



# City of Dana Point

## **REQUEST FOR PROPOSALS INFORMATION TECHNOLOGY MANAGEMENT SERVICES**

***Proposals must be received by email only on or before  
Friday, March 28, 2025, by 4:00pm (PST)***

RFP Contact:  
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[jfleming@danapoint.org](mailto:jfleming@danapoint.org)

## **INTRODUCTION**

The City of Dana Point ("City") is seeking proposals ("Proposals") from qualified Consultants ("Consultants") to provide Information Technology (IT) Management Services. Proposals must comply with the requirements outlined in this Request for Proposal ("RFP"). The City reserves the right to waive any irregularities in a Proposal or reject any Proposal that does not conform to this RFP. Any modifications to the RFP, including but not limited to changes in the Scope of Services, will only be made through a written addendum issued by the City.

The City will select a Consultant based solely on the criteria it determines. The selected Consultant will be required to enter into a Professional Services Agreement (included as Attachment B), which incorporates the requirements of this RFP along with additional terms. By submitting a Proposal, the Consultant agrees to all terms outlined in the RFP and the Agreement. The City reserves the right to reject any exceptions or proposed revisions to the RFP or Professional Services Agreement submitted by a Consultant.

## **BACKGROUND**

The City of Dana Point was incorporated under the general laws of the State of California on January 1, 1989, and operates under a Council-Manager form of government. As a "contract city," Dana Point primarily relies on agreements with other governmental entities, private Consultants,

and individuals to provide many traditional municipal services. The City contracts for essential services, including police and fire protection (through the Orange County Sheriff's Department and the Orange County Fire Authority, respectively), senior services, animal control, street maintenance, and legal services through the City Attorney. The City is organized into six departments: City Manager, City Clerk, Administrative Services, Community Services, Community Development, and Public Works & Engineering Services.

The City operates three facilities, with the majority of its network and systems infrastructure housed at City Hall:

Facility Description	Address
City Hall	33282 Golden Lantern
Community Center	34052 Del Obispo Street
Nature Interpretive Center	34558 Scenic Drive

The City's IT Division is responsible for end-user help desk support, security system administration, network administration, application support, database administration, and project development and implementation. The division is currently managed by an IT Manager who collaborates with contracted IT service providers. These contracted services include:

- Onsite IT support three days per week (24 hours total)
- 24/7/365 remote technical support and help desk services
- After-hours and holiday support
- Enterprise software support
- Proactive monitoring and backup services
- Remote support for desktops onsite and offsite
- Network and infrastructure support

- Support for desktops/laptops
- Server maintenance and backup
- Administration of Office 365
- Mobile devices
- IT procurement, installation, and configuration of new computers and servers
- Printer/Copier user support (connectivity for onsite users)
- Emergency Operations Center support

A detailed summary of the City's current IT environment is provided in **Attachment A** of this RFP.

## **OBJECTIVES**

The City is seeking a Consultant to provide a broad range of Information Technology ("IT") management services including but not limited to network and system administration, security monitoring, on-site and remote help desk, procurement, backup and recovery operations, database administration, hardware lifecycle management, and project management services.

The Consultant will work alongside the City's IT Manager to provide technology expertise. In this role, the Consultant may be asked to recommend improvements in processes, systems, software, and equipment; compare and analyze products and services; participate in disaster recovery and security response exercises; develop and deliver training; and produce and present reports on various aspects of IT operations. The City expects the Consultant to remain agnostic regarding product support and procurement, focusing on cost-effective solutions that align with the City's budget and existing technology mix.

The initial term of the Agreement is set to begin on June 1, 2025—intentionally ahead of the new fiscal year start date of July 1, 2025—to allow the current Consultant providing IT Management Services to transition responsibilities to the new Consultant between June 1, 2025, and June 30, 2025. If the existing Consultant is awarded the contract through this RFP, the initial term will instead begin on July 1, 2025.

## **PROJECTED TIMELINE**

The City anticipates using the following time schedule:

February 27 – March 14, 2025	Inquiries/Questions
Friday, March 28, 2025	Written proposals due by 4:00 PM PST
March 31 – April 4, 2025	Evaluation of proposals
April 14 - 18, 2025	Interviews with Top Ranked Proposers
Tuesday, May 20, 2025	Recommendation to City Council

## **OVERVIEW OF SCOPE OF SERVICES**

- The Consultant will provide technical staff that are knowledgeable and trained to carry out this Scope of Services. Based on ongoing IT needs, staffing levels may change upon mutual agreement between Consultant and the City.

- Consultant to provide one (1) on-site support technician on a regular basis 3 days per week (24 hours). The technician will occasionally work outside of their scheduled hours as requested by the City to support special needs or critical issues requiring onsite or after-hours support.
- Consultant to provide an Account Manager to prepare a monthly schedule for contract personnel to cover City's contracted hours, schedule personnel to cover emergency call-outs, prepare billing on a monthly basis, handle all administrative duties of contract, and attend meetings with City staff.
- Strategic Planning - Assist IT Manager with strategic planning and oversight of the City's IT program.
  - Identify trends in use of IT for municipal service delivery. Identify solutions to support City strategic goals and objectives.
  - Identify critical integration issues based on current projects and future initiatives.
  - Recommend policies, procedures, and standards for implementation and use of IT.
  - Provide input and review of Requests for Proposals (RFP) related to IT services. Assist with vendor negotiations on IT projects.
  - Provide recommendations for additional services to provide enhanced IT services when needed.
  - Assist City with yearly budget recommendations, identifying hardware and software needs, and recommending equipment and software upgrades. as needed to improve performance, security, reliability, etc. The City will act as the final decision maker for any proposed upgrades.
  - All hardware and software purchases will be updated in an asset database with serial numbers, warranties, and expiration dates.
- Desktop Services - Help Desk Management, maintenance, and monitoring activities for the operation and performance of network equipment, desktops, and peripherals.
  - Provide fully staffed unlimited remote IT Help Desk support and technical support 24 x 7 x 365.
  - Contractor will provide support for Microsoft Windows, Microsoft Office (multiple versions), Microsoft Server (multiple OS versions), and Microsoft SQL.
  - Contractor will provide support for City email services, email on mobile devices (cell, tablets, etc.)
  - Contractor will manage all aspects of Help Desk Service Delivery as a single point of contact, including:
    - All problem resolution
    - Service request tracking
    - Call escalation management
    - Dispatch
    - Knowledge management
    - New employee Onboarding – training on how to utilize the help desk

- The City's designated staff, working with the Contractor, will set or change the priorities of tickets.
- Provide the City monthly service level reports and access to the help desk portal.
- Designated Staff may participate in receiving alerts and alarms. (e.g., Wi-Fi, server room temperature, hardware issues)
- Desktop Services - Desktop Hardware and Software Maintenance Support. Services provided in this area support desktop hardware and software, laptop hardware and software, and the peripheral devices attached to them. A wide variety of applications are in use across the departments, including:
  - Hardware break/fix
  - Software break/fix
  - Peripheral break/fix (i.e., printers, scanners, copiers, fax, audio/visual equipment  
Note: Contractor will not be expected to fix A/V related equipment but rather help diagnose issues and if necessary, recommend replacement hardware.
  - Technology refresh (includes planning and coordination with City staff). Included in annual costs is planned technology refreshes for existing equipment (e.g., computers, laptops, servers, printers, switches, firewalls).
  - Installations, moves, adds, and changes.
  - Troubleshoot and fix desktop (on site or remotely) and network issues.
  - Provide support to Emergency Operation Center (EOC) to ensure network connectivity to EOC internet connection and phone lines.
- Desktop Services - Desktop Application Services include:
  - Basic troubleshooting/connectivity to support all City applications.
  - Patch management (all applications)
  - Provide and maintain security on all endpoints (antivirus)
  - Electronic software distribution
  - Integration and testing
  - Support laptops, tablets and iPads, MS Surface Pro devices.
  - All phones including landlines and mobile devices (cell/smart phones).
  - Supporting configuration and wiring
  - Provide server-side support for print queues, end users with printer issues.
- Desktop Services - Third-Party Software Support:
  - The contractor will provide basic support of all third-party business applications used by the City.
  - Basic support could include connectivity to the application, potential account setup, and upgrade support.
  - Provide support to miscellaneous utility software.
  - Contractor will provide administrative support for the entire Office365 environment

licensed by the City.

- Contractor will evaluate any software for any security vulnerabilities due to software supply chain issues, encryption of sensitive data and robust access control requirements.
- The Contractor will identify any third-party software tools that the City will be required to procure to support the services described in this RFP. The City will act as the final decision maker for any software licensed by, or for, the City. These tools and any related subscription costs should be identified in the Contractors Cost proposal.
- Network and Server Administration Services - Microsoft Server Administration and Security - This section includes the maintenance of all aspects of server security, incident management, virus and malware protection, access control, and auditing. Contractor responsibilities include, but are not limited to:
  - Contractor will provide 24/7 support for all Windows servers
  - Microsoft server administration: with access provided by the City, set up users, manage access to resources (file shares/printers), and implement security for each per City requirements.
  - Ensure City security policies are enforced on endpoints.
  - Perform regular maintenance and auditing to ensure security on all devices.
  - Monitor incident reporting and address security issues.
  - Ensure servers and devices have the latest available security patches and firmware installed.
  - Implement a remote access tool to maintain a secure remote access environment using appropriate technologies.
  - Provide remote access administration that comply with City policies.
  - Support and maintain Active Directory and Group Policies
  - Apply and maintain City policies for file system security and user access.
  - Assist with the development of new IT related policies and the updating of existing policies as needed.
- Network and Server Administration Services - Storage, Backup and Disaster Recovery - Contractor will manage and ensure the recoverability of all City data based on agreed upon backup and retention schedules, including:
  - Manage backup system and Storage Area Network (SAN) and storage environment.
  - Perform backups and snapshots in accordance with established backup schedule.
  - Maintain backup software and infrastructure.
  - Perform file and database recovery from backup media or snapshots and as requested; perform monthly backup recovery testing.
  - Manage and monitor location of backup media in accordance with media retention schedule.
  - Schedule transport and destruction requests.

- Perform and document annual backup media disaster recovery test.
- Secure large File Transfer Services and provide support as necessary.
- Network and Server Administration Services - Network services will also include maintaining the current environment, as well as changes and improvements to existing operations, including new capabilities. Network services changes will be scheduled in advance (unless needed for security or other emergency purposes). The communication/network responsibilities include:
  - Regular patching of servers/workstations, updates, firmware and service pack updates, network operating system upgrades, and the monitoring, maintaining, and optimizing of all the services and devices.
  - The network projects include documenting and ensuring standardizations across the network.
  - Maintain all firewall, routers, switches, and VPNs; provide network design and engineering expertise to maintain network.
  - Maintaining all WAPs with the assistance of current third-party maintenance provider.
  - Evaluating and applying security patches and upgrades.
  - Monitoring network performance.
  - Identifying potential limitations before traffic on the network increases to the point that it affects system performance.
  - Supporting as needed the VoIP infrastructure (connectivity issues) and coordinate as needed with current third-party maintenance provider.
  - Keeping inventory and maintenance records for all network equipment and ensuring documentation and recoverability of network device configurations.
  - Providing or scheduling repairs and maintenance necessary to continue operations and meet approved service levels.
  - Timely coordination and communication with City staff regarding maintenance and upgrades to minimize impact to City operations.
  - Diagnosing, investigating, and identifying root cause to network problems; recommend and implement fixes.
  - Integration with other Agencies / Applications.
  - Ensure applications are available for internal/external access.
  - Maintain security settings, software, and firmware on all network equipment, computers, and laptops.
  - Network diagrams.
  - The documentation will be audited and inventoried on an annual basis. A quarterly update will be sent to the designated IT contact for review.

- Service Level Agreements - Consultant shall adhere to the minimum service level Agreements (SLAs) and provide reports and updates to the City as requested. Report design and frequency of delivery will be discussed with the awarded Consultant. The proposed SLAs aim to ensure Consultant meets the City's business requirements for availability, reliability, and secure systems that are backed by SLAs.
  - One reach local phone number and email address for emergency support.
  - Provide 24 x 7 x 365 unlimited help desk and technical remote support.
  - Respond to emergency outages within one (1) hour during normal business hours.
  - Respond to emergency outages within two (2) hours during non-business hours.
  - In case of an emergency, be onsite within four (4) hours.
  - Service tickets to be acknowledged within thirty (30) minutes during normal business hours.

## **PROPOSAL FORMAT**

1. Proposal Summary - This section shall discuss the highlights, key features, and distinguishing points of the Proposal. A separate sheet shall include all the contact people on the Proposal and how to communicate with them. Limit this section to a total of one to three pages including the separate sheet with contact personnel.
2. Profile of Proposing Consultant - This section shall include a brief description of the Consultant's size as well as the proposed local organizational structure. Specifically, the City is interested in the potential for a long-term service relationship that would include financial stability. Include a discussion on the Consultant 's financial stability, capacity, and resources. If applicable, include all other Consultants participating in this Proposal, including similar information about the Consultant /subcontractors.
3. Qualifications of the Consultant - This section shall include a brief description of the Consultant's and sub-contractor's qualifications and previous experience on similar or related projects. Provide a description of pertinent project experience with other public municipalities and private sector that includes a summary of the work performed, the total project cost, the percentage of work the Consultant was responsible for, the period over which the work was completed, and the name, title, and phone number of clients to be contacted for references. Give a brief statement of the Consultant's adherence to the schedule and budget for each project.
4. Service Plan - In this section, present a well-conceived service plan. This section of the proposal shall establish the Consultant's understanding of the City's objectives and work requirements and the Consultant's ability to satisfy those objectives and requirements. Describe the proposed approach for addressing the required service, outlining the approach that would be undertaken in providing the requested services. Include a timetable for transition to full operation. Describe service experience related by both the Consultant and any subcontractors in similar work. Please describe the role, extent of services (number of people used or saved, engagement duration, and contract value).
5. Staffing Plan - In this section, discuss how the Consultant would propose to staff the service described in this RFP. Proposed on-site support technician(s) are considered key personnel

and shall be identified by name, specific responsibilities, and their qualifications. Include a current resume and position description for each of the proposed support technicians. Proposed key personnel will be an important factor considered. There can be no change of key personnel once the proposal is submitted, without prior approval from the City.

6. Proposed Innovations - The Consultant may also suggest technical or procedural innovations that have been used successfully on other engagements and that may provide the City with better service delivery. In this section discuss any ideas, innovative approaches, or specific new concepts included in the Proposal that would provide benefit to the City's assessment of the Proposal. Focus primarily on cost saving or efficiency-enhancing innovations as well as any example of creative public safety technology projects/initiatives. Include any performance-measuring matrix proposals as well and any other suggestions you may have for improved operations.
7. Proposal Cost Sheets and Hourly Rates - In this section include the proposed costs to provide the services desired. Include any other cost and price information that would be included in an agreement with the City. It should also include the costs for extra after-hours services or any other services that are considered optional additions and any specific terms of payment.
8. Understanding of Requirements - All proposals accepted by the City must be signed by an authorized representative of the company. The submission of a signed proposal will be interpreted to mean that the company has thereby agreed to all conditions, instructions, descriptions and specifications contained herein. All samples submitted by the company in support of its quote shall become the property of the City.

## **SELECTION PROCESS**

**Proposal Submission** - All proposals must be submitted by the deadline, March 28, 2025, by 4:00 p.m. Late submissions will not be considered. Proposals should be complete, clearly organized, and address all requirements outlined in the RFP. Submissions must include:

- A project team structure and qualifications
- A timeline for service implementation
- A cost breakdown and fee structure
- References from at least three comparable clients

**Initial Review for Compliance** - Upon receipt, all proposals will undergo an initial review to ensure compliance with the submission requirements. Proposals that do not meet the minimum requirements or fail to include all necessary documentation will be disqualified from further consideration.

## **Evaluation Criteria**

- Relevant experience and qualifications
- Approach and methodology
- Cost-effectiveness and value
- Technical expertise and innovation
- References and past performance
- Security and compliance measures

Based on the evaluation, the highest-ranking firms will be shortlisted. These firms will be invited to participate in additional evaluation steps, including:

- Interviews or Presentations: Shortlisted firms will be asked to present their proposals to the selection committee.
- Demonstrations: If applicable, firms may provide demonstrations of proposed software, tools, or methodologies.

### **Reference and Background Checks**

The City will conduct reference checks on shortlisted firms to verify past performance and client satisfaction. Additional background checks may be conducted as deemed necessary.

### **Final Evaluation and Selection**

After completing all evaluations, the selection committee will recommend the firm that provides the best value and demonstrates the capacity to meet the City's needs. The City will negotiate contract terms with the top-ranked firm.

### **Award Notification**

Once the selection process is complete, all participating firms will be notified of the outcome. The contract award will be subject to approval by the City Council.

### **Clarification and Addenda**

Each vendor is responsible for thoroughly reviewing all RFP documents and assessing the adequacy and accuracy of the information provided. Any inquiries, suggestions, or requests for interpretation, clarification, or additional information related to the RFP should be directed to Jason Fleming at [jfleming@danapoint.org](mailto:jfleming@danapoint.org).

The City will not be responsible for oral interpretations provided by any City employee, representative, or other individuals. The issuance of a written addendum is the only official method for providing interpretation, clarification, or additional information.

If any addenda are issued, the City will make reasonable efforts to notify all prospective vendors who have obtained the RFP documents. However, it is the sole responsibility of each vendor to contact the City of Dana Point's Administrative Services Office at (949) 248-3583 prior to submitting a proposal to confirm whether any addenda have been issued and to incorporate those addenda into their submission.

Consultants are encouraged to submit their contact information via email to Jason Fleming at [jfleming@danapoint.org](mailto:jfleming@danapoint.org) to ensure they receive notifications regarding any addenda.

### **Proposal Preparation Expenses**

Each vendor preparing a response to the RFP shall bear all expenses associated with its preparation, and no claims for reimbursement shall be submitted to the City for the expense of proposal preparation or presentation.

### **Legal Name**

Proposals shall clearly indicate the vendor's legal name, address, and phone number, and shall indicate whether the vendor is a corporation, general partnership, individual, or other business entity. In addition, the proposal must include the name, phone number, and email address of the person to whom correspondence should be directed. Proposals shall be signed above the typed or printed name and title of the signer. The signer must have the authority to bind the vendor to the submitted competitive proposal.

### **Openness of Procurement Process**

Written proposals, other submissions, and all other pertinent records shall be handled as public records. The City gives no assurance as to the confidentiality of any portion of any proposal once submitted.

### **Errors and Omissions**

Once a proposal is submitted, the City shall not accept any request by any vendor to correct errors or omissions in any calculations or competitive proposal price submitted.

### **Retention and Disposal of Proposals**

The City reserves the right to retain all submitted competitive proposals for public record purposes. The City also reserves the right to dispose of any or all copies of competitive proposals in whatever manner it deems appropriate. No copies of any competitive proposal will be returned to the vendor.

### **Professional Services Agreement**

The selected vendor will be required to sign a Professional Services Agreement with the City (**Attachment B**).

### **Insurance Requirements**

The successful vendor shall submit appropriate evidence of required insurance coverage prior to finalizing the contract and commencing work. The City's standard contract terms and conditions are provided in the attached draft Professional Services Agreement (**Attachment B**).

## **ATTACHMENT A: TECHNICAL ENVIRONMENT**

### **1. Network Model**

The City of Dana Point has three sites:

Facility Description	Address
City Hall	33282 Golden Lantern
Community Center	34052 Del Obispo Street
Nature Interpretive Center	34558 Scenic Drive

- a. Internet access is provided through a SonicWall 2650 firewall appliance connected internally through a total of 13 managed switches, 7 at the core level in the server room (located in the server room), 2(1 per site) managed switches serving the remote sites. The main switches in the server room are Aruba HP switches. The Internet is provided by Cox Communications utilizing cable modem technology. The main City Hall location has a metro E and site-to-site wireless connection between both remote locations for the purpose of primary internal network connectivity.
- b. Name resolution is handled with internal DNS and is provided by 2 Domain Controllers running AD – DPDC2 (VM)and DPDC1 (VM) in the server room. All workstations and servers are configured to use these servers for internal name resolution. The two DNS servers are configured to replicate and share information for redundancy.
- c. All servers, switches, and the firewall have static IP addresses, and all workstations have dynamic addresses assigned by DHCP services installed on DPDC2. The network address scheme is 23-bit architecture with a subnet mask of 255.255.255.254 split into 5 different scopes, plus a VLAN for the phone system. These scopes include servers and network equipment, workstations, extranet, wireless networks, and traffic DVR. There is a DMZ configured for the purposes of ISA front end (These have been retired / moved to cloud.)

### **2. Computer System Infrastructure**

- a. Servers - The City of Dana Point currently has 4 physical Dell Inc. servers, a Dell R440 server, a Dell R320 server and a pair of PowerEdge R620 servers. A Hyper V cluster (version 6.2) resides on the Dell R620 servers with 8 virtual machines in service. All virtual machines are stored on a Dell SCV2020 Storage Area Network with 21TB of capacity as of this writing. VMs live on the Clustered Shared volume.

Server Name	Role	C:	D:	# Proc	Ram
DPCAM02	Camera Server (Manages Camera System)	215GB	21.6TB	16	31GB
DPADSYNC	Sync server for AD and Office 365	249GB	-	1	12GB
DPDBFIN	SQL server for INCODE (finance software)	249GB	1TB	1	16GB

DP-PWFILE	Public Works Server (Physical)	219GB	218 TB		48GB
DPDC2	DC server running AD, DHCP & DNS FSMO Roles	300GB	-	4	12gb
DPDC1	Secondary DC	250GB	-	1	8GB
DPAPFIN	Finance server (Tyler)	250GB		1	16GB
DPFS02 (Phasing out)	File Server	150g	1.7tb	2	16GB
DPPS	Print Server	126GB	-	2	12GB
DPFS01 (New File Server)	File Server to replace DPFS02	150GB	1.7TB	2	12GB

- b. Computing Devices - The City of Dana Point has a total of 391 network devices (includes servers, workstations, printers, Wi-Fi devices, and tablets. These workstations consist of both physical and virtual workstations. Memory for these machines range from 8-16GB of RAM. Hard drive capacity ranges from 100GB to 1TB.
- c. Printers - There are 14 identified printers on the network, most having their own IP address. Though there are some locally installed on workstations which are shared for use by other users.
- d. User profiles - All domain user profiles are local to workstations (no roaming).
- e. Business Continuity provides a comprehensive plan for keeping services available during system outages.
  - Antivirus is provided by the current IT company using ESET anti-virus on all servers and workstations. In addition, the City uses Cylance Protect and Optics.
  - Spam Filter provided on-site by Barracuda email filter appliance.
  - Backups are done using Unitrends (model Recovery 9024S)
  - Critical Applications
  - Email
  - Central Square (Cloud Hosted)
  - Onbase (cloud Hosted)
  - Tyler Incode (on premise servers)
  - Esri GIS (Cloud Hosted)
  - MS office and several applications are critical to daily running of city operations
  - Redundant Servers are provided by a HyperV server cluster

### 3. Infrastructure Services

The City of Dana Point is contracting outsourced IT management services to deliver an enterprise level IT organization to enhance and manage the City's IT infrastructure. These services include:

- IT planning
- Oversight of the City's IT services
- Subject matter expertise on networking, servers, and security

- Onsite and remote IT service desk support
- Full management of servers, desktops, networks, phone system
- Application support
- May assist with Council Chambers audio/visual support as needed
- Assist with managing camera server as needed. (Patch management and Security)

In addition to the outsourced IT services, the City maintains either annual or multi-year support agreements with vendors of its key business systems and devices. These support agreements provide the City with access to critical technical knowledge of the various hardware or software solutions and most include periodic software enhancements as a feature of the support agreements.

#### 4. Network Infrastructure

- a. Internet Connections, the City is supported by one fiber connection provided by Cox Communications. There is a metro E connection and point-to-point connection from City Hall to the Community Center and second one to the Nature Center.
- b. Firewall Devices, the City of Dana Point employs one firewall appliance manufactured by SonicWALL Systems. The SonicWALL appliance is located in the server room on the main City Hall campus.
- c. Network Switches, the City's network backbone runs on networking equipment from HP Systems. There are 13 primary network switches routing traffic throughout the City's infrastructure including City Hall, Public Works, Nature Center and the Community Center. Each of the City's satellite facilities are supported by a single network switch creating potential for a single point of failure at those locations.
- d. LAN connectivity is provided through either Ethernet jacks on the wall, ports on VOIP phones or through the wireless network.
- e. Physical servers, communicate to a SAN, and are connected to the City's network infrastructure via redundant network interface connections with 2 network switches (switch port redundancy). In this configuration, the physical host servers would maintain communication with the network infrastructure in the event of a single port failure on the network switch device. If the entire network switch device were to fail, the physical host servers and the business systems they support would not be accessible.
- f. SAN Network Switches, the City's iSCSI network infrastructure consists of Aruba HP switches providing a (they eventually will be dedicated once new SAN is installed) redundant high speed network for the Dell physical host servers and the Compellent SAN to communicate
- g. Wireless Point-to-Point Network and Cox Metro E, the Community Center and Nature Center receive data, voice-over-IP telecommunications and Internet connectivity from the City Hall server room via a Cox Metro E connection. The

Wireless Point to Point connection is supported by line of sight antennae used for traffic cameras, which are cabled to the City's network of switches and servers.

- h. Wireless Network the City's wireless network infrastructure consists of 13 ubiquiti access points connected through an unifi cloud key. These access points are configured with two separate wireless networks, one for internal use and one for public use allowing for Internet access only.
- i. Council Chambers audio/video components include Vaddio camera controls, Shure microphone and operating system, and is streamed to Youtube Live and Cox Communications.

## 5. Systems infrastructure

- a. Physical Servers - Physical servers are connected to the City's Compellent storage area network (SAN). Two of the physical servers are configured as hosts servers which provide computing power to the virtual server infrastructure residing on the SAN. The virtual server environment consists of over 8 virtual servers running Microsoft Window Server operating systems using Hyper V virtualization software. The server has redundant Ethernet connections to the Compellent SAN via redundant Aruba switches. All of these redundancy measures are designed to maintain communication between the physical host servers and the Compellent SAN in the event of a single failure at each layer.

There are 6 set of NICs in the Hyper clustered server (2 for LAN, 1 for management, 2 for ISCSI, 1 cluster shared volume, 1 for Live Migration)

- b. Backups - Unitrends 9024s server is used for managing the City of Dana Point's Unitrends Backup software. Backups are done nightly, after first full back up, then increment backups are performed. Backups first go to a local device, then to the cloud. We can restore from backup locally in an emergency or from the cloud.

- 6. Storage Area Network - The Storage Area Network (SAN) provides a high availability storage environment for its virtual server infrastructure and data requirements. The Compellent SAN consists of two arrays of hard drives providing 16 terabytes of data storage capacity. One array is dedicated to the high-speed presentation of data that is more often accessed by applications and users. This high-speed array utilizes hard drives with faster read/write access times while the other hard drive array uses drives with somewhat slower read/write access time. Both hard drive arrays include redundancy technology preventing data loss in the event of hard drive failures.

A key component of the redundancy technology of the SAN is the split backplane and redundant controllers which utilize patented, proprietary software for dynamically managing the data residing on the hard drive arrays and fluidly moving the data among the hard drive arrays to maximize access and redundancy of those arrays of the SAN.

- 7. Applications - Several applications are used by the City. Applications reside both on the server infrastructure and workstations. Many of these applications have been migrated to the cloud.

## **ATTACHMENT B: PROFESSIONAL SERVICES AGREEMENT**

### **CITY OF DANA POINT AGREEMENT OF PROFESSIONAL SERVICES**

**THIS AGREEMENT** is made and effective as of \_\_\_\_\_, 2024, between the City of Dana Point, a municipal corporation ("City") and Ralph Anderson and Associates, a[n] \_\_\_\_\_ ***[individual, sole proprietorship, partnership, limited liability partnership, corporation, . . .]*** ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

#### **1. TERM**

This Agreement shall commence on \_\_\_\_\_, 2024 and shall remain and continue in effect until tasks described herein are completed, but in no event later than December 31, 2024, unless sooner terminated pursuant to the provisions of this Agreement. Notwithstanding the above, Section 9 of this Agreement shall survive the term of this Agreement.

#### **2. SERVICES**

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

#### **3. PERFORMANCE**

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement. Consultant represents it holds the necessary skills and abilities to perform the work as set forth in this Agreement, and City relies upon the skills and abilities of Consultant. Consultant shall perform the work and services under this Agreement in accordance with such heightened standard of work and in accordance with the accepted standards of the professional disciplines involved in the tasks described herein.

#### **4. CITY MANAGEMENT**

The City Manager shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the

compensation due to Consultant. City's City Manager shall be authorized to act on City's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. **PAYMENT**

(a) The City agrees to pay Consultant, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A, attached hereto and incorporated herein by this reference as though set forth in full. Final payment shall be coordinated and conditioned with completion of the tasks set forth in Exhibit A. This amount shall not exceed forty-four thousand nine hundred dollars (\$44,900.00).

(b) Consultant shall not be compensated for any services which have not been approved in advance by the City either through inclusion on Exhibit A or written approval of the City Manager. The City Manager may approve additional services of the amount of the not to exceed amount, but in no event shall such sum exceed four thousand four hundred ninety dollars (\$4,490.00). Increases in compensation exceeding these thresholds shall require approval of the City Council. Moreover, if the grant of additional compensation, in any amount, would cause this Agreement to require City Council approval pursuant to Dana Point Municipal Code Section 3.12.280 or similar provision, such approval shall be required.

(c) Payments to Consultant shall be made within thirty (30) days after receipt by CITY of invoices from CONSULTANT, which shall be rendered not more often than monthly. Special examinations, surveys, or detailed reports of any nature outside the scope of this Agreement shall be billed separately by CONSULTANT and must be specifically authorized in writing by CITY in advance of such additional services proposed to be provided.

(d) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Invoices shall include the contract amount, invoice amount to date, and balance remaining. Payment shall be made within thirty (30) days of receipt of each invoice as to all nondisputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

(e) Prior to signing the Agreement, Consultant shall provide to City a completed and signed Form W-9, Request for Taxpayer Identification Number and Certification. All of City's monetary obligations set forth in this Agreement are conditioned upon City's receipt of an executed W-9 form from Consultant.

(f) Notwithstanding Consultant's delivery of invoices to City and/or other remedies available to the City, if Consultant has not delivered to the City the required certified insurance policies and endorsements within the time required by Section 10(f) (3) of this Agreement, City has the sole discretion to withhold any and all payments to Consultant until Consultant delivers to the City the certified insurance policies and endorsements required by Section 10 of this Agreement.

6. **SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

(a) The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 5.

(c) Except as otherwise provided herein and prior to the termination date of this Agreement, this Agreement may be terminated by written consent of both the City and the Consultant.

7. **DEFAULT OF CONSULTANT**

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms 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. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the City Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. **OWNERSHIP OF DOCUMENTS**

(a) 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 there from 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.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused, or otherwise disposed of by the City without the permission of the Consultant. With respect to computer files, Consultant shall make available to the City, at the Consultant's office and upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

## 9. **INDEMNIFICATION**

### (a) Indemnification

To the fullest extent permitted by law, Consultant shall protect, indemnify, defend and hold harmless City and any and all of its officials, employees, volunteers and agents from and against any and all losses, liabilities, damages, and costs and expenses (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees) where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the actions or failure to act of Consultant, its officers, agents, employees or subConsultants, or any entity or individual that Consultant shall bear the legal liability thereof.

## 10. **INSURANCE REQUIREMENTS**

Prior to the beginning of and throughout the duration of the Work, Consultant shall maintain insurance in conformance with the requirements set forth below. Consultant shall use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall procure and maintain for the duration of this Agreement insurance 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 the Consultant, its agents, representatives, or employees. All Sections of this Agreement and any provision in City's Request for Proposal and Consultant's submitted proposal are

subordinate to and superseded by the requirements contained in this Section to the extent that any provision or portion thereof conflicts with or impairs these requirements or any obligation to or right under or pursuant to these insurance requirements. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties to be interpreted as such.

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

- (1) Commercial General Liability Insurance – Written on the Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another.
- (2) Business Auto Coverage –Written on the ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each person.
- (3) Workers' Compensation/Employer's Liability Insurance - Written on a policy form providing workers' compensation statutory benefits as required by the State of California. Employer's Liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease. Employer's Liability coverage shall be scheduled under any umbrella policy described above. Unless otherwise agreed, this policy shall be endorsed to waive any right of subrogation as respects City, its officers, officials, employees, or agents.
- (4) Professional Liability or Errors and Omissions Insurance as appropriate to the Consultant’s profession - Written on policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement.

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

- (1) 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 this project/location or the general aggregate limit shall be twice the required occurrence limit.
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- (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- (3) Errors and Omissions Liability: The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement. Insurance shall continue to be effective to cover all claims made within three (3) years of the completion of the work in the Agreement.

(c) Deductibles and Self-Insured Retention. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any Consultant, subConsultant, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or the Consultant to procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses or other solutions. Any deductibles in excess of ten percent (10%) or self-insured retention must be approved by the City Manager.

(d) Other Insurance Provisions. The general liability, business auto liability, and any necessary umbrella liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) General liability and umbrella policies shall cover the City, its officers, officials, employees, agents, and volunteers are to be covered as insureds or additional insureds as respects: liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees, agents, or volunteers. Endorsements including the additional insured shall be identified on standard ISO endorsement number CG 20 10, attached to an ISO-CGL policy with an edition prior to 1992, or other form as expressly approved by City, and which does not limit the scope of coverage for the additional insured to vicarious liability or to the additional insured's supervision of a given project. In no event shall the Consultant use an additional insured endorsement with an edition date of 1992 or later, absent express written authorization by City. Consultant also agrees to require all Consultants and subConsultants to do likewise.

- (2) For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respect to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents, or volunteers.
- (4) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and there shall be no cross liability exclusions that preclude coverage for suits between Consultant and City or between City and any other insured. Consultant expressly waives any claim against City for any covered act or event, and Consultant's insurance policy shall not prevent such waiver. The limits of insurance required herein shall in no way limit the liability of the party providing the insurance. In addition, if the coverage or limits available to Consultant exceed that required by this Agreement, and the loss incurred by the additional insured exceeds the amount required by this Agreement, it is the parties' intent that all such additional coverage and limits available will apply irrespective of the specific coverage or limits required herein.
- (5) No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all Consultants and subConsultants to do likewise.
- (6) All insurance coverage and limits provided by Consultant and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
- (7) The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.

- (8) For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
- (9) Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
- (10) None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
- (11) No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any Consultant or subConsultant.
- (12) All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
- (13) The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.
- (14) Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
- (15) Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

(e) Acceptability of Insurers. Insurance is to be placed with insurers authorized and admitted to do business in California and with a current A.M. Best's rating of

A or better and a financial size of VII or greater, unless otherwise acceptable to the City.

- (1) Verification of Coverage and Notice of Cancellation. Consultant shall immediately furnish to City certificates of insurance or endorsements, satisfactory to City, evidencing the insurance coverage above required prior to the commencement of performance of services hereunder. These certificates or endorsements shall provide that such insurance is the minimum, is in no way limited by any provision herein, and allows for the application of all coverage available to the additional insureds. Further, the certificates or endorsements shall require thirty (30) days written notice to additional insured City prior to any termination, suspension, cancellation, or non-renewal, or the reduction of available coverage, or any change in the terms of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
- (2) Consultant agrees that if Consultant commences work under this Agreement without first providing City copies of the required insurance certificates or endorsements, that Consultant does so at its own and sole risk. In the event Consultant's insurance is not acceptable to City or copies of insurance certificates or endorsements are not provided, City shall have no obligations to compensate Consultant for such work unless Consultant possesses a notice to proceed from City for this work.
- (3) Within sixty (60) days of the commencement of this Agreement, Consultant shall furnish certified copies of the actual policies and endorsements. Failure to submit such policies shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including summary termination of this is not delivered as required or if such insurance is canceled at any time and no replacement coverage is provided, City shall have the right but not the duty to obtain any insurance it deems necessary to protect its interests under this Agreement, express or implied, in any way relating to City. Any premium for such coverage shall be charged to and promptly paid by Consultant or, at City's option, may be deducted from sums due to Consultant.
- (4) In the event of the premature termination of this Agreement for any reason, Consultant agrees to maintain the required insurance coverage until City provides written authorization to terminate the coverage following a review and determination that all liability posed under this Agreement as to the party providing the insurance has been eliminated.

(5) Except as outlined in Section 10(b) (3) above, Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.

(6) Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

(f) Notice of Claim or Loss. Consultant agrees to provide immediate notice to City of any claim or loss likely to involve City or its employees or agents which exceeds \$2,500 or is likely to exceed that amount arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

(g) Sub-Consultant Insurance Requirements. Consultant agrees to require that all parties, including but not limited to sub-Consultants and additional Consultants or professional services with whom Consultant enters into contracts or whom Consultant hires pursuant to or in any way related to the performance of this Agreement, provide the insurance coverage required here, at a minimum. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Section. Consultant acknowledges and agrees that upon request, all agreements with sub-Consultants and others engaged in the project contemplated by this Agreement will be submitted to City for review. Consultant agrees and acknowledges that such contracts may require modification as to the insurance requirements necessary to properly protect City.

## 11. **INDEPENDENT CONSULTANT**

(a) Consultant is and shall at all times remain as to the City a wholly independent Consultant. 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.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. **LEGAL RESPONSIBILITIES**

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. **UNDUE INFLUENCE**

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the City of Dana Point in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the City of Dana Point will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. **NO BENEFIT TO ARISE TO LOCAL EMPLOYEES**

No member, officer, or employee of City, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with this Agreement.

15. **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. Consultant, its officers, employees, agents, or sub-Consultants, 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.

(b) Consultant shall promptly notify City should Consultant, its officers, employees, agents, or sub-Consultants 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 person or party regarding this Agreement and the work performed hereunder 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 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.

16. **NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To City: City of Dana Point  
33282 Golden Lantern  
Dana Point, California 92629  
Attention: Sea Shelton  
Director of Administrative Services

To Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

17. **ASSIGNMENT**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Because of the personal nature of the services to be rendered pursuant to this Agreement, only \_\_\_\_\_ shall perform the services described in this Agreement.

\_\_\_\_\_ may use assistants, under its direct supervision, to perform some of the services under this Agreement. Consultant shall provide City fourteen (14) days' notice prior to the departure of \_\_\_\_\_ from Consultant's employ. Should he/she leave Consultant's employ, the City shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Consultant.

18. **LICENSES**

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

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 municipal, superior, or federal district court with jurisdiction over the City of Dana Point.

20. **ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. **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.

22. **NO PRESUMPTION REGARDING DRAFTER OF THIS AGREEMENT**

The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties and their attorneys, and this Agreement reflects their mutual agreement regarding the same. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore, no presumption for or against validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

23. **ATTORNEY'S FEES**

If any action at law or suit in equity, including an action for declaratory relief, is brought by either party with respect to this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, in addition to any other relief to which it may be entitled, and such amount may be added to, and made a part of, such judgment.

24. **CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL**

Consultant is bound by the contents of City's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit "D" hereto. In the event of conflict, the requirements of City's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

25. **AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

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

**CITY OF DANA POINT**

By: \_\_\_\_\_  
Mike Killebrew, City Manager

Attest:

\_\_\_\_\_  
Shayna Sharke, City Clerk

Approved As to Form:

\_\_\_\_\_  
Patrick Munoz, City Attorney

**CONSULTANT**

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed Name)

Its: \_\_\_\_\_  
(Title)