



FINANCE

CITY OF LANCASTER, CA

RFQ NO. 835-25

Renewable Hydrogen Upgrades to Power Generation, Energy Efficiency, and Emergency Resiliency for City Facilities

SUBMISSION DEADLINE

July 30, 2024

BY 2:00 P.M.

(13:59:59– ACCORDING TO THE CITY’S OFFICIAL PROPOSAL CLOCK)

SUBMIT TO:

**OFFICE OF THE CITY CLERK
LANCASTER CITY HALL
“RFQ 835-25 Hydrogen Upgrades”
44933 FERN AVENUE
LANCASTER, CA 93534**

For questions concerning this RFQ contact by email only:

Purchasing Department

bidinquiries@cityoflanasterca.gov

Table of Contents

INTRODUCTION.....	3
SCOPE OF SERVICES	3
PROPOSAL FORMAT AND CONTENT.....	4
EVALUATION OF PROPOSALS.....	5
QUESTIONS REGARDING THIS RFQ.....	5
CLARIFICATION STATEMENTS.....	5
NO CONTACT POLICY	6
PROPRIETARY MATERIAL	6
COMPLETION OF PROPOSAL.....	6
ERRORS AND OMISSIONS.....	6
ADDENDA TO PROPOSAL	7
EXECUTION OF PROPOSAL.....	7
WITHDRAWAL OF PROPOSAL	7
PROPOSALS BECOME THE PROPERTY OF THE CITY	7
REJECTION OF PROPOSALS	8
AWARD OF CONTRACT.....	8
CONTRACT TERM	8
CONTRACT DOCUMENTS - PRECEDENCE.....	8
EXECUTION OF AGREEMENT.....	8
FAILURE TO EXECUTE THE AGREEMENT	9
CANCELLATION.....	9
ADMINISTRATIVE CONTACTS.....	9
DUE DATES	9
SCHEDULE OF EVENTS.....	9
SIGNATURE SHEET.....	10
EXHIBIT "A" - SCOPE OF SERVICES	11
EXHIBIT "B" - SAMPLE AGREEMENT.....	14
CALIFORNIA LEVINE ACT STATEMENT.....	22

REQUEST FOR QUALIFICATIONS (RFQ) FOR HYDROGEN UPGRADES

INTRODUCTION

The City of Lancaster (City) is a charter City incorporated in 1977. The City is governed by a five-member City Council whose members are elected at large and operate under a Council/City Manager form of government. The City serves as the northern boundary of Los Angeles County, with Kern County to the north. The City is the largest in the Antelope Valley, with a population of 160,000 across 94 square miles.

Lancaster is taking steps to become the “alternative energy capital of the world” and is a leader in the renewable energy field. Lancaster is the first City in the United States to embrace hydrogen power, earning the moniker of the “First Hydrogen City.” The City has engaged in numerous formal partnerships and agreements to harness the potential of clean hydrogen. Additionally, as a key member of the Pacific Hydrogen Alliance (PHA), Lancaster, in collaboration with its sister cities, has been at the forefront of generating guiding materials and blueprints.

The City of Lancaster, California, is soliciting requests for proposals from qualified consultants/firms for the development and implementation of an emergency generation and resiliency plan, focusing on hydrogen energy solutions for its existing city facilities. This proposal aims to establish a robust backup/demand management system utilizing hydrogen at various city facilities, such as the Lancaster Performing Art Center (LPAC), Museum of Art and History (MOAH), Lancaster Municipal Stadium, and Sgt. Steve Owen Memorial Park, among others. The goal is to ensure uninterrupted operation and continuity of government services in the event of a disaster, or during power outages or grid load reduction, using innovative and sustainable energy sources. The City aims to utilize hydrogen technology for emergency back-up power generation per the Safety Element of the City’s General Plan Local Hazard Mitigation portion, energy independence, and other applications as described below.

The City currently relies on diesel generators to ensure back-up power generation for disaster resiliency and during power outages or for grid load reduction. Historically, this has been a maintenance and operations burden as well as subject to environmental factors that does not fit the City’s Climate Action Plan or the City of Lancaster Hydrogen Strategic Plan.

This RFQ contains the information and documents necessary to prepare and submit a responsive proposal. Proposers are responsible for complying with all requirements identified herein. By submitting a finished proposal packet, the Proposer represents that it has thoroughly examined and become familiar with the work required within this proposal and that it is capable of supplying a product to achieve the City’s objectives. Requests for modifications to the submitted proposal packet on the grounds that the Proposer was not fully informed as to any fact or condition will not be allowed. The City reserves the right to accept or reject any Proposal, or portions thereof, or to waive any informalities or irregularities within the proposals.

SCOPE OF SERVICES

The Scope of Services is outlined in Exhibit “A.”

INSTRUCTIONS TO VENDORS

PROPOSAL FORMAT AND CONTENT

Proposals shall adhere to the following format for organization and content. Responses should emphasize the Vendor's demonstrated ability to perform work of this type. Emphasis should be concentrated on completeness and clarity of content.

Proposals (an original and three copies) shall not exceed 10 double-sided pages or 20 single-sided pages (does not include curriculum sample) and must be typed and arranged/divided in the following sequence to facilitate evaluation:

1. **Proposal Summary:** This section shall discuss the highlights, key features and distinguishing points of the Proposal. A separate sheet shall include a list of individuals and contacts for this Proposal and how to communicate with them. Limit this section to a total of three (3) pages including the separate sheet.
2. **Profile on the Proposing Firm(s):** This section shall include a brief description of the Proposer's firm size as well as the proposed local organization structure. Include a discussion of the Proposer firm's financial stability, capacity, and resources. Include all other firms participating in the Proposal, including similar information about the firms.

Additionally, this section shall include a listing of any lawsuit or litigation and the result of that action resulting from (a) any public project undertaken by the Proposer or by its subcontractors where litigation is still pending or has occurred within the last five years or (b) any type of project where claims or settlements were paid by the consultant or its insurers within the last five years.

3. **Qualifications of the Firm:** This section shall include a brief description of the Proposer's and any sub-Proposer's qualifications and previous experience on similar or related projects.
4. **Work Plan or Proposal:** This section shall present a well-conceived service plan. Include a full description of major tasks and subtasks. This section for the proposal shall establish that the Proposer understands the City's objectives and work requirements and Proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required services and the firm's ability to meet the City's schedule, outlining the approach that would be undertaken in providing the requested services.
5. **Project Staffing:** This section shall discuss how the Proposer would propose to staff this project. Key project team members shall be identified by name, title, and specific responsibilities on the project. An organizational chart for the project and resumes for key Proposer personnel shall be included. Key personnel will be an important factor considered by the review committee. Changes in key personnel may be cause for rejection of the proposal.
6. **Copy of License:** Please provide a copy of the state approved license documentation.
7. **Cost Proposal:** Provide a fee schedule/pricing information for the project. Proposals shall be valid for a minimum of 180 days following submission. This section shall include all proposed costs to provide the services desired.

8. **Exceptions to Professional Services Agreement:** The Proposer shall list any exceptions to the Professional Services Agreement/insurance requirements (Exhibit B – Sample Agreement).
9. **Signature Sheet:** Complete the included Signature Sheet and include it with the Proposal submission.
10. **California Levine Act Statement:** Complete the included form for the California Levine Act with information pertaining to California Government Code Section 84308 which prohibits certain official participations with the City of Lancaster.

EVALUATION OF PROPOSALS

A committee of at least three staff shall evaluate all Proposals.

Proposals will be evaluated and scored on the following criteria:

- Quality, performance and effectiveness of the solution, goods and/or services to be provided by the Proposer (40 points)
- Proposer experience, including the experience of the staff to be assigned to the project, the engagements of similar scope and complexity (40 points)
- Cost to the City (20 points)

The evaluation committee may wish to interview Proposers with scores above a natural break during the selection process. Should an interview process take place, the interview results will carry greater weight in the selection process. However, the City reserves the right to select solely based on the proposals without further contact.

The most highly qualified Vendor shall then enter into negotiations with the City to formalize the Agreement and Compensation. If the City is unable to obtain a fair and reasonable price, or cannot reach an agreement regarding the terms and compensation, then the City will end negotiations with that Vendor.

QUESTIONS REGARDING THIS RFQ

Any questions or requests for interpretation or clarification, either administrative or technical, about this RFQ must be submitted via email to bidinquiries@cityoflancafterca.gov prior to **2pm on July 19, 2024**. The subject line should be **“Questions – RFQ 835-25.”**

Oral statements concerning the meaning or intent of the contents of this RFQ by any person is unauthorized and invalid. The City will not be responsible for any other explanation or interpretation of the RFQ, or for any oral instructions. Any contact with City personnel other than identified above regarding this RFQ may disqualify a Vendor.

CLARIFICATION STATEMENTS

For clarification purposes, the words “Contractor”; “Consultant”; “Vendor”; “Supplier”; “Company”; “Proposer” and “Bidder” shall be read to be one and the same. The words “Contract” and “Agreement” shall be read to be

one and the same. The words "Bid"; "Quote"; and "Proposal" shall be read to be one and the same. "City of Lancaster" and "City" shall be read to be one and the same. "Request for Qualifications" and "RFQ" shall be read to be one and the same.

NO CONTACT POLICY

After the date and time established for receipt of proposals by the City, any contact initiated by any Vendor with any City representative, other than the representative listed herein, concerning this Request for Qualifications is prohibited. Any such unauthorized contact may cause the disqualification of the Vendor from this procurement transaction.

PROPRIETARY MATERIAL

Be advised that all information contained in proposals submitted in response to this solicitation may be subject to the California Public Records Act (Government Code §6250 et. seq.), and information's use and disclosure are governed by this Act. Any information deemed confidential or proprietary should be clearly identified as such. It may then be protected and treated with confidentiality only to the extent permitted by state law.

COMPLETION OF PROPOSAL

Proposals shall be completed in all respects as required by this RFQ. A proposal may be rejected if conditional or incomplete, or if it contains any alterations or other irregularities of any kind, and will be rejected if any such defect or irregularity can materially affect the quality of the proposal. Proposals which contain false or misleading statements may be rejected. If, in the opinion of the City's selection committee, such information was intended to mislead the City in its evaluation of the Proposal, and the attribute, condition, or capability is a requirement of this RFQ, the Proposal will be rejected. Statements made by a Vendor shall also be without ambiguity, and with adequate elaboration, where necessary, for clear understanding. Unauthorized conditions, exemptions, limitations, or provisions attached to a Proposal will render it non-responsive and may cause its rejection.

The Vendor, in responding to this RFQ, must submit Proposals in the format identified in this RFQ. The Proposal must address all requirements of the RFQ even if a "no response" is appropriate.

Costs for developing Proposals are entirely the responsibility of the Vendor and shall not be chargeable to the City.

Only one Proposal is to be submitted by each Vendor. Multiple Proposals will result in rejection of all Proposals submitted by the Proposer.

ERRORS AND OMISSIONS

If, prior to the date fixed for submission of Proposals, a Vendor discovers any ambiguity, conflict, discrepancy, omission or other error in this RFQ or any of its appendices or exhibits, Vendor shall immediately notify the City of such error in writing and request modification or clarification of the document. Modifications shall be made by written Addenda to the RFQ.

Interested Vendors may submit requests for clarifications in email or writing. The City will compile all requests and provide responses in written format to all Vendors who have furnished or requested an RFQ.

If Vendor fails to notify the City, prior to the date fixed for the submission of Proposals, of an error in the RFQ known to the Vendor, or an error that reasonably should have been known to the Vendor, Vendor shall submit its Proposal at his/her own risk, and if Vendor is awarded a Contract, Vendor shall not be entitled to additional compensation or time by reason of the error or its later correction.

ADDENDA TO PROPOSAL

The City may modify the RFQ, any of its key actions, dates, or any of its attachments, prior to the date fixed for submission of Proposals by issuance of an Addendum to potential Vendors. Such Addendum shall also be posted on the City's website. Vendor shall acknowledge receipt of all Addenda in their Proposal. Any Addenda issued during the time for submission of proposals will be made part of the Agreement. Vendor shall be responsible for ensuring all addenda are included in its response.

EXECUTION OF PROPOSAL

The full name, business address, zip code, and business telephone number (with area code) of individual, partnership, joint venture, or corporation submitting a Proposal shall be typewritten on the Proposal. The Vendor shall ensure that the Proposal is signed by an authorized signatory. No stamped or facsimile signatures will be accepted.

WITHDRAWAL OF PROPOSAL

A Proposal may be withdrawn after its submission by written or facsimile request signed by the Vendor or authorized representative prior to the time and date specified for Proposal submission. Proposals may be withdrawn and resubmitted in the same manner if done so before the Proposal submission deadline. Withdrawal or modification offered in any other manner will not be considered.

PROPOSALS BECOME THE PROPERTY OF THE CITY

Proposals become the property of the City and information contained therein shall become public documents subject to disclosure laws after the contract is awarded. (Government Code Section 6250 et seq.). The City reserves the right to make use of any information or idea contained in the Proposal.

Vendors must notify the City in advance of any proprietary or confidential materials contained in the Proposal and provide justification for not making such material public. The City will have the sole discretion to disclose or not disclose such material subject to state law.

All materials, ideas and formats submitted in response to this RFQ will become the property of the City upon receipt.

REJECTION OF PROPOSALS

The City may reject any and all Proposals and may waive any immaterial deviation in a Proposal. The City's waiver of an immaterial defect shall in no way modify this RFQ or excuse the Vendor from full compliance with this RFQ and/or Contract documents if awarded the Contract. Proposals that include terms and conditions other than the City's terms and conditions may be rejected as non-responsive. The City may make investigations as deemed necessary to determine the ability of the Vendor to perform, and the Vendor shall furnish to the City all such information and data for that purpose as requested by the City. The City reserves the right to reject any Proposal if the evidence submitted by, or investigation of, such Vendor fails to satisfy the City that the Vendor is properly qualified to carry out the obligations of the Agreement and to complete the work described therein.

AWARD OF CONTRACT

The City reserves the right to modify the Award of Contract or rejection date as best meets the needs of the City. The City reserves the right to reject any or all Proposals in response to this RFQ in the best interest of the City. The City further reserves the right to waive any informalities or irregularities in the Proposals. The City shall not be liable for any cost incurred in connection with the preparation and submission of any Proposal.

Award, if any, will be to the Vendor whose Proposal best complies with the requirements of this RFQ. The City reserves the right to award the Contract as complete, or any part thereof, including any and all schedules, locations, additive alternatives, or extra work. The City reserves the right to award the contract to multiple Proposers should it be deemed in the best interest of the City.

CONTRACT TERM

The total term of the Agreement shall be for one year. The Agreement may extend for one (1) additional 1-year term upon mutual agreement in writing by both parties.

Pricing shall remain firm for the initial contract term. Should the option to renew for additional terms be exercised, the City and the Vendor may negotiate any and all pricing increases and term length. Any decrease in costs to the Vendor shall be passed through to the City.

CONTRACT DOCUMENTS - PRECEDENCE

In submitting a Proposal, the Vendor agrees to enter into an Agreement with the City. In the event of a conflict existing between documents, the following order of precedence shall apply:

- Agreement
- City's Request for Qualifications and Addenda, if any
- Vendor's Response to the Request for Qualifications

EXECUTION OF AGREEMENT

After notification of intent to award Contract, the following Contract documents shall be signed within ten (10) business days from the date the City mails, or by other means, delivers said documents to the Vendor.

- A. The Agreement in the form agreeable to both parties, properly executed by the Vendor.
- B. Properly executed policies or Certificates of Insurance, including an Additional Insured Endorsement for each policy in accordance with the Insurance Requirements, Exhibit D.

No Agreement shall be binding upon the City until all documents are fully executed by the Vendor and the City.

FAILURE TO EXECUTE THE AGREEMENT

Failure to execute the Agreement and furnish the required insurance, within the required time period shall be just cause for the recession of the award. If the successful Vendor refuses or fails to execute the Agreement, the City may award the Agreement to the next qualified Vendor.

CANCELLATION

The City reserves the right to cancel this RFQ at any time should it be deemed to be in the best interest of the City. No obligation either expressed or implied exists on the part of the City to make an award based on the submission of any Proposal.

ADMINISTRATIVE CONTACTS

Any questions regarding contractual terms and conditions, proposal format, Exhibit A - Scope of Services or Exhibit B - Sample Agreement shall be directed to: bidinquiries@cityoflancasterca.gov

DUE DATES

All Proposals (an original and three copies) are due by 2:00 (13:59:59) P.M. on July 30, 2024. Any Proposal or samples received at the designated location after the required time and date specified for receipt shall be considered late and non-responsive. **Proposals and packages containing product samples must be clearly marked on the outside with the name of the Vendor and RFQ title.** It is the responsibility of the Proposer to ensure that the Proposal is delivered to the place and by the time specified in this RFQ. **Email and facsimile responses will not be considered.** Any late Proposals shall be returned unopened, to the Vendor.

SCHEDULE OF EVENTS

The City reserves the right to modify the content or schedule of these events at any time, for any reason.

Event	Date
RFQ Distribution	July 16, 2024
Last Day to Submit Questions	2:00 P.M., July 19, 2024
Addendum (Responses to Questions) Issued	August 06, 2024
Proposal Due Date	2:00 P.M., August 13, 2024
Proposal Evaluation by Committee	August 13-15, 2024
Tentative Selection	Tentatively, August 19, 2024

Expected Contract Awarded by City Council
(If Needed)

Tentatively August 20, 2024

SIGNATURE SHEET

My signature certifies that the proposal as submitted complies with all terms and conditions as set forth in RFQ No. 835-25.

My signature certifies that this firm has no business or personal relationships with any other companies or person that could be considered a conflict of interest, or potential conflict of interest to the City of Lancaster, pertaining to any and all work or services to be performed as a result of this request and any resulting Contract with the City.

The Vendor hereby certifies that it has:

- Read each and every clause of this RFQ and addenda, including Addendum # _____.
- Included all costs necessary to complete the specified work in its proposed prices.
- Agreed that if it is awarded the Contract, it will make no claim against the City based upon misunderstanding of any provision of the Agreement. Should conditions turn out otherwise than anticipated by it, the Vendor agrees to assume all risks incident thereto.

I hereby certify that I am authorized to sign as a Representative for the Firm:

Name of Firm: _____

Address: _____

Fed ID No: _____ DIR # (if applicable): _____

Name (print): _____

Name (sign): _____

Title: _____

Telephone: _____ Fax: _____

Email: _____ Date: _____

To receive consideration for award, this signature sheet must be returned with the Proposal.

EXHIBIT "A" - SCOPE OF SERVICES

At this time, the City is seeking qualified consultants for the development and implementation of Citywide energy efficiency upgrades consistent with the provisions of California Government Code sections 4217.10 – 4217.18 that will provide sustained efficiencies and energy cost savings, expertise in hydrogen energy technologies, emergency power systems, energy management, and innovative solutions to achieve energy resilience for selected city facilities. The following are the subject locations (but may be transferred to another location or removed from the contract as determined by City Staff).

1. Lancaster Performing Arts Center (LPAC)
2. Museum of Art and History (MOAH)
3. Lancaster Municipal Stadium
4. Sgt. Steve Owen Memorial Park
5. Lancaster City Hall
6. Public Safety / Lancaster Police Station
7. Lancaster City Maintenance Yard
8. Lancaster National Soccer Center

The City determines what projects to proceed with and presents findings and recommendations to City Council for the award of construction contract to ESCO. The City reserves the right to award the construction projects in phases and is not required to award any or all the projects recommended by the ESCO. All work performed in preparation for the construction phase shall be performed under a Professional Services Agreement (see Exhibit B for a sample template). Any awarded construction work shall be performed under a CIP agreement (see Exhibit B for a sample template). Both templates are subject to change based on negotiation and scope of work complexities.

The selected consultant will be responsible for assessing the City's needs and developing a comprehensive hydrogen energy solution, including but not limited to the following tasks:

1. Emergency Generators – Full Hydrogen Emergency Generation System:
 - a. Designing and implementing a hydrogen-powered emergency back-up power generation system to power buildings during emergencies or high demand charge times.
 - b. Evaluating options for mobile trailer units.
2. Energy Resiliency:
 - a. Exploring opportunities to take selected park and facility sites completely off-grid and operate them 100% on hydrogen energy.
3. Utilizing Hydrogen Energy for Key Assets:
 - a. Developing systems to power sports field lighting, chiller and AC unit systems, and other key assets with hydrogen energy.

4. Site-specific Solutions:
 - a. Addressing the specific needs and challenges of identified sites such as LPAC, MOAH, Lancaster Municipal Stadium, Sgt. Steve Owen Memorial Park, City Hall, Public Safety Building / City of Lancaster Police Station and City Maintenance Yard, as detailed in the background information.
 - b. Planning for scheduled maintenance, repairs, and ensuring uninterrupted operation during load reduction events.
5. Innovative Solutions and Recommendations:
 - a. Offering recommendations on cutting-edge technologies and systems to incorporate hydrogen into the City's infrastructure.
 - b. Creating a short and long-term organizational plan to address continuity of government (COG) and operations (COOP) in the event of widespread outages.
6. Collaboration and Communication:
 - a. Facilitating meetings and workshops with city staff, maintenance teams, electricians, and other stakeholders.
 - b. Preparing a personnel plan to support the operation.

The anticipated start date for these services is as early as August 2024. Services must be provided through at least August 2025.

CONSULTANT MINIMUM REQUIREMENTS:

Respondents must meet the following minimum requirements to participate in the City's RFQ process:

1. Current accreditation by the National Association of Energy Services Companies (NAESCO).
2. Included on the U.S. Department of Energy's (DOE) Qualified List of Energy Services Companies.
3. Holds an Active Class B General Contractor's License in the State of California for a minimum of twenty-four months, with a proven ability to provide a team of California-licensed and DIR-registered mechanical, electrical, structural, and civil engineers, as may be deemed necessary.
4. Minimum bonding capacity of \$15 million.
5. Local office within a one hundred (100) mile radius of the City of Lancaster. Trained staff, including technicians, engineers, and project managers also within the aforementioned radius.
6. Successful implementation of similar projects, including the design and construction of a minimum of three (3) comprehensive energy efficiency projects with public sector entities in the last five (5) years. Three (3) current public sector references, with contact information, from similar, relevant projects that included:
 - a. Energy saving, renewable generation, and/or water saving measures.
 - b. Strategic and transparent cost and financing approach
 - c. Other relevant benefits, including, but not limited to, Climate Action Plan implementation, economic development workforce training and development, smart city initiatives, and related marketing/public relations.

7. Demonstrated experience in the successful development of energy efficiency measures and clean energy systems including design specification, project finance development, construction oversight, operations (and ongoing operations), maintenance (and ongoing maintenance) and asset management.
8. Demonstrated experience in securing necessary project financing, as well as credits and incentives available through Federal, State, local, and utility company programs.
9. Savings methodology based on bill-to-bill comparisons – International Performance Measurement and Verification Protocol (IPMVP) Option C and include examples of measurement and verification (M&V) reports.
10. No pending or recent litigation within the last thirty-six (36) months in relation to the firm's efficiency improvement project performances and/or M&V of a guaranteed energy savings project.
11. Experience with municipality infrastructure in terms of energy consumption.

EXHIBIT "B" - SAMPLE AGREEMENT

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES is made and entered into this ____ day of _____, 2023, by and between the CITY OF LANCASTER, a municipal corporation and charter city, ("City"), and _____, a [entity type (e.g., California corporation)] ("Consultant") (collectively, sometimes referred to hereinafter as the "Parties").

RECITALS

WHEREAS, the City desires to engage Consultant to perform certain technical and professional services, as provided herein, identified as:

[Name of the Project or General Description of the Services] (THE "SERVICES")

WHEREAS, the principal members of Consultant are qualified and duly registered/licensed under the laws of the State of California, and Consultant desires to accept such engagement;

NOW, THEREFORE, the parties agree as follows:

1. **Parties to the Agreement.**

The parties to this Agreement are:

- A. CITY: City of Lancaster
- B. CONSULTANT: _____

2. **Notices.** All written notices required by or related to this Agreement shall be sent by Certified Mail, Return Receipt Requested, postage prepaid and addressed as listed below. Neither party to this Agreement shall refuse to accept such mail; parties to this Agreement shall promptly inform the other party of any changes of address. All notices required by this Agreement are effective on the day of receipt, unless otherwise indicated herein.

CITY City of Lancaster
Attn: Jason Caudle, City Manager
44933 North Fern Avenue
Lancaster, California 93534

CONSULTANT _____
Attn: _____

3. **Successors and Assigns.** The terms hereof shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, that no party hereto shall assign any of the benefits and burdens hereunder, whether voluntarily or by operation of law, without prior written consent of the other party, and any such assignments without said consent shall be void.

4. **Description of Work.** The City hereby engages Consultant, and Consultant accepts such engagement, to perform the technical and professional services set forth in the "Scope of Services and Rates Schedule," attached hereto as Exhibit "A" and incorporated herein by reference. Consultant shall perform and complete, in a manner satisfactory to the City, all work and services set forth in Exhibit "A." The City Manager or his designee shall have the right to review and inspect the work during the course of its performance at such times as may be specified by the City Manager, or his designee.

5. **Obligations of the City.**

A. The City shall pay Consultant an amount not to exceed \$_____ for all work necessary to complete the Services, as described in the Scope of Services and Rates Schedule. Payments shall be due within thirty (30) days following submittal of an invoice detailing the services performed, at the hourly rates set forth in Exhibit A.

B. No payment made hereunder by the City to Consultant, other than the final payment, shall be construed as an acceptance by the City of any work or materials, nor as evidence of satisfactory performance by Consultant of its obligations under this Agreement.

6. **Obligations of the Consultant.**

A. Consultant shall perform as required by this Agreement and in accordance with the Scope of Services and Rates Schedule set forth in Exhibit A.

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

C. Consultant shall not subcontract any of the work required to perform the Services without the express prior written approval of the City.

7. **Hold Harmless and Indemnification.** Consultant agrees to indemnify and hold harmless the City, its elected officials, officers and employees, from and against any and all third-party claims, losses, obligations, or liabilities whatsoever, including reasonable attorney's fees, incurred to the extent arising out of or related to Consultant's negligent or willful wrongful acts, errors or omissions, or those of its employees or agents. Consultant agrees to defend the City, its officers and employees, using counsel of the City's choosing, from and against any and all claims covered by the indemnity in the preceding sentence.

8. **Amendments.** Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon mutual written approval by the City and Consultant.

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

A. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, religion, ancestry, sex, national origin, physical or mental disability or age. 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, physical or mental disability or age. Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship.

B. The provisions of subsection A 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. The 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.

10. **Term; Effective Date.** This Agreement shall become effective and shall be in full force and effect upon the execution of the Agreement by the City and the Consultant. This Agreement shall continue in full force and effect for twelve (12) months, unless the Agreement is sooner terminated in accordance with this Agreement; provided, however, that the City and the Consultant may mutually agree in writing to extend the Term of this Agreement.

11. **Termination.**

A. For Convenience. The City may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the other party of such termination and specifying the effective date thereof. In the event of termination of this Agreement, Consultant will be paid for work completed through the date of termination within thirty (30) days following submittal of a final invoice.

B. For Cause. 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, Consultant shall correct such failure within ten (10) days (or such longer period that the City may authorize in writing) after receipt of notice from the City specifying such failure. Should the failure not be corrected within this time period, the City may immediately terminate the Agreement by written notice to Consultant.

C. In the event of termination, whether for convenience or cause, reports, plans, studies and other documents (collectively, "documents") related to the Services shall become the City's property. Consultant shall provide all documents to the City that have not yet been within ten (10) calendar days after termination of the Agreement.

12. **Independent Contractor.** Consultant is an independent contractor and shall have no power or authority to incur any debt, obligation or liability on behalf of the City. It is expressly understood between the Parties to this Agreement that no employee/employer relationship is intended.

13. **Insurance.**

A. The Consultant, at its expense, shall maintain in effect at all times during the term of this Agreement the following coverage and limits of insurance, which shall be maintained with insurers listed “A-, VIII” or better in the Best’s Key Rating Guide:

Commercial General Liability

Each Occurrence	\$1,000,000
Per Project General Aggregate	\$2,000,000
Including Products/Completed Operations; Contractual Liability/Independent Contractors; Property Damage	
<i>(Coverage shall be at least as broad as ISO form CG2010 11/85 or CG2010 07/04 and CG2037 07/04 combined, or an equivalent providing ongoing and completed operations)</i>	

Commercial Automobile Liability

Combined Single Limit per Accident for Bodily Injury and Property Damage	\$1,000,000
<i>(Coverage shall be at least as broad as ISO form CA00 01)</i>	

Workers Compensation

As Required by the State of California	Statutory Limits
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Employers’ Liability

Each Accident	\$1,000,000
Bodily Injury by Disease	\$1,000,000
Each Employee	\$1,000,000
<i>(A Waiver of Subrogation must be provided on behalf of the Certificate Holder for the Workers Compensation & Employers’ Liability policies)</i>	

Professional Liability

Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000

Provide one of the following for cyber-related services

Technology Professional Liability

(Errors and Omissions)

Each Occurrence	\$2,000,000
General Aggregate	\$2,000,000

(Coverage shall be sufficiently broad to respond to the duties and obligations as are undertaken by Consultant pursuant to this Agreement and shall include, without limitation, claims involving invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as any applicable regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.)

Or

Cyber Liability Insurance

Each Occurrence	\$5,000,000
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B. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

C. Professional liability and/or cyber insurance written on a "claims made" basis must be renewed for a period of three (3) years after this contract expires or is terminated. Such insurance must have the same coverage and limits as the policy that was in effect during the term of this contract and will cover Consultant for all claims made by the City insured entities arising out of any acts or omissions of Consultant or its officers, employees, or agents during the time this Agreement was in effect.

D. Any deductibles or self-insurance retentions must be declared and approved by the City. At the City's option, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City insured entities or the insurer shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. All insurance shall be primary and non-contributory as respects the City insured entities. Any insurance or self-insurance maintained by the City insured entities shall be in excess of the Consultant's insurance and shall not contribute with it.

F. Consultant shall furnish the City with Certificates of Insurance and with endorsements effecting coverage required by this Agreement. Certificates of Insurance shall meet the following requirements:

(1) Show that the insurance policy has been endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after 30 days' prior written notice (10 days' written notice for non-payment) to the City of Lancaster.

(2) List in the "Descriptions of Operations/Locations/Vehicles" section:

"[Name of the Project/Services/Title & Date of Event]

The City of Lancaster, its elected officials, officers, employees and volunteers are included as additional covered parties, but only insofar as the operations under this contract are concerned."

(3) List in the "Certificate Holder" section:

The City of Lancaster, 44933 Fern Avenue, Lancaster, California 93534.

14. **Commencement and Completion of Work.** The Services to be provided by Consultant pursuant to this Agreement shall commence within ___ days after execution of this Agreement, and shall be completed no later than _____ days following commencement; provided however, that the Parties may agree to extend the time for completion upon mutual written agreement.

15. **Ownership of Documents.** All plans, specifications, reports, studies, maps and other documents prepared or obtained by Consultant in the course of performing the work and are required by this Agreement to be delivered to the City shall be the property of the City. Basic sketches, charts, computations and similar data prepared or obtained by Consultant under this Agreement shall, upon request, be made available to City without restriction or limitation on their use.

16. **Data Provided to Consultant.** City shall provide to Consultant, without charge, all data, including reports, records, maps and other information, now in the City's possession which may facilitate the timely performance of the work described in Exhibit A.

17. **Consultant's Warranties and Representations.**

Consultant warrants and represents to City as follows:

A. Consultant has not employed or retained any person or entity, other than a bona fide employee working exclusively for Consultant, to solicit or obtain this Agreement.

B. Consultant has not paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the execution of this Agreement. Upon any breach or violation of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without further liability, or, in the alternative, to deduct from any sums payable hereunder the full amount or value of any such fee, commission, percentage or gift.

C. Consultant has no knowledge that any officer or employee of the City has any interest, whether contractual, noncontractual, financial, proprietary, or otherwise, in this transaction or in the business of the Consultant, and that if any such interest comes to the knowledge of Consultant at any time, a complete written disclosure of such interest will be made to City, even if such interest would not be deemed a prohibited "conflict of interest" under applicable laws.

D. Upon the execution of this Agreement, Consultant has no interest, direct or indirect, in any transaction or business entity which would conflict with or in any manner hinder the performance of services and work required by this Agreement, nor shall any such interest be acquired during the term of this Agreement.

18. **Resolution of Disputes.**

A. Disputes regarding the interpretation or application of any provisions of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

B. If the parties cannot resolve the dispute through good faith negotiations, either party may give Notice of Dispute to the other party. The Notice of Dispute shall state the nature of the dispute and the corrective action necessary to remedy the dispute.

After Notice of Dispute, the parties shall first attempt to resolve any disputes by mediation. The parties shall agree on a single mediator. Mediation shall be conducted in Lancaster, California. Each party shall pay its own attorneys' fees and the costs of mediation shall be split equally between the parties.

If the dispute has not been resolved by mediation within 45 days after Notice of Dispute, or the parties are unable to agree to a mediator, within 15 days after Notice of Dispute, then, the dispute may, upon agreement of the parties be resolved by binding arbitration.

C. If any action at law or in equity is brought to enforce or interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, cost and necessary disbursements, in addition to such other relief as may be sought and awarded.

19. **Exhibits.**

The following exhibits to which reference is made in this Agreement are deemed incorporated herein in their entirety:

Exhibit "A" Scope of Services and Rates Schedule

20. **Governing Law.**

This Agreement shall be governed by the laws of the State of California.

21. **Effective Date.**

This Agreement shall become effective as of the date set forth below on which the last of the parties, whether City or Consultant, executes said Agreement.

[Signatures begin on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their respective officers thereunto duly authorized.

CITY OF LANCASTER
LANCASTER, CALIFORNIA

By: _____
Jason Caudle, City Manager

Dated: _____

By: _____
(Name, Title)

Dated: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

California Levine Act Statement

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any Lancaster official from participating in any action related to a contract or application if he or she receives any political contributions totaling more than \$250 within the previous twelve months, and for twelve months following the date a final decision is rendered.

The Levine Act also requires a Lancaster City official who has received such a contribution to disclose the contribution on the record of the proceeding.

Current Lancaster City Council Members are listed at:

<https://www.cityoflanasterca.org/government/city-officials/city-council-copy>

Current Planning Commissioners are listed at:

<https://www.cityoflanasterca.org/government/commissions-appointments/planning>

Proposers are responsible for accessing this link to review the names prior to answering the following questions.

1. Have you or your company, or any agent/board member on behalf of you or your company/entity, made any political contributions of more than \$250 to any Lancaster City Council Member or other city official in the 12 months preceding the date of the submission of your proposal or application, or the anticipated date of any Council action?

YES If yes, please identify the Council Member(s)/city official(s):

NO

2. Do you or your company/entity, or any agency on behalf of you or your company/entity, anticipate or plan to make any political contribution of more than \$250 to any Lancaster City Council Member or other city official in the 12 months following any Council action related to your proposal or application?

YES If yes, please identify the Council Member(s) /city official(s)::

NO

Answering yes to either of the two questions above does not preclude the Lancaster City Council from awarding a contract or approving an application or any subsequent action. It does however, preclude the identified Council Member(s) from participating in any actions related to your proposal or application.

Date

Signature of authorized individual

Company/Applicant Name