



City of Emeryville
CALIFORNIA

**REQUEST FOR QUALIFICATIONS
FOR
PROFESSIONAL CONSULTING SERVICES: VARIOUS DISCIPLINES**

Deadline for Submission: March 3, 2025 at 5:00 pm

Contact Information:

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I. INTRODUCTION

The City of Emeryville (“City”) is seeking various professional consulting services to support the work of the Community Development Department (“CDD”), which is comprised of the City’s Planning; Building; and Economic Development and Housing (“EDH”) Divisions. Specifically, the City seeks to develop lists of qualified firms to provide services in the following 12 disciplines:

- Real Estate Financial and Economic Impact Analyses
- Appraisal Services
- Title and Escrow Services
- Land Surveyor Services
- Environmental Consultant Services
- Accessibility and Inclusive Design Services
- Housing Program Administration Services
- Construction Monitoring and Project Management Services
- Planning, Land Use and Urban Design Services
- Development Impact Fee Services (nexus studies and economic analyses)
- Public Art Support Services
- Labor Standards Administration and Investigation Services

The City implements a wide variety of policies and programs supporting the growth and development of Emeryville, including planning, economic development, housing, public art, capital projects and labor standards. CDD seeks firms with experience in the disciplines listed above to support current projects. These projects include Measure C-funded housing programs, several mixed use and affordable housing projects on City or Successor Agency-owned sites, policy development and implementation, and more.

The City will use this Request for Qualifications (referred to as RFQ or Request herein) to establish lists of qualified consultants for each professional discipline listed above. Consultants who wish to be considered for multiple disciplines must submit a separate response for each discipline in accordance with the submittal procedures outlined in this RFQ.

The established lists will be maintained for five (5) years. As work arises, the City intends to assign work to consultants from these lists. Prior to any assignment of work, the selected consultant(s) and the City will enter into a contract for either a single project or for “on-call” services. The contract, whether on-call or project-specific, will be in the form of a Professional Services Contract (“PSC”) as included in Attachment 1 to this RFQ. Each PSC will include a negotiated scope of work and rate schedule established at the time of its execution.

The City, at any time, may abolish the list(s) established using this RFQ process prior to the expiration period and initiate a new selection process to establish new list(s). Additionally, the City may issue separate future solicitations for similar services for project-specific professional services outside this process, and the City is not obligated to issue any contract(s) with this RFQ process.

Real Estate

CDD frequently manages the City's real estate projects outside of public rights-of-way, which are administered by the Public Works Department. The City seeks to establish lists of qualified consultants for support of real estate transactions that are not known today but may occur in the future as opportunities arise. These services may include title and escrow services, environmental consulting, appraisal services, and real estate financial analysis services.

Housing

A range of services will likely be needed to support various affordable housing opportunities. In 2023, the City issued \$50 million in social bonds to support existing and future affordable housing projects and programs. The City intends to develop lists of consultants for on-call projects to inform and evaluate potential real estate projects and well as assist in developing and administering various affordable housing programs to serve new and existing residents.

Planning

The City anticipates updating its development impact fees in 2025 and requires consultant support to conduct nexus studies and establish fee amounts in accordance with the requirements of State law. Additionally, the City's 2023-2031 Housing Element includes several activities relating to modifying planning regulations applicable to housing, which will require consultant expertise to implement. The City is also looking for urban design services on an on-call basis as well as general planning services on an on-call basis.

Public Art

Public art support services may be needed to support the City's Art in Public Places program, which has resulted in over 250 art installations and over 700 art works in the City. The program is principally funded by developer contributions and creates an on-going need to procure and maintain public art works in various media.

Labor Standards

The City has adopted ordinances that regulate local businesses relationships with employees. The City regulates, to varying degrees, Minimum Wage, Paid Sick Leave, scheduling of retail employees and wages of hotel staff. The City requires assistance with the administration of its labor standards program and investigation of complaints of violations of the City's labor standards.

II. BACKGROUND

The following summary of select CDD projects and programs is provided to inform potential consultant firms of the types of consulting support anticipated to be required by the City. This list is not exhaustive nor fixed, as projects and programs can be added, removed or reprioritized by the City at any time.

4300 San Pablo

The City may require financial consulting and/or construction monitoring services in support of the project at 4300 San Pablo Ave. The City owns this 0.47-acre site comprised of two parcels. Through a Request for Qualifications and Proposals (“RFQP”) process conducted in 2020, the City selected EAH Inc. (“EAH”) to redevelop the site into an affordable Intergenerational housing development for seniors and transitional aged youth (“TAY”). EAH received planning entitlements to build 68-units targeted to households below 60% of the Area Median Income (“AMI”). EAH is in the process of securing financing for the project.

Art Center

The City may require financial, construction monitoring/ management and/ or environmental services in support of the Art Center. The City anticipates seeking a private developer partner and/or a non-profit operator to design, build and operate an Art Center at 4060 Hollis Street, after preliminary feasibility and planning activities are completed. This City-owned site is currently occupied by a 30,000-square foot masonry building formerly used as a stamping plant that may be demolished and replaced with the Art Center which is expected to include a venue for the annual Emeryville Celebration of the Arts as well as visual and performing arts spaces. The City has convened an advisory committee to identify the program components of the future Art Center and advise staff and the City Council on project implementation.

Christie Sites

The City may require financial and/or construction monitoring services in support of the Christie Sites, which are three City-owned parcels at 5890, 5900 and 6150 Christie Avenue, bounded by Christie Avenue Park, Christie Avenue, the Public Market development, and a parking structure that serves an office building at 5850 Shellmound Way. Together they total 2.01 acres. Through an RFQ/P process conducted in 2022, the City selected EAH to develop a 100% affordable family project, with approximately 364 units spread out over 3 buildings, and expansion of Christie Park. EAH is in the process of securing financing and entitlements for the project.

Site B

The City may require financial, environmental, title, survey and/or construction monitoring services in support of the development of Site B. The Successor Agency to the Emeryville Redevelopment Agency (“Successor Agency”) owns and has identified “Site B” for future development. Site B consists of approximately 3 acres bounded by Powell Street, the Union Pacific Railroad tracks, Shellmound Street and the Bay Street shopping center. The site is currently vacant and is designated in the City’s General Plan for “mixed use

with residential” with regional retail overlay and transit hub overlay designations. The site was contaminated by prior industrial users, and groundwater monitoring is ongoing. The Successor Agency’s Long Range Property Management Plan (“LRPMP”) determined that the development of a high-density, mid- to high-rise mixed-use development with a variety of pedestrian and transit-oriented residential, retail and/or office uses would fulfill the City’s planning objectives for Site B. The site developer will be selected through a future competitive process, pending resolution of environmental issues on and adjacent to the site.

Opportunity Sites & Special Needs Incentive Program

The City may require financial, appraisal, environmental, title, and/or survey services to conduct due diligence work to evaluate future housing development opportunities. As noted above, in June 2018 the City received voter approval to issue \$50 million in affordable housing bonds and in April 2023, the City closed on the housing bonds. Eligible uses of the bonds include the acquisition and/or development of affordable housing and the purchase of affordability commitments in privately developed projects. To evaluate opportunities as they arise, the services identified above may be required on an as needed basis. In addition, the City wishes to develop financial models to evaluate the potential for purchasing additional affordability in private developments and the possibility of incentivizing the designation of affordable units for special needs populations.

Housing Preservation and Accessibility Improvements Programs

The City may require financial and economic impact analyses, construction monitoring and project management, housing program administration, and/or accessibility and inclusive design services related to housing rehabilitation loan programs. The City has allocated a portion of the \$50 million affordable housing bond and received an award of Prohousing Pilot Program funds for housing rehabilitation initiatives. The Emeryville Accessible Living Initiative lends funds to senior and disabled homeowners to increase the accessibility of their homes, and to Home Owners Associations and affordable rental housing developments to increase the accessibility of common areas. The Measure C Rental Preservation Program will lend funds for small-scale housing rehabilitation efforts.

Affordable Housing Program, Inclusionary Housing Ordinance, and Development Bonus Program

The City plans to update the Emeryville Planning Regulations to conform to current state density bonus law, and to incorporate an inclusionary housing requirement and increase the percentage of affordable housing units and income targeting required for compliance with the Affordable Housing Program and Development Bonus Program. Consultants working on this project would review the current state and local regulations, develop a financial feasibility model to ensure any changes in the number and percentage of affordable housing units would result in an increase in affordable housing and not hinder the development of housing, and draft modifications to the Planning Regulations, subject to approval by City Council.

Universal Design Ordinance

The City previously adopted Universal Design as a community benefit option for obtaining development bonuses. Universal Design standards make homes more usable and accessible for all people, including people with disabilities. The City plans to evaluate how to incorporate Universal Design features into the Planning Regulations beyond what is currently being implemented, pursuant to Emeryville Housing Element Program UU. Consultants working on this project would review Emeryville Planning Regulations, review ways that Universal Design has been incorporated into regulations in other communities, identify options for local revisions and work with the staff and the City Council to identify and develop revisions.

Planning Regulations Amendments

The City wishes to amend the Planning Regulations to ensure compliance with state law on the following topics:

- Employee Housing
- Residential Care Facilities
- Agricultural Worker Housing
- Group Residential and Single-Room Occupancy
- Emergency Shelters
- Mobile/Manufactured Homes

Consultants working on these planning amendments would review the current state and local regulations and draft ordinances that comply with state requirements while fulfilling local policy goals.

Parking Structure Adaptive Reuse Program

The City wishes to create an inventory and analysis of underperforming and underutilized parking structures, to determine the viability of converting them to residential use or a shared parking structure to address efficiency. The City also seeks policy recommendations to “future proof” new parking structures to facilitate future conversion into residential or other uses. This work will include identifying financial incentives to support implementation, as well as policy assessment and recommendations to support a potential Adaptive Reuse Ordinance and/or Financial Incentive Program.

Public Art

The City may require public art services in the form of;

- support for commissioning, procuring, and displaying artwork;
- graphic design services to prepare visually compelling digital and print invitations to public-art related events; and/or
- maintenance of diverse types of installations such as bus shelter installations, utility box art, murals, exterior sculptures, reliefs, and Purchase Award pieces (which include paintings, interior sculptures, and other media).

Biennially, the City commissions public art installations in four of the City's bus shelters. This well received program is open to artists living or working in Emeryville and is currently in its eighth phase. Annually, the City procures an artwork from a local art exhibition for display in the City's public buildings as part of its Purchase Award program. The City's public art program also includes the commissioning of larger works in key areas of the City using the City's "Art in Public Places" funds. The City may require public art services to assist with administering the artist solicitation and selection process for these works and a biennial call for artists in multiple medias for the Visual Arts Grant Program. Additionally, the City may require graphic design services to prepare artworks for installation in the bus shelters and to design flyers or other print and online collateral in support of public art unveiling events. Further management of art installations and maintenance of the collection, particularly exterior works, may also be required. Current projects include solicitation of maintenance services for outdoor sculptures and reliefs and integration of an artist's work with the 40th Street Multimodal Project. Responses need not address procurement, graphic design and maintenance together, rather, submittals can focus on one or more subdisciplines in this category.

Labor Standards

The City may require support to investigate complaints of violations of the City's labor standards. The most common complaints in recent years are related to the City's paid sick leave requirements, however, the City also has active cases involving the minimum wage rate and employee scheduling. The ordinances that comprise the City's labor standards can be found in the Emeryville Municipal Code, Title 5 in Chapters 31 (Living Wage Ordinance), 32 (Workplace Justice Standards at Large Hotels), 37 (Minimum Wage, Paid Sick Leave, and Other Employment Standards), 39 (Fair Workweek Employment Standards), and 41 (Right to Recall for Hotel and Card Room Employees).

III. QUALIFICATIONS

The City is seeking qualifications from consultants in multiple disciplines. Consultants who wish to be considered for multiple disciplines must submit a separate response for each discipline in accordance with the submittal procedures outlined in this RFQ.

General Qualifications

All consultants must have the following:

- Demonstrated knowledge of relevant local, state and federal codes and laws applicable to City projects and programs
- Demonstrated ability to coordinate work between various disciplines as required
- Possess appropriate and valid State of California-issued license or registration to practices in specific area of disciplines at the time of submittal, as applicable
- Demonstrated knowledge and capability to produce project documents in electronic formats compatible with the City's systems.
- Demonstrated capacity to comply with public sector contracting requirements.

Specific Qualifications

Consultants must have the following qualifications specific to each discipline of service:

Real Estate Financial and Economic Impact Analyses

- Demonstrated experience preparing financial feasibility studies for real estate projects, including affordable housing, mixed use and commercial projects, especially in infill urban environments
- Demonstrated experience preparing economic impact analyses of private development projects
- Demonstrated experience with review of developer financial documents and ability analyze developer financial capacity
- Demonstrated experience with review and preparation of pro-forma financial statements for affordable housing projects
- Extensive knowledge of contemporary sources of development finance for affordable housing, permanent supportive housing and mixed-use development projects

Appraisal Services

- Licensed California Real Estate Appraiser licensed by the California Department of Consumer Affairs Bureau of Real Estate Appraisers
- MAI Designated Member of the Appraisal Institute
- Demonstrated experience in conducting real estate appraisals for public agencies
- Demonstrated knowledge of local real estate markets
- Demonstrated breadth of work history in valuations of residential, commercial and mixed-use properties
- Evidence of commitment to excellence in workmanship and professionalism as evidenced by awards and certifications.
- Demonstrated ability to deal with controversial projects and unfriendly property owners
- Demonstrated experience in providing court/expert testimony for condemnation or other litigation

Title and Escrow Services

- Licensed escrow company licensed by the California Department of Business Oversight
- Demonstrated experience working with public agencies
- Demonstrated experience preparing preliminary title reports, legal descriptions, preparation of closing documents and provision of title insurance policies
- Ability to provide on-site closing services
- Demonstrated experience with complex transactions, especially those involving government ownerships

Land Surveyor Services

- Professional Land Surveyor License issued by the California Department of Consumer Affairs
- Demonstrated experience preparing topographic surveys, legal descriptions, parcel maps, and American Land Title Association (ALTA) land surveys

Environmental Consultant Services

- Professional Engineer qualifications
- Demonstrated experience preparing Phase I and Phase II Environmental Site Assessments for a wide range of urban property types
- Demonstrated experience with environmental characterization and the preparation of Feasibility Studies, Remedial Action Plans and related documents for environmentally challenged properties
- Extensive knowledge of regulatory processes and procedures relating to site remediation
- Evidence of excellent working relationships with environmental regulatory agencies including Alameda County, the Regional Water Quality Control Board, the California Department of Toxic Substances Control and the United States Environmental Protection Agency

Accessibility and Inclusive Design Services

- Licensed Architect licensed by the California Architects Board
- Demonstrated experience in conducting accessibility reviews of residential and civic projects
- Demonstrated knowledge of Inclusive Design principles and experience in implementing Inclusive Design in construction projects

Housing Program Administration Services

- Demonstrated experience in designing and administering housing programs for public agencies
- Knowledge of residential real estate rules, regulations and transaction processes

Construction Monitoring and Project Management Services

- Demonstrated experience managing vertical construction projects in an urban environment of various types, including affordable housing, civic and commercial structures
- Ability to provide estimating, constructability analysis and value engineering
- Track record of on-time and within budget completion of complex projects with multiple stakeholders
- Experience serving as “owner representative” for public agency capital improvement projects and affordable housing projects

Planning, Land Use and Urban Design Services

- Demonstrated experience evaluating and drafting land use regulations for local jurisdictions in California.
- Knowledge of and experience with California State Density Bonus Law, Inclusionary Zoning Law, and/or other housing, urban planning and land use state laws.
- Demonstrated experience in evaluating family friendly and other design principles and guidelines in new construction.

Development Impact Fee Services (nexus studies and economic analyses)

- Demonstrated experience preparing nexus studies for California jurisdictions to determine and substantiate the need for impact fees.
- Demonstrated ability to communicate nexus study findings and recommendations clearly to stakeholders, including elected officials and interested members of the public.
- Understanding of real estate economics and ability to evaluate the effects of proposed impact fees
- Extensive knowledge of California laws and regulations shaping impact fee requirements.

Public Art Support Services

- Demonstrated experience managing public art procurement processes and/or maintenance of art pieces for cities and/or preparation of graphics for public art collateral
- Knowledge of Emeryville's Art in Public Places program, Emeryville Public Art Master Plan, and the Rotten City Cultural District Programs
- Extensive network of both established and emerging artists interested in public art.

Labor Standards Administration and Investigation Services

- Demonstrated experience in conducting investigations of alleged violations of labor standards
- Ability to analyze merit of complaints, interview employees, review payroll records and other financial documents, analyze evidence and prepare written reports
- Ability to testify in either administrative hearings or in court proceedings

IV. RFQ SCHEDULE AND SUBMITTAL REQUIREMENTS

Schedule

RFQ Issued: February 3, 2025

Deadline for RFQ Questions: February 21, 2025 at 5:00 P.M.

Responses Due: March 3, 2025 at 5:00 P.M.

Evaluation by Selection Committee: week of March 17, 2025

Publication of Qualification List: week of March 31, 2025

The City reserves the right to adjust the above noted schedule as necessary.

Submittal Contents and Format

Firms must provide a separate submittal for each of the disciplines for which consideration is sought. No combined qualification submittals will be accepted. Please ensure that submittals are very clearly marked regarding which discipline the submittal addresses.

The disciplines are:

1. Real Estate Financial and Economic Impact Analyses
2. Appraisal Services
3. Title and Escrow Services
4. Land Surveyor Services
5. Environmental Consultant Services
6. Accessibility and Inclusive Design Services
7. Housing Program Administration Services
8. Construction Monitoring and Project Management Services
9. Planning, Land Use and Urban Design Services
10. Development Impact Fee Services (nexus studies and economic analyses)
11. Public Art Support Services
12. Labor Standards Administration and Investigation Services

Interested firms should submit a succinct narrative response that addresses the items below.

- a. Date of submittal
- b. Identify which discipline the firm wishes to be considered for
- b. Name and address of the firm submitting qualifications
- c. Date firm was established, its structure, number of employees and general qualifications
- d. Name(s) of the person(s) authorized to represent the firm in any negotiations
- e. Name(s) of the person(s) authorized to sign any contract that may result
- f. Contact person's name, mailing or street addresses, phone and email address
- g. Original signature of person listed in section (e) above
- h. Resumes for each individual who would be assigned to the City's projects, including relevant experience working with public entities within the discipline. Specify roles and responsibilities.
- i. Firm's availability for projects in 2025, and firm's ability to handle rush projects or large projects
- j. Recent experience of the firm in providing services for representative projects. Provide name, address and phone number of clients
- k. Subconsultants that would be utilized and their role(s). Include subconsultant firm qualifications.
- l. Location of the office(s) where work will be performed
- m. Current hourly billing rates by firm's staff, by position
- n. Identify any recent or pending litigation (within the last seven years) involving former or current clients
- o. Confirmation that the required City standard contract terms and insurance levels are acceptable

Prior to negotiating a contract with the qualified firm(s) for a particular project assignment, City will ask the firm(s) to submit the expected scope of services to be provided by each subconsultant, broken down by task or phase and the corresponding fees.

All submittals shall be in an 8 ½" by 11", electronic pdf format. All submittals must have an executive summary/cover page with content identified to correspond to each of the items listed above.

Submittals must be typed and not exceed 15 pages of written material (not including the cover letter).

One electronic file in .pdf format not exceeding 5 megabytes must be received by the City via email to kari.vadnais@emeryville.org with the subject line: "CDD Consultant RFQ" no later than 5:00 P.M., March 3, 2025.

Late submittals will not be accepted. All submittals shall become the property of the City of Emeryville.

V. EVALUATION OF SUBMITTALS

A. Selection Process Generally

All responsive submittals to this RFQ will be evaluated by a Selection Committee empaneled for each discipline and composed of City staff from various departments/divisions. Written qualifications will be reviewed and ranked by the Selection Committees and ranked according to the rating criteria described in this RFQ. All firms will be notified if they have been shortlisted via email. Following the Selection Committee's evaluation process and determination of short-listed firms the City may contact firms' references and develop the final consultant lists. The lists will be maintained for five (5) years. However, placement on a list does not guarantee any work from the City. Based on City needs, the City may choose to invite one or more consultants to prepare a fee proposal for specific projects immediately after or during the duration of the established list.

B. Evaluation Criteria Scoring

Each submittal shall be evaluated on the following evaluation criteria, not necessarily listed in order of importance:

- 1) Success and range of experience of each firm, especially with Cities or clients with similar projects and/or programs, including quality of work, success in meeting project deadlines, success in meeting project budget, and related criteria
- 2) Firm's overall professional qualifications as delineated in the "General Qualifications" and applicable "Special Qualifications" sections of this RFQ.
- 3) Demonstrated ability to carry out assignments while adhering to schedule and budget limitations
- 4) Demonstrated ability to adapt to changes and factors throughout the process that may affect the delivery of projects or program outcome

VI. TERMS AND CONDITIONS

A. Errors and Omissions

Consultants are responsible for reviewing all portions of this Request. Consultants are to promptly notify the City, in writing, if the firm discovers any ambiguity, discrepancy, omission or other error in the Request. Any such notification should be directed to the City promptly after discovery, but in no event later than five (5) working days prior to the date for receipt of submittals.

B. Additional Questions

Any questions regarding this Request must be submitted in writing to the City staff contact person listed on the cover page at least ten (10) working days prior to the submittal deadline. The City may share the question(s) and its response(s) with all known consultants who are considering a response to this Request.

C. Addendum

The City may revise this Request prior to the submittal deadline. The City will communicate modifications to this Request by issuing an addendum. The City may extend the submittal deadline in its sole discretion.

D. Additional Information

In the City's sole discretion, it may contact any, all or no consultant to seek additional information about a submittal. Such additional information may include requesting that the consultant meet with the selection committee, financial information, clarification on the submittal, etc.

E. No Contract

This Request and the selection process shall in no way be deemed to create a binding contract, agreement or offer of any kind between the City and submitting consultant. If the City selects a consultant(s) pursuant to this Request, any legal rights and obligations between the successful firms, if any, and the City will come into existence only when a written contract is fully executed by the parties, and the legal rights and obligations of each party shall at that time be only those rights and obligations which are set forth in the contract and any other documents specifically referred to in that contract.

F. No Costs to City

Each consultant submitting a response to this Request agrees that it shall bear all costs and expenses associated with the preparation of the, and the City shall not be responsible for any costs or expenses incurred by the consultant, under any circumstances.

G. Public Records

All submittals become the property of the City, regardless of whether the City enters into a contract with the consultant, and no submittals will be returned to the consultant. In accordance with California law relating to access to public records, the City may be required to publicly disclose all submitted information and materials to third parties requesting such information. At the City's sole discretion, it may delay disclosure of submittals until negotiations with the selected consultant(s) has concluded, if such disclosure would compromise the City's negotiating position. If the submitting consultant claims that any submitted information constitutes a trade secret or is proprietary, the

bidder shall identify the trade secret or proprietary information in the submittal. Pricing is not considered a trade secret or proprietary information.

H. Award

This Request does not commit the City to award a contract. The City reserves the right to accept or reject any or all submittals, to negotiate a different proposal, to split the award, to waive irregularities, and technicalities, to alter the selection process in any way, to postpone the selection process for its own convenience at any time for any reason, to waive any defects or irregularities in any submittal, to issue a new Request at any time, or to hire any consultant it deems appropriate in its sole and absolute discretion within or outside of the evaluation process.

I. Protest

Should any proposer question or protest the determination made by the awarding entity (City Manager or City Council), such question or protest must be furnished in writing to the City Clerk within three (3) calendar days after the City notifies all proposers of its intent. Such question or protest must fully explain its basis, supported by all relevant evidence, and citations to laws and regulations. The writing must be signed by an authorized representative stating specific reason(s) for the objection or protest. Questions or protests that do not comply with this section will be rejected without further action.

J. Federal, State and Local Laws

Any consultant executing a contract with the City will be required to comply with all applicable federal, state and local laws, including state Prevailing Wage Law (Cal. Labor Code, § 1720, et seq.) and the City of Emeryville's Minimum Wage, Paid Sick Leave, and Other Employment Standards (Emeryville Municipal Code Chapter 37) and Living Wage Ordinance (Emeryville Municipal Code Chapter 31), as applicable.

VII. CONTRACT

A sample of the standard City PSC is attached for reference. By submitting a response to this Request, the consultant agrees it is willing and able to execute the then-current PSC, including all applicable insurance requirements contained therein.

Attachments:

A – Template PSC (including insurance requirements)



PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT ("Contract") is effective as of _____ (the "Effective Date"), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH THAT

WHEREAS, the City desires to engage Contractor for *Project Name and Brief Description*; and

WHEREAS, the City finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Contract; and

WHEREAS, the City has determined that the Contractor is qualified by training and experience to render such services; and

WHEREAS, the Contractor desires to provide such services; and,

WHEREAS, the public interest will be served by this Contract; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. SCOPE OF SERVICES AND TERMINATION DATE

1.1 *Project Description*

A complete project description is set forth in the Scope of Work, attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2 *Services*

The services to be completed under this Contract ("Services") are described in the Scope of Work set forth in **Exhibit A**. The Services shall be performed in accordance with terms, conditions, and specifications set forth herein. To the extent there is a conflict between the Scope of Work, and the terms, conditions, and specifications set forth herein, the terms, conditions, and specifications set forth herein shall govern.

FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

1.3 Schedule and Completion Date

The Services to be provided by Contractor under this Contract shall commence on the Effective Date and terminate on **END DATE**. The Parties may, by mutual, written consent, extend the term of this Contract.

2. WORK CHANGES

2.1 City Rights to Change

The City reserves the right to order changes in the Services to be performed under this Contract by altering, adding to or deducting from the Scope of Work. All such changes shall be incorporated in amendments executed by the Contractor and the City. Such amendments shall specify the changes ordered and any necessary adjustment of compensation and completion time.

2.2 Additional Work Changes

Any work added to the Scope of Work by an amendment shall be executed under all the applicable conditions of this Contract. No claim for additional compensation or extension of time shall be recognized unless contained in an amendment duly executed on behalf of the City and the Contractor.

2.3 City Manager Execution

The City Manager has authority to execute without further action of the Emeryville City Council, any number of amendments so long as their total effect does not materially alter the terms of this Contract or increase the total amount to be paid under this Contract, as set forth in Section 3.2 below.

3. COMPENSATION AND METHOD OF PAYMENT

3.1 Compensation for Services Performed

City agrees to pay the Contractor for the Services performed and costs incurred by Contractor upon certification by the City that the Services were actually performed and costs actually incurred in accordance with the Contract. Compensation for Services performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Services performed and costs incurred. The City shall pay the Contractor within forty-five (45) days after approval of the invoice by City staff.

3.2 Total Compensation Amount

The total amount paid under this Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **TBD DOLLARS AND NO CENTS (\$TBD)**, except as outlined in Section 2.3 above. The compensation for Services performed shall be as set forth in **Exhibit A**. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail charges, photocopying and

microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

4. COVENANTS OF CONTRACTOR

4.1 *Assignment of Contract*

The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Contract, without the prior express written consent of the City. As to any approved subcontractors, the Contractor shall be solely responsible for reimbursing them and the City shall have no obligation to them.

4.2 *Responsibility of Contractor and Indemnification of City*

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City and City's members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the City, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend the City, its members, officers, agents, employees and volunteers shall survive termination of this Contract.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

4.3 Independent Contractor

The Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Services as an independent contractor and not as the agent or employee of the City. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Services; hiring of contractors, agents or employees to complete the Services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

4.4 Insurance

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

4.5 Records, Reports and Audits

4.5.1 Records

- A. Records shall be established and maintained by the Contractor in accordance with requirements prescribed by the City with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.
- B. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

4.5.2 Reports and Information

Upon request, the Contractor shall furnish to the City any and all statements, records, reports, data and information related to matters covered by this Contract in the form requested by the City.

4.5.3 Audits and Inspections

At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all records with respect to all matters covered by this Contract. The Contractor will permit the City to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Contract.

4.6 Conflicts of Interest

The Contractor covenants and declares that, other than this Contract, it has no holdings or interests within the City of Emeryville, nor business holdings, contracts or agreements with any official, employee or other representative of the City. For the duration of this Contract, in the event the Contractor or its principals, agents or employees acquire such a holding, interest, contract, or agreement within the City of Emeryville or with any official, employee or representative of the City in the future, the Contractor will immediately notify the City of such holding, interest, contract, or agreement in writing.

4.7 Confidentiality

The Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. The Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether deemed confidential or not.

4.8 Discrimination Prohibited

The Contractor covenants and agrees that in performing the Services required under this Contract, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

4.9 Licenses, Certifications and Permits

The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Services contracted for under this Contract. All work performed by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

4.10 Key Personnel

The Project Manager is / Key Personnel are necessary for the successful prosecution of the Services due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the project team

without the City's approval. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Contractor's obligations under this Contract and shall be grounds for termination.

4.11 Authority to Contract

The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Contract, if applicable.

4.12 Ownership of Work

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the Services to be performed by the Contractor ("Materials") shall be and are the property of the City and the City shall be entitled to full access and copies of all such Materials. Any such Materials remaining in the hands of the Contractor or subcontractor upon completion or termination of the work shall be delivered immediately to the City. The Contractor assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged or destroyed before final delivery to the City, the Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

4.13 City Labor Requirements

4.13.1 Compliance

At the Effective Date, compliance with the City's living wage ordinance is ☒ **required** / ☐ **not required** for this Contract. If this Contract provides for compensation to Contractor of \$25,000 or more within a single fiscal year for providing Services to the City, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.

4.13.2 Applicability

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to

[Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.

4.13.3 Non-Compliance

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Contract and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.

4.13.4 Living Wage

Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$18.54 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.

4.13.5 Minimum Wage and Paid Sick Leave

In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

4.14 California Labor Requirements

4.14.1 Prevailing Wage Requirements

Contractor is aware of the requirements of [California Labor Code](#) Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775),

employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

4.14.2 Registration

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

4.14.3 Labor Compliance Oversight

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

4.14.4 Workers’ Compensation

Pursuant to the requirements of section 1860 of the [California Labor Code](#), Contractor will be required to secure the payment of workers’ compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

“I am aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

4.14.5 Event of Default

Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

5. TERMINATION

- A. The City shall have the right to terminate this Contract for any reason whatsoever by providing written notice thereof at least five (5) calendar days in advance of the termination date.
- B. All termination notice periods triggered pursuant to written notice shall begin to run from the date of the United States Postal Service postmark.
- C. Upon termination, City shall provide for payment to the Contractor for Services rendered and expenses incurred prior to the termination date.
- D. Upon receipt of a termination notice the Contractor shall: (1) promptly discontinue all Services affected, unless the notice directs otherwise; and (2) promptly deliver to the City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Contractor in performing this Contract, whether completed or in process, in the form specified by the City.
- E. Notwithstanding anything to the contrary, this Contract is subject to immediate termination in the event the City Council does not appropriate sufficient funds for this Contract.
- F. The rights and remedies of the City and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Contract or at law or in equity.

6. NO PERSONAL LIABILITY

No member, official or employee of the City shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

7. ENTIRE AGREEMENT

This Contract constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Contract not contained in this Contract shall be valid or binding. This Contract may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

8. SUCCESSORS AND ASSIGNS

Subject to the provisions of this Contract regarding assignment, this Contract shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

9. APPLICABLE LAW AND ATTORNEY'S FEES; VENUE

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

10. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

11. BUSINESS TAX CERTIFICATE

Prior to commencement of the Services to be provided hereunder, Contractor shall apply to the City of Emeryville Finance Department for a business tax certificate, pay the applicable business tax and maintain said business tax certificate during the term of this Contract, as provided in Article 1 of Chapter 1 of Title 3 of the Emeryville Municipal Code.

12. NOTICES

12.1 Communications Relating to Daily Activities

All communications relating to the day-to-day activities of the work and invoices shall be exchanged between *Project Manager* for the City and *Point of Contact* for the Contractor:

CITY	CONTRACTOR
<i>Project Manager, Title</i>	<i>Point of Contact, Title</i>
Phone No: 510-596-4300	Phone No: 510-000-0000
E-Mail : <i>email@emeryville.org</i>	E-Mail : <i>email@contractor.com</i>

12.2 Official Notices

All other notices, writings or correspondence as required by this Contract shall be directed to the City and the Contractor, respectively, as follows:

CITY	CONTRACTOR
<i>Department Head, Title</i> <i>Street Address</i> Emeryville, California 94608 Phone No: 510-596-4300 E-Mail : <i>email@emeryville.org</i>	<i>CEO / President, Title</i> <i>Street Address</i> <i>City, State, Zip Code</i> Phone No: 510-000-0000 E-Mail : <i>email@contractor.com</i>
<i>with a copy to:</i> <i>Project Manager, Title</i> <i>Street Address</i> Emeryville, California 94608 Phone No: 510-596-4300 E-Mail : <i>email@emeryville.org</i>	

13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

15. NON-EXCLUSIVITY

City reserves right to employ other contractors in connection with the Services covered under this Contract.

16. ASSIGNMENT OR TRANSFER

Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Contract or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

17. WAIVER

The City's failure to enforce any provision of this Contract or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

18. OTHER REQUIREMENTS

Compliance with terms and conditions set forth in **Exhibit C** is ☐ **required** / ☐ **not required** for this Contract. Contractor shall also fully and adequately comply with the provisions included in **Exhibit C** ("Other Requirements") when attached hereto and incorporated herein by reference ("Other Requirements"). With respect to any conflict between such Other Requirements and the terms of this Contract and/or the provisions of state law, **Exhibit C** shall control.

SIGNATURES ON FOLLOWING PAGE

19. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

City Attorney

Dated: **CITY OF EMERYVILLE**

LaTanya Bellow, City Manager

Dated: *COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)*

Type Name of Signatory, Title *(Signature)*

<i>Attach: W-9 Form</i>	<i>Attach: Business License Certificate</i>



EXHIBIT B
Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)**.

1. MINIMUM REQUIREMENTS

Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work or Services required by the Contract hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage, as checked below:

1.1 Minimum Scope of Insurance

Coverage shall be at least as broad as the latest version of the following:

- ☒ **General Liability**
Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- ☒ **Automobile Liability**
Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto) or if Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the General Liability Policy.
- ☒ **Professional Liability / Errors and Omissions**
Written on a policy form specifically designed to protect against acts, errors or omissions of the Contractor wherein "Covered Professional Services" as designated in the policy must specifically include Services performed under this Contract.
- ☒ **Workers' Compensation and Employer's Liability**
Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.
- ☐ **Pollution Liability Insurance**
Pollution Liability insurance for claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater. This shall

include on and off-site clean up and emergency response costs and claims arising from above ground and below ground storage tanks.

1.2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

☒ General Liability

☒ All Contract Types

\$1,000,000.00 per occurrence and **\$2,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability.

OR

☐ Construction Specific

\$2,000,000.00 per occurrence and **\$4,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability, and coverage for explosion, collapse and underground property damage hazards.

☒ Automobile Liability

\$2,000,000.00 per accident for bodily injury and property damage.

☒ Professional Liability / Errors and Omissions

\$2,000,000.00 per claim and aggregate.

☒ Workers' Compensation and Employer's Liability

Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\$1,000,000.00** each accident, policy limit bodily injury or disease, and each employee bodily injury or disease.

☐ Pollution Liability Insurance

\$2,000,000.00 per occurrence and **\$2,000,000.00** aggregate.

Except for the professional liability / errors and omissions policy, defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the Parties required to be named as additional insureds pursuant to this Contract.

2. INSURANCE ENDORSEMENTS

The insurance policies shall contain the following provisions, if checked, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions, if checked, to the insurance policies:

☒ **General Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 or CG20 37, or endorsements providing the exact same coverage, with respect to the work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it; and (4) the insurance coverage shall contain standard separation of insureds provisions.

☒ **Automobile Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

☒ **Professional Liability Coverage**

Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and Contractor agrees to maintain continuous coverage through a period no less than three years after termination of the Contract.

☒ **Workers' Compensation and Employer's Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

☐ **Pollution Liability Coverage**

(1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

ALL COVERAGES

Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3. NO SPECIAL LIMITATIONS

The required insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

4. DEDUCTIBLES AND SELF-INSURANCE RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

5. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

6. VERIFICATION OF COVERAGE

Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing any work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

8. REPORTING OF CLAIMS

Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the work performed under this Contract.

*Attach:
Insurance Certificate and Endorsements*