



REQUEST FOR PROPOSALS

CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE

**PROPOSALS MUST BE RECEIVED BY
2:00 PM ON THURSDAY, DECEMBER 5, 2019**

City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709

City of Chino Hills
Request for Proposals
CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE

Date: September 12, 2019

Department: Public Works Engineering Division

Project Name: CITYWIDE WATER AND RECYCLED WATER
MASTER PLAN UPDATE

Proposal Due Date: December 5, 2019 Time: 2:00 P.M.

Proposals must be submitted to:

City of Chino Hills
City Clerk's Office
Attn: Ms. Fe M. Rama, P.E.
14000 City Center Drive
Chino Hills, CA 91709

Due Date and Delivery:

Proposals must be for the entire scope of services outlined in this RFP. Incomplete proposals will not be considered. The proposer shall submit a package clearly marked on the outside as "CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE" to the City Clerk's Office. The package shall contain the following:

- Five (5) bound copies and one (1) electronic copy (flash drive is preferred method, emails not accepted) of the proposal;
- One (1) original and four (4) copies of the cost proposal in a separate sealed envelope clearly marked "Sealed Cost Proposal"; and
- A signed W-9.

Proposals must be received by the City Clerk's Office **no later than 2:00 p.m. Thursday, December 5, 2019**. Submissions received after this deadline will be rejected. Submissions by facsimile or electronic mail will not be accepted.

A. General Information:

The City of Chino Hills ("City") is requesting proposals from qualified firms or individuals to provide professional services in updating and developing a comprehensive Citywide Water and Recycled Water Master Plan.

B. Description of the Government:

The City of Chino Hills is a General Law City in the State of California and is located in the Southwestern portion of San Bernardino County. The City was incorporated on December 1, 1991, and operates under a council-manager form of government. The City is a community consisting of approximately 45 square miles with an estimated population of 80,676. The City operates as a "contract city" utilizing contracts with other government entities, private firms and individuals to provide many traditional municipal services to the community. Contracted services include police, city attorney, animal control, and refuse collection.

C. Background:

In July 2008, the City of Chino Hills approved and adopted the October 2005 Water, Recycled Water, and Sewer Master Plan developed by PBS&J, Inc. (2005 Master Plan). The comprehensive plan was prepared to update the City's 1996 Water Master Plan and "*...to assist the City in assuring adequate sources of water, and to be a guide for the construction of water, recycled water, and sewage facilities necessary to provide reliable, cost-effective service for projected ultimate (buildout) conditions.*"

Since 2008, the City of Chino Hills has evolved into a more fully developed and almost "buildout" community. Several of the Capital Improvements Projects (CIP) and recommended actions identified in the 2005 Master Plan have been implemented. The City recognizes the need to update the 2005 Water and Recycled Water Master Plan and develop the tools needed to assist in planning, operating, and maintaining the City's aging water and recycled water systems and infrastructures.

D. Objective

The City of Chino Hills is soliciting proposals from qualified and experienced engineering firms or teams specializing in water engineering, and water master planning and modeling to update the City's October 2005 Water, Recycled Water, and Wastewater Master Plan. (*Note: A comprehensive sewer system master plan update is slated as a separate stand-alone project.*)

The City's goal is to create a comprehensive updated citywide water and recycled water master plan complete with a new updated GIS-based hydraulic modeling system and mapping tools. The document and the new modeling system will be a guide for planning, operating, and maintaining the City's water and recycled water systems and infrastructures. The project would evaluate the City's water system and identify recommended water system capital improvements through Year 2045 in 5-year increments. As the City's water infrastructure ages, it will be crucial to identify the

needed system improvements, with particular attention to the condition and operation of existing reservoirs, pump stations, and wells, and allowing sufficient time to plan, finance, and construct the improvements.

The Citywide Water and Recycled Water Master Plan update will require extensive coordination with city staff from various departments, but mainly the Public Works Department. Feedback and inputs from the city staff, public, and/or stakeholders will be solicited during the development stage. The master plan update will require final reviews and approvals of the Public Works Commission and the City Council for adoption.

E. Addendum

If it becomes necessary to revise any part of this RFP, an addendum to the RFP will be published and distributed through the City’s website. All addenda shall become a part of the RFP document requiring acknowledgment by the proposer.

F. Evaluation and Selection

The following is a tentative schedule of this entire RFP process. While the City will attempt to apply the necessary resources to maintain this schedule, the following dates are merely projections and the City reserves the right to modify this schedule as needed to accommodate the completion of this RFP process. The following is a tentative timeline for the evaluation and RFP selection procedure.

TENTATIVE PROJECT SCHEDULE	
RFP Published:	September 12, 2019
Questions from Proposers Due:	October 17, 2019
Questions and Answers Posted:	October 24, 2019
Proposals Due:	December 5, 2019
Initial Review of Proposals by Panel:	TBD
Anticipated Contract Award:	February 25, 2019

G. Questions

Please direct any questions or concerns to Ms. Fe M. Rama, Senior Engineer, at frama@chinohills.org or 909-364-2776 by 5:00 p.m. on October 17, 2019. Only questions with “CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE” in the subject line will be accepted. Answers to submitted questions will be posted on the City’s website.

H. Scope of Work:

Project tasks shall include, but are not necessarily limited to, those items noted below. If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal.

The successful Consultant shall perform the following tasks generally described:

- a) Review available pertinent records that will assist in the preparation of the Citywide Water and Recycled Water Master Plan Update;
- b) Assess Condition of Existing Water and Recycled Water Facilities;
- c) Update Sources, Quality and Regulatory Issues;
- d) Develop recommended water and recycled water system improvements;
- e) Recommend Future CIP Program; and
- f) Provide an updated GIS-based hydraulic modeling system.

The Scope of Work for the Citywide Water and Recycled Water Master Plan Update includes:

1. Review of previous master plans, planning documents, GIS-based hydraulic modeling data and system, supply sources information, water and recycled water demands, reservoir and pump station data, the current potable and recycled water systems, and other available pertinent records that will assist in the preparation of the comprehensive Water & Recycled Water Master Plan Update document.
2. Become familiar with the City's potable and recycled water distribution systems by reviewing City-provided maps of the pipeline networks and available GIS-based hydraulics data.
3. Analyze the City's "outdated" GIS-based hydraulic models and data created for the 2005 Water Master Plan using the InfoWater computer package.
4. Identify and provide a new recommended GIS-based hydraulic modeling application (e.g., InfoWater by Innovyze or approved Equal computer software package) to be used to update modeling and design tools for both potable water and recycled water systems. Provide cost pricing to acquire and furnish new software applications assuming 2-fixed seat licenses and 1-floating license, and adequate numbers of links for the City's modeling system. (Note: The available water model systems shall be updated/upgraded and calibrated to current existing condition. All major facilities including data of transmission mains, pump stations, major PRSs and other control stations, reservoirs, wells, and water and recycled water supply sources shall be updated and calibrated on the new modeling and mapping system.)
5. Develop a testing and training plan for use of the new GIS-based hydraulic modeling application system. Field testing, reading, and measurements may be warranted. (Assuming 2-4 personnel staff to be trained to use modeling application).
6. Evaluate/update estimated time-phased potable and recycled water demands to buildout, based on historic and current demands, projected land use, and realistic demand factors.

City of Chino Hills
CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE

7. Identify future recycled water users and demands from existing potable water users and potential recycled water users in citywide areas, assuming a realistic expansion of the recycled water system.
8. Analyze the adequacy and reliability of the City's water sources, identifying water quality issues, legal/institutional/ contractual constraints, environmental documentation issues, and system issues as well as cost considerations.
9. Develop a strategic plan to enhance the efficiency and reliability of the City's water supply sources.
10. Evaluate current design criteria used in sizing future facilities.
11. Develop a hydraulic profile of the potable water system, depicting interaction between hydraulic zones through water supply sources, reservoirs, pumping stations, and pressure reducing station (PRSs).
12. Evaluate the existing and future water systems in their ability to meet projected demands, using the computer model to identify deficiencies and size future facilities and upgrades.
13. Recommend time-phased system improvements to meet evolving needs, develop capital improvement phasing plans for both the water and recycled water supply systems.
14. Update recommended and prioritized Capital Improvement Program (CIP) for required potable water and recycled water infrastructure improvements.
15. Provide technical information and support to the City's EIR consultant for the preparation of the required EIR document to support the adoption of the Citywide Water and Recycled Water Master Plan update.
16. Provide a complete package of the Citywide Water and Recycled Water Master Plan Update including an Executive Summary, Maps & Exhibits for approval and adoption.
17. Provide technical information and support to the City's Impact Fee consultant for the preparation of the Nexus Study that will follow the adoption of the Citywide Water and Recycled Water Master Plan update.

I. Deliverables:

The successful proposer shall provide:

1. Cover Letter

The Cover Letter shall be addressed to Mr. Daniel Bobadilla, P.E., Director of Public Works / City Engineer, and at minimum, must contain the following:

- a. Identification of firm, including name, address, and telephone number.
- b. California Secretary of State Entity Number.

- c. Name, title, address, and telephone number of contact person during period of proposal evaluation.
- d. Statement to the effect that the proposal shall remain valid for a period of not less than 120 calendar days from the date of submittal.
- e. Signature of a person authorized to bind the firm to the terms of the proposal.

2. Executive Summary

In a brief narrative, describe the proposed solution by setting forth the overall approach and plans to meet the requirements of the RFP. The intent of this narrative is to convey to the City that the firm understands the objective of the requested service, the nature of the work, and the level of effort necessary to successfully provide the defined services. The narrative should stipulate how the firm's approach and plans to provide the services are appropriate to the tasks involved.

3. Scope of Work / Methodology

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The methodology should include:

- a. Describe the firm's approach to managing the project, including an implementation plan that describes in detail the specific plans to manage, control, and supervise the project in order to ensure satisfactory provision of services.
- b. Provide a project timeline designed to meet the requirements of the City, as well as scheduling and control methodology that will be used to ensure the schedule will be met. The timeline should include key milestone dates and a detailed description of key project steps.
- c. Provide a description of the implementation plan considerations, including estimated timeframes and deliverables for various stages of the project.
- d. Detailed description of the specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.
- e. Provide a detailed description and/or examples of your quality control procedures that ensure all work products delivered to the City (i.e., drafts and final versions) are of high-quality, accurate and have been thoroughly reviewed prior to delivery to the City.
- f. Provide examples of reports you prepared that allow for review of the draft/services in a reasonable time frame. The reports should be uniform, professional, and easy to understand. The reports should provide summary level information that includes (but not limited to variance analysis), summary of costs to be allocated and collected by Fund, Department, and or function, and the ability to drill down into varying levels of detail, if so desired. Reports shall also include a summary of all inputs and costs to be allocated that can be used to easily verify the accuracy of the plan.

4. References

Provide at least three (3) references, past and present, using the same service being proposed and indicate the scope of work, date, and the name, email address, and telephone number of the client contact.

5. Required Statements

- a. A statement that all charges for services will be a “Not-To-Exceed” fee, as submitted with and made part of said consultant’s quote.
- b. A copy of the consultant’s hourly rate schedule and a written statement that said hourly rate schedule is part of the consultant’s quote for use in invoicing for progress payments and for extra work incurred that is not part of this RFP.
- c. A written statement by the consultant that all federal laws and regulations shall be adhered to notwithstanding any state or local laws and regulations. In case of conflict between federal, state, or local laws or regulations, the strictest shall be adhered to.
- d. A written statement by the consultant shall allow all authorized federal, state, county, and the City officials access to place of work, books, documents, papers, fiscal, payroll materials, and other relevant contract records pertinent to this project. All relevant records shall be retained for at least three (3) years.
- e. A written statement that the consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin.
- f. A written statement that the consultant shall comply with the California Labor Code, pursuant to said regulations entitled: Federal Labor Standards provisions; Federal Prevailing Wage Decision; and State of California Prevailing Wage Rates, respectively.
- g. A written statement that the consultant shall comply with the Copeland Anti-kickback Act (18 USC 874 C) and the implementation regulation (29 CFR 3) issued pursuant thereto, and any amendments thereof.

J. Administrative Elements:

1. The consultant shall assign a responsible representative and an alternate to perform the assigned tasks. Both staff members shall be identified in the proposal. The consultant’s representative will be responsible for all duties from contract negotiations through project completion. If the primary representative is unable to continue with the project, then the alternate representative will become the primary representative. Any other changes in responsible representative must be approved, in advance, by the City. The City will have the right to reject other proposed changes in personnel and may consider any other changes in responsible personnel a breach of contract.

City of Chino Hills
 CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE

2. The consultant shall provide all necessary personnel, instruments, equipment, and materials to perform the described services.
3. The City reserves the right to accept or reject any or all proposals or to waive any defects or irregularities in the proposals or selection process.

Proposals will be evaluated on the basis of the response to all provisions of this RFP. Since this solicitation is an RFP as opposed to a Bid, pricing alone will not constitute the entire selection criteria. The City may use some or all of the following criteria and corresponding percentages in its evaluation and comparison of proposals submitted. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance. The City reserves the right to modify the evaluation criteria and percentage of score as deemed appropriate prior to the commencement of evaluation.

POTENTIAL PROPOSAL EVALUATION CRITERIA	
EVALUATION CRITERIA	PERCENTAGE OF SCORE
Qualifications and experience of the Proposer related to the services described in this RFP. (Listing of similar work done within the last 5 years)	25%
Proposer's understanding of the project and subject matter expertise.	25%
Proposer's ability and available resources to perform the requested services.	25%
Proposed project costs.	25%

K. Agreement for Professional Services:

The City has provided a copy of the Agreement for Professional Services. Please review this agreement and provide the City with a written statement of your firm's willingness to accept the terms of the agreement. **Please specifically identify each and every term of the agreement which your firm is unwilling to accept and the reason therefore (See Attachment No.1). Please provide proposed Compensation and Scope of Work Exhibits with your proposal.**

L. Insurance:

Within three (3) business days of successful selection, consultant must provide the City with Certificates of Insurance providing coverage as outlined in Section 15 of the Agreement for Professional Services naming the City, its agents and officers as additional insureds by written endorsement.

M. Business License:

The successful consultant(s) and any sub-consultants are required to obtain a City Business License prior to award of Contract, and to maintain the license for the entire term of the Agreement. The Business License is not a prerequisite for submission of a proposal.

N. Subcontracting:

The Proposer may utilize the services of specialty subconsultants on those parts of the work that, under normal contracting practices, are performed by specialty subconsultants. Unless a specific subconsultant is listed by Proposer, Proposer is representing to City that Proposer has all appropriate licenses, certifications, and registrations to perform the work hereunder.

After submission of his/her proposal, the Proposer shall not award work to any unlisted subconsultant(s) without prior written approval of the City. The Proposer shall be fully responsible to the City for the performance of his/her subconsultants and of persons either directly or indirectly employed by them.

Nothing contained herein shall create any contractual relation between any subconsultant and the City.

O. Public Information:

All materials received relative to this RFP will become public information and be available for inspection after the award of contract. The City reserves the right to retain all proposals submitted, whether or not the proposal was selected or judged to be responsive.

P. Attachments:

Attachment No. 1 - Professional Services Agreement

Attachment No. 2 – Chino Hills Service Area Map

Q. Available Documents:

An electronic copy of the October 2005 Water, Recycled Water, and Sewer Master Plan and Exhibits (Prepared by PBS&J) is available for review upon request. Please submit your request to Ms. Chris Bond in the Public Works Engineering Division, at cbond@chinohills.org or 909-364-2758.

ATTACHMENT NO. 1

AGREEMENT NO. A2020-
FOR PROFESSIONAL SERVICES
BETWEEN THE CITY OF CHINO HILLS AND
NAME OF COMPANY

CITYWIDE WATER AND RECYCLED WATER MASTER PLAN UPDATE

THIS AGREEMENT, made and entered into this ___ day of _____, 20___, between the CITY OF CHINO HILLS, a municipal corporation, hereinafter referred to as "City" and _____ hereinafter referred to as "Consultant". In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. SCOPE OF SERVICES. Consultant agrees to perform the services set forth in Exhibit A "SCOPE OF SERVICES" attached hereto and made a part hereof. Consultant shall submit its work to the City for its review after completing each phase of the project as described in Exhibit A, or when otherwise requested by the City. Consultant shall, at its own cost, make any revisions of its own work as required by the City and re-do, at its own cost, any work which the City finds unsatisfactory due to Consultant's or subcontractor's errors or omissions. Consultant represents and warrants that it has the qualifications, experience and facilities to properly perform said services in a thorough, competent and professional manner and shall, at all times during the term of this Agreement, have in full force and effect, all licenses required of it by law. Consultants shall begin its services under this Agreement on _____.

2. STATUS OF CONSULTANT. Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner. Consultant shall not disseminate any information or reports gathered or created pursuant to this Agreement without the prior written approval of City except information or reports required by government agencies to enable Consultant to perform its duties under this Agreement.

3. CONSULTANT'S KNOWLEDGE OF APPLICABLE LAWS. Consultant shall keep itself informed of applicable local, state and federal laws and

regulations which may affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. Consultant shall observe and comply with all such laws and regulations affecting its employees. City and its officers and employees, shall not be liable at law or in equity as a result of any failure of Consultant to comply with this section.

4. PERSONNEL. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff assigned to perform the services hereunder and shall obtain the approval of the City Manager of all proposed staff members performing services under this Agreement prior to any such performance.

5. COMPENSATION AND METHOD OF PAYMENT. Compensation to the Consultant shall be as set forth in Exhibit B attached hereto and made a part hereof. Total compensation shall not exceed \$ [REDACTED]. Payments shall be made within forty-five (45) days after receipt of each invoice as to all undisputed fees. If the City disputes any of consultant's fees it shall give written notice to Consultant within 30 days of receipt of an invoice of any disputed fees set forth on the invoice.

6. ADDITIONAL SERVICES OF CONSULTANT. Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein or listed in Exhibit A, unless such additional services are authorized in advance and in writing by the City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Consultant at the time City's written authorization is given to Consultant for the performance of said services.

7. ASSIGNMENT. All services required hereunder shall be performed by Consultant, its employees or personnel under direct contract with Consultant. Consultant shall not assign to any subcontractor the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without the prior written consent of City Manager.

8. FACILITIES AND RECORDS. Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement.

Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

9. TERMINATION OF AGREEMENT. This Agreement will terminate on February 13, 2021, unless otherwise extended in advance and in writing by the City Manager for an additional two (2) one-year renewal options. This Agreement may be terminated with or without cause by either party upon 30 days written notice. In the event of such termination, Consultant shall be compensated for non-disputed fees under the terms of this Agreement up to the date of termination.

10. COOPERATION BY CITY. All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Scope of Services, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

11. OWNERSHIP OF DOCUMENTS. Upon satisfactory completion of, or in the event of termination, suspension or abandonment of, this Agreement, all original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall, become the sole property of City. With respect to computer files, Consultant shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

12. RELEASE OF INFORMATION/CONFLICTS OF INTEREST.

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without City's prior written authorization excepting that information which is a public record and subject to disclosure pursuant to the California Public Records Act, Government Code § 6250, et seq. Consultant, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.

If Consultant or any of its officers, employees, consultants or subcontractors does voluntarily provide information in violation of this Agreement, City has the right to reimbursement and indemnity from Consultant for any damages caused by Consultant's conduct, including the City's attorney's fees.

Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party

regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(b) Consultant covenants that neither they nor any officer or principal of their firm have any interest in, or shall they acquire any interest, directly or indirectly which will conflict in any manner or degree with the performance of their services hereunder. Consultant further covenants that in the performance of this Agreement, no person having such interest shall be employed by them as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant further covenants that Consultant has not contracted with nor is performing any services directly or indirectly with any developer(s) and/or property owner(s) and/or firm(s) and/or partnerships owning property in the City or the study area and further covenants and agrees that Consultant and/or its subcontractors shall provide no service or enter into any agreement or agreements with any developer(s) and/or property owner(s) and/or firm(s) and/or partnerships owning property in the City or the study area prior to the completion of the work under this Agreement without the express written consent of the City Manager.

13. DEFAULT. In the event that Consultant is in default of any of the provisions of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant.

14. INDEMNIFICATION.

(a) Consultant represents it is skilled in the professional calling necessary to perform the services and duties agreed to hereunder by Consultant, and City relies upon the skills and knowledge of Consultant. Consultant shall perform such services and duties consistent with the standards generally recognized as being employed by professionals performing similar service in the State of California.

(b) Consultant is an independent contractor and shall have no authority to bind City nor to create or incur any obligation on behalf of or liability against City, whether by contract or otherwise, unless such authority is expressly conferred under this agreement or is otherwise expressly conferred in writing by City. City, its elected and appointed officials, officers, agents, employees and volunteers (individually and collectively, "Indemnitees") shall have no liability to Consultant or to any other person for, and Consultant shall indemnify, defend, protect and hold harmless the Indemnitees from and against, any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorneys' fees and disbursements (collectively "Claims"), which the Indemnitees may suffer or incur or to which the Indemnitees may become subject by reason of or arising out of any injury to or death of any person(s), damage to property, loss of use of property, economic loss or

otherwise occurring as a result of or allegedly caused by the negligent or wrongful acts or omissions of Consultant, its agents, officers, directors or employees, in performing any of the services under this agreement.

If any action or proceeding is brought against the Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify the Indemnitees as above provided, Consultant, upon notice from the CITY, shall defend the Indemnitees at Consultant's expense by counsel acceptable to the City. The Indemnitees need not have first paid any of the matters as to which the Indemnitees are entitled in order to be so indemnified. The insurance required to be maintained by Consultant under paragraph 15 shall ensure Consultant's obligations under this paragraph 14(b), but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this paragraph 14(b) shall survive the expiration or earlier termination of this agreement.

The Consultant's indemnification does not extend to Claims occurring as a result of the City's sole negligent or willful acts or omissions.

15. INSURANCE.

A. Insurance Requirements. Consultant shall provide and maintain insurance acceptable to the City Attorney in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by Consultant, its agents, representatives or employees. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved and accepted by the City Manager or his/her designee in writing. Consultant shall provide the following scope and limits of insurance:

(1) Minimum Scope of Insurance. Coverage shall be at least as broad as:

(a) Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001).

(b) Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or owned, hired, non-owned, scheduled, non-scheduled or rented vehicles, (or combination thereof dependent upon working being performed under contract), or equivalent forms subject to the written approval of the City.

(c) Workers' Compensation insurance as required by the Labor Code of State of California and Employer's Liability insurance and covering all persons providing services on behalf of the Consultant and all risks to such persons under this Agreement.

(d) Errors and omissions liability insurance appropriate to the Consultant's profession.

(e) Cyber Liability with limits of \$1,000,000 per occurrence/loss

(2) Minimum Limits of Insurance. Consultant shall maintain limits of insurance no less than:

(a) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability

Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities related to this Agreement or the general aggregate limit shall be twice the required occurrence limit.

(b) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

(c) Workers' Compensation and Employer's Liability: Workers' Compensation as required by the Labor Code of the State of California and Employers Liability limits of \$1,000,000 per accident.

(d) Errors and Omissions Liability: \$1,000,000 per claim.

(e) Consultant shall procure and maintain Cyber Liability insurance with limits of \$1,000,000 per occurrence/loss which shall include the following coverage:

a. Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination or use of the confidential information.

b. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

c. Liability arising from the failure of technology products (software) required under the contract for Consultant to properly perform the services intended.

d. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.

e. Liability arising from the failure to render professional services.

If coverage is maintained on a claims-made basis, Consultant shall maintain such coverage for an additional period of three (3) years following termination of the contract.

B. Other Provisions. Insurance policies required by this Agreement shall contain the following provisions:

(1) All Policies. Each insurance policy required by this paragraph 15 shall be endorsed and state the coverage shall not be suspended, voided, canceled by the insurer or either party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by Certified mail, return receipt requested, has been given to the City.

(2) General Liability and Automobile Liability Coverages.

(a) City, its officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs, products and completed operations of Consultant; premises owned, occupied or used by Consultant, or automobiles owned, leased or hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, officials, or employees.

(b) Consultant's insurance coverage shall be primary insurance as respect to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees or volunteers shall apply in excess of, and not contribute with, Consultant's insurance.

(c) 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 insurer's liability.

(d) Any failure to comply with the reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

(3) Workers' Compensation and Employer's Liability Coverage. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, its officers, officials, employees and agents for losses arising from work performed by Consultant for City.

C. Other Requirements. Consultant agrees to deposit with City, at or before the effective date of this contract, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City Attorney may require that Consultant furnish City with copies of original endorsements effecting coverage required by this Section. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.

(1) Consultant shall furnish certificates and endorsements from each subcontractor identical to those Consultant provides.

(2) Any deductibles or self-insured retentions must be declared to and approved by City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.

(3) The procuring of such required policy or policies of insurance shall not be construed to limit Consultant's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.

16. NONDISCRIMINATION/NONPREFERENTIAL TREATMENT STATEMENT. In performing this Agreement, the Parties shall not discriminate or grant preferential treatment on the basis of race, sex, color, age, religion, sexual orientation, disability, ethnicity, or national origin, and shall comply, to the fullest extent allowed by law, with all applicable local, state and federal laws relating to nondiscrimination.

17. UNAUTHORIZED ALIENS. Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. & 1101, et seq.), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such

unauthorized aliens for the performance of work and/or services covered by this contract, and should the Federal Government impose sanctions against the City for such use of unauthorized aliens, Consultant hereby agrees to, and shall, reimburse City for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the City in connection therewith.

18. ENTIRE AGREEMENT. This Agreement is the complete, final, entire and exclusive expression of the Agreement between the parties hereto and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter herein. Each party to this Agreement acknowledges that no representations by any party which are not embodied herein and that no other agreement, statement, or promise not contained in this Agreement shall be valid and binding.

19. GOVERNING LAW. The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the San Bernardino County Superior Court.

20. ASSIGNMENT OR SUBSTITUTION. City has an interest in the qualifications of and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant by this Agreement. In recognition of that interest, neither any complete nor partial assignment of this Agreement may be made by Consultant nor changed, substituted for, deleted, or added to without the prior written consent of City. Any attempted assignment or substitution shall be ineffective, null, and void, and constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this Agreement. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

21. MODIFICATION OF AGREEMENT. The terms of this Agreement can only be modified in writing approved by the City Council and the Consultant. The parties agree that this requirement for written modifications cannot be waived and any attempted waiver shall be void.

22. AUTHORITY TO EXECUTE. The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of his/her/their corporation and warrants and represents that he/she/they has/have the authority to bind Consultant to the performance of its obligations hereunder.

23. NOTICES. Notices shall be given pursuant to this Agreement by personal service on the party to be notified, or by written notice by email, or upon such party deposited in the custody of the United States Postal Service addressed as follows:

City.

Attention: City Clerk
City of Chino Hills
14000 City Center Drive
Chino Hills, California 91709

Email: cityclerk@chinohills.org

Consultant.

Attention:
Name
Address
City, State and Zip

The notices shall be deemed to have been given as of the date of personal service, or three (3) days after the date of deposit of the same in the custody of the United States Postal Service.

24. CONSISTENCY. In interpreting this Agreement and resolving any ambiguities, the main body of this Agreement takes precedence over the attached Exhibits; this Agreement supersedes any conflicting provisions. Any inconsistency between the Exhibits will be resolved in the order in which the Exhibits appear below:

- A. Exhibit A: Scope of Work
- B. Exhibit B: Compensation

25. SEVERABILITY. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first written above.

CITY OF CHINO HILLS

(INSERT COMPANY NAME HERE)

Cynthia Moran
Mayor

(Signature)

ATTEST:

(Printed name/Title)

Cheryl Balz
City Clerk

(Date)

(Date)

(Signature)

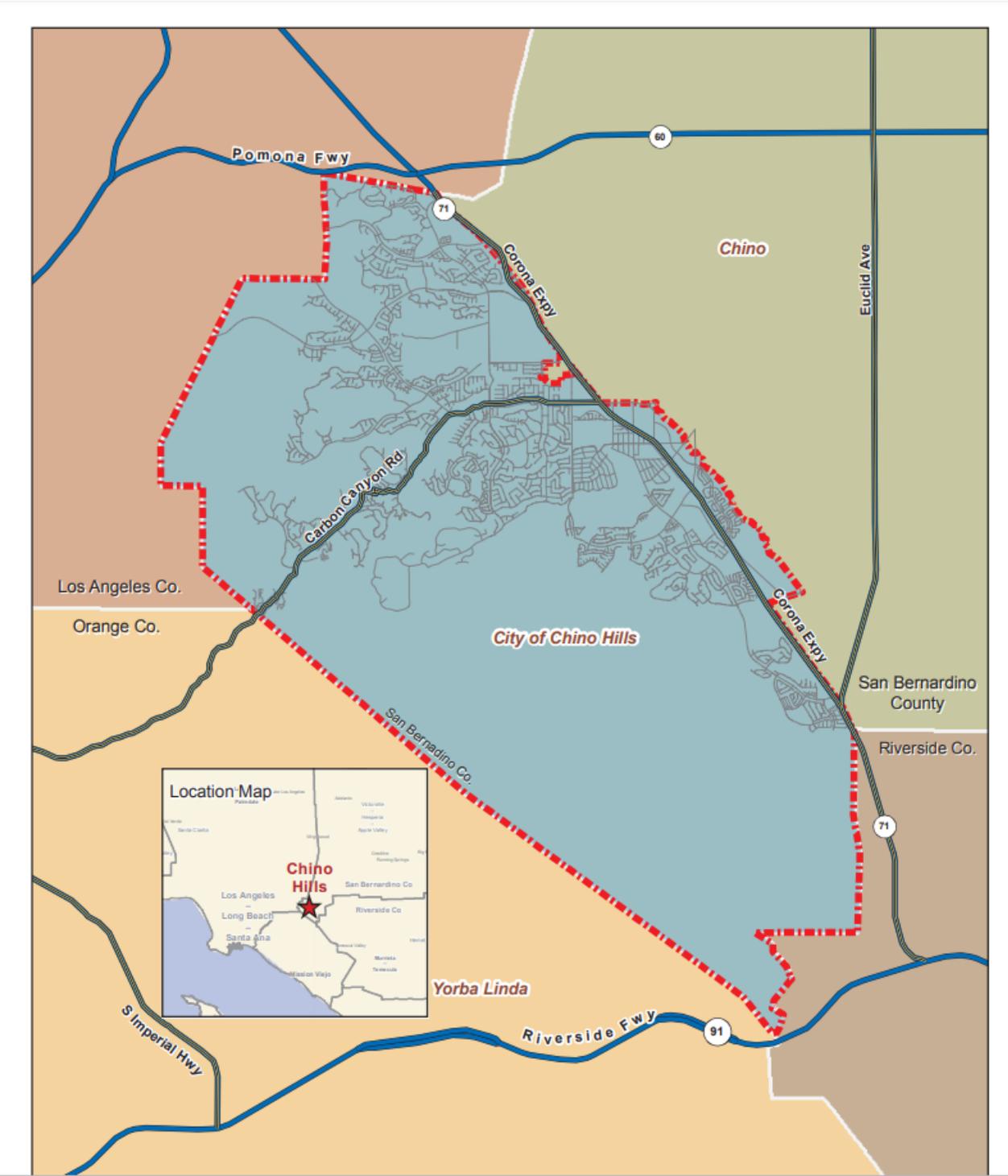
APPROVED AS TO FORM:

(Printed Name/Title)

Mark D. Hensley
City Attorney

(Date)

**ATTACHMENT 2
CHINO HILLS SERVICE AREA MAP**



NOT TO SCALE