REQUEST FOR PROPOSAL (RFP) FOR

SG Park Fence Project
CITY PROJECT 550-PRK

All questions regarding this project are to be directed to:

Steve Costley  
Project Manager  
Office: (323) 563-5494  
Email: scostley@sogate.org

May 24, 2023
May 24, 2023

Subject: Request for Proposals (RFP) for the Construction Management and Inspection of the SG Park Fence Replacement Project - City Project No. 550-PRK

Dear Prospective Consultant:

The City of South Gate (City) is soliciting proposals from qualified Consultants that can successfully provide Construction Management and Inspection Services for the SG Park Fence Project – Project No. 550-PRK.

To be considered responsive, the consultants must submit a proposal that meets all of the requirements of the RFP. The proposal package must include a fee proposal in a separate and sealed envelope titled “Fee Proposal for Construction Management and Inspection Services for the Construction of SG Park Fence Project, City Project No. 550-PRK”.

In order for your proposal to be considered, please submit four hard (4) copies, with one searchable electronic copy, marked “Proposal for Construction Management and Inspection Services for the SG Park Fence Project, City Project No. 550-PRK” to:

City Clerk’s Office  
Attn: Steve Costley, Director of Parks & Recreation  
City of South Gate  
8650 California Avenue South Gate, CA 90280

To view the project plans and specifications, please follow the link below.


Proposal Submission Deadline: June 8, 2023 at 5:00 PM.

Sincerely,

Steve Costley,  
Director of Parks & Recreation

CC: City Clerk
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INTRODUCTION

The City of South Gate is seeking a qualified consultant that can successfully provide Construction Management and Inspection Services for the “SG Park Fencing Project located at 4900 Southern Avenue in South Gate. The Project has already been advertised for construction. The construction of the SG Fence Project is expected to start in September of 2023. A total of 4 months, or Ninety (90) working days have been allocated to the construction excluding holidays.

PROJECT DESCRIPTION

The project consists of replacement of a variety of fencing throughout the 96-acre South Gate Park. The park is located at 4900 Southern Avenue and is home to 10 baseball diamonds, tennis courts, swim stadium, horseshoe pits, golf course and several other amenities.

PROJECT BUDGET

The Project is funded with Community Development Block Grant (CDBG) funds in the amount of $1.3M. The Construction Management and Inspection Services requested herein will also be funded from the same funding source.

DESCRIPTION OF WORK

The City of South Gate is seeking a qualified Consultant that can successfully provide construction management and inspection services for the construction of the SG Park Fencing Project. Services to be provided include contract administration, labor compliance, construction management, inspection, utility coordination, and project close-out services. All services are to be provided in accordance with the Project documents.

SCOPE OF SERVICES

The Consultant is to provide a part time, Inspector/Construction Manager to provide construction management for the duration of the Project until the Project paperwork is finalized, approved by the funding agencies and a State audit is conducted. Preparation of the documents required by the State Auditor to complete the audits shall be included in the proposal.

The selected Consultant will function as an extension of City staff and be expected to manage the project in accordance with the plans and specifications.

The following are the specific service tasks for the Project:

Task 1  Project Coordination

The selected Consultant must provide an experienced Construction Manager who has successfully delivered services on similarly funded projects. A minimum of 10 years of experience with similar projects is required. The Construction Manager should have City type of experience different types of concrete construction. In addition, the CM needs to be experienced in American with Disabilities Act (ADA) requirements. The Consultant must be able to perform the following:
1. Management

- Deliver Project services in accordance with the plans and specifications.
- Manage and coordinate all aspects of the Project, inclusive of services identified in the RFP.
- Conduct a pre-construction meeting and biweekly construction meetings or as deemed necessary by the project manager with the contractor, City and other involved parties. Prepare and distribute meeting agendas, minutes and progress reports.
- Coordinate with City staff, multiple contractors when applicable, agencies, and Project stakeholders.
- Prepare weekly Statements of Working Days and other reports that may be required by the City.
- Review shop drawings and material submittals with the Engineer/Architect of Record and determine consistency with the plans and specifications.
- Review RFIs with the Engineer of Record and provide report.
- Coordinate design changes with the Engineer of Record.
- Review any potential CORs, determine merit and provide report to the Project manager.
- Participate in field meetings and document issues, findings, directions, changes, etc., and develop solutions.
- Participate in public outreach activities.
- Other improvements/activities as deemed necessary by the consultant to implement the improvements on the Project.

2. Meetings

- Conduct a pre-construction meeting and prepare agenda and minutes. Prior to the meeting, review PS&E and agendaize potential issues.
- Conduct and lead construction progress meetings as scheduled by all parties and prepare minutes for the City’s approval.

3. Schedule and Budget

- Review revised construction schedule submitted by the contractor due to delays, time extensions, change orders, additional work, etc. within one week of submittal.
- Prepare change orders within 48 hours in the standard City format as well as in accordance with all applicable Federal and State funding requirements.
- Maintain a current monthly accounting of construction costs to complete the project, including approved change orders for city’s review and approval.
- Review payment requests in a timely manner, make payment recommendations, and submit the progress payment request to City for processing.

4. Miscellaneous

- Review and coordinate approval of shop drawings with the design consultant as needed.
- Log, track, and process submittals, Requests for Information (RFIs), Requests for Changes (RFCs), Contract Change Orders (CCOs), field directives, Notices of Potential Claim (NOPCs), Non-Conformance Reports (NCRs), review and approve traffic control plan.
- Provide City with the contractor’s Red marked as-built plans at Project completion.
- Monitor materials documentation and testing results, as well as enforce corrections.
- Conduct labor compliance and certified payrolls reviews and approvals with every monthly
payment.
- Review and approve contractor’s safety program.
- Review all requests for clarification and provide to Engineer of Record for clarification.
- Review required construction survey including lines and grades, construction staking, cut sheets, etc.
- Process all Project documentation per City standard format.
- Maintain Project files per City’s requirements.
- The RE shall service the Project and visit the site as needed for the life of the project.
- Provide a Final Power Point Presentation depicting progressive photos from original start of work to completion to present to City Council.

Task 2  Construction Inspection

The selected Consultant must provide an experienced Construction Inspector who has successfully provided inspection services on similar projects. At least 10 years of experience in construction inspection for a similar project is required. The Construction Inspector must be able to perform the following:

- Coordinate with City staff, including the Police Department, Los Angeles County Fire Department, utility companies, SCE and other project stakeholders.
- Participate in public outreach activities.
- Complete daily measurements of quantities of work with the contractor and prepare daily inspection reports.
- Provide daily reports on the following Monday to the City.
- Attend all Project meetings such as preconstruction, field, and progress meetings.
- Provide complete, documented measurements and calculations to process progress payments, change orders, extra work, etc.
- Prepare in-progress punch lists at the completion of each phase of the project.
- Ensure Project construction in accordance with approved PS&E, City Standards, and Greenbook.
- Inspection for nights and weekends work will be performed at the City’s approval.
- Ensure compliance with the NPDES program and Cal OSHA.
- Inspect materials and equipment upon delivery for compliance with construction contract documentation.
- Meet with the contractor to review proposed work plans, including specific details that may affect progress. Inform City of any work which may result in a noteworthy impact to the City.
- Provide and closely monitor compaction, material and other necessary testing.
- Provide and closely monitor any required special inspections.
- Review testing (such as soil testing) results and require the Contractor to provide corrective measures to achieve compliance where required.
- Maintain copies of all permits needed to construct the Project and enforce special requirements of each.
- Conduct contractor employee interviews.
- Provide and submit progressive photos of the project.
- Request City approval for any overtime.
- Report to the project manager daily via email or text.
Task 3  Labor Compliance

The Consultant will be expected to perform labor compliance in accordance with Department of Industrial Relation (DIR) or Davis Bacon Act, whichever is higher. The proposal shall provide a detailed scope of work that clearly demonstrates the Consultant understands the requirements of performing labor compliance in accordance with the DIR or Davis Bacon Act. Consultant shall provide a report at the end of each month to be included in the progress Payment Request.

Task 4  Material Testing

1. Material testing shall conform to all Green Book Standards and City Standards.
2. Review and approve ARHM, AC mix designs where applicable.
3. Review and approve PCC mix design. Consult with City for approval of PCC mix for the Project.
4. Provide requested miscellaneous consultation during the Project, including discussion with the contractor to emphasize proper treatment of concrete. Provide all compaction tests per plan, and specifications.

Task 5  Utility and Outside Agency Coordination

1. Send notification of the pre-construction meeting to all affected utility companies, Police Department, Los Angeles County Fire Department, Universal Waste System, SCE etc.
2. Review Project scope of work with each utility company at the pre-construction meeting, review possible conflicts and work with each utility to ensure that specific needs of the Project are understood.
3. Coordinate with utility companies to expedite the identification of any unknown utilities found during construction. Coordinate relocation work by utility companies.

Task 6  Project Closeout

1. Coordinate a final walk-through with all affected stakeholders, prepare punch list, certify completion of the Project and recommend acceptance.
2. Transmit Record Drawings (As-Builts) from the engineer of record to the City.
3. Finalize record drawings/As-Builts, contract bid items, claims, change orders and punch list items.
4. Prepare all final reports, including report of completion for acceptance of the Project.
5. Finalize and deliver all construction files to the City for archives.
6. Provide electronic copy of all reports and construction files to City.
7. Provide electronic version of all record drawings and files in PDF file format.
8. Address all unresolved issues including, but not limited to, change orders, claims, etc.
9. Complete documentation required by the City and the Natural Resource Agency.
PROPOSAL REQUIREMENTS

The proposal must be concise, well organized and demonstrate your firm’s team qualifications and experience related to this project. The proposal shall be printed on 8½” x 11” pages and include resumes, past experience, graphs, tables, etc. It must include the following:

I. Cover Letter (one page): The cover letter shall include the name and address of the firm submitting the proposal and a brief introduction of the company and proposed Construction Manager.

II. Qualification and Experience (maximum of 10 pages): The proposed Construction Manager shall have experience working with Public Agencies in similar assignments, including experience in dealing with public agency staff, City Councils, and Commissions. It is highly desirable that the key project team members have served public agencies in various capacities, are accustomed to working with governmental agencies, and have a good understanding of public agency issues, procedures and policies. The City is looking for a qualified team that can provide turn-key services, be the single point of contact and responsible party representing the City. Qualifications and experience to be shown in the proposal shall include, but not be limited to, the following:

- Project organization chart
- Identification of experience of principal staff members, including major sub-consultants. Resumes of principal staff should not exceed 1-page per person.
- Identify the availability of your team and the percentage of current workload of staff that would be committed to this project, including sub-consultants.
- Experience of the firm, the team and subconsultants on similar projects.

III. Scope of Work and Project Approach (maximum 10 pages): The Consultant shall include in its proposal a detailed scope of work and understanding of the process to undertake such a project and complete it in compliance with all applicable rules, regulations, standards, requirements. Other items to include:

- Description of your firm’s quality/control (Q/C) and quality/assurance (Q/A) procedures that will be used for the Project.
- Provide project schedule for various activities by the CM involved and identify the milestones of major tasks of the Project.
- Discussion of document control.

IV. Consultant shall submit a fee proposal for the SG Park Fence Project in a SEPARATE SEALED ENVELOPE marked “Fee Proposal” along with the Project title. The City will negotiate with the top-ranked consultant in compliance with all applicable federal, state, and local guidelines. Fee proposal shall include all tasks required to perform the work with a maximum not-to-exceed fee for each task and a grand total not-to-exceed fee. The fee proposal must contain a task and fee breakdown of all components of cost, including labor base rate, overhead and all other direct and indirect costs. The fee proposal shall clearly show hours and cost per task. The task and fee breakdown must match the scope of services in the format, as presented within the RFP. The Consultant and all sub-consultants shall not be compensated by the City for any time spent on commuting to or
from the Project site and other peripheral work not directly performed as a result of this Project. The number of construction days is estimated as listed in these documents. The Consultant shall provide its services for the duration of the Project for the approved scope of work and fee. Below is the fee proposal to be used on this RFP, no other form will be accepted.

V. The City will short list the list of candidates to three consulting firms, of which it will interview and select the top candidate for the project.

Prevailing wages will apply if the services to be performed will involve materials sampling and testing (such as drilling rig operators, pile driving, and crane operators), inspection work, soils or foundation investigations, environmental hazardous materials and so forth. California State Prevailing Wage information is available through the California Department of Industrial Relations web site at:

http://www.dir.ca.gov/dlsr/statistics_research.html

The format of the fee proposal shall match the *Sample Fee Proposal* provided on the following page.
CITY OF SOUTH GATE
SAMPLE FEE PROPOSAL FOR

CONSTRUCTION OF SG PARK FENCE PROJECT NO. 550-PRK

<table>
<thead>
<tr>
<th>Task/Classification</th>
<th>Resident Engineer Representative (Hrs)</th>
<th>Construction Observer/Inspector (Hrs)</th>
<th>Other (identify by title and add columns where needed) (Hrs)</th>
<th>Total Hours</th>
<th>Sub Consultant Fees</th>
<th>Total Cost</th>
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This not-to-exceed fee is based on a 90 Working Day working period. Additional services needed beyond the contract specified shall require prior approval from the City. NO LUMP SUM FEES WILL BE ACCEPTED. THIS INCLUDES MATERIAL TESTING SERVICES.
SCHEDULE/CONSULTANT SELECTION PROCESS/SELECTION CRITERIA

The proposals submitted will be evaluated and the most qualified consultant for the Project. Consideration will be given to consultants with demonstrated experience on similar projects.

The proposals will be evaluated based on the following:

- Project understanding, scope and approach to deliver the Project on time and within budget (20 Points).
- Resident Engineer Representative and Construction Manager and Inspector experience (20 Points).
- Knowledge of public agency procedures, requirements and Labor Compliance (20 Points).
- Experience in managing similar projects (20 Points).
- Experience and qualifications of the firm and the project team members (20 Points).

All proposals will be evaluated by a South Gate Selection Committee (Committee). The Committee may be composed of South Gate staff and other parties that may have expertise or experience in the services described herein. The Committee will review the submittals and will rank the proposals. The evaluation of the proposals shall be within the sole judgment and discretion of the Committee. All contacts during the evaluation phase shall be through the South Gate Project Manager only.

The selection committee will review the submitted proposals according to the above evaluation criteria and weighing factors. The committee will then establish a shortlist based on the highest ranked proposals.

After the interview, the committee will reestablish a final ranking of the highest ranked consultants. The highest ranked consultant will be selected for the project. Cost proposals for all qualified consultants will be opened and used to begin negotiations, however, with the highest ranked consultant. If an agreement on fees cannot be reached, then negotiations will proceed to the second highest qualified consultant, and so on and so forth until a final agreement is reached with a consultant.

Tentative Schedule for the Consultant selection process:

- Request for Proposals Released: May 25, 2023
- Proposals Due Date: June 8, 2023 (5:00 p.m.)
- Consultant Interviews: TBD
- Contract Award: July 11, 2023

One Consultant contract will be awarded. Late proposal submittals will be designated nonresponsive and will be returned unopened to the prospective consultants. Substitution of the designated team and key staff after selection of the successful consultant will have to be in writing and approved by the City otherwise it will result in termination of the contract.

Disclosure: Consultants shall disclose in their responses to any Request for Proposals whether they have been the subject of any legal investigation by County, State, and/or
Federal agencies within the past 5 years. If so, each responding consultant shall identify the agency and contact person, the nature of the investigation and any determination over outcome of said investigation. Non-compliance with this section shall result in rejection of the Proposal, but a consultant’s disclosure of any such investigation (even one which resulted in a determination that was adverse to the consultant) will not automatically result in rejection of the Proposal. The occurrence, nature, underlying facts and outcome of any such investigation are not by themselves determinative but are simply included among many factors that will be considered by the City in evaluating Proposals.

RIGHT TO REJECT ALL PROPOSALS

The City of South Gate reserves the right to reject all proposals submitted and no representation is made hereby that any contract will be awarded pursuant to this RFP. All costs incurred in the preparation of the proposal and subsequent material, including a proposal, in the submission of additional information, and/or in any other aspect of a proposal prior to the award of a written contract will be borne by the respondent. The City will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any cost or obligation of any kind, which may be incurred by a respondent. All proposals and other information submitted to the City of South Gate in response to this RFP shall become the property of the City.

INSURANCE REQUIREMENTS

Consultant shall provide insurance certificates naming the City of South Gate as an additional insured for Workers Compensation Insurance, General Liability and Automobile Liability; the Consultant must provide Professional Liability Insurance coverage (Errors and Omissions in the amount of $1,000,000.00 per occurrence). The insurance certificate shall contain a provision that the City shall be given thirty (30) days prior written notice in the event of cancellation or reduction in coverage. Consultant shall also execute a hold harmless statement on a form provided by the City.

PROPOSAL REQUIREMENTS

In order for your proposals to be considered, submit four (4) copies and one electronic copy, marked *SG Park Fence Project; City Project No. 550-PRK.*

Please hand delivers to:

City Clerk’s Office  
Attn: Steve Costley  
Director of Parks and Recreation  
City of South Gate  
8650 California Avenue  
South Gate, CA 90280

CONSULTANT AGREEMENT

A sample of the City standard consultant agreement is attached as Appendix A. Your proposal
shall contain a statement of the firm’s willingness to execute the contract with an indication of any contractual requirements for which the consultant takes exception.
Appendix A

Sample Agreement for Professional Services
This Agreement for Professional Services for _________ Services (“Agreement”) is made and entered into on _______, by and between the City of South Gate, a municipal corporation (“City”), and ________, a California corporation (“Consultant”). City and Consultant are sometimes hereinafter individually referred to as a “Party” and collectively as “Parties.”

RECITALS

WHEREAS, City desires to retain a qualified provider for certain services relating to _________; and

WHEREAS, Consultant warrants to City that it has the requisite skills, knowledge, qualifications, manpower and expertise to perform properly and timely the Professional Services under this Agreement; and

WHEREAS, based on such representation, City desires to contract with Consultant to perform the services as described in the Scope of Services attached hereto as Exhibit “A” of this Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

1. SCOPE OF SERVICES. City hereby engages Consultant, and Consultant accepts such engagement, to perform the services set forth in the Scope of Services as described in Exhibit “A” attached hereto and made part of this Agreement. The Scope of Services may be mutually amended from time to time by both Parties in writing.

2. COMPENSATION FOR SERVICES. The total amount of compensation for this Agreement shall not exceed the sum of ____________________ ($________) as described in Consultant’s proposal attached hereto as Exhibit “A.” City shall pay Consultant for its professional services rendered and costs incurred pursuant to this Agreement. No additional compensation shall be paid for any other expenses incurred, unless first approved in writing by Assistant City Manager/Director of Public Works or his/her designee.

2.1 Consultant shall be required to attend meetings at City Hall as necessary in the delivery of the projects. Travel time between Consultant’s office and City Hall shall not be billable. Consultant may request an exemption on a case-by-case basis, which shall be subject to City approval.

2.2 Consultant shall be paid in accordance with the schedule included in Consultant’s proposal attached hereto as Exhibit “A.” City shall pay Consultant within thirty (30) days of receipt of the invoice.
2.3 No payment made hereunder by City to Consultant, other than the final payment, shall be construed as an acceptance by City of any work or materials, nor as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

3. TERM OF AGREEMENT. This Agreement is effective as of __________, and will remain in effect for a period of one year from said date or until project completion, unless otherwise expressly extended and agreed to by both Parties in writing, or terminated by either Party as provided herein.

4. CITY AGENT. The Director of Parks & Recreation (“Director”), or his/her designee, for the purposes of this Agreement, is the agent for the City. Whenever approval or authorization is required, Consultant understands that the Director, or his/her designee, has the authority to provide that approval or authorization.

5. CONFLICT OF INTEREST. Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City which may be affected by the services to be performed by Consultant under this Agreement. Consultant further represents that in performance of this Agreement, no person having any such interest shall be employed by it. Within ten (10) days, Consultant agrees that it will immediately notify City of any other conflict of interest that may exist or develop during the term of this Agreement.

5.1 Consultant represents that no City employee or official has a material financial interest in Consultant’s business. During the term of this Agreement and/or as a result of being awarded this contract, Consultant shall not offer, encourage or accept any financial interest in Consultant’s business or in this Agreement by any City employee or official.

6. GENERAL TERMS AND CONDITIONS.

6.1 Termination for Convenience. City may terminate this Agreement at any time without cause by giving fifteen (15) days written notice to Consultant of such termination and specifying the effective date thereof. In that event, all finished or unfinished documents and other materials shall, at the option of City, become its property. If this Agreement is terminated by City as provided herein, Consultant will be paid the total amount of its costs as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Agreement.

6.2 Termination for Cause.

6.2.1 City may, by written notice to Consultant, terminate the whole or any part of this Agreement in any of the following circumstances:
   a. If Consultant fails to perform the services required by this Agreement within the time specified herein or any authorized extension thereof; or
   b. If Consultant fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these circumstances does not correct such failure within a period of ten (10) days (or such longer period as City may authorize in writing) after receipt of notice from City specifying such failure.
6.2.2 In the event City terminates this Agreement in whole or in part as provided above in Subsection 6.2.1, City may procure, upon such terms and in such manner as it may deem appropriate, services similar to those terminated.

6.2.3 If this Agreement is terminated as provided above in Subsection 6.2.1, City may require Consultant to provide all finished or unfinished documents, data, studies, drawings, maps, photographs, reports, films, charts, sketches, computations, surveys, models, or other similar documentation prepared by Consultant. Upon such termination, Consultant shall be paid an amount equal to the value of the work performed. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents whether delivered to City or in possession of Consultant, and to authorized reimbursement expenses.

6.2.4 If, after notice of termination of the Agreement under the provisions of Subsection 6.2.1 above, it is determined, for any reason, that Consultant was not in default, or that the default was excusable, then the rights and obligations of the Parties shall be the same as if the notice of termination had been issued pursuant to Subsection 6.1. above.

6.3 Non-Assignability. Consultant shall not assign or transfer any interest in this Agreement without the express prior written consent of City.

6.4 Non-Discrimination.

6.4.1 Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, creed, gender, gender identity (including gender expression), color, religion, ancestry, sexual orientation, national origin, disability, age, marital status, family/parental status, or veteran/military status, in the performance of its services and duties pursuant to this Agreement and will comply with all applicable laws, ordinances and codes of the Federal, State, and County and the City governments. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment without regard to their race, color, religion, ancestry, sex, national origin, disability, or age. Consultant will take affirmative action to ensure that all employment practices, including those of any subcontractors retained by Consultant to perform services under this Agreement, are free from such discrimination. Such employment practices include, but are limited to: hiring, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

6.4.2 The provisions of Subsection 6.4.1 above shall be included in all solicitations or advertisements placed by or on behalf of Consultant for personnel to perform any services under this Agreement. City shall have access to all documents, data, and records of Consultant and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No.
11246 (relating to federal restrictions against discriminatory practices) is available for review and on file with the City Clerk’s Office.

6.5 **Insurance.** Consultant shall submit to City, certificates indicating compliance with the following minimum insurance requirements no less than one (1) day prior to beginning of performance under this Agreement:

6.5.1 Workers Compensation Insurance as required by law. Consultant shall require all subcontractors similarly to provide such workers’ compensation insurance for their respective employees.

6.5.2 Comprehensive general and automobile liability insurance protecting Consultant in amounts not less than $1,000,000 for personal injury to any one person, $1,000,000 for injuries arising out of one occurrence, and $500,000 for property damages or a combined single limit of $1,000,000, with an aggregate of $2,000,000. Each such policy of insurance shall:

a. Be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California or which is approved in writing by City.

b. Name and list as additional insured the City, its officers and employees.

c. Specify its acts as primary insurance.

d. Contain a clause substantially in the following words: "It is hereby understood and agreed that this policy shall not be canceled except upon thirty (30) days prior written notice to City of such cancellation or material change."

e. Cover the operations of Consultant pursuant to the terms of this Agreement.

6.6 **Indemnification.** Consultant agrees to indemnify, defend and hold harmless City and/or any other City agency, including other employees, officers and representatives, for/from any and all claims or actions of any kind asserted against City and/or any other City agency arising out of Consultant’s (including Consultant’s employees, representatives, products and subcontractors) negligent performance under this Agreement, excepting only such claims or actions which may arise out of sole or active negligence of City and/or any other City agency, or any third parties not acting on behalf of, at the direction of, or under the control of Consultant.

6.7 **Compliance with Applicable Law.** Consultant and City shall comply with all applicable laws, ordinances, and codes of the Federal, State, County and City governments, without regard to conflict of law principles.

6.8 **Independent Contractor.** This Agreement is by and between City and Consultant and is not intended, nor shall it be construed, to create the relationship of agency, servant, employee, partnership, joint venture, or association, as between City and Consultant.

6.8.1 Consultant shall be an independent contractor and shall have no power to incur
any debt or obligation for or on behalf of City. Neither City nor any of its officers or employees shall have any control over the conduct of Consultant, or any of Consultant’s employees, except as herein set forth, and Consultant expressly warrants not to, at any time or in any manner, represent that it, or any of its agents, servants or employees are in any manner employees of City, it being distinctly understood that Consultant is and shall at all times remain to City a wholly independent contractor and Consultant's obligations to City are solely such as are prescribed by this Agreement.

6.8.2 Indemnification of CalPERS Determination - In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as, for the payment of any penalties and interest on such contributions which would otherwise be the responsibility of City.

6.8.3 Business License Required. According to Title 2.08.40 of the South Gate Municipal Code, a business license will be required prior to doing business within the City, even if the business is located outside of the City. Verification of a valid South Gate business license will be required prior to start of work and any fees associated with the acquisition or maintenance of such business license shall be the sole responsibility of Consultant.

6.9 Consultant’s Personnel.

6.9.1 All services required under the Agreement will be performed by Consultant, or under Consultant’s direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services, including, without limitation, a City of South Gate business license as required by the South Gate Municipal Code.

6.9.2 Consultant shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Agreement, and compliance with all reasonable performance standards established by City.

6.9.3 Consultant shall be responsible for payment of all employees’ and subcontractors’ wages and benefits and shall comply with all requirements pertaining to employer’s liability, workers’ compensation, unemployment insurance and Social Security.

6.9.4 Consultant shall indemnify and hold harmless City and all other related entities, officers, employees and representatives from any liability, damages, claims, costs, and expenses of any nature arising from alleged violations of personnel practices or of any acts of omissions by Consultant in connection with the work performed arising from this Agreement.

6.10 Copyright. No reports, maps or other documents produced in whole or in part under this
Agreement shall be the subject of an application for copyright by or on behalf of Consultant.

6.11 Legal Construction.

6.11.1 This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced, and governed under the laws of the State of California without regard to conflict of law principles.

6.11.2 This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

6.11.3 The article and section, captions and headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

6.11.4 Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

6.12 Counterparts. This Agreement may be executed in counterparts and, as so executed, shall constitute an agreement which shall be binding upon all Parties hereto.

6.13 Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished, or relating to Consultant’s work or services. Acceptance of payment shall be any negotiation of City’s check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, sub-consultants and agents.

6.14 Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City’s review of Consultant’s report or plans. Should Consultant fail to make such correction in a reasonably, timely manner, such correction shall be made by City, and the cost thereof shall be charged to Consultant.

6.15 Files. All files of Consultant pertaining to City shall be and remain the property of City. Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement.

6.16 Waiver; Remedies Cumulative. Failure by a Party to insist upon the performance of
any of the provisions of this Agreement by the other party, irrespective of the length of
time for which such failure continues, shall not constitute a waiver of such Party's right
to demand compliance by such other Party in the future. No waiver by a Party of a default
or breach of the other party shall be effective or binding upon such a Party unless made
in writing by such Party, and no such waiver shall be implied from any omissions by a
Party to take any action with respect to such default or breach. No express written waiver
of a specified default or breach shall affect any other default or breach, or cover any other
period of time, other than any default or breach and/or period of time specified. All of
the remedies permitted or available to a Party under this Agreement, or at law or in equity,
shall be cumulative and alternative, and invocation of any such right or remedy shall not
constitute a waiver or election of remedies with respect to any other permitted or
available right of remedy.

6.17 Mitigation of Damages. In all such situations arising out of this Agreement, the Parties
shall attempt to avoid and minimize the damages resulting from the conduct of the other
Party.

6.18 Severability. If any provision in this Agreement is held by a court of competent
jurisdiction to be invalid, void, or unenforceable, the remaining provisions will
nevertheless continue in full force without being impaired or invalidated in any way.

6.19 Attorneys' Fees. The Parties hereto acknowledge and agree that each will bear his or its
own costs, expenses and attorneys' fees arising out of and/or connected with the
negotiation, drafting and execution of the Agreement, and all matters arising out of or
connected therewith except that, in the event any action is brought by any Party hereto to
enforce this Agreement, the prevailing Party in such action shall be entitled to reasonable
attorneys' fees and costs in addition to all other relief to which that Party or those Parties
may be entitled.

6.20 Entire Agreement and Amendments. This Agreement constitutes the whole agreement
between City and Consultant, and neither party has made any representations to the other
except as expressly contained herein. Neither party, in executing or performing this
Agreement, is relying upon any statement or information not contained in this
Agreement. Any amendments, changes or modifications to this Agreement must be made
in writing and appropriately executed by both City and Consultant.

6.21 Notices. Any notice required to be given hereunder shall be deemed to have been given
by email transmission with confirmation of delivery and depositing said notice in the
United States mail, postage prepaid, and addressed as follows:

TO CITY:
City of South Gate
Steve Costley
Director of Parks & Recreation
8650 California Avenue
South Gate, CA  90280
Email: scostley@sogate.org
TEL.  (323) 563-5494

WITH COURTESY COPY TO:
City of South Gate
City Clerk’s Office
Yodit Glaze, City Clerk
8650 California Avenue
South Gate, CA 90280
Email: yglaze@sogate.org
TEL: (323) 3579645
TO CONSULTANT:
Name, Title
Name of Company
Address
Address
Email
Phone Number

6.22 Warranty of Authorized Signatories. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the Party for whom he or she purports to sign.

6.23 Consultation with Attorney. Consultant warrants and represents that it has consulted with an attorney or knowingly and voluntarily decided to forgo such a consultation.

6.24 Interpretation Against Drafting Party. City and Consultant agree that they have cooperated in the review and drafting of this agreement. Accordingly, in the event of any ambiguity, neither Party may claim that the interpretation of this Agreement shall be construed against either Party solely because that Party drafted all or a portion of this Agreement, or the clause at issue.

7. EFFECTIVE DATE. The effective date of this Agreement is March 28, 2023, and will remain in effect through and until project completion, unless otherwise terminated in accordance with the terms of this Agreement.
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

CITY OF SOUTH GATE:

By: ________________________
    Maria del Pilar Avalos, Mayor

Dated: _________________________________

ATTEST:

4. By: ________________________________
    Yodit Glaze, City Clerk
    (SEAL)

APPROVED AS TO FORM:

5. By: ________________________________
    Raul F. Salinas, City Attorney

NAME OF COMPANY

By: ________________________________
    Name, Title

Dated: _________________________________
Exhibit "A"

Proposal dated ______________
Exhibit "B"

Fee Schedule