

City of Arvin

Request for Proposals



CITY OF ARVIN, CALIFORNIA

REQUEST FOR PROPOSALS FOR

PROFESSIONAL SERVICES

2023 Housing Element Update

PROPOSALS DUE BY: 5:00 P.M., April 11, 2022

Deliver to:
Attn: Cecilia Vela, City Clerk
City of Arvin – City Hall
200 Campus Drive
Arvin, CA 93203

GENERAL INFORMATION

RFP DATE ISSUED: **MARCH 9, 2022**

RFP RESPONSE DUE DATE: APRIL 11, 2022, 5:00 P.M.

CONTACT PERSON: Cecilia Vela, CMC, City Clerk

PHONE: (661) 854-3134

EMAIL: cvela@arvin.org

SUBMITTAL ADDRESS: Attn: Cecilia Vela, City Clerk
City of Arvin – City Hall
200 Campus Drive
Arvin, California 93203

If you have any questions regarding the project, please call the City Clerk's Office at the phone number listed above.

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ATTACHMENT A.

SAMPLE CITY OF ARVIN PROFESSIONAL SERVICES CONTRACT (Page 14)

I. INTRODUCTION

The City of Arvin was incorporated in 1960. Arvin is a General Law City with one Mayor and four City Council members elected at large operating under a council-manager form of government.

The official population of the City of Arvin as of 2020 is 19,495 (CA Department of Finance). Arvin is a full-service city and encompasses an area of 4.82 square miles (approximately 4.82 24 acres). The City of Arvin is surrounded by agricultural land and is situated approximately 21 miles southeast of Bakersfield.

Services provided by the City of Arvin include administration, police, planning and building inspection, transit, recreation services, street maintenance and contract wastewater management. Fire protection is provided by the Kern County Fire. Water service is provided by the Arvin Community Services District. The City has approximately 60 employees. The FY 2021-2022 General Fund budget for the City of Arvin is approximately \$7.2 million.

II. GENERAL INFORMATION

The City of Arvin is seeking proposals from qualified consultants to prepare the City's 6th Cycle 2023-2031 Housing Element Update, including environmental analysis and clearance documentation under the California Environmental Quality Act (CEQA). Emphasis will be placed on developing an updated document to implement current state law, related goals and policies of the City's recently adopted General Plan Update 2040, while at the same time clarifying and updating as many of the existing ambiguous and/or outdated provisions as feasible.

Project Objectives

The City is seeking qualified consultants to develop a recommended approach and strategy to:

- Prioritize and craft an updated Housing Element meeting all state and regional requirements and Regional Housing Needs Assessment (RHNA) targets;
- Ensure proper public engagement;
- Complete the required CEQA documentation;
- Use the City's limited resources efficiently; and
- Ensure the update is completed on time and is approved by the California Department of Housing and Community Development (HCD).

The Housing Element update, once adopted by City Council, will replace the City's current Housing Element. The proposed updated element will ensure the City's compliance with all state and regional requirements and is legally defensible.

III. QUALIFICATIONS

Demonstrated experience updating Housing Elements. The proposal should include enough information for judging the quality and competence of the personnel dedicated to the preparation of the Housing Element Update and CEQA determination. This section of the proposal should clearly identify the day-to-day project manager for the project, as well as the key personnel who

will perform the actual research and writing. Similar information is also required for all sub-consultants for the project.

- Demonstrated professional experience and knowledge of the general principles and background law applicable to Housing Element Updates, as well as familiarity with specific regional requirements that would help the selected Consultant be successful. Including examples of your work and including former clients will be helpful in determining expertise.
- Ability to make project presentations, provide public engagement activities, and work with diverse groups of people representing varied points of view.

IV. SCOPE OF WORK

It shall be the responsibility of the consultant to work with the City to produce a Housing Element prepared in compliance with State Housing Element Law, Senate Bill 1241 and that meets the legal standards and best practices as mandated by HCD. Details from HCD can be located at the following:

- <https://www.hcd.ca.gov/community-development/housing-element/index.shtml>.

The consultant shall assist staff with the RHNA and Housing Element update, pursuant to the State of California Government Code Sections 65580-65589.8 and shall accomplish the following tasks:

A. Existing Conditions and Needs

1. Review the City's current Housing Element, General Plan and other supporting materials as needed to gain insight and understanding of Arvin's housing progress and priorities;
2. Evaluate results from previous housing programs and policies implemented, and their effectiveness; and
3. Assess the viability of the City to use HCD's new streamlined update process, according to HCD's Housing Element Update Guidance document.

B. Regional Housing Needs Assessment (RHNA)

1. Review City's vacant and underutilized land inventory.
2. Review the City's RHNA allocation; and
3. Assist City staff through the appeal process (if applicable).

C. Public Participation and Community Workshops

Consultant will propose an appropriate community outreach program that meets State HCD standards and meaningfully engages a broad array of community interests in the Housing Element update process. The outreach program should be tailored to assume that much of the engagement in 2022 will be virtual due to COVID-19. Consultant is expected to prepare branded outreach materials for distribution and communication/advertising purposes. Provide an overview of public outreach strategies to be used for this project including the use of technology outreach platforms and activities. The community outreach program may include a focus group consisting of internal and external stakeholders that may meet once per month for the entire project schedule. The City expects that the public outreach and engagement will include at least

five (5) public meetings/workshops throughout the update process in addition to the commission and council meetings outlined below. Consultant shall submit the outreach program to the City for review, comment, and approval within sixty (60) days of contract engagement.

D. Assessment of Housing Needs

Prepare an updated assessment of housing needs in Arvin, and an inventory of resources and constraints relative to meeting those needs, in conformance with Government Code Section 65583(a). Consultant will obtain and analyze demographic, economic, infrastructure and housing data needed to complete this task; and

E. Preparation of Draft and Final Housing Element

Consultant shall produce a draft Housing Element prepared in compliance with all applicable state and federal laws, including all tables, maps, etc., and shall include but not limited to the following:

1. The assessment and inventory described in Section IV.D above.
2. Updated housing, population, demographic, and employment data to coincide with recent Kern County growth projections;
3. Assessment of the housing and market conditions and immediate needs within the City, including special housing needs;
4. Identification of actual and potential constraints on the maintenance, improvement, and development of housing for all income levels;
5. A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing;
6. Analysis of housing opportunities, along with an "adequate sites analysis" showing the relationship between the City's RHNA allocation, and the City's dwelling unit capacity, availability of potential housing sites based on zoning, infrastructure, and General Plan policies, requirements, and limitations. If needed, consultant will also work with staff to identify potential zoning strategies to address need for additional housing unit capacity; and
7. A Housing Element (2023-2031) implementation program including, but not limited to, a schedule of actions during the planning period; quantifiable objectives and programs to address housing needs for all income levels, the elderly, veterans, and populations with disabilities, special needs, or experiencing homelessness; and meaningful actions to affirmatively further fair housing.

(NOTE REGARDING ADMINISTRATIVE DRAFTS: Consultant should budget for two (2) administrative draft rounds of City review and comment with consultant revisions incorporated before producing a public review draft Housing Element. Following public hearings and HCD review, consultant should budget for final revisions to produce a Final Housing Element.)

F. Hearing Attendance and Presentation Materials

Consultant will prepare or assist in the preparation of draft staff reports, exhibits, and presentations to Planning Commission and City Council. Consultant will also be prepared to attend, in total, a minimum of six (6) public hearings/study sessions held by the Planning Commission and/or City Council. (Staff anticipates two (2) joint study sessions; two (2) Planning Commission public hearings and two (2) City Council hearings)

G. General Plan Amendment (if applicable)

Update the City’s General Plan Safety Element as required and identify sections of the General Plan (all elements), zoning code, and other adopted plans/regulations identified by staff that may need to be amended to be in compliance with State law including all tables, maps, etc., consistent with the 2023-2031 Housing Element.

H. Environmental Document (CEQA)

Prepare, post, and file all the appropriate environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notice of Intent to Adopt a Mitigated Negative Declaration or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion. In addition, the consultant will be responsible for preparing all notices and mailings for SB 18 and AB 52.

I. Deliverables

1. Administrative Draft #1: Prepare and submit one (1) hard copy, (1) electronic copy in Microsoft Word, and one (1) complete PDF copy of the Administrative Draft Housing Element and list of necessary additional General Plan amendments and other regulatory amendments (if applicable) for City staff to review and comment upon in accordance with the project's schedule. Design of the draft (text, font, graphics, tables, figures, and picture placement) to match the General Plan document format and quality;
2. Administrative Draft #2: Revise the Administrative Draft Housing Element #1 and identified General Plan amendments and other regulatory amendments to incorporate staff's comments and submit one (1) hard copy, one (1) electronic copy in Microsoft Word, and one (1) PDF copy of the Draft Housing Element and proposed General Plan amendments and other regulatory amendments to the City for staff review and comment.
3. Public Review Draft Housing Element: Revise Administrative Draft Housing Element #2 and identified General Plan amendments and other regulatory amendments to incorporate staff's comments and submit one (1) hard copy, one (1) electronic copy in Microsoft Word, and one (1) PDF copy of the Draft Housing Element and proposed General Plan amendments and other regulatory amendments to the City for distribution to HCD, the City Council, the Planning Commission, and the general public for review and comment;
4. Prepare, post, and file the appropriate administrative draft and public draft environmental documents for compliance with the California Environmental Quality Act (CEQA), including the Initial Study, Notice of Intent to Adopt a Mitigated Negative Declaration or other CEQA determinations as applicable, Response to Comments, Mitigation Measures, Mitigation Monitoring Program, and Notice of Completion. Consultant shall budget for a) two (2) review and comment cycles of the administrative draft Mitigated Negative Declarations; and b) one (1) draft Mitigated Negative Declaration for public review.
5. Submit public engagement strategy memo to City staff for review within sixty (60) days of contract engagement.
6. Prepare addendum and revisions to draft documents both in response to City input and comments from HCD, including tracking of said revisions;
7. Prepare Final Draft Updated Housing Element in response to comments from HCD, responsible agencies, City staff, the Affordable Housing Steering Committee, the Planning

Commission, City Council, and the public. Upon determination of compliance by HCD of the Final Draft Housing Element and Draft General Plan amendments and other regulatory amendments, the consultant will submit ten (10) bound copies, one (1) electronic copy in Microsoft Word format, and one (1) PDF of the Final Draft Housing Element (2023-2031) for distribution to the Planning Commission and the City Council for final adoption at corresponding public hearings;

8. Amend the Public Health, Safety and Noise Element of the City's General Plan to be consistent with SB 379;
9. Attend, present, and participate in a minimum of six (6) public meetings which may include Planning Commission meetings, City Council meetings, or study session meetings, and public hearings as required by the City; (see Task G)
10. Prepare public meeting presentation materials, memos, letters, resolutions, findings of fact, CEQA notices, and other documents as required by the City;
11. Provide regular e-mail progress reports to the project manager;
12. Assist in the preparation of staff reports and exhibits for Planning Commission and City Council;
13. Provide and maintain an Internet-based folder (or other agreed to platform) for all project materials accessible to City staff and consultants;
14. Coordinate with City Staff and HCD as necessary (minimum of 10 progress meetings with City staff);
15. Upon adoption of the Final Draft Housing Element and Final General Plan amendments and other regulatory amendments by the City Council, the consultant will prepare a final adopted version with the date of adoption prominently displayed on the front cover and throughout the document to distinguish it as the official document from other versions of the Housing Element. The consultant shall provide ten (10) bound copies, one (1) electronic copy in Microsoft Word, and one (1) PDF of the adopted Housing Element for distribution to HCD, City departments, and other stakeholders; and
16. The consultant shall assist the City in achieving State certification of the Housing Element after adoption by the City Council and shall perform all tasks necessary to obtain HCD certification. The consultant shall file the required CEQA Notice of Determination within five (5) days of the final adoption action.

V. SCHEDULE

Responses to the RFP must be submitted to the City of Arvin as outlined in this section.

Responses due no later than

Monday, April 11, 2022, at 5:00 PM

Responses received after this date will **not** be considered.

**PROPOSED SCHEDULE FOR THE REVIEW AND SELECTION PROCESS AND
DESIRED TIMELINES FOR DELIVERABLES**

MILESTONE	DATE	TIME
Release RFP	March 9, 2022	9:00 AM
Questions submittal deadline	March 22, 2022	5:00 PM
Questions posted on City Website	March 29, 2022	5:00 PM
Proposals due date	April 11, 2022	5:00 PM
Review and scoring of submittals	April 18, 2022	4:00 PM
Interviews with finalists	April 21, 2022	TBD
Awards of Agreement	May 10, 2022	5:00 PM

The schedule may be modified and/or extended if necessary.

VI. PROPOSAL SUBMISSION REQUIREMENTS AND FORMAT

If interested in this RFP, please notify Cecilia Vela, City Clerk by email at cvela@arvin.org so that you may be added to the notification list for addendums. Failure to notify could result in missing important and required information and could result in disqualification.

Format

All submittals must follow the format described in this section. Respondents are encouraged to submit clear and concise responses to the RFP. The City of Arvin reserves the right to include or exclude any part of the submittals in the final agreement with the selected consultant.

Four (4) bound copies of the submittal, one (1) unbound, reproducible copy, and one thumb drive (or other digital media) containing a PDF copy must be submitted. Each submittal shall be on 8½” x 11” pages and the font shall be no less than 10pt. All pages shall be numbered. Drawings provided with the submittal shall not exceed 11” x 17.”

To be considered for selection, submittals must arrive at the location shown below by the date and time specified in Section V. Proposers who mail packages should allow ample delivery time to ensure timely arrival.

Submittals shall be placed in a clearly marked envelope, titled Housing Element Update and hand-delivered or mailed to:

**Attn: Cecilia Vela, City Clerk
City of Arvin – City Hall
200 Campus Drive
Arvin, California 93203**

It is the sole responsibility of the Proposer to ensure timely delivery. Late proposals shall not be considered. Proposals will not be accepted at any other location other than the address specified above.

Faxed or emailed proposals will not be accepted.

Content

The content of your proposal should include the following in summary form:

- Part 1: Cover Letter/Executive Summary
- Part 2: Project Approach, Scope of Work, and Deliverables
- Part 3: Consultant Identification and Team
- Part 4: Related Project Examples and References
- Part 5: Public Outreach Experience
- Part 6: Fee Proposal

Successful Proposals:

The successful proposal will describe the approach, the process, and costs to:

- Prepare an updated Housing Element; and
- Plan and conduct associated public outreach and engagement activities.

Proposals should include other required steps such as a General Plan Amendment (if applicable).

1. PART 1 | COVER LETTER/EXECUTIVE SUMMARY

In no more than three (3) pages, the Cover Letter and Executive Summary shall include:

1. The names of the key members of the consultant team.
2. The mailing address, telephone number, and the name of the main point of contact for the consultant team.
3. A summary of the consultant's experience and qualifications and the significant advantages to selecting the consultant.
4. An acknowledgement of receiving any addendum(s) to the RFP document sent out by the City.

2. PART 2 | PROJECT APPROACH, SCOPE OF WORK AND DELIVERABLES

Describe the strategy for achieving the goals and deliverables of the project. Include a detailed scope of work noting applicable deliverables as noted in this RFP. Provide flowchart depicting overall schedule, milestones, community meetings and public hearings. Develop a timeline schedule with milestones for the review and appeal (if necessary) of RHNA and the certification of the Housing Element by HCD. The project schedule shall include a detailed explanation of all stages of the project, including, at a minimum:

1. Kick-off meeting with staff to collect and confirm baseline information needs and refine the scope of services;
2. Identification of major milestones, meetings, and work products;
3. Public outreach, subcommittee meetings, and workshops;
4. Delivery of analysis and findings during assessment and development of the RHNA and Housing Element Update;
5. Response to HCD review and City staff review times.
6. Delivery of draft and final draft Housing Element; and
7. Public hearings (Planning Commission and City Council).

3. PART 3 | CONSULTANT IDENTIFICATION AND TEAM

Provide the name of the consultant, the consultant's principal place of business, and the name and telephone number of the contact person. Clearly identify team members, their roles, qualifications, and relevant experience. Any professional services required but not proposed by the qualified consultant firm shall be listed and reasons should be provided for not including them as part of the proposal.

4. PART 4 | RELATED PROJECT EXAMPLES AND REFERENCES

Provide recent (within last 10 years) visual examples of relevant projects completed by the consultant that exhibit the team's ability to successfully complete a range of services as listed above. Along with each example, please include descriptive information such as location of the project, date, scope and scale, contract amount, name of the team member(s) involved in the project and their roles, name of the client, and e-mail address and telephone number of the client contact.

5. PART 5 | PUBLIC OUTREACH EXPERIENCE

Please provide a description of previous experience working with the public, commissioners, and decision makers. Also include experience doing community engagement for Housing Element if applicable.

6. PART 6 | FEE PROPOSAL

List by task the proposed fee. Include an hourly rate schedule for all personnel who may participate in current or future projects.

VII. SELECTION PROCESS

The selected consultant will be asked to enter into a Professional Services Agreement with the City of Arvin and comply with the insurance requirements set forth therein. The City's Planning Department will supervise the project and coordinate the work.

The Consultant will be selected based on demonstrated competence and professional qualifications. Negotiations shall begin with the most qualified consultant. Should negotiations not result in a price the City considers to be fair and reasonable, negotiations shall be formally terminated, and the City shall then undertake negotiations with the second most qualified consultant. If the negotiation with the second most qualified firm is not successful, negotiations shall be formally terminated, and the City shall then undertake negotiations with the third most qualified consultant, etc. until the price is determined to be fair and reasonable by the City.

VIII. PROPOSAL TERMS AND CONDITIONS

1. EXAMINATION OF PROPOSAL MATERIALS

The submission of a proposal shall be deemed a representation and warranty by the proponent that it has investigated all aspects of the RFP, that it is aware of the applicable facts pertaining to the RFP process and its procedures and requirements, and that it has read and understands the RFP. No request for modification of the provisions of the proposal shall be considered after its submission on the grounds the proponent was not fully informed as to any fact or condition.

2. ADDENDA INTERPRETATIONS

If it becomes necessary to revise any part of this RFP, a written addendum will be provided to each firm that requested to be added to the notification list and said addenda will be uploaded to the City website. The City of Arvin is not bound by any oral representations, clarifications, or changes made in the RFP by the City or its agents, unless such clarification or change is provided in written addendum from the City of Arvin.

3. DESIGNATED CONTACT

For the purposes of this RFP, the City Planner is designated as the contact person. Any questions concerning the scope of work and the selection process shall be directed to Tendai Mtunga at tmtunga@arvin.org. Any and all questions and responses concerning this RFP will only be accepted in writing, via email. All questions must be received by 4:00pm on April 28, 2022.

Responses to questions will be posted on the City's website, www.arvin.org/Bids.aspx, and will become part of the RFP. It is the consultant's responsibility to check the website for updates.

4. PUBLIC RECORDS

This RFP document and all submittals in response thereto are public records. Prospective consultants are cautioned not to include any material into the proposal that is strictly proprietary in nature.

5. PROPOSAL COSTS

All costs associated with the preparation of RFP submittals shall be borne by the respondent. This RFP does not constitute any form of offer to contract.

6. RESERVATION OF RIGHTS

The City reserves the right, for any reason, to accept or reject any one or more proposals; to negotiate the terms and specifications of the proposal; to modify any part of the RFP; or issue a new RFP.

7. PRODUCT OWNERSHIP

Any documents resulting from the contract will be the property of the City.

8. PROFESSIONAL SERVICES AGREEMENT

All Proposers must identify in their proposal any terms and conditions of the sample Professional Service Agreement (Exhibit A) that they wish to negotiate. Insurance is required as outlined in Item 37 Section 37.1 G and H of the sample agreement attached.

9. CAUSES FOR DISQUALIFICATION

Any of the following may be considered cause to disqualify a proponent without further consideration:

- Evidence of collusion among proponents;

- Any attempt to improperly influence any member of the evaluation panel;
- A proponent's default in any operation of a professional services agreement which resulted in termination of that agreement; and/or
- Existence of any lawsuit, unresolved contractual claim, or dispute between proponent and the City.

“ATTACHMENT A”

**AGREEMENT FOR [REDACTED]
CONSULTANT SERVICES
BETWEEN**

CITY OF ARVIN, CALIFORNIA,

AND

**[REDACTED]
NAME OF CONSULTANT**

THIS AGREEMENT (“Agreement”) is made and entered into as of the date of execution by the CITY OF ARVIN (the "City") and [REDACTED], (“Consultant”).

RECITALS

The City requires outside assistance to provide the following services:

[REDACTED]

WHEREAS, Consultant represents itself as possessing the necessary skills and qualifications to provide the services required by the City and as being duly qualified to perform those services in accordance with the standard of quality ordinarily expected of competent professionals in Consultant’s field of expertise;

WHEREAS, Consultant will render such professional services, as hereinafter defined, on the following terms and conditions;

NOW THEREFORE, in consideration of these recitals, and the mutual covenants contained herein, the City and Consultant agree as follows:

AGREEMENT

1. TERM OF AGREEMENT.

1.1. This Agreement shall be effective on and from the day, month and year of the execution of this document by the City.

1.2. Consultant shall commence the performance of the services in accordance with the Scope of Work section provided in Attachment “A” to this Agreement and shall continue such services until all tasks to be performed are completed, or this Agreement is otherwise terminated. Consultant shall complete the services and provide final data and reports no later than [REDACTED], unless an extension of time is mutually agreed to by both parties in writing.

2. CONSULTANT'S OBLIGATIONS- SCOPE OF WORK (ATTACHMENT A).

- 2.1. Consultant shall provide the City with the following services: The specific manner in which the services are to be performed is described in Attachment “A” which is attached hereto and incorporated herein as though fully set forth at length, collectively hereinafter referred to as “Described Services.”
- 2.2. Consultant shall perform all work required to accomplish the Described Services in conformity with applicable requirements of Federal, State and Local law.
- 2.3. Consultant is hired to render the Described Services and any payments made to Consultant are compensation fully for such services.
- 2.4. Consultant shall maintain professional certifications as required to properly comply with all City, State, and Federal law.
- 2.5. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. If the City, in good faith, at any time during the term of this Agreement, desires the removal of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.
- 2.6. If a license or certification of any kind is required of Consultant, its employees, agents, or subcontractors by federal, state or law and regulation, Consultant warrants that such license has been obtained, is valid and in good standing, and shall keep in effect at all times during the term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.
- 2.7. Consultant shall provide the City with timely written reports of all significant developments or delays arising during performance of its services.

3. PAYMENT FOR SERVICES (ATTACHMENT B).

- 3.1. Payment to Consultant to perform its Scope of Work is set forth in **Attachment B**, attached hereto and incorporated herein. The payments provided in this Section are full compensation for the Scope of Work as described in Attachment A.
- 3.2. Consultant shall submit monthly bills to the City, describing its services and costs provided during the previous month, based upon percentage of task completed. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person. Consultant's monthly bills shall include the following information to which such services or costs pertain:
 - a description of services performed;
 - the date the services were performed;
 - the number of hours spent and by whom;
 - a description of all costs incurred, and the Consultant's signature.

Consultant agrees to use every appropriate method to contain fees and costs under this Agreement. Once invoice is submitted and approved by the City, City payment will be made within 30 days

of approval.

3.3. The amount set forth in Attachment B may be modified or amended only by a written document executed by both Consultant and authorized City representative prior to the performance of the additional work. Such document shall expressly state that it is intended by the parties to amend the terms and conditions of this Agreement.

4. SUBCONTRACTING.

4.1. Consultant will not subcontract any portion of its Scope of Work without prior written approval of City. If Consultant subcontracts for any of the work to be performed under this Agreement, Consultant shall be as fully responsible to the City for the acts and omissions of Consultant's subcontractors/subconsultants and for the persons either directly or indirectly employed by the subcontractors/subconsultants, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor/subconsultant of Consultant and the City. Consultant will be responsible for payment of subcontractors/subconsultants. Consultant shall bind every subcontractor/sub-consultant to the terms of the Agreement applicable to Consultant's work unless specifically noted to the contrary in the subcontract in question and approved in writing by the City. Consultant agrees that the City is an intended third-party beneficiary of any services agreement entered into between Consultant and any subcontractor or sub-consultant.

5. PROJECT SCHEDULE AND COMPLETION DATE (ATTACHMENT C).

5.1. Attachment C is the project schedule that Consultant shall strictly meet, including benchmark dates and completion date, which is attached hereto and incorporated herein. Consultant agrees to diligently prosecute the services to be provided under this Agreement to completion and in accordance with the schedule specified herein. In the performance of this Agreement, time is of the essence.

5.2. Consultant shall promptly notify the City of any anticipated or unforeseen delays to the project schedule. Extensions to the project schedule and to this Agreement shall not be made without the prior written approval of the City. All requests for extensions to the project schedule shall be by written request only and submitted to the City prior to the commencement of such work.

6. CHANGES IN WORK AND EXTRA WORK. Consultant shall not change the scope or duration of work or perform work in excess of the Scope of Work without the prior, written approval of the City by an executed Change Order, describing in detail the revision to Scope of Work, revisions in payment and/or time, fully executed by both parties. Failure to obtain a Change Order prior to the commencement of any revision waives Contractor's right to payment for such additional services.

7. RESPONSIBILITIES OF AND TASKS TO BE PERFORMED BY CITY. City designates _____, its _____, to represent the City in all matters within the scope of this Contract relating to the conduct and approval of the work to be performed. Whenever the term "approval of City," "consult with City," "confer with City," or similar terms are used, they shall refer to the _____. The _____ may designate an assistant to act in his/her stead.

The CITY shall furnish upon request, without charge, all standard plans and specifications and

any other information which the City now has in its files that may be of use to Consultant.

8. VERBAL AGREEMENT OR CONVERSATION. No verbal agreement or conversation with any officer, agent, or employee of the City, either before, during or after the execution of this Agreement, shall affect or modify any of the terms or obligations herein contained nor shall such verbal agreement or conversation entitle Consultant to any additional payment whatsoever.

9. TERMINATION OF AGREEMENT.

9.1. Termination for Convenience City may terminate this Contract for City's convenience at any time by providing Consultant thirty days written notice. Upon receipt of the notice of termination, Consultant shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. City shall pay Consultant its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by Consultant to effect the termination. Thereafter, Consultant shall have no further claims against City under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights City is entitled to, shall become City property upon the date of the termination. Consultant agrees to execute any documents necessary for City to perfect, memorialize, or record City's ownership of rights provided herein.

9.2. Termination for Breach of Contract.

9.2.1. Except as provided in Attachment "C", if Consultant fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, City may give Consultant written notice of the default. City's default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of City. Additionally, City's default notice may offer Consultant an opportunity to provide City with a plan to cure the default, which shall be submitted to City within the time period allowed by City. At City's sole discretion, City may accept or reject Consultant's plan. If the default cannot be cured or if Consultant fails to cure within the period allowed by City, then City may terminate this Contract due to Consultant's breach of this Contract.

9.2.2. If the default under this Contract is due to Consultant's failure to maintain the insurance required under this Contract, Consultant shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subconsultants of the loss of insurance coverage and Consultant's obligation to suspend performance of services. Consultant shall not recommence performance until Consultant is fully insured and in compliance with City's requirements.

9.2.3. If a federal or state proceeding for relief of debtors is undertaken by or against Consultant, or if Consultant makes an assignment for the benefit of creditors, then City may immediately terminate this Contract.

9.2.4. If Consultant engages in any dishonest conduct related to the performance or administration of this Contract or violates City's laws, regulations or policies relating to lobbying, then City may immediately terminate this Contract.

9.2.5. Acts of Moral Turpitude

- a. Consultant shall immediately notify City if Consultant T or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws (“Act of Moral Turpitude”).
- b. If Consultant or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, City may immediately terminate this Contract.
- c. If Consultant or a Key Person is charged with or indicted for an Act of Moral Turpitude, City may terminate this Contract after providing Consultant an opportunity to present evidence of Consultant’s ability to perform under the terms of this Contract.
- d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.
- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of Consultant.

9.2.6. In the event City terminates this Contract as provided in this section, City may procure, upon such terms and in the manner as City may deem appropriate, services similar in scope and level of effort to those so terminated, and Consultant shall be liable to City for all of its costs and damages, including, but not limited to, any excess costs for such services.

9.2.7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that Consultant was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Article 8 Termination for Convenience.

9.2.8. The rights and remedies of City provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

9.3. In the event that this Contract is terminated, Consultant shall immediately notify all employees and Subconsultants, and shall notify in writing all other parties contracted with under the terms of this Contract within five (5) working days of the termination.

10. COVENANTS AGAINST CONTINGENT FEES. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for Consultant, to solicit

or secure this Agreement, and that Consultant has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to terminate this Agreement without liability or, at the City's discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

11. OWNERSHIP OF DOCUMENTS.

11.1. All computer data, computer drawing files, plans, studies, sketches, drawings, reports, specifications, and all work product produced by Consultant under this Agreement are the property of the City, whether or not the City completes the Scope of Work or proceeds with the project for which such documents are prepared.

11.2. This Agreement creates a nonexclusive and perpetual right or license for City to copy, use, modify, reuse, and sublicense any and all copyrights, designs, and other intellectual property embodied in the writings prepared by Consultant, and Consultant subcontractors, under this Agreement. In the event the City should ever desire to undertake a project or review other proposed projects based upon the documents, the Consultant agrees that the City shall have the right to reuse all or any portion of the documents at no additional compensation to the Consultant.

12. INDEPENDENT CONTRACTOR.

12.1. The Consultant shall perform the services provided for herein in a manner of Consultant's own choice, as an independent Contract and in pursuit of Consultant's independent calling, and not as an employee of the City. Consultant shall be under control of the City only as to the result to be accomplished and the personnel assigned to the Project.

12.2. If the Consultant subcontracts any of the work to be performed under this Agreement pursuant to the terms of this Agreement, Consultant shall be as fully responsible to the City or the acts and omissions of the Consultant's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Consultant is for the acts and omissions of persons directly employed by Consultant. Nothing contained in the Agreement shall create any contractual relationship between any subcontractor of Consultant and the City. The Consultant shall bind every subcontract by the terms of the Agreement applicable to Consultant's work, including indemnity and insurance requirements.

13. HOLD HARMLESS AND INDEMNIFICATION.

13.1. Indemnification - It is understood and agreed that Consultant has the professional skills, experience, and knowledge necessary to perform the work agreed to be performed under this Agreement and that City relies upon the professional skills of Consultant to do and perform Consultant's work in a skillful and professional manner, and Consultant thus agrees to so perform the work.

13.2. Acceptance by City of the work performed under this Agreement does not operate as a release of said Consultant from such professional responsibility for the work performed. It is further understood and agreed that Consultant is apprised of the scope of the work to be performed under this Agreement and Consultant agrees that said work can and shall be performed in a fully competent manner.

13.3. Consistent with California Civil Code section 2782.8, when the services to be provided under this Agreement are design professional services to be performed by a design professional, as that term is defined under said section 2782.8, Consultant shall, to the fullest extent permitted by law, indemnify, protect, immediately defend, and hold harmless City, and its officers, employees, agents, and volunteers, from and against all claims, demands, damages, costs, or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, interest, defense costs, and expert witness fees) arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant, its officers, employees, subcontractors, subconsultants or agents during the performance this Agreement, or from any violation of any federal, state, or municipal law or ordinance to the extent caused, in whole or in part, by the negligence, reckless, or willful misconduct of Consultant or its employees, subcontractors, or agents, or by the quality or character of Consultant’s work, excepting only liability arising from the sole negligence, sole active negligence, or intentional misconduct of City, its officers, employees, agents, and volunteers.

13.4. Other than in the performance of professional services by a design professional, which law shall be solely as addressed in subparagraph 12.3 above, and to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City, and its officers, employees, agents, and volunteers, from and against any claims, demands, damages, costs, or liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, interest, defense costs, and expert witness fees) arising out of the performance of this Agreement by Consultant, its officers, employees, agents, subcontractors and subconsultants, excepting only that resulting from the sole negligence, sole active negligence, or intentional misconduct of City, its officers, employees, agents, and volunteers. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code.

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

14. ASSIGNMENT OF AGREEMENT. Consultant is without right to and shall not assign this Agreement or any part thereof or any monies due hereunder without the prior written consent of the City.

15. INSURANCE.

15.1. Insurance. On or before beginning any of the services or work called for by any term of this Agreement, Consultant, at its own cost and expense, shall carry, maintain for the duration of the Agreement (including all extensions provided), and provide proof thereof that is acceptable to the City the insurance specified in subsections (A) through (F) below with insurers and under forms of insurance satisfactory in all respects to the City. Consultant shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Consultant has also been obtained for the subcontractor. The Certificate of Insurance shall clearly identify

the project name and number in the space labeled “Description of Operations/Locations/Special Items” on the form.

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

Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 and Insurance Services Office Automobile Liability form CA 0001 Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an additional insured endorsement to the policy: City, its officers, employees, agents, and volunteers are to be covered as insured's as respects each of the following: liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. In the event that Consultant purchases automobiles during the term of this Agreement, said automobiles shall be likewise covered. The coverage shall contain no special

An endorsement must state that coverage is primary insurance and that no other insurance affected by the City will be called upon to contribute to a loss under the coverage.

Insurance is to be placed with California-admitted insurers with a Best's rating of no less than A:VII.

- B. *Professional Liability.*** Consultant shall obtain, and during the term of this Agreement shall maintain, a policy of professional liability insurance that shall:
- i.** Be from an insurance company authorized to be in business in the State of California;
 - ii.** Be in an insurable amount of not less than \$1,000,000 for each occurrence; and

- iii. Provide that the policy shall remain in full force during the full term of this Agreement and shall not be canceled, terminated, or allowed to expire without thirty (30) days prior written notice to the City from the insurance company.

C. *Workers' Compensation.* Statutory Workers' Compensation Insurance and Employer's Liability insurance for any and all persons employed directly or indirectly by Consultant shall be provided with limits not less than one million dollars. In the alternative, Consultant may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City for loss arising from work performed under this Agreement.

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

E. *Notice of Reduction in Coverage.* In the event that any coverage required under subsections (A), (B), or (C) of this section of the Agreement is reduced, limited, or materially affected in any other manner, Consultant shall provide written notice to City at Consultant's earliest possible opportunity and in no case later than five day after Consultant is notified of the change in coverage.

F. *Other Remedies.* In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:

- i. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- ii. Order Consultant to stop work under this Agreement or withhold any payment which becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof;
- iii. Terminate this Agreement.
- iv. Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for Consultant's failure to maintain insurance or secure appropriate endorsements.

16. DISPUTES.

16.1. If a dispute should arise regarding the performance of this Agreement, the following initial dispute resolution procedures shall be used:

- A.** Within twenty (20) City working days after a dispute regarding the performance of this Agreement arises, it shall be reduced to writing at staff level by the complaining party setting forth the nature of the dispute in detail, along with all pertinent back up documentation in support. The writing shall be delivered to the receiving party by first class mail or personal delivery directly to the party's project manager, along with recommended methods of resolution.
- B.** The party receiving the letter shall reply to the letter with a detailed response, along with a recommended method of resolution, if any, within ten (10) City working days of receipt of the letter.

16.2. If the dispute is not resolved at staff level in accordance with Section 15.1, within five (5) City working days of the receiving party response (or longer if agreed between the parties) , the aggrieved party, through its respective project manager shall deliver to the General Manager's office a letter outlining the dispute for the General Manager's review. The receiving party may submit further response, if required, to the General Manager within five (5) City working days thereafter. The General Manager, at his/her sole discretion may respond as he/she deems appropriate, including recommendations for resolution, discussions or rejection of the dispute within fifteen (15) working days of receipt of the complaint.

16.3. If the dispute remains unresolved and the parties have exhausted the procedures outlined in this section, the parties may then seek remedies available to them under this Agreement and at law, including, but not limited to, under the termination procedures. This provision does not relieve Consultant of its obligation and Consultant is required to timely comply with all applicable provisions of the Government Claims Act before initiating any legal proceeding against City.

17. CONFLICT OF INTEREST. Contractor warrants and covenants that it presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law, including, but not limited to, Government Code section 1090. If any principal provider of services is a "consultant" for the purposes of the Fair Political Practices Act (Gov. Code § 81000 et seq.), each such person shall comply with Form 721 Statement of Economic Interests filing requirements in accordance with state or City local Conflict of Interest Code. In addition, if any other conflict of interest should nevertheless hereinafter arise, Consultant shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this Agreement.

18. CONSULTANT'S BOOKS AND RECORDS.

18.1. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant.

- 20.4.** Time is of the essence with regard to each covenant, condition and provision of this Agreement.
- 20.5.** This Agreement constitutes the entire agreement between the parties with regard to the subject matter herein and supersedes any prior oral and written agreements and understandings between the parties with respect thereto.
- 20.6.** This Agreement may not be altered, amended, or modified except by a writing executed by duly authorized representatives of all parties.
- 20.7.** In the event any action or proceeding is instituted arising out of or relating to this Agreement, the prevailing party shall be entitled to its reasonable attorney's fees and actual costs.
- 20.8.** This Agreement may be executed in counterparts. A facsimile or electronic copy of this Agreement shall be as effective as the original for all purposes.
- 20.9.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective heirs, successors, and assigns. Notwithstanding the foregoing, Consultant shall not assign this Agreement or any part thereof to any other entity or individual.
- 20.10.** City and Consultant each acknowledge that each party and their respective legal counsel have reviewed this Agreement and agree that this Agreement is the product of negotiations between the parties. This Agreement shall be interpreted without reference to the rule of interpretation of documents that uncertainties or ambiguities therein shall be determined against the party so drafting the Agreement.
- 20.11.** All references to a statute or ordinance, shall incorporate any, or all, successor statute or ordinance enacted to govern the activity now governed by the statute or ordinance, noted herein to the extent, however, that incorporation of such successor statute or ordinance does not adversely affect the benefits and protections granted to the Developer under this Agreement.

21. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION REFORM AND CONTROL ACT. Consultant certifies that Consultant is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants that are included in this Agreement.

22. ACCESS AND ACCOMMODATIONS

- 22.1.** Consultant shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 et seq., the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 et seq., the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- 22.2.** Consultant shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;

- 22.3. Consultant shall provide reasonable accommodation upon request to ensure equal access to CITY-funded programs, services and activities;
- 22.4. Construction, if any, will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- 22.5. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

Consultant understands that City is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by Consultant for work to be performed under this Contract must include an identical provision.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement on the day and year written below.

"CITY"	"CONSULTANT"
<p>CITY OF ARVIN, a municipal corporation</p> <p>By: _____ Name: _____ Title: _____</p> <p>Dated: _____, 202__</p> <p>ATTEST:</p> <p>_____ Cecilia Vela, City Clerk</p>	<p>Insert Name Insert Entity Type</p> <p>By: _____ Name: _____ Title: _____</p> <p>Dated: _____, 202__</p>
<p>APPROVED AS TO FORM:</p> <p>_____ Nathan M. Hodges, City Attorney</p>	

**“ATTACHMENT “A”
Scope of Work**

**ATTACHMENT “B”
Payment for Services**

Once an invoice is submitted and approved by the City, City payment will be made within 30 days of approval. The payment provided is full compensation for the DESCRIBED SERVICES

(Attach Progress Payment Schedule)

ATTACHMENT “C”
Project Schedule and Completion Date

INSERT PROJECT SCHEDULE

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party’s Subconsultants), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subconsultant of Consultant shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both Consultant and Subconsultant, and without any fault or negligence of either of them. In such case, Consultant shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subconsultant were obtainable from other sources in sufficient time to permit Consultant to perform timely. As used in this Contract, the term “Subconsultant” means a subconsultant at any tier. In the event Consultant’s delay or failure to perform arises out of a Force Majeure Event, Consultant agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.