

PROFESSIONAL CONSULTANT SERVICES AGREEMENT

EIDE BAILLY LLP

Forensic Review of the City of Riverside Participation
in the Southern California Public Power Authority (RFP No. 1963)

THIS PROFESSIONAL CONSULTANT SERVICES AGREEMENT (“Agreement”) is made and entered into this _____ day of _____, 2020 (“Effective Date”), by and between the CITY OF RIVERSIDE, a California charter city and municipal corporation (“City”), and EIDE BAILLY LLP, a Minnesota limited liability partnership authorized to do business in California (“Consultant”).

1. **Scope of Services.** City agrees to retain and does hereby retain Consultant and Consultant agrees to provide the services more particularly described in Exhibit “A,” “Scope of Services” (“Services”), attached hereto and incorporated herein by reference, in conjunction with Forensic Review of the City of Riverside Participation in the Southern California Public Power Authority (RFP No. 1963) (“Project”).

2. **Term.** This Agreement shall be effective on the date first written above and shall remain in effect until December 31, 2020, unless otherwise terminated pursuant to the provisions herein.

3. **Compensation/Payment.** Consultant shall perform the Services under this Agreement for the total sum not to exceed One Hundred Fifteen Thousand Five Hundred Dollars (\$115,500.00), payable in accordance with the terms set forth in Exhibit “B.” Said payment shall be made in accordance with City’s usual accounting procedures upon receipt and approval of an itemized invoice setting forth the services performed. The invoices shall be delivered to City at the address set forth in Section 4 hereof.

4. **Notices.** Any notices required to be given, hereunder shall be in writing and shall be personally served or given by mail. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the party to be served as follows:

To City

City Manager’s Office
City of Riverside
Attn: Jennifer Anderson
3900 Main Street
Riverside, CA 92522

To Consultant

Eide Bailly LLP
Attn: Roger Alfaro
19340 Jesse Lane, Suite 260
Riverside, CA 92508

5. **Prevailing Wage.** If applicable, Consultant and all subcontractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code and implemented by Resolution No. 13346 of the City Council of the City of Riverside. The Director's determination is available on-line at www.dir.ca.gov/dlsr/DPreWageDetermination.htm and is referred to and made a part hereof; the wage rates therein ascertained, determined, and specified are referred to and made a part hereof as though fully set forth herein.

6. **Contract Administration.** A designee of the City will be appointed in writing by the City Manager or Department Director to administer this Agreement on behalf of City and shall be referred to herein as Contract Administrator.

7. **Standard of Performance.** While performing the Services, Consultant shall exercise the reasonable professional care and skill customarily exercised by reputable members of Consultant's profession practicing in the Metropolitan Southern California Area, and shall use reasonable diligence and best judgment while exercising its professional skill and expertise.

8. **Personnel.** Consultant shall furnish all personnel necessary to perform the Services and shall be responsible for their performance and compensation. Consultant recognizes that the qualifications and experience of the personnel to be used are vital to professional and timely completion of the Services. The key personnel listed in Exhibit "C" attached hereto and incorporated herein by this reference and assigned to perform portions of the Services shall remain assigned through completion of the Services, unless otherwise mutually agreed by the parties in writing, or caused by hardship or resignation in which case substitutes shall be subject to City approval.

9. **Assignment and Subcontracting.** Neither party shall assign any right, interest, or obligation in or under this Agreement to any other entity without prior written consent of the other party. In any event, no assignment shall be made unless the assignee expressly assumes the obligations of assignor under this Agreement, in a writing satisfactory to the parties. Consultant acknowledges that any assignment may, at the City's sole discretion, require City Manager and/or City Council approval. Consultant shall not subcontract any portion of the work required by this Agreement without prior written approval by the responsible City Contract Administrator. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including without limitation, the insurance obligations set forth in Section 12. The Consultant acknowledges and agrees that the City is an intended beneficiary of any work performed by any subcontractor for purposes of establishing a duty of care between any subcontractor and the City.

10. **Independent Contractor.** In the performance of this Agreement, Consultant, and Consultant's employees, subcontractors and agents, shall act in an independent capacity as independent contractors, and not as officers or employees of the City of Riverside. Consultant acknowledges and agrees that the City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance to Consultant, or to Consultant's employees, subcontractors and agents. Consultant, as an independent contractor, shall be responsible for any and all taxes that apply to Consultant as an employer.

11. **Indemnification.**

11.1 **Design Professional Defined.** For purposes of this Agreement, “Design Professional” includes the following:

- A. An individual licensed as an architect pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, and a business entity offering architectural services in accordance with that chapter.
- B. An individual licensed as a landscape architect pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code, and a business entity offering landscape architectural services in accordance with that chapter.
- C. An individual registered as a professional engineer pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, and a business entity offering professional engineering services in accordance with that chapter.
- D. An individual licensed as a professional land surveyor pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code, and a business entity offering professional land surveying services in accordance with that chapter.

11.2 **Defense Obligation For Design Professional Liability.** Consultant agrees, at its cost and expense, to promptly defend the City, and the City’s employees, officers, managers, agents and council members (collectively the “Parties to be Defended”) from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings to the extent the same arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. Consultant will reimburse City for reasonable defense costs for claims arising out of Consultant’s professional negligence based on the percentage of Consultant’s liability. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant’s Services under this Agreement.

11.3 **Indemnity For Design Professional Liability.** When the law establishes a professional standard of care for Consultant’s services, to the fullest extent permitted by law, Consultant shall indemnify, protect and hold harmless the City and the City’s employees, officers, managers, agents, and Council Members (“Indemnified Parties”) from and against any and all claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fines and penalties,

liabilities or losses of any kind or nature whatsoever to the extent the same arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of Consultant, or anyone employed by or working under the Consultant or for services rendered to the Consultant in the performance of the Agreement, notwithstanding that the City may have benefited from its work or services and whether or not caused in part by the negligence of an Indemnified Party.

11.4 Defense Obligation For Other Than Design Professional Liability.

Consultant agrees, at its cost and expense, to promptly defend the City, and the City's employees, officers, managers, agents and council members (collectively the "Parties to be Defended") from and against any and all claims, allegations, lawsuits, arbitration proceedings, administrative proceedings, regulatory proceedings, or other legal proceedings which arise out of, or relate to, or are in any way connected with: 1) the Services, work, activities, operations, or duties of the Consultant, or of anyone employed by or working under the Consultant, or 2) any breach of the Agreement by the Consultant. This duty to defend shall apply whether or not such claims, allegations, lawsuits or proceedings have merit or are meritless, or which involve claims or allegations that any or all of the Parties to be Defended were actively, passively, or concurrently negligent, or which otherwise assert that the Parties to be Defended are responsible, in whole or in part, for any loss, damage or injury. Consultant agrees to provide this defense immediately upon written notice from the City, and with well qualified, adequately insured and experienced legal counsel acceptable to City. This obligation to defend as set forth herein is binding on the successors, assigns and heirs of Consultant and shall survive the termination of Consultant's Services under this Agreement.

11.5 Indemnity For Other Than Design Professional Liability. Except as to the sole negligence or willful misconduct of the City, Consultant agrees to indemnify, protect and hold harmless the Indemnified Parties from and against any claim for damage, charge, lawsuit, action, judicial, administrative, regulatory or arbitration proceeding, damage, cost, expense (including counsel and expert fees), judgment, civil fine and penalties, liabilities or losses of any kind or nature whatsoever whether actual, threatened or alleged, which arise out of, pertain to, or relate to, or are a consequence of, or are attributable to, or are in any manner connected with the performance of the Services, work, activities, operations or duties of the Consultant, or anyone employed by or working under the Consultant or for services rendered to Consultant in the performance of this Agreement, notwithstanding that the City may have benefited from its work or services. This indemnification provision shall apply to any acts, omissions, negligence, recklessness, or willful misconduct, whether active or passive, on the part of the Consultant or anyone employed or working under the Consultant.

12. Insurance.

12.1 General Provisions. Prior to the City's execution of this Agreement, Consultant shall provide satisfactory evidence of, and shall thereafter maintain during the term of this Agreement, such insurance policies and coverages in the types, limits, forms and ratings required herein. The rating and required insurance policies and coverages may be modified in writing by the City's Risk Manager or City Attorney, or a designee, unless such modification is prohibited by law.

12.1.1 Limitations. These minimum amounts of coverage shall not constitute any limitation or cap on Consultant's indemnification obligations under Section 11 hereof.

12.1.2 **Ratings.** Any insurance policy or coverage provided by Consultant or subcontractors as required by this Agreement shall be deemed inadequate and a material breach of this Agreement, unless such policy or coverage is issued by insurance companies authorized to transact insurance business in the State of California with a policy holder's rating of A or higher and a Financial Class of VII or higher.

12.1.3 **Cancellation.** The policies shall not be canceled unless thirty (30) days' prior written notification of intended cancellation has been given to City by certified or registered mail, postage prepaid.

12.1.4 **Adequacy.** The City, its officers, employees and agents make no representation that the types or limits of insurance specified to be carried by Consultant pursuant to this Agreement are adequate to protect Consultant. If Consultant believes that any required insurance coverage is inadequate, Consultant will obtain such additional insurance coverage as Consultant deems adequate, at Consultant's sole expense.

12.2 **Workers' Compensation Insurance.** By executing this Agreement, Consultant certifies that Consultant is aware of and will comply with Section 3700 of the Labor Code of the State of California requiring every employer to be insured against liability for workers' compensation, or to undertake self-insurance before commencing any of the work. Consultant shall carry the insurance or provide for self-insurance required by California law to protect said Consultant from claims under the Workers' Compensation Act. Prior to City's execution of this Agreement, Consultant shall file with City either 1) a certificate of insurance showing that such insurance is in effect, or that Consultant is self-insured for such coverage, or 2) a certified statement that Consultant has no employees, and acknowledging that if Consultant does employ any person, the necessary certificate of insurance will immediately be filed with City. Any certificate filed with City shall provide that City will be given ten (10) days' prior written notice before modification or cancellation thereof.

12.3 **Commercial General Liability and Automobile Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, commercial general liability insurance and automobile liability insurance as required to insure Consultant against damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from or which may concern operations by anyone directly or indirectly employed by, connected with, or acting for or on behalf of Consultant. The City, and its officers, employees and agents, shall be named as additional insureds under the Consultant's insurance policies.

12.3.1 Consultant's commercial general liability insurance policy shall cover both bodily injury (including death) and property damage (including, but not limited to, premises operations liability, products-completed operations liability, independent contractor's liability, personal injury liability, and contractual liability) in an amount not less than \$1,000,000 per occurrence and a general aggregate limit in the amount of not less than \$2,000,000.

12.3.2 Consultant's automobile liability policy shall cover both bodily injury and property damage in an amount not less than \$1,000,000 per occurrence and an aggregate limit of not less than \$1,000,000. All of Consultant's automobile and/or commercial general liability

insurance policies shall cover all vehicles used in connection with Consultant's performance of this Agreement, which vehicles shall include, but are not limited to, Consultant owned vehicles, Consultant leased vehicles, Consultant's employee vehicles, non-Consultant owned vehicles and hired vehicles.

12.3.3 Prior to City's execution of this Agreement, copies of insurance policies or original certificates along with additional insured endorsements acceptable to the City evidencing the coverage required by this Agreement, for both commercial general and automobile liability insurance, shall be filed with City and shall include the City and its officers, employees and agents, as additional insureds. Said policies shall be in the usual form of commercial general and automobile liability insurance policies, but shall include the following provisions:

It is agreed that the City of Riverside, and its officers, employees and agents, are added as additional insureds under this policy, solely for work done by and on behalf of the named insured for the City of Riverside.

12.3.4 The insurance policy or policies shall also comply with the following provisions:

- a. The policy shall be endorsed to waive any right of subrogation against the City and its sub-consultants, employees, officers and agents for services performed under this Agreement.
- b. If the policy is written on a claims made basis, the certificate should so specify and the policy must continue in force for one year after completion of the services. The retroactive date of coverage must also be listed.
- c. The policy shall specify that the insurance provided by Consultant will be considered primary and not contributory to any other insurance available to the City and Endorsement No. CG 20010413 shall be provided to the City.

12.4 **Errors and Omissions Insurance.** Prior to City's execution of this Agreement, Consultant shall obtain, and shall thereafter maintain during the term of this Agreement, errors and omissions professional liability insurance in the minimum amount of \$1,000,000 to protect the City from claims resulting from the Consultant's activities.

12.5 **Subcontractors' Insurance.** Consultant shall require all of its subcontractors to carry insurance, in an amount sufficient to cover the risk of injury, damage or loss that may be caused by the subcontractors' scope of work and activities provided in furtherance of this Agreement, including, but without limitation, the following coverages: Workers Compensation, Commercial General Liability, Errors and Omissions, and Automobile liability. Upon City's request, Consultant shall provide City with satisfactory evidence that Subcontractors have obtained insurance policies and coverages required by this section.

13. **Business Tax.** Consultant understands that the Services performed under this Agreement constitutes doing business in the City of Riverside, and Consultant agrees that Consultant will register for and pay a business tax pursuant to Chapter 5.04 of the Riverside Municipal Code and keep such tax certificate current during the term of this Agreement.

14. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

15. **City's Right to Employ Other Consultants.** City reserves the right to employ other Consultants in connection with the Project. If the City is required to employ another consultant to complete Consultant's work, due to the failure of the Consultant to perform, or due to the breach of any of the provisions of this Agreement, the City reserves the right to seek reimbursement from Consultant.

16. **Accounting Records.** Consultant shall maintain complete and accurate records with respect to costs incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

17. **Confidentiality.** All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant, except as otherwise directed by City's Contract Administrator. Nothing furnished to Consultant which is otherwise known to the Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production, website, or other similar medium without the prior written consent of the City. This provision shall survive the expiration or termination of this Agreement.

18. **Ownership of Documents.** All reports, maps, drawings and other contract deliverables provided to City under this Agreement by Consultant shall be and remain the property of City. Consultant shall not release to others information furnished by City without prior express written approval of City. This provision shall survive the expiration or termination of this Agreement.

19. **Copyrights.** Consultant agrees that any deliverables provided by Consultant to City which is eligible for copyright protection in the United States or elsewhere shall be a work made for hire. If any such deliverables are deemed for any reason not to be a work made for hire, Consultant assigns all right, title and interest in the copyright in such work, and all extensions and renewals thereof, to City, and agrees to provide all assistance reasonably requested by City in the establishment, preservation and enforcement of its copyright in such work, such assistance to be provided at City's expense but without any additional compensation to Consultant. Consultant agrees to waive all moral rights relating to the deliverables developed or produced, including without

limitation any and all rights of identification of authorship and any and all rights of approval, restriction or limitation on use or subsequent modifications. This provision shall survive the expiration or termination of this Agreement.

20. **Conflict of Interest.** Consultant, for itself and on behalf of the individuals listed in Exhibit “C,” represents and warrants that by the execution of this Agreement, they have no interest, present or contemplated, in the Project affected by the above-described Services. Consultant further warrants that neither Consultant, nor the individuals listed in Exhibit “C” have any real property, business interests or income interests that will be affected by this project or, alternatively, that Consultant will file with the City an affidavit disclosing any such interest.

21. **Solicitation.** Consultant warrants that Consultant has not employed or retained any person or agency to solicit or secure this Agreement, nor has it entered into any agreement or understanding for a commission, percentage, brokerage, or contingent fee to be paid to secure this Agreement. For breach of this warranty, City shall have the right to terminate this Agreement without liability and pay Consultant only for the value of work Consultant has actually performed, or, in its sole discretion, to deduct from the Agreement price or otherwise recover from Consultant the full amount of such commission, percentage, brokerage or commission fee. The remedies specified in this section shall be in addition to and not in lieu of those remedies otherwise specified in this Agreement.

22. **General Compliance With Laws.** Consultant shall keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Consultant, or in any way affect the performance of services by Consultant pursuant to this Agreement. Consultant shall at all times observe and comply with all such laws, ordinances and regulations, and shall be solely responsible for any failure to comply with all applicable laws, ordinances and regulations. Consultant represents and warrants that Consultant has obtained all necessary licenses to perform the Scope of Services and that such licenses are in good standing. Consultant further represents and warrants that the services provided herein shall conform to all ordinances, policies and practices of the City of Riverside.

23. **Waiver.** No action or failure to act by the City shall constitute a waiver of any right or duty afforded City under this Agreement, nor shall any such action or failure to act constitute approval of or acquiescence in any breach thereunder, except as may be specifically, provided in this Agreement or as may be otherwise agreed in writing.

24. **Amendments.** This Agreement may be modified or amended only by a written agreement and/or change order executed by the Consultant and City.

25. **Termination.** City, by notifying Consultant in writing, shall have the right to terminate any or all of Consultant’s services and work covered by this Agreement at any time. In the event of such termination, Consultant may submit Consultant’s final written statement of the amount of Consultant’s services as of the date of such termination based upon the ratio that the work completed bears to the total work required to make the report complete, subject to the City’s rights under Sections 15 and 26 hereof. In ascertaining the work actually rendered through the termination date, City shall consider completed work, work in progress and complete and incomplete reports and other documents only after delivered to City.

25.1 Other than as stated below, City shall give Consultant thirty (30) days' prior written notice prior to termination.

25.2 City may terminate this Agreement upon fifteen (15) days' written notice to Consultant, in the event:

25.2.1 Consultant substantially fails to perform or materially breaches the Agreement; or

25.2.2 City decides to abandon or postpone the Project.

26. **Offsets.** Consultant acknowledges and agrees that with respect to any business tax or penalties thereon, utility charges, invoiced fee or other debt which Consultant owes or may owe to the City, City reserves the right to withhold and offset said amounts from payments or refunds or reimbursements owed by City to Consultant. Notice of such withholding and offset, shall promptly be given to Consultant by City in writing. In the event of a dispute as to the amount owed or whether such amount is owed to the City, City will hold such disputed amount until either the appropriate appeal process has been completed or until the dispute has been resolved.

27. **Successors and Assigns.** This Agreement shall be binding upon City and its successors and assigns, and upon Consultant and its permitted successors and assigns, and shall not be assigned by Consultant, either in whole or in part, except as otherwise provided in paragraph 9 of this Agreement.

28. **Venue.** Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in the Superior Court, County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county. In the event either party hereto shall bring suit to enforce any term of this Agreement or to recover any damages for and on account of the breach of any term or condition of this Agreement, it is mutually agreed that each party will bear their own attorney's fees and costs.

29. **Nondiscrimination.** During Consultant's performance of this Agreement, Consultant shall not discriminate on the grounds of race, religious creed, color, national origin, ancestry, age, physical disability, mental disability, medical condition, including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sex, genetic information, gender, gender identity, gender expression, or sexual orientation, military and veteran status, in the selection and retention of employees and subcontractors and the procurement of materials and equipment, except as provided in Section 12940 of the California Government Code. Further, Consultant agrees to conform to the requirements of the Americans with Disabilities Act in the performance of this Agreement.

30. **Severability.** Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or in part, of this Agreement is declared invalid, unconstitutional, or void for any reason, such provision or part thereof shall be severed from this

Agreement and shall not affect any other provision, term, condition, covenant and/or restriction of this Agreement, and the remainder of the Agreement shall continue in full force and effect.

31. **Authority.** The individuals executing this Agreement and the instruments referenced herein on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions hereof and thereof.

32. **Entire Agreement.** This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings or agreements of the parties. Neither party has been induced to enter into this Agreement by and neither party is relying on, any representation or warranty outside those expressly set forth in this Agreement.

33. **Interpretation.** City and Consultant acknowledge and agree that this Agreement is the product of mutual arms-length negotiations and accordingly, the rule of construction, which provides that the ambiguities in a document shall be construed against the drafter of that document, shall have no application to the interpretation and enforcement of this Agreement.

33.1 Titles and captions are for convenience of reference only and do not define, describe or limit the scope or the intent of the Agreement or any of its terms. Reference to section numbers, are to sections in the Agreement unless expressly stated otherwise.

33.2 This Agreement shall be governed by and construed in accordance with the laws of the State of California in effect at the time of the execution of this Agreement.

33.3 In the event of a conflict between the body of this Agreement and Exhibit "A" - Scope of Services hereto, the terms contained in Exhibit "A" shall be controlling.

34. **Exhibits.** The following exhibits attached hereto are incorporated herein to this Agreement by this reference:

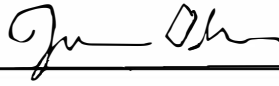
- Exhibit "A" - Scope of Services
- Exhibit "B" - Compensation
- Exhibit "C" - Key Personnel

IN WITNESS WHEREOF, City and Consultant have caused this Agreement to be duly executed the day and year first above written.

CITY OF RIVERSIDE, a California
charter city and municipal corporation

EIDE BAILLY LLP,
a Minnesota limited liability partnership
authorized to do business in California

By: _____
City Manager

By:  _____
Jason W. Olson

[Printed Name]
Partner- Fraud & Forensic Advisory Services

[Title]

Attest: _____
City Clerk

Certified as to Availability of Funds:

By:  _____
Roger Alfaro

[Printed Name]
Partner

[Title]

By: _____
Chief Financial Officer

Approved as to Form:

By:  _____
Senior Deputy City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

Notwithstanding the Agreement terms above, parties hereby agree that:

1. Consultant is not a design professional as defined in Section 11.1 of the Agreement.
2. The defense and indemnity requirements of Sections 11.2 and 11.3 of the Agreement shall therefore not apply to Consultant.
3. The defense and indemnity requirements of Sections 11.4 and 11.5 of the Agreement shall apply only to the extent of Consultant's negligence or more culpable misconduct giving rise to bodily injury, death of any person, or damage to real or tangible personal property.
4. **Limitation of Damages.** The exclusive remedy available to City in any adjudication proceeding shall be the right to pursue claims for actual damages that are directly caused by acts or omissions that are breaches by Consultant of its duties under this agreement and/or under applicable professional standards, such damages will be limited to no more than two times fees paid under this agreement. In no event shall parties be liable to the other for any punitive or exemplary damages, or for attorneys' fees.
5. **Limitation Period.** The nature of Consultant's services makes it difficult, with the passage of time, to gather and present evidence that fully and fairly establishes the facts underlying any Dispute. Consultant and the City both agree that, notwithstanding any statute of limitations that might otherwise apply to a Dispute, it is reasonable that the City may not bring any legal proceeding against us unless it is commenced within forty-eight (48) months ("Limitation Period") after the date when Consultant provides deliverables under this agreement to the City, regardless of whether Consultant does other services for the City or that may relate to the deliverables for this matter. The Limitations Period applies and begins to run even if the City has not suffered any damage or loss, or has not become aware of the existence or possible existence of a Dispute.
6. **Mediation.** All disputes between Consultant and the City shall first be submitted to non-binding mediation by written notice ("Mediation Notice") to the other party. In mediation, Consultant will work with the City to resolve any differences voluntarily with the aid of an impartial mediator. The mediator will be selected by mutual agreement. The mediation will be conducted as specified by the mediator and agreed upon by the parties. The parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. Mediation will be conducted with the parties in person in Riverside, California. Each party will bear its own costs and attorneys' fees in the mediation. The fees and expenses of the mediator will be shared equally by the parties. Either party may commence suit on a dispute after the mediator declares an impasse.

SCOPE OF SERVICES (cont'd)

Task A Interviews with all seven City Council Members, the City Manager, the Public Utilities General Manager, and the Chief Financial Officer to discuss any concerns regarding SCPPA related matters.

Task B Review the SCPPA Resolutions, from 2009 to 2018, and provide an analysis of all Resolutions and associated relevant documents (i.e. staff reports, etc) that include participation with the City of Riverside. Riverside Public Utilities made payments for costs associated with approximately 51 SCPPA Resolutions between July 1, 2017 and June 30, 2018. Although the total number of SCPPA Resolutions per year over the identified 10-year period should be of similar quantities, the exact numbers may vary and some Resolutions can span multiple years. An archive of the more recent SCPPA documents can be found at the following link:
<http://www.riversidepublicutilities.com/about-rpu/scppa-document-archive.asp>.

Task C Review the expenses paid by the City of Riverside for contracts authorized under SCPPA for the period of January 1, 2009 to December 31, 2018 as available. Riverside Public Utilities currently has 10 Power supply contracts through SCPPA and 5 scheduling coordinator contracts. Some of the contracts were entered into within the past 10 years. The contracts between the City of Riverside and SCPPA can be found at the following link: <http://www.riversidepublicutilities.com/about-rpu/scppa-document-archive.asp>. The deliverables are:

1. Show summary level of expenditures with supporting contract documents and cross reference authorized SCPPA activities.
2. Provide an analysis and breakdown of expenses by the type of expense. Identify categories for the business purpose of each expense and categories of types of expenditures as they relate to the Agreement between the City of Riverside and SCPPA and the purpose/activities of SCPPA. The expenditures should be categorized by type of expenditure (either construction or acquisition of generating plants or transmission systems, or acquisition of real property). If an expenditure is not for the construction or acquisition of generating plants or transmission systems, but is for an expenditure such as energy efficiency measures, new categories should be identified. General categories can be found in the Agreement between the City of Riverside and SCPPA, as well as, SCPPA Resolutions and billing invoices from SCPPA.
3. Provide comparison to industry standard costs for similar expenditures to determine the amount of savings, if any, the Riverside ratepayers experienced through the SCPPA Agreements. Review a sampling of each type of purchase including, but not limited to, energy efficiency purchases and power purchases compared to those made on the open market.
4. Review the contract signature authority as required by policy at the time of each

SCPPA contract execution ensuring that proper levels of approval were obtained.

5. Review the level of approval for each expenditure from the Board of Public Utilities and/or the City Council for each SCPPA contract. Consultant/Firm will be provided with up to 25 expenditures per year to analyze. Supporting documentation will also be provided for the analysis.

Task D Provide an analysis of previously presented SCPPA audits to verify the information provided and conclusions reached and determine if the reports were appropriate at the time they were provided to City Council. Review all supporting work papers and documentation to reach a conclusion. The City's Internal Audit Division conducted an audit of the relationship between the City of Riverside Public Utilities Department and SCPPA in 2016. At the same time a performance assessment and financial review of the Riverside Public Utilities Department was conducted. These two audits will be the primary focus of the analysis. However, it is important to note that an annual financial review is conducted of SCPPA and a separate financial review is conducted of the City of Riverside Public Utilities Department each year. Information on the annual financial audits can be found at the following links:
<http://www.riversidepublicutilities.com/about-rpu/annual-reports.asp>
<http://scppa.org/page/Annual-Report>

Task E Present the findings to the City Council

Responsibilities of Selected Firm

- A. During this review, the selected firm shall promptly and directly report to the Finance Committee regarding any conditions, transactions, situations, or circumstances encountered which would impede or impair the proper conduct of the review, or which would seem to warrant a special investigation or report in more detail than that which is necessary to perform the analysis.
- B. The selected firm shall take all steps necessary to safeguard any data, files, reports or information from loss, destruction, or erasure.
- C. Any costs or expenses of replacing, or damages resulting from the loss of such data, shall be borne by the company.
- D. The selected firm shall maintain adequate staff to perform as required by the agreement resulting from this solicitation.
- E. The selected firm shall also include in its proposal a statement ensuring the integrity of the findings.

EXHIBIT "B"
COMPENSATION

F. Evidence of Insurance

We can meet all your insurance requirements. If awarded the work, we will provide the appropriate certificates of insurance.

G. Pricing and Timeline

Our fees are based on the complexity of the issue and the experience level of the staff members necessary to address it. Based on our understanding of the scope of work, we propose a fee not to exceed \$115,500.

Phase & Major Task	Tasks per RFP	Duration in Weeks	Milestones	Estimated Hours	Estimated Fees
1. Planning, onsite information gathering & interviews	A & B	1 – 2	Forensic audit planning and all onsite interviews completed.	40 – 80	\$8,000 - \$16,000
2. Documentation Collection & Extraction	C & D	2 – 3	Documents, reports and extractions are received for analysis.	40 – 80	\$8,000 - \$16,000
3. Analysis & Reporting	C & D	4 – 6	All examination procedures completed. Findings	160 – 240	\$32,000 - \$48,000
4. Review & Delivery	E	3 – 5	Final report completed and presented to City Council.	80 – 140	\$16,000 - \$28,000
TOTALS:		10 – 16 weeks		320 – 540 hours	\$64,000 – \$108,000 fees
Estimated Out of Pocket Expenses - Airfare, lodging, car rental and per diems for all onsite work					\$7,500
<u>not to exceed \$115,500</u>					

Our fees are based on our service hours rendered by employee level. We utilize the following hourly rates: Partner: \$320/hr.; Sr. Manager/Manager: \$250/hr.; and Associate \$180/hr. We will leverage our work when deemed appropriate to make the engagement cost effective as possible.

If you request additional services outside the scope of the RFP, we will obtain your agreement on fees before commencing work so there are no surprises or hidden fees.

Out-of-Pocket Fees

The professional fees listed above are inclusive of all out-of-pocket expenses we will incur to successfully complete the engagement.

EXHIBIT “C”

KEY PERSONNEL

D. Company Personnel

We're passionate about our work—and your success. We have selected professionals for your service team who are the right fit for your engagement, based on their knowledge and experience in the governmental industry.

The following information will provide an overview of your team. Full profiles are included in **Appendix A**. Meet your service team.



Jeremy Bendewald, MBA, CFE, CFI

Phone - 701.239.8513

PRINCIPAL IN CHARGE OF FORENSIC SERVICES

Since 2001, Jeremy has conducted hundreds of forensic accounting examinations including financial fraud schemes, tracing of assets, financial motivation to commit crimes and other accountings for use in courts of law. He not only assists clients in litigation matters in civil and criminal proceedings but identifies weaknesses and provides recommendations to reduce the risk of fraud.



Jason Olson, MBA, CPA/CFF, CFE, CFI

Phone - 612.253.6554

PARTNER, FORENSIC SERVICES

Jason oversees proactive and reactive forensic accounting engagements. He works closely with clients to safeguard assets through proactive internal control examinations (ICE). Jason also examines financial transactions for financial disputes and fraud losses. He assists clients with civil and/or criminal litigation, and insurance claims. With such well-rounded experience, Jason often gets called in to provide litigation support for civil and criminal proceedings when financial disputes are involved.



Roger Alfaro, CPA

Phone - 909.755.2829

AUDIT PARTNER/ENGAGEMENT LIASION

Roger provides accounting, audit and advisory services to commercial and governmental entities throughout California. His experience includes manufacturing, healthcare, nonprofit and governmental entities including cities, counties, special districts and state agencies. Roger began his professional career with a Big 4 International firm working with large commercial and governmental entities. His expertise includes the complex accounting and regulatory requirements for single audit compliance and he is recognized as a leader in Uniform Guidance audit requirements. He has conducted financial statement audits for commercial and public companies and single audits for governmental agencies with assets exceeding \$1 billion.



Scott Gustafsson, CPA, CFE

AUDIT/FORENSIC PARTNER LIASION

Scott guides and advises assurance teams and works with governmental entities to identify and test critical points of inherent risk to protect the integrity of external and internal financial reporting. Scott performs additional services ranging from agreed upon procedures engagements for Proposition 39 and Proposition 51 bonds to assisting clients with fraud-related matters. He also assists clients with risk assessments, including reviews related to student body accounts, cash collections, internal controls, and misappropriation of assets.



Audrey Donovan, CIA, CGAP, CRMA

SENIOR MANAGER

Audrey will serve as the Internal Audit and performance audit technical specialist over all phases of the project. She has 25 years of experience in internal audit, performance / operational audit, and financial consulting for both the public and private sectors. She is the Firmwide technical resource for internal audit and performance audit. She works closely with Eide Bailly's Special Advisory and Risk Advisory Services, such as, Fraud and Forensic, Information Technology, and Quality Assurance Review.



Brett Johnson, CPA, CFF, CFE, CFI

SENIOR MANAGER

Brett provides clients with peace of mind by offering fraud detection, investigation and prevention consulting services. He has extensive experience tracing illicit funds through multiple accounts and entities and identifying employee fraud schemes. Brett conducts internal control examinations to help strengthen controls over assets, and he's provided testimony in state, federal and tribal court systems.



Eric Hansen, CPA, CFF, CFE, CFI

SENIOR MANAGER

Eric oversees forensic accounting engagements. He has experience managing and performing financial investigations for variety of clients, both government and private. He specializes in protecting and examining businesses' assets by providing fraud prevention/internal control examinations and conducting thorough forensic audits when allegations surface. He is a Certified Fraud Examiner, Certified Forensic Interviewer and previously Certified South Dakota Law Enforcement Officer. His training and experience has

allowed him the opportunity to work with all levels of staff in numerous industries and agencies.



Tyler Schmidt, CFE, CIDA

SENIOR ASSOCIATE

Tyler has assisted with numerous forensic accounting engagements by examining supporting documentation for various cash receipt and disbursement activity for compliance and investigative purposes. Tyler is well versed in forensic accounting technologies utilized by us to document bank activity as well as using tools such as IDEA to perform in depth data analytics. He regularly prepares reports and supporting schedules for compliance, internal investigative, insurance recovery, criminal and civil matters.