole discretion of the City, be rejected as non-responsive and returned without review. For a proposal to be considered on time, it must be date stamped by City staff upon receipt. At the discretion of the City, a “late” proposal may be considered only if a selection cannot be determined from among proposals received on time. The City shall not be responsible for, nor accept any as a valid excuse, any delay in mail service, or any other method of delivery used by the proposer. All proposals shall be enclosed in a sealed envelope with the words clearly written on the front, **“SEALED BID FOR MARKETING, BRANDING, CAMPAIGN DEVELOPMENT AND STRATEGIC PLANNING SERVICES - DO NOT OPEN WITH REGULAR MAIL.”** Failure of the proposer to properly identify the sealed envelope proposal as described may result in the proposal being considered non-responsive. All proposals shall be firm offers subject to acceptance by the City and may not be withdrawn for a period of 180 calendar days following the last day to accept proposals. Proposals may not be amended after the due date except by consent of the City. All proposals must clearly address all of the requirements outlined in this RFP. Each proposal shall be limited to twenty (20) pages and must include a minimum of three (3) references, which include the address, telephone number, and email address of each reference. Resumes and brochures may be added to the proposal, provided they are located in an appendix at the back of the proposal. Should the proposer have concerns about meeting any noted requirements, the proposer shall include a clearly labeled

subsection with individual statements specifically identifying the concerns and exceptions.

C. RFP Addenda and Clarifications in Written Comments

All comments and questions from proposers must be submitted in writing and received by no later than 4:00 P.M. on MONDAY, AUGUST 17, 2020 (“Addendum Due Date”), and must be submitted via the following approved written methods addressed to Hayley Tice, Marketing & Events Specialist:

1. At hayleyt@ranchomirageca.gov, or
2. Via fax to (760) 202-4792, or
3. Via mail (to the address listed in General Instructions for Submittal, Subpart A (Proposal Submittal), as long as the correspondence is received, and date stamped by the City on or prior to the Addenda Due Date.

Any verbal questions shall not be addressed by the City. Submittal of written comments or questions shall not be considered by the City unless submitted in an approved method on or before the Addenda Due Date. Written comments or questions received via approved method and within the time prescribed herein will be addressed by the City’s issuance of an addendum. Notwithstanding anything else herein, if it becomes necessary for the City to revise any part of this RFP, or to provide clarification or additional information after this RFP has been issued, a written addendum will be posted and published on the City’s website, <http://www.ranchomirageca.gov>. All addenda shall become part of the RFP.

D. Pre-contractual Expenses

The City shall not be responsible for, under any circumstances, any claims of expenses necessary for the proposer to receive, evaluate, complete and deliver the proposal. The proposer should also not include any pre-contractual expenses or fees in the proposal.

E. Conflicts of Interest

The proposer affirms that to the best of his or her knowledge, there exists no actual or potential conflict between the firm’s business or financial interests, and either the services to be provided under the Agreement, or any commissioner, officer, employee, or agent of the City. For the duration of the Agreement, the proposer shall refrain from undertaking

any work for any individual, business, or legal entity, in which direct conflicts of interest regarding the services to be provided thereunder or herein may arise.

F. Proposed Contract

The proposer selected through this RFP shall be required to enter into the Agreement with the City, in substantially the same form as the form attached hereto as **Exhibit "A."**

G. Insurance and Acknowledgement

Each proposal shall include a breakdown of all costs associated with issuance of the insurance endorsements described in and pertaining to Section 18 of the Agreement ("Insurance Provisions"). Each proposal shall also include signed acknowledgement(s) in substantially the same form as the form attached hereto as **Exhibit "B,"** through which each insurance carrier that will issue any policy required in the Insurance Provisions, shall acknowledge, warrant and represent that it possesses the ability to and shall furnish all the insurance endorsements prescribed in the Insurance Provisions.

PROPOSAL FORMAT AND CONTENT:

A. Presentation

Proposals shall be submitted in an 8 ½" x 11" format, fastened with an effective method.

B. Proposal Content

1. Transmittal Letter

- a. Contact information, identification of firm, name and email address and telephone number
- b. A statement to the effect that the proposal will remain valid for 180 days from the due date for the proposals
- c. Acknowledgement of receipt of addenda, if any
- d. Signature of the person authorized to bind the terms of the proposal

2. Table of Contents

Following the transmittal, provide a table of contents for the proposal

C. Qualifications, Related Experience and References

1. This section shall establish the ability of the proposer to satisfy all aspects of the required work with current or recently completed services, similar to the work required in this RFP.
2. Background information of the firm, including the date of founding, legal form, number and location of offices, number of employees, days and hours of operation and any other pertinent information.
3. Disclose any conditions (e.g., bankruptcy, pending litigation, planned office closures, mergers) and organizational conflicts of interest that may affect the ability of the proposer to perform the required duties.
4. Certify that the firm is not debarred, suspended or otherwise declared ineligible to contract with any other federal, state or local public agency.
5. Provide a list of business clients to which your firm is currently providing or has recently provided similar services. Include company names, beginning/end dates of contracts, and names, titles and telephone numbers the City can contact as references for your firm.
6. Furnish as an appendix, your firm's financial information (last year's Income Statement and Balance Sheet) that accurately describes the financial stability of your firm (financial statements will remain confidential and will be revealed only to individuals involved in the evaluation process and award of contract).

D. Proposed Staffing and Project Organization

1. Discuss the staffing of the proposing firm who would be assigned to work on the City's project.
2. Identify the key personnel that would be assigned to the project, in hours per week. Include a brief description of their qualifications and experience in performing the type of work being assigned.
3. Designate an administrator who would serve as a day-to-day contact for the City.

4. Provide any necessary organizational chart of the firm as it relates to this RFP.

E. Work Plan / Technical Approach

1. Establish the proposer's understanding of the City's objectives and requirements, demonstrate the proper ability to meet those objectives and requirements, and clearly identify the method (plan) of accomplishing the described work.
2. Describe what information, documentation or staff assistance from the City your firm would request from the City in order to complete the work described.

F. Cost and Price

1. This section shall disclose all charges to be assessed the City for the required services and declare the proposer's preferences for method and timing of payment.
2. Quote a total price for completing all services; include all costs associated with the operating budget, including all service fees.
3. For all staff declared in the organizational chart, provide a schedule of hourly labor rates.

G. Appendices

Furnish as appendices, supporting documentation as requested, such as financial information and staff resumes.

PROPOSAL EVALUATION AND CONTRACT AWARD:

A. Evaluation Panel

An evaluation panel consisting of City staff will be responsible for reviewing, analyzing, and evaluating the proposals received. The panel may also conduct contract negotiations with the highest rated proposer(s). The evaluation panel will either select the successful proposer or make recommendations to the City Council regarding selection.

B. Evaluation Criteria

Proposals will be evaluated by the panel, considering the factors which are listed below in no particular order of significance.

1. Cost and price
2. Work plan
3. Qualification and experience of proposer
4. Staffing and organization
5. Conformance with this RFP
6. References of performance including such factors as control of costs, quality of work, ability to meet schedules, cooperation, responsiveness, compliance with the requirements, and other considerations
7. Any other criteria determined by the City

Finalist Interviews: September 1, 2020 through September 10, 2020.

City Council Award: September 17, 2020.

Upon selection of the most qualified proposer, the City may require the finalist to make an oral presentation to the evaluation panel and/or the City Council or City Manager or designee. The City expressly reserves the right to reject any or all proposals, with or without providing a reason and to waive any irregularities or informalities in the offers received. In the event of any such rejection, or in the event a proposer's offer is not rejected but does not result in contract award, the City shall not be liable for any costs incurred by the proposer in connection with the preparation and submittal of the proposal.

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EXHIBIT "A"

SEE ATTACHED AGREEMENT

**PROFESSIONAL SERVICES AGREEMENT
BY AND BETWEEN
THE CITY OF RANCHO MIRAGE
AND**

This Professional Services Agreement (hereinafter, this "Agreement") is made and entered into this _____ day of _____ 2020 by and between the City of Rancho Mirage, a municipal corporation in the County of Riverside, State of California, hereinafter referred to as the "City," and _____, _____, hereinafter referred to as "Consultant."

RECITALS:

WHEREAS, the City desires to utilize the services of Consultant, as an independent contractor, to provide the City with _____ (hereinafter, the "Services") as directed by the City and more particularly described in the "Scope of Services," attached hereto and incorporated herein by this reference as Exhibit "A"; and

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

WHEREAS, the City Council approved this Agreement during its meeting of _____, 2020.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS AND PROMISES CONTAINED HEREIN, THE PARTIES HERETO AGREE AS FOLLOWS:

Section 1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Agreement by this reference, as though set forth in full herein.

Section 2. SCOPE OF SERVICES

Consultant shall provide to the City those services as set forth in the Scope of Services, at the time, place, and in the manner specified therein, in a manner satisfactory to the City and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. In the event any conflict exists between the Agreement minus the Scope of Services, on the one hand, and the Scope of Services, on the other hand, the former shall supersede. Work Product, as defined herein, shall be delivered to City in format(s) requested by City, digital or otherwise.

Section 3. COMPLETION DATE

Consultant shall perform those services set forth in the Scope of Services during the term of this Agreement, which shall commence as of _____, 2020 and continue until _____, 20__.

Section 4. COMPENSATION

The City agrees to pay Consultant for and in consideration of the faithful performance of the consulting services and duties set forth in this Agreement, and Consultant agrees to accept from the City, as and for compensation for the faithful performance of said services and duties, an amount not to exceed a total compensation of _____ Dollars and ____ Cents (\$_____.__) during the term of this Agreement.

Section 5. METHOD OF PAYMENT

a. Consultant shall submit invoices to the City on a monthly basis describing the work performed. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. The City shall pay Consultant no later than thirty (30) days after approval of the invoice by City staff provided that the services reflected in the invoice were performed to the reasonable satisfaction of the City in accordance with the terms of this Agreement, that the number of hours of service set forth in the invoice reflect the amount of time ordinarily expended for such service by

members of the profession currently practicing in the same locality under similar conditions, and that all expenses, rates and other information set forth in the invoice are consistent with the terms and conditions of this Agreement.

b. The Consultant shall submit invoices under this Agreement to:

_____, _____
City of Rancho Mirage
69825 Highway 111
Rancho Mirage, CA 92270
Telephone: (760) _____
Facsimile: (760) _____
Email: _____

Section 6. EXTRA WORK

At any time during the term of this Agreement, the City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by the City to be necessary for the proper completion of the Services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform Extra Work without written authorization from the City.

Section 7. TERMINATION

This Agreement may be terminated by the City immediately for cause. The City may terminate this Agreement without cause upon thirty (30) days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services performed up to the effective date of termination; provided that Consultant shall first provide all documents, reports, data or other Work Product, as defined herein, developed in performance of the Services, within ten (10) calendar days of such termination and without additional charge to City, in format reasonably requested by City. For purposes of this Section, the City Manager shall have the authority to take action on behalf of the City.

Section 8. OWNERSHIP OF DOCUMENTS

Subject to Section 40, all plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at its expense, provide such reports (including any electronic copies), plans, studies, documents and other writings to the City upon written request.

Section 9. CONFIDENTIALITY

a. All ideas, memoranda, specifications, plans, procedures, drawings, photographs, descriptions, computer program data, input record data, written information, and other documents and data either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without prior written consent of the City, be used by Consultant for any purposes other than the performance of the services under this Agreement, nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential.

b. Consultant shall not use the City's insignia or photographs relating to the project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of the City.

Section 10. CONSULTANT'S BOOKS AND RECORDS

a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to the City for a minimum period of three years, or for any longer period required by law, from the date of final payment to Consultant pursuant to this Agreement.

b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three years, or for any longer period required by law, from the date of termination or completion of this Agreement.

c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Manager, City Attorney, City Auditor or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at the City's address indicated for receipt of notices in this Agreement when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

d. Where the City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Consultant's business, the City may, by written request of any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained at the City's address indicated for receipt of notices in this Agreement. Access to such records and documents shall be granted to any party authorized by Consultant, Consultant's representatives, or Consultant's successor-in-interest.

Section 11. INDEPENDENT CONTRACTOR'S STATUS: NOT AGENT OF THE CITY

Consultant shall at all times during the term of this Agreement remain, as to the City, a wholly independent contractor and shall perform the services described in this Agreement as an independent contractor and further, hereby waives any claims for any compensation or benefits afforded to City employees and not to independent contractors. Neither the City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as herein set forth. Nothing contained in this Agreement shall be deemed, construed or represented by the City or Consultant or by any third person to create the relationship of principal and agent and Consultant shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of the City. Consultant shall have no authority, expressed or implied, to act on behalf of the City in any capacity whatsoever as an agent,

nor shall Consultant have any authority, expressed or implied, to bind the City to any obligation whatsoever.

**Section 12. REPRESENTATIONS AND ACKNOWLEDGMENTS
REGARDING INDEPENDENT CONTRACTOR'S STATUS
OF CONSULTANT**

a. Consultant represents and acknowledges the following:

(1) The City is not required to provide any training or legal counsel to Consultant or its employees in order for Consultant to perform the services described in this Agreement.

(2) Performance of the services described in this Agreement does not have to be integrated into the daily business operations of the City.

(3) The services described in this Agreement can be performed without the use of City equipment, materials, tools or facilities.

(4) Nothing in this Agreement shall be interpreted to imply that the City must maintain any contractual relationship with Consultant on a continuing basis after termination of this Agreement.

(5) The City will not be requested or demanded to assume any liability for the direct payment of any salary, wage or other such compensation to any person employed by Consultant to perform the services described in this Agreement.

(6) Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are employees of the City.

b. The City represents and acknowledges the following:

(1) Consultant is not required to comply with daily instructions from City staff with respect to when, where or how Consultant must perform the services set forth in this Agreement.

(2) Consultant is solely responsible for determining who, under the supervision or direction of Consultant, will perform the services set forth in this Agreement.

(3) The City will not hire, supervise or pay any assistants working for Consultant pursuant to this Agreement.

(4) Nothing in this Agreement shall be interpreted to imply that the Consultant must maintain any contractual relationship with the City on a continuing basis after termination of this Agreement.

(5) It is the sole responsibility of Consultant to set the hours in which Consultant performs or plans to perform the services set forth in this Agreement.

(6) Consultant is not required to devote full time to the business operations of the City in order to perform the services set forth in this Agreement.

(7) Consultant is not required to perform the services set forth in this Agreement at City-owned property.

(8) Nothing in this Agreement shall be interpreted to preclude Consultant from working for other persons or firms, provided that such work does not create a conflict of interest.

(9) Consultant is not required to perform the Services set forth in the Agreement in any particular order or sequence.

Section 13. CIVIL CODE SECTION 1542 WAIVER

Consultant expressly waives any and all rights and benefits conferred upon it by the provisions of section 1542 of the California Civil Code which reads as follows:

“A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

This waiver shall be effective as a bar to any and all actions, fees, damages, losses, claims, liabilities and demands of whatsoever character, nature and kind, that are known or unknown, or suspected or unsuspected, including, without limitation, claims of entitlements under the California Public Employees' Retirement System (CalPERS) that are only afforded to employees and not independent contractors. Consultant further represents and warrants that it understands this waiver and that if it does not understand this waiver, it shall seek the advice of a qualified attorney before executing this Agreement.

Initials

Section 14. CONFLICTS OF INTEREST

a. Consultant (including principals, associates and professional employees) covenants and represents that it does not have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source or income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

b. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- (1) Does not make or participate in:
 - (i) the making or any governmental decisions regarding approval of a rate, rule, or regulation, the adoption or enforcement of laws;
 - (ii) the issuance, denial, suspension or revocation of permits, licenses, applications, certificates, approvals, orders, or similar authorization or entitlement;
 - (iii) authorizing the City to enter into, modify, or renew a contract;

- (iv) granting the City approval to a contract that requires City approval and to which the City is a party, or to the specifications for such a contract;
- (v) granting the City approval to a plan, design, report, study, or similar item; or
- (vi) adopting, or granting City approval of, policies, standards, or guidelines for the City or for any subdivision thereof.

(2) Does not serve in a staff capacity with the City and in that capacity participate in making a governmental decision or otherwise perform the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code under Government Code Section 87302.

c. In the event the City officially determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file the subject Form 700 with the City Clerk's Office of the City of Rancho Mirage pursuant to the written instructions provided by the Office of the City Clerk.

**Section 15. PROFESSIONAL ABILITY OF CONSULTANT;
WARRANTY; FAMILIARITY WITH WORK; PERMITS AND
LICENSES**

a. Consultant warrants that all services will be performed in a competent, professional and satisfactory manner in accordance with the standards prevalent in the industry for such services.

b. By executing this Agreement, Consultant warrants that:

- (1) it has thoroughly investigated and considered the work to be performed;
- (2) it has investigated the issues, regarding the scope of services to be provided;

- (3) it has carefully considered how the work should be performed; and
- (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

c. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the work or as represented by the City, it shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the City Manager or appropriate City representative.

d. Consultant represents that it has obtained and will maintain at all times during the term of this Agreement all professional and/or business licenses, certifications and/or permits necessary for performing the services described in this Agreement, including a City of Rancho Mirage business license.

Section 16. COMPLIANCE WITH LAWS

a. Consultant shall comply with all local, state and federal laws, rules and regulations applicable to the services required hereunder, including without limitation any such law, rule, bylaw, and/or regulation governing the conduct or performance of Consultant, which shall include any such, laws, regulations and/or regulations applicable to City for which Services are rendered.

b. Consultant represents that it has obtained and/or will obtain, and will maintain at all times during the term of this Agreement all professional and/or business licenses, certifications and/or permits necessary for performing the services described herein.

Section 17. INDEMNIFICATION

a. Consultant shall defend, indemnify and hold harmless the City, its officers, officials, agents, employees and volunteers from and against any and all claims, demands, actions, losses, damage, injuries, and liability, direct or indirect (including any and all costs, expenses and attorneys' fees in connection therewith), arising out of the performance of this Agreement, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, agents, employees or volunteers.

b. The City does not, and shall not, waive any rights that it may have against Consultant under this Section because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless, indemnification and duty to defend provisions of this Section shall apply regardless of whether or not said insurance policies are determined to be applicable to the claim, demand, action, damage, liability, loss, cost or expense described herein. As set forth in and without limiting the generality of Section 18i, any applicable insurance policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

c. Notwithstanding the provisions of subsections a. and b. of this section, Consultant shall not be responsible for damages or be in default or deemed to be in default by reason of delay caused by strikes, lockouts, accidents, or acts of God, or the failure of the City to furnish timely information or to approve or disapprove Consultant's work promptly, or by reason of delay or faulty performance by the City, construction contractors, or governmental agencies, or by reason of any other delays beyond Consultant's control, or for which Consultant is without fault.

d. The indemnity provisions contained in this Section shall survive expiration or sooner termination of this Agreement.

Section 18. INSURANCE REQUIREMENTS

a. Policies. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of this Agreement, the following insurance policies:

(1) Worker's Compensation Coverage. Consultant shall maintain Worker's Compensation Insurance and Employer's Liability Insurance for its employees in accordance with the laws of the State of California. In addition, Consultant shall require each subcontractor to similarly maintain Worker's Compensation Insurance and Employer's Liability Insurance in accordance with the laws of the State of California for all of the subcontractor's employees. If any class of employees employed by Consultant pursuant to this Agreement is not protected by the California State Worker's Compensation Law, Consultant shall provide adequate insurance for the protection of such employees to the satisfaction of the City. This provision shall not apply if Consultant has no employees performing work under this Agreement. If the Consultant has no employees for the purposes of this Agreement, Consultant shall sign and attach the

Certificate of Exemption from Worker's Compensation Insurance, attached hereto and incorporated herein by this reference as Exhibit "B." Consultant agrees to waive its statutory immunity under any worker's compensation or similar statute, as respecting the City, and to require any and all subcontractors and any other person or entity involved in the Services to do the same.

(2) General Liability Coverage. Consultant shall maintain commercial general liability insurance in an amount not less than one million dollars (\$1,000,000) combined single limit per occurrence, and two million dollars (\$2,000,000) in the aggregate, for bodily injury, personal injury and property damage. Consultant shall provide insurance on an occurrence, not claims-made basis. Consultant acknowledges and agrees that, for purposes of clarification with the intention of avoiding gaps in coverage with any umbrella or excess coverage, personal and advertising injury coverage shall be triggered by an "offense" while bodily injury and property damage coverage shall be triggered by an "occurrence" during the policy period.

(3) Automobile Liability Coverage. Consultant shall maintain commercial automobile liability insurance covering bodily injury, personal injury and property damage for all activities of the Consultant arising out of or in connection with the work to be performed under this Agreement, including coverage for owned, hired and non-owned vehicles, in an amount of not less than one million dollars (\$1,000,000) combined single limit per occurrence, and two million dollars (\$2,000,000) in the aggregate.

(4) Professional Liability Coverage. Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors or omissions which may arise from Consultant's Services, whether such Services are performed by Consultant or by its employees, subcontractors, or sub-consultants. The amount of this insurance shall not be less than one million dollars (\$1,000,000) per claim, and two million dollars (\$2,000,000) in the aggregate.

b. Endorsements. Unless otherwise specified hereunder, each insurance policy required herein shall be with insurers possessing a Best's rating of no less than A:VII and shall be endorsed with the following specific language:

(1) Notwithstanding any inconsistent statement in any required insurance policies or any subsequent endorsements attached thereto, the protection offered by commercial general liability and commercial vehicle liability coverages, shall bear an endorsement whereby it is provided that, the City and its officers, employees, servants, volunteers and agents and independent contractors, including without limitation, the City Manager and City Attorney, are named as additional insureds with respect to liability arising out of work performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work or operations. Additional insureds shall be entitled to the full benefit of all insurance policies in the same manner and to the same extent as any other insureds and there shall be no limitation to the benefits conferred upon them other than policy limits to coverages.

(2) With the exception of workers' compensation and professional liability insurance, this policy shall be considered primary insurance as respects the City, its elected or appointed officers, officials, employees, agents and volunteers. Any insurance maintained by the City, including any self-insured retention the City may have shall be considered excess insurance only and shall not contribute with it.

(3) This insurance shall act for each insured and additional insured as though a separate policy had been written for each, except with respect to the limits of liability of the insuring company.

(4) The insurer waives all rights of subrogation against the City, its elected or appointed officials, officers, employees or agents.

(5) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its elected or appointed officers, officials, employees, agents or volunteers.

(6) The insurance provided by this policy shall not be canceled except after thirty (30) days written notice has been mailed to the City and ten (10) days notice if cancellation is for nonpayment of premium.

c. Deductibles and Self-Insured Retentions. Consultant shall be responsible for payment of any deductibles contained in any insurance policies required hereunder and shall also be responsible for payment of any self-insured retentions. Any deductibles

or self-insured retentions must be declared to and approved by the City. At the City's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

d. Certificates of Insurance. Consultant shall provide certificates of insurance with original endorsements to the City as evidence of the insurance coverage required herein. Certificates of such insurance shall be filed with the City on or before commencement of performance of this Agreement. Consultant agrees to ensure that the most current certification of insurance is on file with the City at all times during the term of this Agreement.

e. Imposition of Insurance Requirements. Provided the City gives its written consent for any persons other than Consultant to perform any part of the Services, Consultant agrees to require that all parties, including but not limited to subcontractors, architects, engineers or others with whom Consultant enters into contracts or whom Consultant hires or retains pursuant to or in any way related to the performance of this Agreement, provide the insurance coverage required herein, at minimum, and name as additional insureds the parties to this Agreement. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section.

f. Maintain Coverages. In the event this Agreement is terminated for any reason prior to the completion of all obligations and requirements of this Agreement, Consultant agrees to maintain all coverages required herein until the City provides written authorization to terminate the coverages following the City's review and determination that all liability posed under this Agreement as to the party providing insurance has been eliminated.

g. Failure to Obtain Coverages. Without limiting the generality of the forgoing, Consultant agrees and acknowledges that if it fails to obtain all of the insurance required in this Agreement in accordance with the requirements herein, or to obtain and ensure that the coverage required herein is maintained by any subcontractors or others involved in any way with the performance of Services, to the extent such is permissible under this Agreement, Consultant shall be responsible for any losses, claims, suits, damages, defense obligations, or liability of any kind or nature attributable to the City or its officers, employees, servants, volunteers, agents and independent contractors; and all Services under this Agreement shall be discontinued immediately until notice is received by City that the required insurance has been restored to full force and effect and that the premiums therefor have been paid for a period satisfactory to City. Any failure to maintain the required insurance, including insurance required of any subcontractors or others

involved in any way with the Services, shall be sufficient cause for City to terminate this Agreement.

h. Broader Existing Coverage. In the event Consultant maintains insurance with broader coverage and/or limits of liability greater than those required herein, City requires and shall be entitled to the broader coverage and/or higher limits of liability maintained by Consultant. Any insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

i. Separate Obligation from Indemnity. The fact that insurance is obtained by Consultant shall not be deemed to release or diminish the liability of Consultant, including, without limitation, liability under the indemnity provisions of this Agreement. The duty to indemnify and hold the City harmless shall apply to all claims and liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant. Approval or purchase of any insurance contracts or policies shall in no way relieve from liability nor limit the liability of Consultant, its principals, officers, agents, employees, persons under the supervision of Consultant, vendors, suppliers, invitees, sub-contractors, or anyone employed directly or indirectly by any of them.

j. Survival. The requirements set forth in Section 18f shall survive termination of this Agreement.

Section 19. NOTICES

a. Any notice to be provided pursuant to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the parties as follows:

To the City:

_____, _____
City of Rancho Mirage
69825 Highway 111
Rancho Mirage, CA 92270
Telephone: (760) _____
Facsimile: (760) _____
Email: _____

To Consultant:

Telephone: (____) _____

Email: _____

b. Notices, payments and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

Section 20. ENTIRE AGREEMENT

a. This Agreement supersedes any and all other agreements, either oral or written, between the City and Consultant with respect to the subject matter of this Agreement.

b. This Agreement contains all of the covenants and agreements between the parties with respect to the subject matter of this Agreement, and each party to this Agreement acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any party except those covenants and agreements embodied in this Agreement.

c. No agreement, statement, or promise not contained in this Agreement shall be valid or binding.

Section 21. MODIFICATIONS AND AMENDMENTS

This Agreement may be modified or amended only by a written instrument signed by both parties.

Section 22. ASSIGNMENT AND SUBCONTRACTING

a. The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this

Agreement. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the written consent of the City.

b. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the written consent of the City. If the City consents to such subcontract, Consultant shall be fully responsible to the City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between the City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as required by law.

Section 23. **WAIVER**

a. No waiver shall be binding, unless executed in writing by the party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

c. Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the remaining provisions of this Agreement.

Section 24. **SEVERABILITY**

If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.

Section 25. **VENUE**

All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement

action related to this Agreement shall be initiated and conducted in the applicable court or forum in Riverside County, California.

Section 26. LITIGATION EXPENSES AND ATTORNEYS' FEES

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Section 27. EXECUTION IN COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least a copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart. All electronic signatures shall be deemed to be one and the same as original signatures.

Section 28. PROHIBITED INTERESTS

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee 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. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of the City, during the term of his or her service with the City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

Section 29. EQUAL OPPORTUNITY EMPLOYMENT

Consultant represents that it is an equal opportunity employer and shall not discriminate against any subcontractor, employee, or applicant (“person”) for employment because of race; denial of family and medical care leave; religious creed (including religious dress and grooming practices); color; national origin (including language use restrictions); ancestry; physical disability or mental disability (including HIV and Aids); medical condition (cancer and genetic characteristics); genetic information; military or veteran status; marital status; gender, gender identity, and gender expression; sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding); age or sexual orientation. Unless otherwise permitted under the law, Consultant shall not refuse to hire or employ any such person or refuse to select any such person for a training program leading to employment, or bar or discharge any such person from employment or from a training program leading to employment, or otherwise discriminate against any such person in compensation or in terms, conditions, or privileges of employment.

Section 30. TIME OF THE ESSENCE

Time is of the essence in the performance of this Agreement.

Section 31. PRINCIPAL REPRESENTATIVES

a. _____, is designated as Consultant's Principal Representative and is the person responsible for undertaking, managing and supervising the performance of all of the services set forth in the Scope of Services for this Agreement. Consultant's designated Principal Representative's experience, knowledge, capability and reputation were a substantial inducement for the City to enter into this Agreement, and as such, for the purposes of performing the Scope of Services of this Agreement, the duties of Consultant's designated Principal Representative shall not be reassigned, without the express written consent of both parties.

b. _____, _____, shall be the Principal Representative of the City for purposes of communicating with Consultant on any matter associated with the performance of the services set forth in this Agreement.

Section 32. NON-LIABILITY OF CITY’S OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to Consultant or to its successor, or for any breach of any obligation of the terms of this Agreement.

Section 33. **INTERPRETATION**

This Agreement shall not be interpreted against either party on the grounds that one of the parties was solely responsible for preparing it or caused it to be prepared as both parties were involved in drafting it.

Section 34. **PROTECTION AND CORRECTION OF WORK**

a. Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work performed by Consultant, and the equipment, materials, papers and other components thereof to prevent losses or damages.

b. The performance of services by Consultant shall not relieve Consultant from any obligation to correct any incomplete, inaccurate or defective work at no further cost to the City, when such inaccuracies are due to the fault of Consultant.

Section 35. **CAPTIONS AND HEADINGS**

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

Section 36. **GOVERNING LAW**

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties under this Agreement, shall be construed pursuant to and in accordance with California law.

Section 37. **CUMULATIVE REMEDIES**

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 38. NO THIRD PARTY BENEFICIARIES

The parties do not intend the benefits of this Agreement to inure to any third party, nor shall any provision of this Agreement be so construed.

Section 39. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING AGREEMENT

a. Each of the parties to this Agreement hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Agreement a binding obligation of each of the parties hereto.

b. The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the parties each purports to represent.

Section 40. CONSULTANT'S WORK PRODUCT; ASSIGNMENT OF RIGHTS; LIMITED LICENSE

a. As part of the Services, Consultant may produce, create, or otherwise develop work product, including but not limited to, photographs, pictorials, graphics, audiovisual works, documents, images, reports, creative visual concepts, any other work containing Intellectual Property Rights (as defined below), including all other concepts and ideas that make the work product original ("Work Product"). Consultant hereby perpetually, irrevocably and unconditionally assigns, conveys and transfers to City and its successors and assigns, any and all of Consultant's rights, title and interest in and to the Work Product and all components and parts that comprise the Work Product, including without limitation any and all Intellectual Property Rights, as defined below. Consultant hereby further perpetually, irrevocably and unconditionally assigns, transfers and conveys to City and its successors and assigns, all claims and rights to claims for past, present and future infringement or misappropriation of the Work Product. Included in such rights are all rights to sue for and to receive and recover all profits and damages

accruing from infringement or past infringements and misappropriations. Without limiting the generality of the forgoing, City shall have the right to create derivative works, exclusively, in perpetuity, and worldwide, including all rights to enforce the same, including but not limited to, the right to sue and recover any sums now or hereafter due or payable with respect to any of the Work Product; all at no cost to City. As sole owner of the Work Product, City shall have the sole right to use the Work Product in any way it determines in its sole and absolute discretion without further compensation to Consultant or to any other party. City shall be the sole copyright owner of the Work Product. For purposes of this Agreement, "Intellectual Property Rights" shall include any and all rights in, arising out of, or associated with Work Product in any jurisdiction, including without limitation: rights in, arising out of, or associated with trademarks (and servicemarks), including without limitation rights granted under the Lanham Act, and copyrights; rights in, arising out of, or associated with confidential information, including without limitation rights granted under the Uniform Trade Secrets act; rights of attribution and integrity and other moral rights of any author; and rights in, arising out of, or associated with domain names.

b. Consultant will take all action and execute all documents as City may reasonably request to effectuate the transfer of the Work Product, and portions thereof, and the vesting of complete and exclusive ownership of the Work Product, and portions thereof, in City. In addition, Consultant will, at the request of City, but without compensation to Consultant, promptly sign, execute, make, and perform all such deeds, documents, acts, and things as City may reasonably require:

(i) to apply for, obtain, register, maintain and vest in the name of City alone (unless City otherwise directs) Intellectual Property Rights protection relating to any or all of the Work Product in any country throughout the world, and when so obtained or vested, to renew and restore the same;

(ii) to defend any judicial, opposition, or other proceedings in respect of Intellectual Property Rights applications and any judicial, opposition, or other proceedings or petitions or applications for revocation of such Intellectual Property Rights; and

(iii) to assist City with the defense and enforcement of its rights in any registrations issuing from Intellectual Property Rights applications and in all Intellectual Property Rights protection in the Work Product.

c. Power of Attorney. In order to address circumstances where at any time City may be unable, for any reason, to secure Consultant's signature on any letters patent, copyright, or trademark (including servicemarks) assignments or applications for registrations, or other documents or filings pertaining to any or all of the Work Product, whether because of Consultant's unwillingness, or for any other reason whatsoever, Consultant hereby irrevocably designates and appoints City and its duly authorized officers and agents as its agents and attorneys-in-fact, to act for and on its behalf and stead to execute and file any and all such applications, registrations, and other documents and to do all other lawfully permitted acts to further the prosecution thereon with the same legal force and effect as if executed by Consultant. This Section shall survive in perpetuity.

d. Consultant hereby acknowledges the existence of his or her federal moral rights, and protections under VARA, as such rights and protections are more particularly described in 17 U.S.C. Section 106A(A) and knowingly executes this waiver. Consultant hereby expressly and forever waives and agrees not to enforce any and all moral rights and personality rights, including, without limitation, rights of attribution, integrity, and disclosure that may hold in connection with the Work Product, if any, together with all claims for damages and other remedies asserted on the basis of moral rights, as such rights may exist under the Visual Artists Rights Act of 1990 ("VARA") and/or other similar laws, rules or regulations. Additionally, Consultant hereby assigns, transfers, and conveys to City any and all such moral rights, to the fullest extent permitted by law.

e. Subject to prior written approval by City Manager or his or her designee, Consultant may use the Work Product for the limited purposes of illustrating and providing samples of Consultant's work in private demonstrations. By way of example, Consultant may use Work Product in resumes or for other private demonstrations for the purpose of providing potential clients of Consultant an example of Consultant's work, upon written approval of City. Consultant shall have no rights other than as expressly set forth herein. Notwithstanding the foregoing, City shall at all times remain the sole and exclusive owner of the Work Product and all rights contained therein. Consultant shall take action reasonably necessary to protect the confidentiality of the Work Product to prevent the possibility of unauthorized use or copying of the Work Product. Upon written approval of use of Work Product by City, in accordance with this Section, Consultant shall include in all such Work Product a copyright notice, approved as to form by City ("Copyright Notice"). Consultant shall immediately notify City of any unauthorized use of the Work Project which Consultant knows or reasonably should have known.

f. Consultant further warrants that the Work Product does not contain any libelous material; infringe upon any trade name, trademark, or copyright; or invade or violate any right of privacy, personal right, or other common law or statutory right. Consultant hereby waives any right it may have to sue or otherwise pursue any action or claim against the City related in any way, either directly or indirectly, to the City use of the Work Product in accordance with the terms of this agreement.

g. This Section shall survive termination and expiration of this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first written above.

CITY OF RANCHO MIRAGE

Isaiah Hagerman, City Manager

By Its: _____
(Title)

APPROVED AS TO CONTENT:

ATTEST:

Kristie Ramos, City Clerk

APPROVED AS TO FORM:

Steven B. Quintanilla, City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

**ATTACHED PROPOSAL
DATED _____**

EXHIBIT "B"

**CERTIFICATE OF EXEMPTION
FROM WORKERS' COMPENSATION INSURANCE**

I certify that, in the performance of the work to be performed by _____, for the City of Rancho Mirage, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provisions of the California Labor Code, I shall forthwith comply with those provisions.

Date: _____, 2020

RFP EXHIBIT “B”

ACKNOWLEDGEMENT OF INSURANCE ENDORSEMENTS

In recognition of _____ (“Company”) having submitted a proposal to the City of Rancho Mirage Request for Proposals for Marketing, Branding, Campaign Development and Strategic Planning Services dated **AUGUST 4, 2020** (“RFP”), issued by the City of Rancho Mirage (“City”), and in further recognition that the City requires Company to comply with certain insurance requirements as set forth in Section 18 (“Insurance Provisions”) of the Agreement (which Agreement is defined in and made part of the RFP), I represent that I am authorized to sign on behalf of the insurance company listed below (“Insurer”), and by signing below, I acknowledge, warrant and represent that Insurer possesses the ability to, and if requested by Company, shall furnish all the insurance endorsements prescribed in the Insurance Provisions within thirty (30) days of contract award, as respecting worker’s compensation and/or commercial general liability and/or commercial vehicle liability insurance and/or professional liability [PLEASE CHECK ALL THAT APPLY].

Name of Insurer [Print]

Name, Title [Print]

Signature