

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

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AGREEMENT

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THIS AGREEMENT is made and entered, in duplicate, as of June 10, 2020, for reference purposes only, pursuant to a minute order adopted by the City Council of the City of Long Beach at its meeting on June 9, 2020, by and between SWS2, INC. DBA THE RYTE PROFESSIONALS, a California corporation ("Consultant"), whose address is 4699 Montefino Drive, Cypress, California 90630, and the CITY OF LONG BEACH, a municipal corporation ("City").

WHEREAS, City requires specialized services requiring unique skills to be performed in connection with as-needed professional and technical services for system analysis, development, implementation, project management, and technical support for information technology projects and systems ("Project"); and

WHEREAS, City has selected Consultant in accordance with City's administrative procedures and City has determined that Consultant and its employees are qualified, licensed, if so required, and experienced in performing these specialized services; and

WHEREAS, City desires to have Consultant perform these specialized services, and Consultant is willing and able to do so on the terms and conditions in this Agreement;

NOW, THEREFORE, in consideration of the mutual terms, covenants, and conditions in this Agreement, the parties agree as follows:

1. SCOPE OF WORK OR SERVICES.

A. Consultant shall furnish specialized services more particularly described in Exhibit "A", attached to this Agreement and incorporated by this reference, in accordance with the standards of the profession, and City shall pay for these services in the manner described below, in an amount not to exceed Two Million Dollars (\$2,000,000) annually, at the rates or charges shown in Exhibit "B".

B. The City's obligation to pay the sum stated above for any one

1 fiscal year shall be contingent upon the City Council of the City appropriating the
2 necessary funds for such payment by the City in each fiscal year during the term of
3 this Agreement. For the purposes of this Section, a fiscal year commences on
4 October 1 of the year and continues through September 30 of the following year. In
5 the event that the City Council of the City fails to appropriate the necessary funds
6 for any fiscal year, then, and in that event, the Agreement will terminate at no
7 additional cost or obligation to the City.

8 C. Consultant may select the time and place of performance for
9 these services; provided, however, that access to City documents, records and the
10 like, if needed by Consultant, shall be available only during City's normal business
11 hours and provided that milestones for performance, if any, are met.

12 D. Consultant has requested to receive regular payments. City
13 shall pay Consultant in due course of payments following receipt from Consultant
14 and approval by City of invoices showing the services or task performed, the time
15 expended (if billing is hourly), and the name of the Project. Consultant shall certify
16 on the invoices that Consultant has performed the services in full conformance with
17 this Agreement and is entitled to receive payment. Each invoice shall be
18 accompanied by a progress report indicating the progress to date of services
19 performed and covered by the invoice, including a brief statement of any Project
20 problems and potential causes of delay in performance, and listing those services
21 that are projected for performance by Consultant during the next invoice cycle.
22 Where billing is done and payment is made on an hourly basis, the parties
23 acknowledge that this arrangement is either customary practice for Consultant's
24 profession, industry or business, or is necessary to satisfy audit and legal
25 requirements which may arise due to the fact that City is a municipality.

26 E. Consultant represents that Consultant has obtained all
27 necessary information on conditions and circumstances that may affect its
28 performance and has conducted site visits, if necessary.

1 F. CAUTION: Consultant shall not begin work until this
2 Agreement has been signed by both parties and until Consultant's evidence of
3 insurance has been delivered to and approved by City.

4 2. TERM. The term of this Agreement shall commence at midnight on
5 July 1, 2020, and shall terminate at 11:59 p.m. on June 30, 2022, unless sooner terminated
6 as provided in this Agreement, or unless the services or the Project is completed sooner.

7 3. COORDINATION AND ORGANIZATION.

8 A. Consultant shall coordinate its performance with City's
9 representative, if any, named in Exhibit "C", attached to this Agreement and
10 incorporated by this reference. Consultant shall advise and inform City's
11 representative of the work in progress on the Project in sufficient detail so as to
12 assist City's representative in making presentations and in holding meetings on the
13 Project. City shall furnish to Consultant information or materials, if any, described
14 in Exhibit "D", attached to this Agreement and incorporated by this reference, and
15 shall perform any other tasks described in the Exhibit.

16 B. The parties acknowledge that a substantial inducement to City
17 for entering this Agreement was and is the reputation and skill of Consultant's key
18 employee, named in Exhibit "E" attached to this Agreement and incorporated by this
19 reference. City shall have the right to approve any person proposed by Consultant
20 to replace that key employee.

21 4. INDEPENDENT CONTRACTOR. In performing its services,
22 Consultant is and shall act as an independent contractor and not an employee,
23 representative or agent of City. Consultant shall have control of Consultant's work and the
24 manner in which it is performed. Consultant shall be free to contract for similar services to
25 be performed for others during this Agreement; provided, however, that Consultant acts in
26 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges
27 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;
28 (b) City will not secure workers' compensation or pay unemployment insurance to, for or

1 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of
2 the usual and customary rights, benefits or privileges of City employees. Consultant
3 expressly warrants that neither Consultant nor any of Consultant's employees or agents
4 shall represent themselves to be employees or agents of City.

5 5. INSURANCE.

6 A. As a condition precedent to the effectiveness of this
7 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
8 duration of this Agreement, from insurance companies that are admitted to write
9 insurance in California and have ratings of or equivalent to A:V by A.M. Best
10 Company or from authorized non-admitted insurance companies subject to Section
11 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII
12 by A.M. Best Company, the following insurance:

13 i. Commercial general liability insurance (equivalent in
14 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less
15 than One Million Dollars (\$1,000,000.00) per each occurrence and Two
16 Million Dollars (\$2,000,000.00) general aggregate. This coverage shall
17 include but not be limited to broad form contractual liability, cross liability,
18 independent contractors liability, and products and completed operations
19 liability. City, its boards and commissions, and their officials, employees and
20 agents shall be named as additional insureds by endorsement (on City's
21 endorsement form or on an endorsement equivalent in scope to ISO form CG
22 20 10 11 85 or CG 20 26 11 85 or both CG 20 10 07 04 and CG 20 37 07 04
23 or both CG 20 33 07 04 and CG 20 37 07 04), and this insurance shall contain
24 no special limitations on the scope of protection given to City, its boards and
25 commissions, and their officials, employees and agents. This policy shall be
26 endorsed to state that the insurer waives its right of subrogation against City,
27 its boards and commissions, and their officials, employees and agents.

28 ii. Workers' Compensation insurance as required by the

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California Labor Code and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00). This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

iii. Professional liability or errors and omissions insurance in an amount not less than One Million Dollars (\$1,000,000.00) per claim.

iv. Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

B. Any self-insurance program, self-insured retention, or deductible must be separately approved in writing by City's Risk Manager or designee and shall protect City, its officials, employees and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention or deductible provisions.

C. Each insurance policy shall be endorsed to state that coverage shall not be reduced, non-renewed or canceled except after thirty (30) days prior written notice to City, shall be primary and not contributing to any other insurance or self-insurance maintained by City, and shall be endorsed to state that coverage maintained by City shall be excess to and shall not contribute to insurance or self-insurance maintained by Consultant. Consultant shall notify City in writing within five (5) days after any insurance has been voided by the insurer or cancelled by the insured.

D. If this coverage is written on a "claims made" basis, it must provide for an extended reporting period of not less than one hundred eighty (180) days, commencing on the date this Agreement expires or is terminated, unless Consultant guarantees that Consultant will provide to City evidence of uninterrupted, continuing coverage for a period of not less than three (3) years, commencing on

1 the date this Agreement expires or is terminated.

2 E. Consultant shall require that all subconsultants or contractors
3 that Consultant uses in the performance of these services maintain insurance in
4 compliance with this Section unless otherwise agreed in writing by City's Risk
5 Manager or designee.

6 F. Prior to the start of performance, Consultant shall deliver to City
7 certificates of insurance and the endorsements for approval as to sufficiency and
8 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the
9 insurance, furnish to City certificates of insurance and endorsements evidencing
10 renewal of the insurance. City reserves the right to require complete certified copies
11 of all policies of Consultant and Consultant's subconsultants and contractors, at any
12 time. Consultant shall make available to City's Risk Manager or designee all books,
13 records and other information relating to this insurance, during normal business
14 hours.

15 G. Any modification or waiver of these insurance requirements
16 shall only be made with the approval of City's Risk Manager or designee. Not more
17 frequently than once a year, City's Risk Manager or designee may require that
18 Consultant, Consultant's subconsultants and contractors change the amount, scope
19 or types of coverages required in this Section if, in his or her sole opinion, the
20 amount, scope or types of coverages are not adequate.

21 H. The procuring or existence of insurance shall not be construed
22 or deemed as a limitation on liability relating to Consultant's performance or as full
23 performance of or compliance with the indemnification provisions of this Agreement.

24 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
25 contemplates the personal services of Consultant and Consultant's employees, and the
26 parties acknowledge that a substantial inducement to City for entering this Agreement was
27 and is the professional reputation and competence of Consultant and Consultant's
28 employees. Consultant shall not assign its rights or delegate its duties under this

1 Agreement, or any interest in this Agreement, or any portion of it, without the prior approval
2 of City, except that Consultant may with the prior approval of the City Manager of City,
3 assign any moneys due or to become due Consultant under this Agreement. Any
4 attempted assignment or delegation shall be void, and any assignee or delegate shall
5 acquire no right or interest by reason of an attempted assignment or delegation.
6 Furthermore, Consultant shall not subcontract any portion of its performance without the
7 prior approval of the City Manager or designee, or substitute an approved subconsultant
8 or contractor without approval prior to the substitution. Nothing stated in this Section shall
9 prevent Consultant from employing as many employees as Consultant deems necessary
10 for performance of this Agreement.

11 7. CONFLICT OF INTEREST. Consultant, by executing this Agreement,
12 certifies that, at the time Consultant executes this Agreement and for its duration,
13 Consultant does not and will not perform services for any other client which would create
14 a conflict, whether monetary or otherwise, as between the interests of City and the interests
15 of that other client. Consultant further certifies that Consultant does not now have and shall
16 not acquire any interest, direct or indirect, in the area covered by this Agreement or any
17 other source of income, interest in real property or investment which would be affected in
18 any manner or degree by the performance of Consultant's services hereunder. And,
19 Consultant shall obtain similar certifications from Consultant's employees, subconsultants
20 and contractors.

21 8. MATERIALS. Consultant shall furnish all labor and supervision,
22 supplies, materials, tools, machinery, equipment, appliances, transportation and services
23 necessary to or used in the performance of Consultant's obligations under this Agreement,
24 except as stated in Exhibit "D".

25 9. OWNERSHIP OF DATA. All materials, information and data
26 prepared, developed or assembled by Consultant or furnished to Consultant in connection
27 with this Agreement, including but not limited to documents, estimates, calculations,
28 studies, maps, graphs, charts, computer disks, computer source documentation, samples,

1 models, reports, summaries, drawings, designs, notes, plans, information, material and
2 memorandum ("Data") shall be the exclusive property of City. Data shall be given to City,
3 and City shall have the unrestricted right to use and disclose the Data in any manner and
4 for any purpose without payment of further compensation to Consultant. Copies of Data
5 may be retained by Consultant but Consultant warrants that Data shall not be made
6 available to any person or entity for use without the prior approval of City. This warranty
7 shall survive termination of this Agreement for five (5) years.

8 10. TERMINATION. Either party shall have the right to terminate this
9 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
10 prior written notice to the other party. In the event of termination under this Section, City
11 shall pay Consultant for services satisfactorily performed and costs incurred up to the
12 effective date of termination for which Consultant has not been previously paid. The
13 procedures for payment in Section 1.B. with regard to invoices shall apply. On the effective
14 date of termination, Consultant shall deliver to City all Data developed or accumulated in
15 the performance of this Agreement, whether in draft or final form, or in process. And,
16 Consultant acknowledges and agrees that City's obligation to make final payment is
17 conditioned on Consultant's delivery of the Data to City.

18 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
19 shall not disclose the Data or use the Data directly or indirectly, other than in the course of
20 performing its services, during the term of this Agreement and for five (5) years following
21 expiration or termination of this Agreement. In addition, Consultant shall keep confidential
22 all information, whether written, oral or visual, obtained by any means whatsoever in the
23 course of performing its services for the same period of time. Consultant shall not disclose
24 any or all of the Data to any third party, or use it for Consultant's own benefit or the benefit
25 of others except for the purpose of this Agreement.

26 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
27 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
28 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available

1 without breach of this Agreement by Consultant; or (c) a third party who has a right to
2 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
3 disclosed pursuant to subpoena or court order.

4 13. ADDITIONAL COSTS AND REDESIGN.

5 A. Any costs incurred by City due to Consultant's failure to meet
6 the standards required by the scope of work or Consultant's failure to perform fully
7 the tasks described in the scope of work which, in either case, causes City to request
8 that Consultant perform again all or part of the Scope of Work shall be at the sole
9 cost of Consultant and City shall not pay any additional compensation to Consultant
10 for its re-performance.

11 B. If the Project involves construction and the scope of work
12 requires Consultant to prepare plans and specifications with an estimate of the cost
13 of construction, then Consultant may be required to modify the plans and
14 specifications, any construction documents relating to the plans and specifications,
15 and Consultant's estimate, at no cost to City, when the lowest bid for construction
16 received by City exceeds by more than ten percent (10%) Consultant's estimate.
17 This modification shall be submitted in a timely fashion to allow City to receive new
18 bids within four (4) months after the date on which the original plans and
19 specifications were submitted by Consultant.

20 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
21 amended, nor any provision or breach waived, except in writing signed by the parties which
22 expressly refers to this Agreement.

23 15. LAW. This Agreement shall be construed in accordance with the laws
24 of the State of California, and the venue for any legal actions brought by any party with
25 respect to this Agreement shall be the County of Los Angeles, State of California for state
26 actions and the Central District of California for any federal actions. Consultant shall cause
27 all work performed in connection with construction of the Project to be performed in
28 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,

1 county or municipal governments or agencies (including, without limitation, all applicable
2 federal and state labor standards, including the prevailing wage provisions of sections 1770
3 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire
4 marshal, health officer, building inspector, or other officer of every governmental agency
5 now having or hereafter acquiring jurisdiction.

6 16. PREVAILING WAGES.

7 A. Consultant agrees that all public work (as defined in California
8 Labor Code section 1720) performed pursuant to this Agreement (the "Public
9 Work"), if any, shall comply with the requirements of California Labor Code sections
10 1770 *et seq.* City makes no representation or statement that the Project, or any
11 portion thereof, is or is not a "public work" as defined in California Labor Code
12 section 1720.

13 B. In all bid specifications, contracts and subcontracts for any
14 such Public Work, Consultant shall obtain the general prevailing rate of per diem
15 wages and the general prevailing rate for holiday and overtime work in this locality
16 for each craft, classification or type of worker needed to perform the Public Work,
17 and shall include such rates in the bid specifications, contract or subcontract. Such
18 bid specifications, contract or subcontract must contain the following provision: "It
19 shall be mandatory for the contractor to pay not less than the said prevailing rate of
20 wages to all workers employed by the contractor in the execution of this contract.
21 The contractor expressly agrees to comply with the penalty provisions of California
22 Labor Code section 1775 and the payroll record keeping requirements of California
23 Labor Code section 1771."

24 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
25 constitutes the entire understanding between the parties and supersedes all other
26 agreements, oral or written, with respect to the subject matter in this Agreement.

27 18. INDEMNITY.

28 A. Consultant shall indemnify, protect and hold harmless City, its

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Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Consultant's breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from the Project's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Consultant, its officers, employees, agents, subcontractors, or anyone under Consultant's control, in the performance of work or services under this Agreement (collectively "Claims" or individually "Claim").

B. In addition to Consultant's duty to indemnify, Consultant shall have a separate and wholly independent duty to defend Indemnified Parties at Consultant's expense by legal counsel approved by City, from and against all Claims, and shall continue this defense until the Claims are resolved, whether by settlement, judgment or otherwise. No finding or judgment of negligence, fault, breach, or the like on the part of Consultant shall be required for the duty to defend to arise. City shall notify Consultant of any Claim, shall tender the defense of the Claim to Consultant, and shall assist Consultant, as may be reasonably requested, in the defense.

C. If a court of competent jurisdiction determines that a Claim was caused by the sole negligence or willful misconduct of Indemnified Parties, Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the court determines sole negligence by the Indemnified Parties, or (2) reduced by the percentage of willful misconduct attributed by the court to the Indemnified Parties.

D. The provisions of this Section shall survive the expiration or

1 termination of this Agreement.

2 19. AMBIGUITY. In the event of any conflict or ambiguity between this
3 Agreement and any Exhibit, the provisions of this Agreement shall govern.

4 20. FORCE MAJEURE. If any party fails to perform its obligations
5 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain
6 labor or materials or reasonable substitutes for labor materials, governmental restrictions,
7 governmental regulations, governmental controls, judicial orders, enemy or hostile
8 governmental action, pandemic, civil commotion, fire or other casualty, or other causes
9 beyond the reasonable control of the party obligated to perform, then that party's
10 performance will be excused for a period equal to the period of such cause for failure to
11 perform.

12 21. NONDISCRIMINATION.

13 A. In connection with performance of this Agreement and subject
14 to applicable rules and regulations, Consultant shall not discriminate against any
15 employee or applicant for employment because of race, religion, national origin,
16 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
17 disability. Consultant shall ensure that applicants are employed, and that
18 employees are treated during their employment, without regard to these bases.
19 These actions shall include, but not be limited to, the following: employment,
20 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
21 termination; rates of pay or other forms of compensation; and selection for training,
22 including apprenticeship.

23 B. It is the policy of City to encourage the participation of
24 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
25 procurement process, and Consultant agrees to use its best efforts to carry out this
26 policy in its use of subconsultants and contractors to the fullest extent consistent
27 with the efficient performance of this Agreement. Consultant may rely on written
28 representations by subconsultants and contractors regarding their status.

1 Consultant shall report to City in May and in December or, in the case of short-term
2 agreements, prior to invoicing for final payment, the names of all subconsultants
3 and contractors hired by Consultant for this Project and information on whether or
4 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as
5 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

6 22. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
7 accordance with the provisions of the Ordinance, this Agreement is subject to the
8 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
9 Long Beach Municipal Code, as amended from time to time.

10 A. During the performance of this Agreement, the Consultant
11 certifies and represents that the Consultant will comply with the EBO. The
12 Consultant agrees to post the following statement in conspicuous places at its place
13 of business available to employees and applicants for employment:

14 "During the performance of a contract with the City of Long Beach, the
15 Consultant will provide equal benefits to employees with spouses and its
16 employees with domestic partners. Additional information about the City of
17 Long Beach's Equal Benefits Ordinance may be obtained from the City of
18 Long Beach Business Services Division at 562-570-6200."

19 B. The failure of the Consultant to comply with the EBO will be
20 deemed to be a material breach of the Agreement by the City.

21 C. If the Consultant fails to comply with the EBO, the City may
22 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or
23 to become due under the Agreement may be retained by the City. The City may
24 also pursue any and all other remedies at law or in equity for any breach.

25 D. Failure to comply with the EBO may be used as evidence
26 against the Consultant in actions taken pursuant to the provisions of Long Beach
27 Municipal Code 2.93 et seq., Contractor Responsibility.

28 E. If the City determines that the Consultant has set up or used its

1 contracting entity for the purpose of evading the intent of the EBO, the City may
2 terminate the Agreement on behalf of the City. Violation of this provision may be
3 used as evidence against the Consultant in actions taken pursuant to the provisions
4 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

5 23. NOTICES. Any notice or approval required by this Agreement shall
6 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
7 postage prepaid, addressed to Consultant at the address first stated above, and to City at
8 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy
9 to the City Engineer at the same address. Notice of change of address shall be given in
10 the same manner as stated for other notices. Notice shall be deemed given on the date
11 deposited in the mail or on the date personal delivery is made, whichever occurs first.

12 24. COPYRIGHTS AND PATENT RIGHTS.

13 A. Consultant shall place the following copyright protection on all
14 Data: © City of Long Beach, California ____, inserting the appropriate year.

15 B. City reserves the exclusive right to seek and obtain a patent or
16 copyright registration on any Data or other result arising from Consultant's
17 performance of this Agreement. By executing this Agreement, Consultant assigns
18 any ownership interest Consultant may have in the Data to City.

19 C. Consultant warrants that the Data does not violate or infringe
20 any patent, copyright, trade secret or other proprietary right of any other party.
21 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
22 and employees harmless from any and all claims, demands, damages, loss, liability,
23 causes of action, costs or expenses (including reasonable attorney's fees) whether
24 or not reduced to judgment, arising from any breach or alleged breach of this
25 warranty.

26 25. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
27 that Consultant has not employed or retained any entity or person to solicit or obtain this
28 Agreement and that Consultant has not paid or agreed to pay any entity or person any fee,

1 commission or other monies based on or from the award of this Agreement. If Consultant
2 breaches this warranty, City shall have the right to terminate this Agreement immediately
3 notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments
4 due under this Agreement or otherwise recover the full amount of the fee, commission or
5 other monies.

6 26. WAIVER. The acceptance of any services or the payment of any
7 money by City shall not operate as a waiver of any provision of this Agreement or of any
8 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
9 Agreement shall not constitute a waiver of any other or subsequent breach of this
10 Agreement.

11 27. CONTINUATION. Termination or expiration of this Agreement shall
12 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
13 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

14 28. TAX REPORTING. As required by federal and state law, City is
15 obligated to and will report the payment of compensation to Consultant on Form 1099-
16 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
17 resulting from payments under this Agreement. Consultant shall submit Consultant's
18 Employer Identification Number (EIN), or Consultant's Social Security Number if
19 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
20 Financial Management. Consultant acknowledges and agrees that City has no obligation
21 to pay Consultant until Consultant provides one of these numbers.

22 29. ADVERTISING. Consultant shall not use the name of City, its officials
23 or employees in any advertising or solicitation for business or as a reference, without the
24 prior approval of the City Manager or designee.

25 30. AUDIT. City shall have the right at all reasonable times during the
26 term of this Agreement and for a period of five (5) years after termination or expiration of
27 this Agreement to examine, audit, inspect, review, extract information from and copy all
28 books, records, accounts and other documents of Consultant relating to this Agreement.

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31. THIRD PARTY BENEFICIARY. This Agreement is not intended or designed to or entered for the purpose of creating any benefit or right for any person or entity of any kind that is not a party to this Agreement.

IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

SWS2, INC. DBA THE RYTE PROFESSIONALS, a California corporation

4/15, 2020

By [Signature]
Name Steve Spohn
Title Co Partner

6/15, 2020

By [Signature]
Name Wenke Morishige
Title V.P.

"Consultant"

CITY OF LONG BEACH, a municipal corporation

June 25, 2020

By [Signature]

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER

"City"

This Agreement is approved as to form on June 22, 2020.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
411 West Ocean Boulevard, 9th Floor
Long Beach, CA 90802-4664

EXHIBIT "A"

Scope of Work



City of Long Beach
 Purchasing Division
 411 West Ocean Boulevard, 6th Floor
 Long Beach, CA 90802

City of Long Beach

Request for Proposals Number TI 19-027

For

As-Needed Information Technology Professional Services

Release Date:	08/15/2019
Questions Due to the City:	08/22/2019
Posting of the Q & A:	09/10/2019
Due Date:	09/17/2019

City Contact: *Sokunthea (Soey) Kol* Buyer II 562-570-6123

See Section 4 for instructions on submitting proposals.

Company Name THE RyTE Professionals Contact Person Wende Morishige

Address 4699 Montefino Dr City Cypress State CA Zip 90630

Telephone (714) 821-6699 Fax (714) 821-0009 Federal Tax ID No. [REDACTED]

E-mail: wende@rytepros.com

Prices contained in this proposal are subject to acceptance within 180 calendar days.

I have read, understand, and agree to all terms and conditions herein. Date 10/8/19

Signed *Wende Morishige*

Print Name & Title Wende Morishige, President, Business Development



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October 8, 2019

City of Long Beach
Purchasing Division
Attention: Sokunthea (Soey) Kol, Buyer II
411 West Ocean Blvd./ 6th Floor
Long Beach, CA 90802

RE: Request for Proposal No.: TI 19-027
For: As-Needed Information Technology Professional Services

Dear Ms. Kol:

Thank you for inviting THE RyTE Professionals to bid on the As-Needed Information Technology Professional Services, Request for Proposal No.: TI 19-027. We are a Small Business Enterprise and Minority, Woman owned business, and currently partner with the City of Long Beach on General IT Staffing.

THE RyTE Professionals is pleased to respond to The City of Long Beach's Request for Proposal for As-Needed Information Technology Professional Services Request for Proposal No.: TI 19-027 and presenting our capabilities in partnering and providing IT computer professionals for your supplemental staffing needs. THE RyTE Professionals is well-positioned to provide The City of Long Beach with high-quality temporary technical support at a cost-effective price. With combined experience of over thirty years of experience in the supplemental staffing business, our staff is fully capable of meeting and exceeding The City of Long Beach's supplemental staffing needs. A seasoned recruiting staff, state-of-the art tools and systems, are just some of THE RyTE Professionals' qualifications. Just as important, THE RyTE Professionals has demonstrated a year-after-year commitment to high client satisfaction.

The following is THE RyTE Professionals' response to The City of Long Beach's Request for Proposal for As-Needed Information Technology Professional Services Request for Proposal No.: TI 19-027. If there are any questions, I can be reached at 714.821.6699, x101 or wende@rytepros.com. Again, thank you for inviting THE RyTE Professionals to respond to this RFP and proposing our services.

Warm regards,

Wende Morishige
President, Business Development



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PART ONE (1)
NARRATIVE/TECHNICAL PROPOSAL



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7. PROJECT SPECIFICATIONS

7.1 Application-Specific Services - If proposing support for Application-Specific Services, consultants shall demonstrate their experience, knowledge and expertise providing services for the specific application and version used by the City as provided in the table below. Information shall include, but not limited to current references, and description of services provided to other businesses or governmental agencies.

Although THE RyTE Professionals is not a consulting project development company, if requested to find a consultant, we will do our best to provide a time and materials consultants with the experience listed below in this section.

Application	Version
Infor Public Sector (Hansen)	8.5x and 11.x
ESRI ArcGIS	10.x
Cityworks	2015 and 15.x
Oracle CC&B and MWM	2.x
Zoll RescueNet ePCR and Ambulance Billing	
Tyler Munis ERP	2019.3
Laserfiche	10.x
EpiServer	11.x
ServiceNow	London
Salesforce CRM	Project pending
Genetec	Various
Lenel	Project pending
Microsoft SQL databases	Enterprise edition
Oracle Databases	Enterprise edition

7.2 General IT Services - If proposing to provide General IT Services, consultants must be able to provide the following services:

THE RyTE Professionals will be responding to the General IT Services as stated in the instructions of this RFP.

7.2.1 Pass-through staffing where the City identifies the resource.

Please see Part Two (2) – Cost Proposal for costs as stated in the instructions of this RFP.



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7.2.2 Allow the City to indicate the threshold and criteria when looking for available resources (e.g. Attempt to find a Jr. BA with one to two years of experience for less than \$50/hour).

THE RyTE Professionals agrees and will do everything possible to find quality candidates within the bill rate given; however, if we are not able to find candidates within this rate range, we will let the City know what we are finding in the marketplace. We are also careful to screen candidates to ensure they will not leave their contract if accepting a contract within a specific rate range.

7.2.3 Find qualified resources based on technical skills desired, see Exhibit A.

THE RyTE Professionals has a database of over 15,000 candidates. Our team keeps an active recurring hotlist of candidates in specified skill sets that are available and screened. Oftentimes, they are consultants we have worked with THE RyTE Professionals and are awaiting their next contract. See Exhibit A for sample resumes listed.

7.3 **Project-Specific Services** - If proposing the ability to bid on Project-Specific Services, consultants must be able to meet the following criteria:

7.3.1 Able to provide fixed-price cost estimates.

THE RyTE Professionals is a time and materials based company and does not provide fixed-price cost estimates.

7.3.2 Agree to follow the City's development standards and conventions (Microsoft .NET shop) and provide transfer of knowledge and source code.

THE RyTE Professionals agrees to have its consultants adhere to the City's development standard, conventions and provide transfer of knowledge and source code.

7.3.3 Agree that all work product will be the property of City to use, modify, and distribute royalty-free (with the exception of any 3rd party components).

THE RyTE Professionals agrees that all work produced by our consultants is the property of the City of Long Beach to use, modify and distribute royalty-free.



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7.4 Additional Requirements - Proposers shall address the following:

7.4.1 Provide a description of your candidate screening process.

THE RyTE Professionals is extremely thorough in the screening and qualifying of its candidates. We have an extensive database of IT professionals and have many qualified candidate referrals from our past and present employees to establish our recruiting foundation. We also utilize the social media sites and get character knowledge on our candidates, as well as search on LinkedIn for professional character.

Our database is the first place our recruiters look to source from, as many of these candidates have been interviewed and processed prior to a job order coming in. Oftentimes these are candidates that have worked for us before and we know their value, or they have been referred by known and trusted individuals.

Additionally, our Recruiters maintain a "hot list" of processed candidates by skills sets, generated directly from our candidate database. This is our tool for quick responses to many of our clients' needs. Approximately, 80% of our placements are made through use of our in-house database.

THE RyTE Professionals Recruiting Cycle

Based on a job order and skills description from the City, we first qualify and screen candidates over the phone ensuring communication skills are good. We then meet them in person or "Skype" interview, whenever possible, to ensure personal, professional, technical and analytical skills are there. We believe that in meeting each candidate, this helps to better understand the candidate's qualifications, personality and professional goals that a telephone screen or a resume does not always reflect.

If a candidate is deemed a great fit for a City position, THE RyTE Professionals' recruiters check recent professional references. We use a very comprehensive reference checklist on all candidates, and have guidelines of questions that help to ensure Recruiters are covering everything from technical qualifications, performance measures and professional demeanor. Having been in the industry since 1987, we not only check the candidates references given to us by them, but in most cases, we can call someone we know in that company that has actually worked alongside them and give us a better perspective as to their work ethic, personality and technical skill set.



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THE RyTE Professionals only submits candidates after all due diligence has been performed: resume screening and verification, meeting candidates, checking recent references, and when needed, having candidates technically screened by trusted resources in the industry with the specified skill sets.

7.4.2 Specify if there is a minimum term commitment when placing consultants (e.g., 1 month, 6 months, or no minimums)?

THE RyTE Professionals does not have a specified term when placing consultants on contract. Our term agreements concur with our job orders and we have provisions for extension should a client desire a longer contract term. Additionally, we have a contract-to-hire agreement if the City wishes to hire a RyTE Professionals consultant. Please see Part Two (2) Cost.

7.4.3 If there any penalties to the City or the consultant if the consultant applies for and is hired for an internal City position. If so, will these penalties be eliminated after a certain amount of time on contract (e.g. 3 months, 6 months, etc.).

THE RyTE Professionals' existing policy is to let a client hire our consultant and waive the fee after six months. Please see Part Two (2) Cost - Contract to Hire Schedule. If the City would like to hire a consultant prior to six months. There are no penalties to the Consultant.

7.4.4 Specify if you are able to provide contractors that are local Long Beach Residents.

Absolutely. THE RyTE Professionals is a local Southern California firm and almost all of our expertise is working in Los Angeles and Orange County for our clients.

7.4.5 If a Project arose that required a fixed bid, specify if you would be able to provide the bid based on requirements supplied.

THE RyTE Professionals' is a contingent time and materials staffing agency and does not bid on fixed priced projects, but can certainly staff up to the requirements as stated in an SOW. Additionally, THE RyTE Professionals could provide a time and materials consultant based on a required set of hours within a specific timeframe to meet the fixed bid requirement.



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7.4.6 Specify if there are additional "value added" services that your company can provide to support various technical projects.

THE RyTE Professionals can support any project the City of Long Beach has and due to the company management and recruiting staff's number of years in IT services, we can find the most cost effective and quality candidate to support those initiatives. Having provided IT time and materials consultants since the late 1980's, we can identify a resource we know that has been in the industry and has proven skills in their ability, and can attest to their qualifications. We also have the ability to conduct further references on candidates that have worked in clients that we know to get a better understanding of true capabilities.

8. **WARRANTY/MAINTENANCE AND SERVICE**

Not applicable.

9. **COMPANY BACKGROUND AND REFERENCES**

9.1 Primary Contractor Information

Contractors must provide a company profile. Information provided shall include:

☐ Company ownership. If incorporated, the state in which the company is incorporated and the date of incorporation. An out-of-state Contractor must register with the State of California Secretary of State before a contract can be executed (<http://www.sos.ca.gov/business/>).

- THE RyTE Professionals is a fully woman, minority owned business.
- SWS2, Incorporated
- DBA: THE RyTE Professionals
- Incorporated in the State of California, July, 2006

☐ Location of the company offices.

THE RyTE Professionals' corporate headquarters is located in Cypress, CA.

THE RyTE Professionals
4699 Montefino Drive
Cypress, CA 90630



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- Location of the office servicing any California account(s).

**THE RyTE Professionals
4699 Montefino Drive
Cypress, CA 90630**

- Number of employees both locally and nationally. Specify the number of full time and part-time employees residing in Long Beach.

THE RyTE Professionals full time staff supporting our Cypress, CA office is a total of seven individuals. None of our direct internal staff supporting our office is physically located in Long Beach, CA, but live in Orange County.

The number of Consultants THE RyTE Professionals has currently specifically working at The City of Long Beach is fourteen. One of our consultants lives in Long Beach, CA.

The total number of Consultants working for THE RyTE Professionals companywide is a total of 98. Approximately 20 of our consultants companywide reside in Long Beach, CA.

THE RyTE Professionals does not have any part time consultants, and all of our staff and Consultants reside in California.

- Location(s) from which employees will be assigned.

All Consultants working on assignment for THE RyTE Professionals will be onboarded from our Cypress, CA local office. Our clients are located in different locations in Southern California within Los Angeles and Orange counties, and will be assigned to those locations accordingly.

- Name, address and telephone number of the Contractor's point of contact for a contract resulting from this RFP.

**Wende Morishige
THE RyTE Professionals
4699 Montefino Drive
Cypress, CA 90630
714.821.6699 x101
714.240.3567 - cell**



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- Company background/history and why Contractor is qualified to provide the services described in this RFP.

THE RyTE Professionals was formed and incorporated in July of 2006 as a Minority, Women-Owned business. We provide IT consultants to many premiere Southern California companies, many of which we are a Tier One preferred staffing vendor. THE RyTE Professionals' experience spans a wide- range of industries and technologies.

Services range from supplemental staffing, contract/consulting or full time placements. THE RyTE Professionals' client base includes organizations of all sizes, where our personalized service is tailored to each of their business needs.

THE RyTE Professionals has been working with the City since 2007 in providing IT consultants, and hopes to continue the partnership with this RFP.

Representative clients include, but not limited to:

- City of Long Beach
- Port of Long Beach
- City of Santa Ana
- American Honda Motor Corporation
- American Honda Finance Corporation
- Honda Federal Credit Union
- City National Bank
- DirecTV/AT&T
- Bank of America
- Edwards LifeSciences
- Experian
- First American
- Smile Brands
- Automobile Club of Southern California
- Hyundai AutoEver America
- Kia Motor Corporation
- Hyundai Capital America
- Kubota Corporation
- Avery Dennison
- YMCA
- Pacific Life
- Kawasaki Motor Corporation, U.S.A



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THE RyTE Professionals places a full range of IT professionals in contract, contract to hire and full time positions. On the business/IT development side, we are experienced in qualifying and placing Project Managers, Architects, Developers, Business Systems Analysts, Testers and Documentation Specialists.

THE RyTE Professionals also specializes in placing IT candidates on the operations and infrastructure side with positions ranging from Project Managers, Network and Security Engineers/Administrators, Helpdesk and Desktop and Disaster Recovery/Business Continuity consultants.

THE RyTE Professionals adheres to several corporate initiatives and values that we believe will assist The City in meeting your business staffing objectives:

Client Satisfaction – We pride ourselves on providing the highest levels of satisfaction to its customers. We truly partner with our clients to allow them to focus on their core business.

Commitment to Quality – We focus on IT contingent staffing with a "zero defect" mindset. We strive to make sure our clients' are completely satisfied with our candidates or we will replace them to meet your satisfaction.

Commitment to Service – We are confident that we deliver quality contingent workers in a timely and efficient manner.

Valued Employees – Our service is only achieved by attracting and maintaining the highest levels of technology staff.

Personalized Support – Our experience has found that each client we serve is different in its needs and service. Our personalized account management partnership with our client helps us better understand their

business and IT needs.

- Length of time Contractor has been providing services described in this RFP to the public and/or private sector. Please provide a brief description.

THE RyTE Professionals was formed and incorporated in July of 2006 as a Minority, Women-Owned business. THE RyTE Professionals has been working with the City of Long Beach since 2007 in providing IT consultants, and hopes to continue the partnership with this RFP. We are currently providing IT consultants to the City of Santa Ana since 2017 as well, and are currently on other City vendor lists within Southern California.



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- Resumes for key staff to be responsible for performance of any contract resulting from this RFP.

Wende Morishige - President of THE RyTE Professionals. Wende has been in the staffing industry since 1987, and brings a tremendous amount of knowledge and experience to the supplemental staffing business. She has held titles ranging from Recruiter, Manager, Account Manager and Vice President and President of Business Development, and has worked for some of the premiere staffing firms in Southern California, including DPRC (Data Processing Resources Corporation) and ITresources. The Account Management and Recruiting staff of THE RyTE Professionals collectively have over 40 years of staffing experience in Southern California.

Mudita Mehta – Mudita has over five years of Business and Technical Recruiting experience and is in her sixth year with THE RyTE Professionals. She brings solid experience as a staffing agency recruiter and has solid business acumen and a real sense for finding the right IT professionals.

Her recruiting background covers a broad base of industries since working at THE RyTE Professionals and has a deep understanding of technical skills. She follows best practices in interviewing candidates, and utilizes behavioral interviewing techniques which gives her a keen sense of how to find the best possible resources for our clients and their environments. Additionally, she also reviews social media sites to understand candidates character.

Sarah Rhee – Sarah has been with THE RyTE Professionals for over five years. She is responsible for all back office functions, including payroll, accounting and administration and handling of all onboarding of our consultants. She is extremely professional and is a very detail oriented person. All of our clients are well taken care of, and she also helps them with reminders of when Purchase Orders are running out and reports needed in order for our Managers to keep track of their budgets. She always goes the extra mile in providing anything needed to help make their jobs easier. Sarah is key to ensuring THE RyTE Professionals runs smoothly.

In addition to the key staff members mentioned above, THE RyTE Professionals has recruiters on staff to help continue strive for top quality candidates who will represent our Client, The City of Long Beach, and THE RyTE Professionals, in the utmost professional manner while providing technical skills to get your business and IT requirements completed.



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□ Financial stability: Proposers must provide financial statements giving the City enough information to determine financial stability. These statements may include, but are not limited to:

- a) Financial Statement or Annual Report;
- b) Business tax return;
- c) Statement of income and related earnings;
- d) Statement of Changes in financial position;
- e) Letter from the proposer's banking institution;
- f) Statement from a certified public accounting firm.

The level and term of documentation required from the proposer to satisfy the City will be commensurate with the size and complexity of the contract and proposers should submit accordingly. If the information submitted by the proposer, or available from other sources, is insufficient to satisfy the City as to the proposer's contractual responsibility, the City may request additional information from the proposer or may deem the proposal non-responsive. The City's determination of the proposer's responsibility, for the purposes of this RFP, shall be final.

THE RyTE Professionals understands. Please see THE RyTE Professionals Financial Statement in Part 4.

9.2 Subcontractor Information

9.2.1 Does this proposal include the use of subcontractors?

This section does not apply to THE RyTE Professionals.

Yes _____ No x Initials W

If "Yes", Contractor must:

- 9.2.1.1 Identify specific subcontractors and the specific requirements of this RFP for which each proposed subcontractor will perform services.
- 9.2.1.2 Provide the same information for any subcontractors as is indicated in Section 9.1 for the Contractor as primary contractor.
- 9.2.1.3 References as specified in Section 9.3 below must also be provided for any proposed subcontractors.
- 9.2.1.4 The City requires that the awarded Contractor provide proof of payment of any subcontractors used for this project. Proposals shall include a plan by which the City will be notified of such payments.

EXHIBIT “B”

Rates or Charges



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10. COST

10.3 Contractors bidding on the General IT Services must provide the following:

10.3.1 Provide the percentage markup for pass through staff.

THE RyTE Professionals charges a 33% payroll charge, which includes taxes and burden rate of the consultant. Due to the high cost of California mandates, our payroll charge has had to reflect these charges as per California law.

10.3.2 Provide sample hourly rates using existing resources for each of the positions listed in section 7.2 using the format specified in the following table:

Resource Type	On-site hourly rate	Off-site hourly rate (inclusive of travel/expenses)
Business Analyst Senior	\$75.00-\$90.00	\$75.00-\$90.00
Business Analyst Entry Level	\$60.00-\$70.00	\$60.00-\$70.00
Project Manager	\$85.00-\$110.00	\$85.00-\$110.00
Legacy Systems Programmer	\$75.00-\$95.00	\$75.00-\$95.00
Applications/Web Developer	\$75.00-\$95.00	\$75.00-\$95.00
Website Graphic Designer	\$70.00-\$85.00	\$70.00-\$85.00
Database Administrator	\$85.00-\$100.00	\$85.00-\$100.00
Mobile Application Developer	\$85.00-\$100.00	\$85.00-\$100.00
Network Administrator	\$70.00-\$90.00	\$70.00-\$90.00
Communications Specialist	\$85.00-\$110.00	\$85.00-\$110.00
Wireless Communications Specialist (RF & Wi-Fi)	\$70.00-\$95.00	\$70.00-\$95.00
Voice Communications Specialist (VOIP)	\$70.00-\$95.00	\$70.00-\$95.00
Desktop Technician	\$55.00-\$70.00	\$55.00-\$70.00
Help Desk Technician	\$40.00-\$55.00	\$40.00-\$55.00
Mobile Devices Technician	\$40.00-\$55.00	\$40.00-\$55.00
Technology Asset Management Technician	\$45.00-\$60.00	\$45.00-\$60.00

EXHIBIT “C”

City’s Representative:

Behrang Abadi, Manager

(562) 570-6543

EXHIBIT “D”

Materials/Information Furnished: None

EXHIBIT "E"

Consultant's Key Employee:

Wende Morishige

(714) 821-6699