

**CITY OF FULLERTON
PROFESSIONAL SERVICES AGREEMENT
WITH
BATZA AND ASSOCIATES, INC.**

THIS AGREEMENT is made and entered into this ____ day of _____, _____ ("Effective Date"), by and between the CITY OF FULLERTON, a California municipal corporation ("City"), and Batza And Associates, Inc., a California Corporation ("Consultant").

W I T N E S S E T H :

A. City proposes to utilize the services of Consultant as an independent contractor to provide certain on call independent investigative services, as more fully described herein.

B. Consultant represents that it has that degree of specialized expertise contemplated within California Government Code section 37103, and holds all necessary licenses to practice and perform the services herein contemplated.

C. City and Consultant desire to contract for the specific services described herein, and desire to set forth their rights, duties and liabilities in connection with the services to be performed.

D. No official or employee of City has a financial interest, within the provisions of Sections 1090-1092 of the California Government Code, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in the Services & Fees Schedule attached hereto as Exhibit "A" and incorporated herein by this reference, as it relates to safety and nonsafety investigative services.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the reasonable satisfaction of the City, in accordance with the applicable professional standard of care and City specifications and within the hereinafter specified. Evaluations of the work will be done by the City Manager or his designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or

(c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable and non conflicting Federal and California employment laws, including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "A".

2.2. Additional Services. Consultant may perform the additional services described in Exhibit "B" attached hereto and incorporated herein by this reference if specifically engaged to do so by City. Consultant shall not receive compensation for any services provided outside the scope of services specified in Exhibit "A" unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is

specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to the City for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times from the Effective Date of this Agreement until three (3) years after the termination date.

2.5. W-9. Consultant must provide City with a current W-9 form, to be attached hereto as Exhibit "D." It is the Consultant's responsibility to provide to the City any revised or updated W-9 form.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years with the City having the option to extend under the same terms and conditions for a maximum of three (3) one (1) year options

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated based on the percentage of work completed as of the effective date of termination in accordance with

the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Insurance Required. Consultant shall procure and maintain throughout 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 Consultant, its agents, representatives, employees or subcontractors. Consultant shall provide current evidence of the required insurance in a form acceptable to City and shall provide replacement evidence for any required insurance which expires prior to the completion, expiration, or termination of this Agreement.

Nothing in this section shall be construed as limiting in any way, the Indemnification and Hold Harmless clause contained herein in Section 6.8 or the extent to which Consultant may be held responsible for payments of damages to persons or property.

5.2. Minimum Scope and Limits of Insurance

A. Commercial General Liability Insurance. Consultant shall maintain commercial general liability insurance coverage in a form at least as broad as ISO Form #CG 00 01, with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to the Agreement or shall be twice the required occurrence limit.

B. Business Automobile Liability Insurance. Consultant shall maintain business automobile liability insurance coverage in a form at least as broad as ISO Form # CA 00 01, with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.

C. Workers' Compensation and Employers' Liability Insurance. Consultant shall maintain workers' compensation insurance as required by the State of California and employers' liability insurance with limits of not less than \$1,000,000 each accident.

D. Professional Liability Insurance. Consultant shall maintain professional liability insurance appropriate to Consultant's profession with a limit of not less than \$2,000,000. Architects' and engineers' coverage shall be endorsed to include contractual liability. If policy is written as a "claims made" policy, the retro date of the policy shall be prior to the start of the contract.

E. Cyber Liability Insurance. Consultant shall maintain cyber liability insurance coverage with a limit of not less than \$2,000,000 per claim and \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Agreement and shall include but not be limited to claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines, penalties and credit monitoring expenses with limits sufficient to respond to these obligations.

5.3. Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by City.

5.4. Other Insurance Provisions. The required insurance policies shall contain or be endorsed to contain the following provisions:

A. Commercial General Liability. City, its elected or appointed officials, officers, employees and volunteers are to be covered as additional insureds with respect to liability arising out of work or operations performed by or on behalf of Consultant, including materials, parts or equipment furnished in connection with 21 such work or operations. Such coverage as an additional insured shall not be limited to the period of time during which Consultant is conducting ongoing operations for City but rather, shall continue after the completion of such operations. The coverage shall contain no special limitations on the scope of its protection afforded to City, its officers, employees and volunteers.

B. Commercial General Liability. This insurance shall be primary insurance as respects City, its officers, employees and volunteers and shall apply separately to each insured against whom a suit is brought or a claim is made. Any insurance or self-insurance maintained by City, its officers, employees and volunteers shall be excess of this insurance and shall not contribute with it..

C. Professional Liability. If the Professional Liability policy is written on a "claims made" form, Consultant shall maintain similar coverage for three consecutive years following completion of the project and shall thereafter, submit annual evidence of coverage. Additionally, Consultant shall provide certified copies of the claims reporting requirements contained within the policies.

D. Workers' Compensation and Employers' Liability Insurance. Insurer shall waive their right of subrogation against City, its officers, employees and volunteers for work done on behalf of City.

E. All Coverages. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

If Consultant maintains higher limits or has broader coverage than the minimums shown above, City requires and shall be entitled to all coverage, and to the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

F. Special Risks or Circumstances. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances

5.5 Acceptability of Insurers. All required insurance shall be placed with insurers acceptable to City with current BEST'S ratings of no less than A, Class VII. Workers' compensation insurance may be placed with the California State Compensation Insurance Fund. All insurers shall be licensed by or hold admitted status in the State of California. At the sole discretion of City, insurance provided by non-admitted or surplus carriers with a minimum BEST'S rating of no less than A- Class X may be accepted if Consultant evidences the requisite need to the sole satisfaction of City.

5.6 Verification of Coverage. Consultant shall furnish City with certificates of insurance which bear original signatures of authorized agents and which reflect insurers names and addresses, policy numbers, coverage, limits, deductibles and self-insured retentions. Additionally, Consultant shall furnish copies of all policy endorsements required herein. All certificates and endorsements must be received and approved by City before work commences. City reserves the right to require at any time complete, certified copies of any or all required insurance policies and endorsements.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The City Manager or his designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices. Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile

or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Batza & Associates Inc.
23504 Lyons Ave, Suite 403
Santa Clarita, CA 91321
Attn: Cody A. Simms

IF TO CITY:

City of Fullerton
303 W. Commonwealth Ave.
Fullerton, CA 92832
Attn: Ellis Chang

6.5. Attorneys' Fees. In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.6. Governing Law. This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.7. Assignment. Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.8. Indemnification and Hold Harmless. To the fullest extent of the law, Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents, and employees, at Consultant's sole expense, from and against claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents, and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the professional services undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents, and employees based upon the work performed by Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable.

Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints, or suits arising out of the sole or active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.9. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.10. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.11. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.12. Ownership of Documents. All findings, reports, CAD drawings, documents, information and data, including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such

documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files, audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.13. Public Records Act Disclosure. Consultant has been advised and is aware that this Agreement and all reports, documents, information and data, including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, pursuant to this Agreement and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 *et seq.*). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.14. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.15. Responsibility for Errors. Consultant shall be responsible for its work under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, without prejudice to any other remedy to which City may be entitled to at law or equity, Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction. In addition, Consultant shall reimburse City for any and all costs, expenses and/or damages, if any, that the City has incurred due to the aforementioned error or omission.

6.16. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.17. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and

conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.18. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.19. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.20. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.21. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.22. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.23. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.24. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

6.25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.26. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF FULLERTON

Kenneth A. Domer, City Manager

Date: _____

CONSULTANT

Cody A. Simms (Director of Investigations)

Date: _____

Social Security or Taxpayer ID Number

APPROVED AS TO FORM:



Richard D. Jones, City Attorney

Date: 6-28-21

EXHIBIT A
SERVICES & FEES



(661) 799-7777 Fax: (661) 799-3377

www.batza-associates.com
CA PI LICENSE #188171

LOS ANGELES COUNTY, SAN DIEGO COUNTY, ORANGE COUNTY, SAN FRANCISCO BAY AREA, SACRAMENTO, AND SANTA BARBARA

November 6, 2020

Via Federal Express

Jimmy Armenta, Buyer
City of Fullerton – Purchasing
303 W. Commonwealth Avenue
Fullerton, CA 92832-1775

Re: RFP FOR ON-CALL INDEPENDENT INVESTIGATIVE SERVICES

Dear Mr. Armenta:

Thank you for the opportunity to present this bid on behalf of Batza & Associates, Inc. for On-Call Independent Investigative Services for the City of Fullerton.

Batza & Associates, Inc. is a legal investigative firm, incorporated in the State of California, which has been in operation since 2001 (and remains in good standing with the Secretary of State). We support our government and private sector clients with investigations that are thorough and efficient, fully documented and court-ready, and with a passion for accuracy and responsiveness.

Please accept the enclosed proposal for these services. Batza & Associates, Inc. will meet and exceed every requirement that your office will have for this contract/bid.

This proposal shall remain valid for a period of 180 days. We received and reviewed the single addendum issued, regarding Questions and Answers.

I shall be the contact person during the proposal evaluation period, and I am authorized to contract on behalf of Batza & Associates. My contact information listed below is also our corporate contact information.

In addition, I attest that all of the information submitted with this proposal is true and correct.

Respectfully

A handwritten signature in black ink that reads "Cody A. Simms". The signature is written in a cursive, flowing style.

Cody A. Simms
Director of Investigations
BATZA & ASSOCIATES, INC.
csimms@batza-associates.com
23504 Lyons Avenue, Suite 403
Santa Clarita, CA 91321
T: (661) 799-7777 F: (661) 799-3377

Enclosures



(661) 799-7777 Fax: (661) 799-3377

www.batza-associates.com

CA PI LICENSE #188171

LOS ANGELES COUNTY, SAN DIEGO COUNTY, ORANGE COUNTY, SAN FRANCISCO BAY AREA, SACRAMENTO, AND SANTA BARBARA

TECHNICAL PROPOSAL

QUALIFICATIONS, RELATED EXPERIENCES, AND REFERENCES

FIRM PROFILE

Batza & Associates, Inc. is a legal investigative firm, licensed by the Bureau of Security and Investigative Services. It is also a certified small business corporation. Our firm was founded in 2001, and incorporated in 2004. Batza & Associates has a total of 14 employees.

Our headquarters is located in Los Angeles County, and we have additional offices in San Diego, Huntington Beach, Oakland, Sacramento, and Santa Barbara. Our headquarters office employs 5 full time investigators, and all other office locations employ 1-2 investigators.

Batza & Associates is financially sound. Having been founded nearly 20 years ago, our firm has weathered various economic conditions, has no pending litigation, has never filed for bankruptcy, and has no planned office closures, mergers, or layoffs.

FIRM EXPERIENCE

Batza & Associates initially gained its reputation with providing legal investigative services exclusively to attorneys; and, although much of our client base remains to be private attorneys, we began providing services to the public sector, with our work for the California Attorney General's Office, in 2004.

Since 2013, Batza & Associates has held contracts for investigative services with multiple public agencies, including the Los Angeles City Attorney's Office, the Los Angeles City Personnel Department, the City of Long Beach Human Resources Department, the Port of Long Beach Human Resources Department, the City of Pasadena, the Oakland City Attorney's Office, and several school districts. Our contracts for seven of these entities pertain specifically to administrative investigations including, but not limited to, allegations of misconduct, discrimination/harassment/retaliation complaints, violation of departmental rules and regulations, violation of state and/or federal laws, etc. Further, our work for the Los Angeles City Personnel Department includes investigations pertaining to complaints against elected officials, involving high profile individuals and complaints.

The administrative investigations for our public agency clients range from simple to complex, and can involve numerous witness interviews, and the analysis of computer usage data and surveillance footage. Further, one of our contracts with the City of Los Angeles involved the independent investigation of allegations of discrimination against elected officials, involving high profile individuals and complex matters and allegations.

Our experience conducting administrative and disciplinary investigations for numerous agencies, and across numerous city departments, provides us with the knowledge and skillset required to successfully conduct similar investigations for the City of Fullerton.

Batza & Associates, Inc. conducts fair and thorough investigations of allegations of against agency employees and volunteers, completed in a manner consistent with professional standards among firms in this profession, in order to determine whether any improper conduct occurred, and whether any conduct violates regulation, or state or federal statutes. Further, our reports include: a summary of the evidence; a detailed synopsis of the interviews, indicating the positions and assertions of all parties; an assessment of witness credibility; and an analysis of the evidence and factual findings the complaint.

We understand that the services will include conducting interviews, analyzing evidence and assessing witness credibility; and summarizing the case in a written investigative report, with supporting documentation, that may be used to take disciplinary action and is subject to a Civil Service appeal process.

We also understand that investigations involving fire safety personnel are to be conducted in compliance with the Firefighters Procedural Bill of Rights Act (FBOR); and that investigations involving peace officer personnel are to be conducted in compliance with the Peace Officers Bill of Rights Act (POBOR).

Our experience in conducting such investigations, in accordance with the FBOR was gained in the course of our contracts with the City of Long Beach Human Resources Department, and the City of Los Angeles Personnel Department, both of which have required investigations involving fire department personnel (along with personnel in other various departments).

Our experience in conducting investigations pursuant POBOR was gained in the course of our contracts with the City of Pasadena, which have required investigations involving police department personnel (along with personnel in other various departments).

Our investigators are experienced in providing deposition and court testimony, although we find that it is rarely required, as our investigative reports are thorough and self-supporting.

Our firm stays abreast of ever-changing employment laws as they relate administrative and disciplinary investigations, through research, case law notifications, and employment law education. At the time of the receipt of an assignment, we also conduct research regarding any applicable laws, agency-specific procedures, and union protocol. As such, our Director of Investigations, and our attorney-investigators, ensure that all investigations are in compliance.

Drawing upon our experience in conducting thousands of investigations in nearly all practice areas, we work closely with attorney and government clients to assist in preparing and managing our investigations. Our services include, but are not limited to, the following:

- Identifying, locating, interviewing, and assessing the trustworthiness of witnesses and other individuals and entities, including thorough full-field background investigations;
- Establishing positive relationships and rapport with witnesses and others, and securing irrefutable statements and testimony;

- Contacting and obtaining cooperation from “hostile” witnesses;
- Complete field investigative services, including evidence collection, court records research and document retrieval, surveillance, scene investigation and photography, and canvassing areas to locate previously unknown witnesses;
- Executing difficult service of process;
- Juror profiling and pre-trial investigation of potential jurors through ethical and non-intrusive means;
- Post-trial juror interviews and investigation of juror misconduct;
- Employment related investigations, including misconduct, harassment, discrimination, theft, and misappropriation of intellectual property/trade secrets;
- Researching opposing parties, including financial standing and credibility;
- Conducting surveillance (subrosa) to obtain evidence of inconsistencies between activities and claimed injuries;
- Conducting new case evaluation, including assessing the viability of pursuing litigation.
- Identifying potential parties, and conducting pre-litigation investigation, to include property owners and vehicle owners.
- Identifying additional injured parties, such as for class-action litigation;
- Developing evidence and confirming discovery information;
- Evaluating expert witnesses’ credentials and credibility, and securing previous testimony, publications and other evidence for impeachment;
- Preparing witnesses and parties for depositions and trial testimony;
- Handling logistics and travel for witnesses, ensuring deposition and trial appearances;
- Conducting asset investigations;
- Conducting background investigations;
- Testifying at deposition and trial.

PAST JOINT WORK

Not applicable, as no subcontractors are being proposed. Due to our vast experience and in house resources, we have not used subcontractors for any of our government contracts.

REFERENCES

Listed below are public entity agency clients with whom we have held contracts during the previous three years.

Reference numbers 1 through 6 specifically pertain to administrative and/or disciplinary investigations subject to civil service procedures, collective bargaining agreements, and state and federal laws. Reference numbers 1 through 3 also included investigations pertaining to the fire departments and/or police departments.

1. City of Los Angeles Personnel Department

Services: Independent investigator services; and independent investigations regarding complaints against elected officials (two separate contracts)

Contact: Olivia Flores, Manager, Equal Employment Opportunity Section
700 East Temple Street, Suite 380

Los Angeles, CA 90012

Phone: (213) 473-0182; Email: olivia.flores@lacity.org

Dates of Service: 09/17/2013-09/17/2016; and 11/01/2018-10/31/2020

2. City of Pasadena

Services: Investigative Services for the Human Resources Department

Contact: Alex Souto, Human Resources Manager

100 N. Garfield Ave. Room S135

Pasadena, CA 91109

Phone: (626) 744-7579; Email: asouto@cityofpasadena.net

Dates of Service: 09/06/2019-09/06/2022

3. City of Long Beach Human Resources Department

Services: Professional administrative investigation services

Contact: Lenore Blueford, Purchasing

333 West Ocean Boulevard

Long Beach, CA 90802

Phone: (562) 570-5384; Email: Lenore.Blueford@longbeach.gov

Dates of Service: 04/01/2015-01/31/2019

4. City of Lynwood Human Resources Department

Services: Professional administrative investigation services

Contact: Cynthia Stafford, Human Resources Director

11330 Bullis Road

Lynwood, CA 90262

Phone: (310) 886-0400; Email: cstafford@lynwood.ca.us

Dates of Service: 09/26/2018-09/01/2020 (contracts are per-investigation, not annual)

5. Palmdale School District

Services: Professional administrative investigation services
Contact: Ryan Beardsley, Assistant Superintendent
39139 N. 10th Street East
Palmdale, CA 93550
Phone: (661) 789-6590; Email: rbeardsley@palmdalesd.org
Dates of Service: 01/16/2018-06/30/2019; and 07/21/2020- 06/30/2021

6. Antelope Valley College

Services: Professional administrative investigation services
Contact: Jennifer Burchett, Assistant Superintendent/Vice President
Human Resources
3041 West Avenue K
Lancaster, CA 93536
Phone: (661) 722-6300, ext 6588; Email: jburchett1@avc.edu
Dates of Service: 09/26/2018-06/30/2019; and 09/09/2020-06/30/2021

7. Office of the Los Angeles City Attorney

Services: Investigative services (conducting a variety of investigative services, for both the Criminal, and Civil, Sections)
Contact: Dolly Galang, Business Office Manager
200 North Main Street, 7th Floor, MS 140
Los Angeles, CA 90012
Phone: (213) 978-8100/
Dates of Service: 04/01/2016-05/08/2021

8. Office of the Oakland City Attorney

Services: Investigative services (including, but not limited to, interviews, research, location of subjects, background investigations, asset investigations, and court research)
Contact: Maria Bee, Special Counsel
One Frank H. Ogawa Plaza, Sixth Floor
Oakland, CA 94612
Phone: (510) 238-3814; Email: mbee@oaklandcityattorney.org
Dates of Service: 07/01/2016-06/30/2020; and 07/01/2020-06/30/2022

PROPOSED STAFFING AND ORGANIZATION

The proposed project manager is Director of Investigations, Cody A. Simms, who joined Batza & Associates in 2008. She has personally investigated hundreds of cases in nearly all practice areas, including those in support of complex litigation, class actions, personal injury, and employment law. Ms. Simms earned a Bachelor of Arts degree in Criminal Justice from California State University of San Bernardino in 2006.

She is a licensed private investigator through the California Bureau of Security and Investigative Services, and is certified by the Commission on Peace Officer Standards and Training (POST) to conduct background investigations on law enforcement officers and related positions.

Ms. Simms is also the project manager, and administrator, for all of the firm's nine government accounts, which includes contracts for the cities of Los Angeles, Long Beach, Pasadena, and Oakland, the County of San Bernardino, as well as the Port of Long Beach, and several school districts.

In addition to the project manager, the proposed staff to be assigned to this contract are Jessica Shannon, Esq., Kristen Powers, Matthew Myszynski, and Diane Swarberg, all of whom have experience specifically conducting administrative and employment-related investigations.

Jessica Shannon has experience conducting investigations pursuant to POBOR, is a licensed attorney, and a licensed private investigator. Ms. Shannon has personally conducted administrative and internal investigations for multiple city governments, and is well informed of the Police Officers Bill of Rights. She has experience conducting administrative investigations for public sector agencies; and numerous additional years of experience conducting employment-related investigations for private sector attorney clients. She keeps up to date regarding employment law; specifically, as it relates to disciplinary investigations and actions. Ms. Shannon is located in our San Diego office.

Kristen Powers has several years of experience specifically conducting administrative and disciplinary investigations for public sector agencies; and a total of sixteen years of experience conducting civil and criminal investigations. She also has experience testifying as a witness for a collective bargaining unit. Ms. Powers is in our Los Angeles County office.

Diane Swarberg has investigated hundreds of cases in many practice areas, including employment law, administrative/workplace issues, and serious criminal cases, including violent crimes, embezzlement, and other complicated matters. She was also previously involved in personnel management, and related issues, in her prior employment. Ms. Swarberg is located in our San Diego office.

Matthew Myszynski has conducted administrative investigations for several city and school entities, within his seven years of investigative experience. Mr. Myszynski is located in our Los Angeles County office

Enclosed as Exhibit A, please find our Organizational Chart; and, enclosed as Exhibit B, please find the resumes of Ms. Simms, Ms. Shannon, Ms. Powers, Ms. Swarberg, and Mr. Myszynski.

This proposal does not include the use of any subcontractors. All relevant personnel are available to testify as needed.

The above referenced key personnel will be available to the extent proposed for the duration of the contract, barring any unforeseen turnover, and in person designated as key to the contract shall be removed or replaced without the prior written concurrence of the City.

DETAILED WORK PLAN

We understand that the City of Fullerton seeks investigators to provide services relating to complaints of administrative and/or disciplinary investigations, which includes confidential employee investigations into allegations of misconduct, discrimination/harassment/retaliation complaints, violation of departmental rules and regulations, violation of state and/or federal laws, etc.

With regard to the procedures for investigation services, the initial step consists of a request for investigation, to be received from the requestor (City of Fullerton), typically via telephone or email, but in whichever manner preferred by the City. Upon receipt of an assignment to conduct an investigation, the project manager reviews the information provided by the requestor, before assigning the matter to (in most cases) a single investigator, as this allows for continuity.

Our firm strictly enforces a quick response rule, which requires the investigator to acknowledge, and respond to, client communications in a timely manner; after hours requests are treated in the same manner. Once assigned, the investigator will then meet (in the manner preferred by the City) with the designated agent, whether a Human Resources representative, in regard to non-safety investigations; or the Chief of Police, Fire Chief, or designee, in regard to safety investigations.

The investigator may request evidence or additional documentation from the City of Fullerton (such as business computer data, information from personnel files, City of Fullerton video surveillance footage, if applicable, etc.). An investigative plan is developed, taking into consideration any specific direction provided by the requestor, and any time/budgetary constraints established by the requestor. Within two business days of the initial consultation, an investigative plan will be provided to the appropriate City representative, confirming the allegations to be investigated, and identifying the witnesses and subjects to be interviewed, evidence to be reviewed and/or collected, and an estimated timeline for the investigation.

Any available evidence related to the complaint which is provided by the City of Fullerton is reviewed prior to conducting interviews, in order to properly prepare. When interviews commence, it is typical to begin with the complainant, in order to obtain complete details regarding the allegations, and to identify potential witnesses. Depending on the circumstances of the investigation, we may recommend that we proceed with witnesses following the interview with the complainant; or, that we proceed with an interview of the subject of the complaint, before conducting interviews with witnesses (most often the former). If the subject of the complaint is interviewed early in the investigation, it is possible that a follow up interview will be required, following the conclusion of the process of gathering evidence and conducting all other interviews. All interviews will be recorded.

With regard to response times, following receipt of an assignment and the complaint information, we can typically begin scheduling interviews within two to three business days, and will attempt to consolidate efforts by conducting multiple interviews in one day. It is possible that, through these interviews, other evidence may be identified, which our investigator will either attempt to obtain from the witnesses/parties, or by request to the City of Fullerton (as applicable).

Our investigator will collect and analyze investigation-related information and evidence, to include the credibility of witnesses, and attempt to validate any information obtained during the investigative process by means of other corroborating statements and independent evidence (such as video, audio, technical data, etc.), and/or research.

Depending upon the availability of the witnesses, the number of witnesses, and the accessibility of any evidence, our investigation phase is typically completed within approximately one to two weeks; and, our report follows shortly thereafter. For more comprehensive investigations where there are numerous witnesses interviewed, and/or where reports are significantly lengthy, we may require nominal additional time. In any case, we will provide updates to the appropriate agency staff on the progress of the investigation, on a weekly basis or as requested by the requestor.

With regard to managing resources and quality assurance, our Director of Investigations and Project Manager, Cody Simms, closely manages all aspects of an investigation, and will ensure that the investigation is proceeding in a timely manner; and that reasonable expectations regarding the completion of the investigation and report are established. Ms. Simms receives daily updates during an investigation, to assist with developing strategy, and identifying additional potential evidence and witnesses. She thoroughly reviews each report and email update before it is sent to the City, and ensures that investigators are on task, and that the budget remains in the normal range for any investigation with similar scope and number of witnesses. As indicated above, no subcontractors will be used in the performance of this contract, which allows for closer supervision and control of quality, schedule, and budget.

The project deliverables will include a detailed report which will include: a summary of the complaint/allegations, any background information and evidence provided; a detailed synopsis of the interviews, indicating the positions and assertions of all parties; an assessment of witness credibility; and an analysis of the evidence and factual findings regarding the complaint, which includes defensible investigative conclusions. Upon request by the City, we are available to provide executive summaries, testimony transcripts, and summary reports. All reports, audio recordings, and evidence will be sent both electronically (via email), and via U.S. mail, unless otherwise requested.

Following the investigation, our investigators are available for follow up, can conduct additional investigations regarding outstanding issues, and can testify when necessary.

Our firm maintains electronic, and hard, copies of all documentation and evidence obtained during an investigation, for a period of at least 7 years (or, in accordance with City policy, whichever is longer). We ensure that such documentation is organized, and securely maintained, to ensure confidentiality in accordance with state and federal laws.

Our firm is prominent in the legal investigative world, and this translates to our work for the public sector as well. We are known for quick response times, expeditious investigations, our professionalism and ability to gain the cooperation of witnesses, as well as our professional reports. In fact, all investigative reports are subject to a multiple-phase internal review process, to ensure that our clients receive quality, detailed reports.

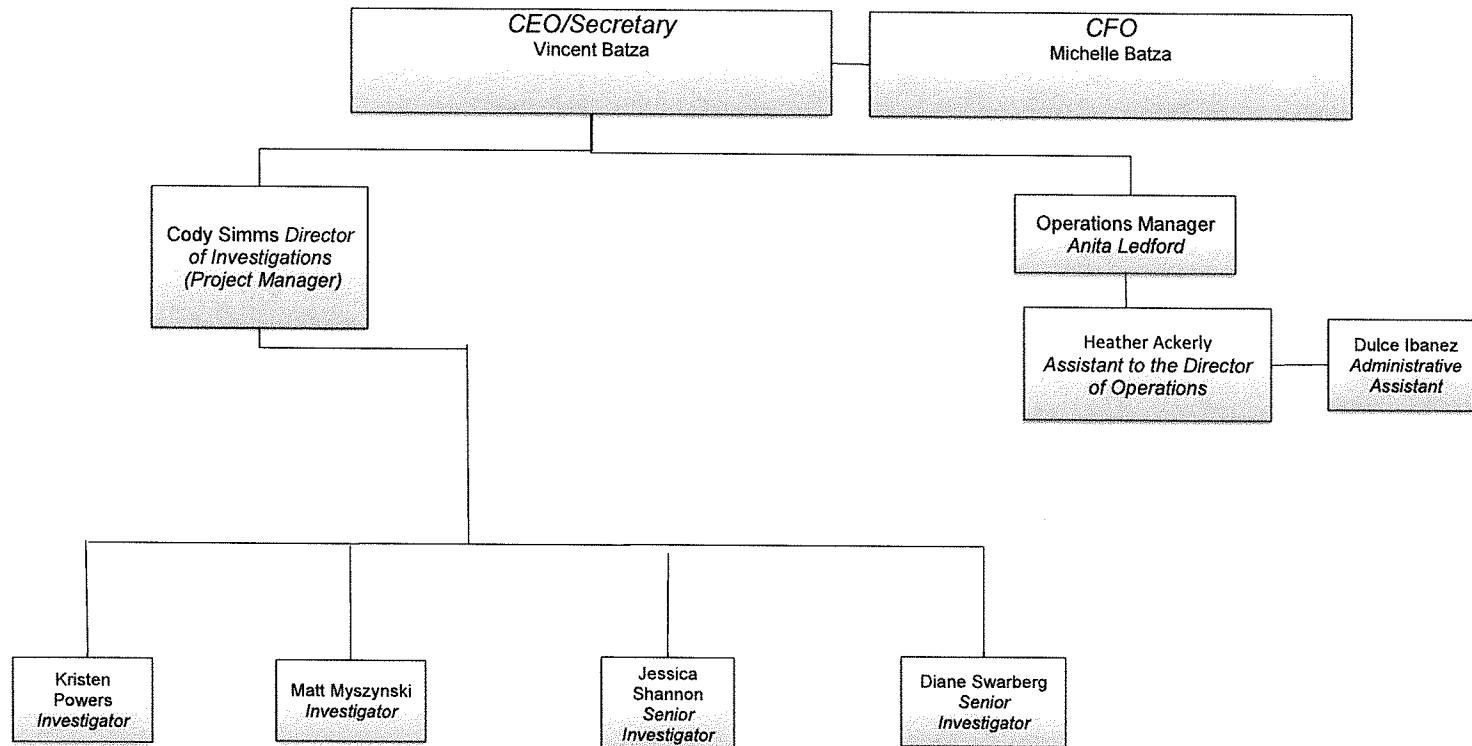
Because of our vast experience and the number of investigators we have on staff (to handle other investigative matters while our proposed staff focus on investigations for the City of Fullerton), we can perform any and all aspects of the investigations required by this proposal in a timely manner. In addition to our work for the aforementioned government entities, our work for the private sector (since 2000) has also included investigations relating to misconduct, including harassment, discrimination, theft, and misappropriation of intellectual property/trade secrets.

It is our vast array of experience, quality control measures and policies, and number of staff investigators that allows us to meet all of expectations you may have under the scope of this RFP.

Further, Batza & Associates does not claim any limitations or restrictions in the ability to provide the services desired.

Exhibit A

Exhibit A - Batza & Associates Organizational Chart



*This chart includes only staff to be utilized under any potential contract with the City of Fullerton, as key personnel, and does not include other staff investigators.

Exhibit B

BATZA ASSOCIATES, INC.

I N V E S T I G A T O R S

(661) 799-7777 Fax: (661) 799-3377

www.batza-associates.com

CA PI LICENSE #188171

LOS ANGELES COUNTY, SAN DIEGO COUNTY, ORANGE COUNTY, SAN FRANCISCO BAY AREA, SACRAMENTO, AND SANTA BARBARA

Biography of Cody A. Simms

Cody Simms is the Director of Investigations at Batza & Associates, and has been with the company since 2008. Over the course of her first 8 years at Batza & Associates, she worked with, and was trained by, our late founder, David Batza, who imparted upon her the knowledge he gained in his many years of experience as an investigator, and an intelligence and security consultant.

As the Director of Investigations at Batza & Associates, Cody is directly responsible for managing all investigative matters and for supervising the work of all investigators in our six regional offices. She receives daily briefings regarding open assignments and she reviews and approves all work product.

Cody has personally investigated hundreds of cases in nearly all practice areas, including those in support of complex litigation, class actions, personal injury, product liability, employment law, and serious criminal cases, including violent crimes and other complicated matters.

Prior to joining Batza & Associates, Cody was assigned to a team responsible for conducting government and military national security clearances for the Office of Personnel Management through the United States Investigative Services. Cody is also licensed as a real estate broker, and previously as an insurance agent, and she is fluent in American Sign Language.

Cody is a licensed private investigator through the California Bureau of Security and Investigative Services, and is certified by the Commission on Peace Officer Standards and Training (POST) to conduct background investigations on law enforcement officers and related positions.

In addition, Cody has seven years of experience managing/administering government contracts, including Administrative and Pre-Employment Investigations for large cities (to include various departments within the cities, specifically, fire departments) and school districts, as well as various investigative services for several City Attorney Offices.

Cody co-authored an article, "Overcoming Witness Objections," which appeared in Advocate magazine, December 2012, relating to legal investigation and gaining the cooperation of witnesses.

She also earned a Bachelor of Arts degree in Criminal Justice from California State University of San Bernardino in 2006.

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LEGAL INVESTIGATORS

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Biography of Jessica Shannon

Jessica Shannon has been a legal investigator with Batza & Associates since February of 2009. Since that time, she has personally investigated hundreds of cases in nearly all practice areas, including those in support of complex litigation, class actions, personal injury, product liability, employment law, administrative/workplace issues, and other complicated matters.

Jessica has conducted numerous administrative and/or employment-related investigations involving complaints against employees and employers. She keeps up to date with employment law, and conducts investigations in accordance with collective bargaining unit protocol.

Prior to joining Batza & Associates, Jessica practiced law (primarily contract, real property, and family law) for several years before becoming an investigator.

Jessica also worked as a substitute teacher for high school and middle school students.

Jessica earned a Bachelor of Arts Degree in Psychology, from San Francisco State University, and a Juris Doctor, from California Western School of Law. In April 2007, Jessica was admitted to the State Bar of California (SBN 248688).

She is a member of the California Conference of Delegates, San Diego Chapter.

She is a licensed private investigator, and registered process server.

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Biography of Kristen Powers

Kristen Powers has been a legal investigator with Batza & Associates since July 2012. She has a Bachelor's degree in Anthropology from UCLA.

Prior to joining Batza & Associates, she was self-employed for 3 years as a Mitigation Specialist and Investigator; and, prior to that, was employed as a Mitigation Specialist with Capital Case Project and Diversified Legal Service, where she was for 6 years. In that position, she had the opportunity to do extensive travel and hundreds of interviews.

She has worked on numerous pre-trial and post-conviction death penalty, and death penalty eligible, cases, at both the state and federal level, as a court-appointed mitigation specialist and investigator. She has worked in numerous jurisdictions on very high-profile cases. Her expertise was sought out by the American Bar Association, to be paired with non-criminal attorneys handling superfluous Rule 32 and other Post-Conviction Relief Petition proceedings, during her time with the Capital Case Project.

In one example of her work as an investigator and mitigation specialist, Kristen worked on the post-trial proceedings in *The State of Arizona v. Wendi Andriano*, and uncovered, developed, and presented evidence of pervasive sexual abuse, which was not presented at trial. The abuse occurred within the setting of a cult, which employed oppressive and abusive restrictions on its members, many of whom were minors. Investigative efforts, which included gaining the cooperation and trust of a multitude of witnesses who experienced sexual trauma, resulted in the Court awarding an evidentiary hearing in the above matter.

Kristen has worked with numerous legal organizations, including: the Arizona Capital Representation Project; the California Appellate Project; and the Habeas Corpus Resource Center.

She has received advanced training from numerous sources, including: the National Forensics Seminar; the Capital Case Defense Seminar; the Habeas Corpus Resource Center Mitigation Workshop; and the Arizona Capital Representation Project's Mitigation Intensive Seminar.

Kristen also has experience as a Paralegal, and was a testifying witness for Service Employees International Union in 2005.

Lastly, Kristen has conducted numerous administrative and disciplinary investigations for public sector agencies and private sector attorney clients, in compliance with state and federal laws, in addition to agency-specific regulations, and collective bargaining unit protocol.

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Biography of Matthew Myszynski

Matthew Myszynski is a legal investigator with Batza & Associates, where he began in 2014. He has investigated cases in nearly all practice areas, including those in support of complex litigation, personal injury, and serious criminal cases, including alleged violent crimes, and other complicated matters. He has also conducted investigations on behalf of public entities, pertaining to civil litigation as well as administrative/workplace issues.

Matthew earned a Bachelor of Science degree in Criminal Justice, with a Minor in Forensic Studies, from California State University Long Beach in 2014.

He interned with the Los Angeles Police Department, assisting detectives with follow up investigations, to include interviewing witnesses and victims of minor crimes.

Matthew has also received extensive training and experience in surveillance and surveillance countermeasures.

He is a licensed private investigator, holds a Firearms Qualifications Card, and is a registered process server.

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Biography of Diane Swarberg

Diane Swarberg is a Senior Investigator with Batza & Associates. Since that time, she has personally investigated hundreds of cases in nearly all practice areas, including those in support of complex litigation, class actions, personal injury, product liability, employment law, administrative/workplace issues, and serious criminal cases, including violent crimes, embezzlement, and other complicated matters.

Prior to joining Batza & Associates in 2006, she was employed in the legal department of a large multi-state company managing/assisting product liability issues/recalls, trademarks, and patents. Previous to that, she was employed as the controller, of a multi-state retail facility, personally overseeing all aspects of business including personnel, inventory, and cash management.

In addition to her full-time employment, Diane performs quarterly accounting audits of a multi-million dollar service corporation which requires a complete knowledge of accounting systems.

Diane is a licensed private investigator through the California Bureau of Security and Investigative Services, as well as a registered process server.

Appendices

EXCEPTIONS FORM

If your company is taking exception to any of the specifications, terms or conditions (including insurance, indemnification and/or proposed contract language) stated in this Request for Proposal, please indicate below and describe details: (check any that apply).

- ☒ No exceptions taken
☐ Exception taken to the scope of work or specifications
☐ Exception taken to indemnification and insurance requirements
☐ Exception to proposed contract language
☐ Other

Please explain any of the checked items:

There are no exceptions taken to any portion of the Request for Proposal.

PROPOSING FIRM: Batza & Associates, Inc. DATE: 11/04/2020

BUSINESS ADDRESS : 23504 Lyons Avenue, Suite 403, Santa Clarita, CA 91321

SIGNATURE OF REPRESENTATIVE: 

BY: Vincent Batza, Esq. TITLE: CEO , President, Secretary

INSTRUCTION REGARDING SIGNATURE: If bidder is an individual, state "Sole Owner" after signature. If bidder is a partnership, signature must be by a general partner, so stated after "Title". Names of all other partners and their business addresses must be shown below. If bidder is a corporation, signature must be by an authorized officer, so stated after "Title", and the names of the President and Secretary and their business addresses must be shown below:

<u>Vincent Batza, President and Secretary</u>	<u>Michelle Batza, Chief Financial Officer</u>
<u>23504 Lyons Avenue, Suite 403</u>	<u>23504 Lyons Avenue, Suite 403</u>
<u>Santa Clarita, CA 91321</u>	<u>Santa Clarita, CA 91321</u>
_____	_____

NON-COLLUSION AFFIDAVIT

Note: To be executed by Proposer and submitted with proposal.

State of California
(the State of the place of business)

County of Los Angeles
(the County of the place of business)

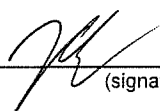
Vincent Batza, being first duly sworn, deposes and
(name of the person signing this form)

says that he/she is President (CEO) of
(title of the person signing this form)

Batza & Associates, Inc., the party making the foregoing bid
(name of bidding company)

that such bid is not made in the interest of or on the behalf of any undisclosed person, partnership, company, association, organization or corporation; that such bid is genuine and not collusive or sham; that said bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that said bidder has not in any manner directly or indirectly sought by agreement, communication, or conference with anyone to fix the bid price of said bidder or of any other bidder or to fix any overhead profit, or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in such bid are true, and further, that said bidder has not directly or indirectly submitted his bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith, to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof, or to any other individual except to any person or persons as have a partnership or other financial interest with said bidder in the general business

By:


(signature)

Printed Name:

Vincent Batza
(name of the person signing this form)

Title:

President/CEO/Secretary
(title of the person signing this form)

Status of Past and Present Contracts Form

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement or in legal action. A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value.

If the contract was terminated, list the reason for termination. Offeror must also identify and state the status of any litigation, claims or settlement agreements related to any of the identified contracts. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

Project city/agency/other:	
Contact name:	Phone:
Project award date:	Original Contract Value:
Term of Contract:	
1) Status of contract:	
2) Identify claims/litigation or settlements associated with the contract:	
This form is not applicable, as we have not had any contracts terminated, settled, or ended in a legal action.	

By signing this Form entitled "Status of Past and Present Contracts," I am affirming that all of the information provided is true and accurate.

Signature 

Date November 6, 2020

Name: Vincent Batza, Esq.

Title: President (CEO)

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LOS ANGELES COUNTY, SAN DIEGO COUNTY, ORANGE COUNTY, SAN FRANCISCO BAY AREA, SACRAMENTO, AND SANTA BARBARA

FEE PROPOSAL

Description

Amount

Investigative Rate for: case intake; research; travel; field work; interviews; preparing reports, proofs of service, and evidence; management time; investigation-specific calls and meetings with requestors; and testifying. \$130 per hour*

* billed in quarter hour increments

Expenses

Mileage \$0.58 per mile (per IRS rate)

RATE SCHEDULE BY PERSONNEL

Title of Person Performing Service	Personnel Name	Hourly Rate
Director of Investigations	Cody Simms (Project Manager)	\$130
Senior Investigator	Jessica Shannon Diane Swarberg	\$130
Investigator	Kristen Powers Matthew Myszynski	\$130

ADDITIONAL FEE INFORMATION

All other expenses, including, but not limited to, the following, will be reimbursed at full value: actual parking expenses; actual toll road fees; travel expenses, including lodging, airfare, rental vehicle, and meal expenses (for any non-local travel conducted at the request, and with pre-approval, of the City); and miscellaneous field expenses.

All invoices will be due on a Net 30 basis.

Note: If the City of Fullerton decides to discontinue our services on any given case, at any time, the City will be liable for our time spent up to that time, computed at our hourly rates. These fees do not include any out-of-pocket disbursements, including, but are not limited to, vehicle mileage, and outside investigative search fees.

EXHIBIT B
ADDITIONAL SERVICES

EXHIBIT C
CERTIFICATES OF INSURANCE

EXHIBIT D

W-9 FORM