

**CITY OF FULLERTON  
PROFESSIONAL SERVICES AGREEMENT  
WITH  
CHUCK THOMAS INVESTIGATIONS**

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 Chuck Thomas Investigations, 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 \$500,000 each accident. Such insurance shall include coverage for owned, hired and non-owned automobiles.

C. Workers' Compensation and Employers' Liability Insurance. Consultant is not mandated to provide Workers' Compensation coverage as they are a sole-proprietor and have no liability relating to employees. This clause is subject to validation via a sole-proprietor form.

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.

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:

Chuck Thomas Investigations  
PO Box 2201  
Mission Viejo, CA 92690  
Attn: Chuck Thomas

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

\_\_\_\_\_  
Chuck Thomas (Private Investigator)

Date: \_\_\_\_\_

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Richard D. Jones, City Attorney

Date: \_\_\_\_\_

**EXHIBIT A**  
**SERVICES & FEES**

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# CHUCK THOMAS INVESTIGATIONS

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Comprehensive and Professional Personnel Investigations

November 4, 2020

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

Subject: “RFQ for On-Call Independent Investigative Services”

Dear Mr. Armenta:

Thank you for an opportunity to submit this proposal for Independent Investigative Services for the City of Fullerton. I have the necessary experience, training and overall investigative abilities to provide the City of Fullerton with excellent investigative services. I enjoy an outstanding reputation among public agencies that I have conducted workplace investigations for in the past.

I served as a law enforcement professional for approximately 32 years. I held the positions of Police Officer, Sergeant, Lieutenant, Captain and Deputy Police Chief for Southern California law enforcement agencies. During this time, I completed and/or supervised over 200 administrative investigations involving Police Officers and civilian staff members. I have attended numerous training sessions regarding conducting such investigations, with an emphasis on the Public Safety Officers Procedural Bill of Rights Act, Firefighters Procedural Bill of Rights Act and public employee related laws and best practices.

I have previously taught a course titled “Managing Internal Affairs Issues” at the California Peace Officers Standards and Training (POST) Management Course and was the internal affairs instructor for Golden West College’s Leadership Development Program. Since 2012, I have conducted approximately 150 workplace investigations as a private investigator for public entities. These investigations have included employees, sworn and civilian, from all levels of organizations, including Police and Fire Chiefs, command officers, supervisors, managers, Police Officers and Firefighters.

Chuck Thomas Investigations was founded in 2012 and has been providing quality investigative services to public agencies since then. Chuck Thomas Investigations is a sole proprietorship. I conduct all investigations and have no employees or subcontractors. I have conducted over 120 public sector administrative investigations involving employees from all levels of organizations. I have conducted administrative investigations in which it was necessary to coordinate with other agencies conducting related criminal investigations. I have the experience and expertise to

(714) 608-5951 • chuck.thomas@cox.net  
PO Box 2201 Mission Viejo, CA 92690

investigate a wide variety of administrative investigations, including allegations of a hostile work environment, criminal misconduct and those involving agency directors.

Chuck Thomas Investigations has never experienced any type of bankruptcy or litigation regarding services provided to any agency. There is nothing regarding Chuck Thomas Investigations' financial condition that would impede its ability to fulfill the services proposed in this Request for Qualifications.

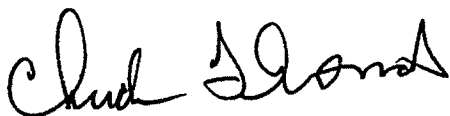
Chuck Thomas Investigations will not disclose, communicate or provide any information to any third parties, including but not limited to the news media, regarding any investigation conducted on behalf of the City of Fullerton without express written direction to do so by the City, unless legally compelled to do so.

Investigator Chuck Thomas will conduct all investigations unless the City gives specific approval for me to obtain investigative assistance from another California licensed private investigator if necessary. Investigator Thomas will not be considered an employee of the City of Fullerton and will not be entitled to Workers' Compensation benefits or any benefits afforded to employees of the City. At all times during the performance of this agreement, Chuck Thomas will remain an independent consultant.

I acknowledge and accept the contracting requirements set forth in the standard City of Fullerton contract included as Section IV of the Request for Qualifications.

Attached is my specific proposal. This proposal shall remain valid for a period of at least 90 days from the date of submittal. I attest that all information submitted with this proposal is true and correct.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Thomas", with a stylized, cursive script.

Chuck Thomas  
Private Investigator  
Chuck Thomas Investigations  
California Private Investigators License #27653  
(714) 608-5951

## **A. Experience**

### **Education**

1. Bachelor of Arts degree in Management, University of Redlands
2. Associate of Arts degree in Administration of Justice, Golden West College

### **Employment**

1. Private investigator with Norman A. Traub Associates and Chuck Thomas Investigations, January 2012 – current. Conducts workplace investigations for public entities.
2. Administrative Services Division Manager, Huntington Beach Police Department, January 2016 – September 2016. Managed support bureaus and units of Police Department (interim position).
3. Deputy Police Chief, Westminster Police Department, April 2014 – January 2015, (interim position).
4. Coordinator/Adjunct Faculty, Leadership and Ethics Institute (LEI), Golden West College, July 2011 – January 2016. Manage College's Leadership and Ethics program.
5. Police Captain, Huntington Beach Police Department, April 2002 – January 2012. Managed and led various divisions (Uniform, Administration, Investigation) of Police Department. Commanded the Department's Professional Standards Unit.
6. Instructor, San Diego Regional Training Center, January 2003 – May 2011. Taught a course titled "Managing Internal Affairs Issues" for the Training Center's Police Management Course.
7. Acting Administrative Services Director/Deputy City Administrator/Manager, City of Huntington Beach, 2004 –2005. Managed and led Human Resources, Risk Management and Procurement Divisions of City on interim basis (approximately one year).
8. Police Lieutenant, Huntington Beach Police Department, February 1995 – April 2002. Managed and led various bureaus (Patrol, Administration, Adjutant to the Chief of Police, Media Relations, SWAT Team, General Investigations) of Police Department.
9. Police Sergeant, Huntington Beach Police Department, July 1992 – February 1995. Supervision of police officers of Patrol and General Investigations Bureaus.
10. Police Officer, Huntington Beach Police Department, October 1984 – July 1992. General law enforcement duties, including patrol functions and investigations.

11. Police Officer, Westminster Police Department, January 1981 – October 1984. General law enforcement duties.

### Training

1. Approximately 25 training courses on conducting administrative employment investigations between 1995 and 2020. Courses presented by the California Police Chiefs' Association, California Peace Officers' Association, Law Firm of Jones and Mayer and Law Firm of Liebert Cassidy Whitmore.
2. Leadership in Police Organizations/Faculty Development Workshop (five-week course), International Association of Chiefs of Police (IACP), 2008.
3. Ethics in Law Enforcement and Police Administration, Josephson Institute of Ethics, 2003.
4. FBI National Academy, FBI, Quantico, Virginia, 2000.
5. Command College, Commission on Peace Officers' Standards and Training (P.O.S.T.), 1999

### Licenses

1. State of California Private Investigator's license, #27653. Held in good standing since December 2011.

### Affiliations/Memberships

1. California Peace Officers' Association, 1992 – current.
2. Peace Officers' Research Association of California, 1981 – current.
3. F.B.I. National Academy Associates, 2000 – current.

### Skills

1. Conducts thorough and professional administrative employment investigations with an emphasis on public employee organizations. Extensive knowledge of Firefighters and Public Safety Officers Procedural Bill of Rights.
2. Managing operational and administrative operations of public safety agencies.



## **References**

1. Scott Tiedemann  
Managing Partner  
Liebert Cassidy Whitmore  
6033 West Century Boulevard  
Los Angeles, CA 90045  
(310) 981-2000  
[stiedemann@lcwlegal.com](mailto:stiedemann@lcwlegal.com)
2. Barbara Salvini  
Director of Human Resources  
City of Newport Beach  
100 Civic Center Drive  
Newport Beach, CA 92660  
(949)644-3259  
[bsalvini@newportbeachca.gov](mailto:bsalvini@newportbeachca.gov)
3. Robert Dunn  
Chief of Police  
Fullerton Police Department  
237 W. Commonwealth Avenue  
Fullerton, CA 92832  
(714) 738-6825  
[rdunn@fullertonpd.org](mailto:rdunn@fullertonpd.org)
4. Ericka Reinke  
Senior Human Resources Analyst  
Human Resources Department  
City of Santa Monica  
1685 Main Street  
Santa Monica, CA 90407-2200  
(310) 458-8254  
[Ericka.Reinke@smgov.net](mailto:Ericka.Reinke@smgov.net)
5. Jessica Perpetua  
Director of Human Resources  
City of Escondido  
201. N. Broadway  
Escondido, CA 92025  
(760) 839-4016  
[jperpetua@escondido.org](mailto:jperpetua@escondido.org)

## **B. Work Being Proposed**

Conduct workplace investigation at the direction of the City of Fullerton. The investigations shall include:

- Meeting with representatives of the City of Fullerton to clarify the scope of investigation;
- Obtain copies of relevant sections of the City of Fullerton Municipal Code, Personnel Rules, Memorandum of Understandings, department policies, and any other potentially applicable City documents;
- Obtain and review all relevant documents;
- Interview complainant(s);
- Interview known witnesses;
- Interview other witnesses identified through interviews and documents;
- Interview the subject(s) of the investigation;
- Assess the credibility of the complainant(s), witnesses, and the subject(s);
- Digitally record all interviews, when possible, and transcribe all recordings;
- Periodically communicate with the designated contact person(s) with updates, progress, and other important issues as appropriate;
- Conduct additional interviews and collect other relevant documents as necessary;
- Consistently monitor the financial limits of an investigation;
- Will not exceed the financial limits of an investigation, unless necessary, without the written approval of the City; and
- Prepare and submit a complete fact-finding report that is thoroughly proofread to ensure quality to the person designated by the City of Fullerton.

Chuck Thomas Investigations shall submit a comprehensive written report to the City of Fullerton. The report will provide an executive summary of the findings, the methodology used, a thorough discussion of the evidence and statements obtained, how credibility issues were resolved, and detailed findings of the investigation. The following terminology may be used (at the City's discretion) to describe the findings of the investigation:

|                |   |
|----------------|---|
| Unfounded:     | The investigation clearly established that the allegation(s) is not true.   |
| Exonerated:    | The investigation clearly established that the conduct occurred but did not violate the City's or Fire Department's policies. |
| Not Sustained: | There is insufficient evidence to determine whether the alleged conduct occurred.   |
| Sustained:     | The alleged conduct occurred.   |

**C. Fee Proposal**

The fee for Chuck Thomas Investigations service is \$160.00 per hour (including reasonable travel time) plus expenses. In the event Chuck Thomas Investigations is required (by any party) to provide testimony at a post-investigation hearing, deposition, trial, or other legal proceeding, the fee is \$160.00 per hour for preparation, and \$160.00 per hour for testimony (four-hour minimum), plus expenses. The City of Riverside or a subject employee's counsel may place Chuck Thomas Investigations "on call" for a trial, deposition or hearing. In that event, the Chuck Thomas Investigations shall be compensated four (4) hours per day at \$160.00 per hour for each of the days Chuck Thomas Investigations is directed to be "on call".

The City of Fullerton will be invoiced on thirty-day basis for all services provided by the Chuck Thomas Investigations. Monthly billings are due and payable upon receipt by the City of Fullerton.

## 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
- X   Exception taken to indemnification and insurance requirements
- \_\_\_\_\_ Exception to proposed contract language
- \_\_\_\_\_ Other

Please explain any of the checked items:

REQUEST AUTOMOBILE LIABILITY INSURANCE  
LIMIT OF LIABILITY BE \$500,000 / INCIDENT

PROPOSING FIRM: CHUCK THOMAS INVESTIGATIONS DATE: 11-4-2020  
BUSINESS ADDRESS : P.O. BOX 2201, MISSION VIEJO, CA 92690  
SIGNATURE OF REPRESENTATIVE: *Charles Thomas* / SOLE OWNER  
BY: CHARLES THOMAS TITLE: OWNER

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:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

## 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:

REQUEST WAIVER OF WORKERS' COMPENSATION AND  
EMPLOYERS' LIABILITY INSURANCE, AS I HAVE  
NO EMPLOYEES

PROPOSING FIRM: CHUCK THOMAS INVESTIGATIONS DATE: 11-4-2020

BUSINESS ADDRESS : P.O. BOX 2201, MISSION VIEJO, CA 92690

SIGNATURE OF REPRESENTATIVE: Charles Thomas / SOLE OWNER

BY: CHARLES THOMAS TITLE: OWNER

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:

|  |  |
|--|--|
|  |  |
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|  |  |

### 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:

REQUEST PROFESSIONAL LIABILITY INSURANCE  
LIMIT OF LIABILITY BE \$1,000,000 / INCIDENT

PROPOSING FIRM: CHUCK THOMAS INVESTIGATIONS DATE: 11-4-2020

BUSINESS ADDRESS : P.O. BOX 2201, MISSION VIEJO, CA 92690

SIGNATURE OF REPRESENTATIVE: Chad Thomas

BY: CHARLES THOMAS TITLE: SOLE OWNER

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:

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

**EXHIBIT B**  
**ADDITIONAL SERVICES**

**EXHIBIT C**  
**CERTIFICATES OF INSURANCE**



**EXHIBIT D**

**W-9 FORM**

- **W-9 Form is already on file with the City of Fullerton.**