

City of Emeryville



REQUEST FOR PROPOSALS

Business License Tax Revenue

Consulting Services

Due by, Friday, August 12, 2021 @ 3:00 P.M.

CITY OF EMERYVILLE

NOTICE FOR PROPOSALS

Business License Tax Revenue Consulting Services

NOTICE IS HEREBY GIVEN that the City of Emeryville (City) is soliciting proposals from an experienced, qualified Firm ("hereinafter interchangeably referred to as Firm or Proposer") to provide Business License Tax Revenue Consulting Services ("Services") outlined in the RFP for the City of Emeryville. The timing of the project will correspond with the next renewal of Business Licenses for Calendar Year 2022.

Due to COVID-19, proposals shall **ONLY** be submitted via electronic mail to the Finance Director, Brad Farmer at bfarmer@Emeryville.org until 3:00 p.m., August 12, 2021. Said proposals will be evaluated and results will be made public after completion of the negotiation process with the selected consultant. The City reserves the right to reject any or all proposals and to waive any informalities or irregularities in any proposal or in the proposal process.

IMPORTANT!!!

The City is not responsible for misdelivered proposals, and the proposer is strictly liable for its chosen method of delivery. It is the proposer's soleresponsibility to make sure that proposals arrive at the proper location. Any proposal which does not actually arrive in the Finance Director's email address by theRFP due date and time will be rejected as non-responsive, even if properly addressed or delivered to another City Department.

Your proposal MUST be emailed to: bfarmer@emeryville.org

(TAX REVENUE CONSULTING SERVICES)

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1.0 INTRODUCTION

The City of Emeryville (hereinafter “City”) is soliciting proposals from qualified firms to provide Business License Tax Revenue Consulting Services to the City. This will be a competitive negotiation process. Qualified individuals, firms, contractors, consultants or entities (hereinafter “Consultant/Proposer(s)”), that meet the requirements set forth in this Request for Proposals (hereinafter “RFP”) and are capable of providing the services requested are encouraged to participate.

1.1 BACKGROUND

The City is interested in providing the business community the ability to obtain business licenses though on on-line platform while reducing the impact on the limited finance staff. Business License revenue accounted for approximately 14% of the City of Emeryville’s FY2020-21 General Fund operating revenues. Total business licenses issued by calendar year for the past five years are outlined below:

Year	Businesses within the City	Businesses outside the City	Total Business Licenses Issued	Total Revenue
2021	1,788	852	2,640	\$ 4,121,437
2020	2,067	801	2,868	5,286,984
2019	2,562	1,195	3,757	5,552,065
2018	2,808	1,057	3,865	5,164,376
2017	2,341	1,023	3,364	5,154,274

1.2 CITY OVERVIEW

The City is a taxpayer funded California Charter City providing full services to the residents and business community of Emeryville. The City is governed by a five-member City Council. The City Manager and staff implement the policies approved by the Council and handle the City's day-to-day operations. The City 's primary service area is approximately 1.2 square miles, located between Oakland and Berkeley, CA with an estimated population of 12,586. The ability to continue to provide the level of services desired is significantly impacted by the decrease in Transient Occupancy Tax and Sales Tax resulting from the economic slowdown associated with the global pandemic. Increasing operational and personnel costs, including the funding of existing Unfunded Actuarial Liabilities have also increased pressure on the available funds the City uses to provide the desired service levels in the community.

1.3 INSTRUCTIONS

This RFP includes a description of the scope of services, proposal requirements, and instructions for submitting your proposal. Failure to follow these instructions may result in rejection of your proposal.

No oral representations or interpretations will be made to any proposer as to the meaning of this RFP. Direct all inquiries regarding this RFP in writing to:

City of Emeryville
Finance Administration
Attn: Brad Farmer
Email: bfarmer@emeryville.org

Do not contact other individuals or City departments in this regard. Information provided by anyone other than the above contact may be invalid and proposals which are submitted in accordance with such information may be declared non-responsive.

In the event that it becomes necessary to revise any part of this RFP, written addenda will be issued. Any amendment to this RFP is valid only if it is in writing and issued by the City department issuing the RFP. No oral interpretations or answers shall bind the City unless confirmed by the City in writing.

2.0 TENTATIVE SCHEDULE

The following represents the tentative schedule for this RFP. Deadline for Final Questions, or Proposal Submission Deadline will be advertised in the form of an addendum to this RFP. The schedule for the evaluation process and other future dates may be adjusted without notice.

RFP Released by the City.....	07/20/2021
Deadline for Final Questions.....	07/30/2021
City Responses to Written Questions.....	08/04/2021
Proposal Submission Deadline.....	08/12/2021 – 3:00 pm
Consultant Interviews as needed.....	08/16/2021
Contract Negotiations concluded.....	08/27/2021
Contract Approval by City Council.....	09/13/2021
Commencement of Services.....	09/14/2021

3.0 SCOPE OF SERVICES

Please describe the firms' ability to meet each of the requirements below. If a requirement cannot be met, please provide an alternative approach or state that your proposal does not include that category of services.

3.1 Business Operations Tax Administration

- Maintain the City's Tax Registration Database and provide copies of the data or report at the City's request. The City will not be required to use or maintain any software in-house for managing the business registry but will have access to the system to verify publicly available license information.
- Send active business license accounts a renewal notice within 30 days of the renewal period end date. The Consultant will provide all applicable forms necessary to complete the renewal process. The Consultant shall follow the City guidelines for processing delinquent accounts.
- Process new business license applications and complete the new account registration process according to established City guidelines.
- Process all business license functions in accordance with the City of Emeryville Municipal Code Section as they relate to Business License.
- Process all payments for new and renewal accounts. The Consultant will update all license accounts with payment information and remit all revenues to the City, net banking, and related processing fees on no less than a monthly basis.
- Provide businesses with multiple support options for registering, renewing, making payments, and for general inquiries.
- Make available options for businesses to visit a website linked to the City's website to submit online transactions, including, but not limited to, renewal processing, new

- account processing, and payment processing.
- Provide customer support to City staff on business operations tax inquiries.

4.0 **ASSURANCE OF DESIGNATED PROJECT TEAM**

Consultant shall assure that the designated project team, including sub-consultants or sub-contractors (if any), is used for this project. Departure or reassignment of, or substitution for, any member of the designated project team, sub-consultant(s) or sub-contractor(s) shall not be made without the prior written approval of the City.

5.0 **PROPOSAL FORMAT REQUIREMENTS**

Each response to this RFP shall include the information described in this section. Provide the information in the specified order. Failure to include all of the information specified may be cause for rejection. Additional information may be provided but should be succinct and relevant to the goals of this RFP. Any additional information that a proposing Consultant wishes to include that is not specifically requested should be included in an appendix to the proposal.

Proposers are encouraged to keep the proposals brief and to the point, but sufficiently detailed to allow evaluation of the project approach. Excessive information will not be considered favorably. Unauthorized conditions, omissions, limitations, or provisions attached to a proposal will render the proposal non-responsive and may cause its rejection.

Proposers are warned against making erasures or alterations of any kind, without initialing each and every such change. Proposals that contain erasures or irregularities of any kind, without such initialing, or omissions, may be rejected.

5.1 **Cover Letter** with the following information:

- Title of this RFP
- Name and Mailing Address of Firm (include physical location if mailing address is a POBox)
- Contact Person, Telephone Number, Fax Number, and Email Address
- A statement that the submitting Consultant will perform the services and adhere to the requirements described in this RFP, including any addenda (reference the addenda by date and/or number).

5.2 **Signature Requirements** - The attached Proposer's Certification (**Attachment A**) shall be executed by an official(s) legally authorized to bind the Consultant which states that the proposal is valid for ninety (90) days. Include the executed copy of the Proposer's Certification under Tab G. Note: This is ninety (90) days following the closing date for the receipt of all proposals.

- Proposals submitted on behalf of a Partnership shall be signed in the firm name by a partner or the Attorney-in-Fact. If signed by the Attorney-in-Fact, there shall be attached to the proposal a Power-of-Attorney evidencing authority to sign proposals, dated the same date as the proposal and executed by all partners of the firm.

- Proposals which are submitted on behalf of a Corporation shall have the correct corporate name thereon and the actual signature of the authorized officer of the corporation written (not typed) below the corporate name. The title of the office held by the person signing for the corporation shall appear below the signature of the officer.
- Proposals which are submitted on behalf of a Limited Liability Company (“LLC”) shall be signed by the person or persons authorized to bind the LLC under the LLC’s articles of organization.
- Proposals which are submitted by an Individual Doing Business under a firm name (“dba”) shall be signed in the name of the individual doing business under the proper firm’s name and style.

5.3 **Firm’s Qualifications** – Describe your firm and provide a statement of your firm’s qualifications for performing the requested services. Identify the services which would be completed by your firm’s staff and those that would be provided by sub-consultants or sub-contractors, if any. Identify any sub-consultants or sub-contractors you propose to utilize to supplement your firm’s staff. Include the firm’s organizational chart, including its constituent parts, and size variation of staffing levels in the past five (5) years.

5.4 **Experience and References** – Provide a summary of your firm’s experience in providing these or similar services. Provide a minimum of three (3) references for projects or services similar in nature and scope that your firm’s team members have completed in the last five (5) years. Include brief descriptions of the projects, dates, client names and contact persons’ names, addresses and telephone numbers. Public sector references are preferred.

5.5 **Qualifications of Team** – Provide a brief summary of the role, qualifications and experience of each team member and designated project manager/lead assigned to this project, including length of service with the firm and the qualifications/experience of any sub-consultant or sub-contractor staff on your project team. A project team organizational diagram and brief resume of each team member and the designated project manager/lead for each applicable category shall be included. The geographic location of the firm and key personnel shall also be identified. Any proposed sub-consultants or sub-contractors shall be listed. Include sub-consultant’s and sub-contractor’s assigned task(s) and experience. Full resumes may be included in the appendix.

5.6 **Project Understanding** – Based on the available information, supplemental research, field observations, and experience with similar projects, provide a narrative describing your understanding of the services requested in this RFP, your general approach and any major challenges to achieving the City’s stated goals. Include any issues you believe will require special consideration for this project. Also identify any unique approaches or strengths that your firm may have related to this project. City staff will assess your understanding of all aspects of the project based on the overview. Please include examples report deliverables, for both staff analysis and for public reporting.

5.7 **Project Plan** – Provide a detailed discussion of your firm’s approach to the successful implementation of this project. Include thorough discussions of methodologies you believe are essential to accomplishing this project. Include a proposed work schedule to

accomplish all of the required tasks within the desired timeline. Identify the staff who would be assigned to each task, including sub-consultants and sub-contractors. List any necessary equipment, training or installation services required.

- 5.8 **Cost Proposal** – Provide a total cost proposal for all products and services to be delivered, and a breakdown of costs delineated by tasks as described in your project plan. Include a schedule of hourly rates for all proposed staff and the amount of time each person will be devoted to this project. Define any reimbursable expenses requested to be paid by the City.
- 5.9 **Required Statements/Documents** – Include statements of assurance regarding the following requirements in the proposal:
- Non-substitution for the designated members of the team without approval by City staff **(Section 4.0)**
 - The absence of a conflict of interest **(Section 9.4)**
 - Indicate your ability and agreement to fulfill the indemnification and insurance requirements contained in the sample contract **(Section 9.7)**. (Please note that actual certificates of insurance are not required as part of your submittal.)
 - A statement that nothing contained in the submitted proposal will be proprietary. **(Section 9.23)**

Submit the following documents with proposal:

- Executed copy of Proposer’s Certification **(Attachment A)**
- 5.10 **Exceptions** – Describe any and all proposed exceptions, alterations or amendments to the Scope of Services or other requirements of this RFP, including the Sample Contract **(Attachment B)**. The nature and scope of your proposed exceptions may negatively affect the evaluation of your submittal and the City’s determination of whether it is possible to successfully negotiate a contract with your firm.
- 5.11 **Competency of Proposers** – The City wants to ensure that the successful Consultant has the necessary facilities, ability, experience, and financial resources to provide the services specified herein in a satisfactory and timely manner. Please list and explain any pending bankruptcies, liens, stop payment notices, judgments, lawsuits, arbitrations, mediations, foreclosures, and any similar actions filed or resolved in the past seven (7) years. Please indicate whether a client has ever terminated a contract with your firm for breach, and if so, please explain.

6.0 SUBMITTAL INSTRUCTIONS

- 6.1 Proposals shall be submitted not later than the time and date indicated on the cover page of this RFP. All submittals shall be submitted with the **title of the RFP and “Sealed Proposal” in the subject line and the body of the email.**
- 6.2 Proposals shall be emailed to:

bfarmer@emeryville.org

- 6.3 Faxed or hand delivered proposals will not be accepted. Email will be accepted up until the deadline date and time - [August 12, 2021 – 3:00 pm.](#)
- 6.4 The City shall not be responsible for proposals delivered to a person or location other than specified herein.
- 6.5 The City reserves the right to waive minor defects and/or irregularities in proposals and shall be the sole judge of the materiality of any such defect or irregularity.
- 6.6 All costs associated with proposal preparation shall be borne by the proposer.

7.0 EVALUATION CRITERIA

The following evaluation criteria and rating schedule will be used to determine the most highly qualified firm(s).

- A. Experience and qualifications of firm and proposed staff (per sections 5.3-5.5)
- B. Understanding of the Project – Proposed Project Plan (per section 5.6-7)
- C. Proposed Cost - (per section 5.8)

8.0 SELECTION PROCESS

- 8.1 Award of the RFP shall be made to the responsible Proposer whose proposal is determined, through a formal evaluation panel process, to be the most advantageous to the City after the evaluation panel has taken into consideration the evaluation factors set forth in the RFP. A master averaged score sheet shall be created based on the evaluation panel's initial evaluation. Proposals shall be scored according to the criteria stated in the RFP.
- 8.2 Proposals submitted will be reviewed by a selection committee. Proposers who have submitted the best and most complete proposal may be invited to an interview. The number of Proposers invited to an interview may vary depending upon the number of proposals submitted.
- 8.3 Should the City elect to conduct interviews with any Proposers, the following criteria shall be considered, and each Proposer ranked by the evaluation panel during the interview process: a) Quality of presentation, b) Ability to meet the City's business goals, c) Communication style.
- 8.4 The City reserves the right to select after review of the proposals without oral interviews; therefore, the proposal should be submitted initially on the most favorable terms that the Proposer might propose.
- 8.5 A contract will be negotiated with the Proposer considered best meeting the City's need for this project. In the event a mutually satisfactory contract cannot be negotiated

with the City's first choice, negotiations may be terminated and commenced with the Proposer considered next best in meeting the City's needs for this project.

- 8.6 The selected Consultant will be required to execute a City prepared contract. The contract may further refine the scope of services and will provide for the terms and conditions of employment.
- 8.7 The award of any contract is expressly contingent upon City Council approval and the availability of funds. City staff may not legally bind the City to a contract.
- 8.8 The City reserves the right to reject any or all proposals, or to waive minor irregularities in said proposals, or to negotiate minor deviations with the successful Consultant(s). In the case of differences between written words and figures in a proposal, the amount stated in written words shall govern. In the case of a difference in unit price versus the extended figure, the unit price shall govern.
- 8.9 The City reserves the right to seek clarification on any or all proposal submittals to ensure the RFP specifications are met. Proposals may be rejected from any proposer who does not comply with the City's request for clarification.
- 8.10 Once a decision has been made to award the contract, then a formal notice of the intent to award to the recommended proposer(s) shall be made by the Department.
- 8.11 A City of Emeryville business license as well as all applicable permits, licenses and certifications required by local, state or federal law are required before the contract award.

9.0 GENERAL TERMS & CONDITIONS

- 9.1 **Standard Contract.** Upon completion of the evaluation and recommendation for award, the selected Consultant will be required to execute an agreement prepared by the City, a sample of which is included as **Attachment B**.
- 9.2 **Independent Contractor.** At all times, the Consultant shall represent to be an independent contractor offering such services to the public and shall not represent their selves, or their employees, to be an employee of the City. Therefore, the Consultant shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers' compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the City, its officers, agents, and employees, harmless from and against, all loss, cost (including attorneys' fees), and damage of any kind related to such matters.
- 9.3 **Non-Appropriation.** The City may terminate any resulting contract at the end of any fiscal year, June 30th, without further liability other than payment of debt incurred during such fiscal year, should funds not be appropriated by its governing body to continue services for which the contract was intended.

- 9.4 **Conflict of Interest.** The Consultant shall warrant that no official or employee of the City has an interest, has been employed or retained to solicit or aid in the procuring of the resulting contract, nor that any such person will be employed in the performance of such contract without immediate divulgence of such fact to the City. Proposers submitting a proposal in response to this RFP must disclose any actual, apparent, direct, indirect, or potential conflicts of interest that may exist with respect to the Proposer or the Proposer's management or employees relative to the services to be provided to the City. Conflict of interest issues may require consultation with legal counsel. If a Proposer has no conflicts of interest, a statement to that effect must be included in the proposal. Violation of this section shall be a material breach of the contract entitling the City to all remedies by law or in equity.
- 9.5 **Undue Influence.** The Consultant shall warrant via an executed Proposer's Certification (**Attachment A**) that no undue influence or pressure is used against or in concert with any officer or employee of the City in connection with the award or terms of the contract that will be executed because of this RFP, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of the City shall receive compensation, directly or indirectly, from the Proposer, or from any officer, employee or agent of the Proposer, in connection with the award of the contract or any work to be conducted as a result of this RFP. Violation of this section shall be a material breach of the contract entitling the City to all remedies by law or in equity.
- 9.6 **Non-Collusion.** Proposers submitting proposals shall warrant via an executed Proposer's Certification (**Attachment A**) that their offer is made without any previous understanding, agreement or connection with any person, firm or corporation submitting a separate proposal for the same project and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action. This condition shall not apply to proposals which are submitted by firms who have partnered with others to submit a cooperative proposal that clearly identifies a primary consultant and the associated sub-consultants or sub-contractors.
- 9.7 **Indemnification & Insurance Requirements.** The City's standard indemnification and insurance requirements are provided in the sample contract, included in **Attachment C**. All costs of complying with the insurance requirements shall be as included in your pricing. The selected Consultant shall provide complete and valid insurance certificates within ten (10) days of the City's written request. Failure to provide the documents within the time stated may result in rejection of the Consultant's proposal. Alterations to the terms and conditions shall not be allowed.
- 9.8 **Cost of Preparing Proposal.** The City will not pay any costs incurred by any Consultant in preparing or submitting a proposal in response to this RFP.
- 9.9 **Proposals Property of the City.** All documents or materials submitted with or in conjunction with any proposal, including but not limited to electronic files, shall become the property of the City after the proposal submission deadline. No submission documents will be returned. During negotiations, the scope of services may be amended by the City and negotiated based upon ideas provided by other proposers or any other source.

- 9.10 **Proposals are Public Records.** All proposals submitted are subject to the public disclosure requirements under the laws of the State of California, unless the City identifies and exercises a right or obligation to exempt any record from public disclosure. However, proposals will not be disclosed until negotiations are complete and a recommendation for selection and award is made.
- 9.11 **Rejection of RFP.** The City reserves the right to reject any or all proposals, to waive defects or irregularities in any proposal or in the RFP process, and to offer to negotiate or contract with any Consultant in response to any RFP. This RFP does not constitute any form of offer to contract.
- 9.12 **Modifying RFP.** The City reserves the right to modify any portion of, or to postpone or cancel this RFP at any time, and/or reject all submissions without indicating any reason.
- 9.13 **If no proposal is accepted,** the City may elect to have the services performed in some other manner.
- 9.14 **Rejecting Team Members, Firms or Sub-consultants.** The City reserves the right to reject individual team members, firms, sub-consultants or sub-contractors and request substitution prior to contract award.
- 9.15 **Withdrawal of Proposals.** Proposals may be withdrawn prior to the date and time specified for proposal submission with a formal written notice by an authorized representative of the proposer delivered to the City Clerk's Office. Proposals submitted will become property of the City after the proposal submission deadline.

Proposals may not be withdrawn for ninety (90) days after the due date unless the City enters a contract with another Consultant prior to the expiration of that ninety (90) day period.

- 9.16 **Prohibited Submittals.** No hand delivered, telephone or facsimile proposals will be accepted.
- 9.17 **Proposal Postponement and Amendment.** The City reserves the right to revise or amend the RFP or specifications up to the time set for opening of the proposals. Such revisions and amendments, if any, shall be announced by amendments to this RFP through the City's web site. Copies of such amendments shall be furnished to all prospective Proposers. Prospective proposers are defined as those Proposers who have registered and are on the City's RFP list for this service. If revisions and amendments require changes in quantities, prices or scope of services, the date set for opening of the proposals may be postponed by such number of days as in the opinion of the City shall enable Proposers to revise their proposals. Proposals which fail to acknowledge a substantive addendum to the RFP, as determined by the City Attorney's Office, on the City supplied addendum form will be rejected as non-responsive. Any revisions or amendments to the RFP will become incorporated into any contract awarded pursuant to the RFP.
- 9.18 **Proprietary Information.** Consultants submitting a proposal in response to this RFP must provide a statement that nothing contained in the submitted proposal will be

proprietary. However, if a Consultant desires to claim a privilege against public disclosure for a trade secret or other proprietary information, such information must be submitted with the proposal in a separate envelope marked “confidential.” The City Attorney’s Office will determine if the information is in fact proprietary, based on state and federal law. Note that under California law, a price proposal to a public agency is not a trade secret. The Consultant shall defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the “confidential” portion of the proposal.

- 9.19 **Right to Request Additional Information.** During the evaluation process, the City reserves the right, where it may serve the best interests of the City, to request additional information and clarifications from Proposers. Such information will be requested in writing to the specific proposer. This information will become a part of the original proposal submitted by the specific Proposer and will be used by the City in evaluating the proposal and will not be shared with other Proposers during the evaluation and negotiation process.
- 9.20 **Modification of Proposals.** Modification of a proposal already received will be considered only if the modification is received prior to the deadline date for receiving proposals. All modifications shall be made in writing, executed, and submitted in the same form and manner as the original proposal.
- 9.21 **Examination of Contract Documents.** Each Proposer shall thoroughly examine and be familiar with the terms of this RFP, the sample contract attached as **Attachment B**, legal and procedural documents, general conditions, specifications, and addenda (if any), which will constitute the contract documents. Submission of a proposal shall constitute acknowledgement, upon which the City may rely, that the Proposer has thoroughly examined and is familiar with the contract documents. Failure or neglect of a Proposer to receive or examine any of the contract documents shall in no way relieve the Proposer of any obligation with respect to their proposal or to the contract. No claim for additional compensation will be allowed which is based upon lack of knowledge of any contract document.
- 9.22 **Non-Discrimination.** The City maintains various policies related to contractual service providers. Among these is an anti-discrimination policy, which requires that the City’s contractors not discriminate in hiring based on gender, race, religion, sexual orientation, medical condition, and all other categories protected by law. Upon acceptance of a proposal, the City may request that the selected Consultant sign a statement affirming its compliance with this policy.
- 9.23 **No Assignment or Modifications.** This awarded contract is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and except as provided herein. Consultant shall not assign, transfer, subcontract, or otherwise substitute its interest in the contract or any of its obligations herein without the written consent of the City. The contract may be modified only by a written amendment signed by the parties.

9.24 **Bankruptcy.** Upon filing for any bankruptcy or insolvency proceeding whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the Consultant must notify the City immediately. Upon learning the actions herein identified, the City reserves the right, at its sole discretion, to cancel the contract.

Attachment A

PROPOSER'S CERTIFICATION

I hereby propose to furnish the goods or services specified in the Request for Proposals ("RFP"). I agree that my proposal will remain firm for a period of up to ninety (90) days to allow the City of Emeryville ("City") adequate time to evaluate the qualifications submitted.

I have carefully examined the Request for Proposals and any other documents accompanying or made a part of this RFP. The information contained in this proposal is true and correct to the best of my knowledge and is signed under penalty of perjury under the laws of the State of California. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its authorized agent and that the firm is ready, willing and able to perform if awarded the contract.

I further certify that this proposal is made without prior understanding, agreement, connection, discussion, or conspiracy with any other person, firm or corporation submitting a proposal for the same product or service; that this proposal is fair and made without outside control, collusion, fraud or illegal action; that no officer, employee or agent of the City or any other proposer is financially interested in said proposal; that no undue influence or pressure was used against or in concert with any officer, employee or agent of the City in connection with the award or terms of the contract that will be executed as a result of this RFP; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

NAME OF BUSINESS

SIGNATURE

NAME & TITLE, TYPED OR PRINTED

MAILING ADDRESS

TELEPHONE NUMBER

EMAIL

Type of Organization:

Sole Proprietorship

Corporation

State of Incorporation

Partnership

Limited Liability Company



PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT (“Contract”) is effective as of this _____ day of _____, 2021 (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 **XXXX DOLLARS AND NO CENTS (\$XXX)**, 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 **\$16.97 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
Project Manager, Title Phone No: 510-596-4300 E-Mail : email@emeryville.org	Point of Contact, Title Phone No: 510-000-0000 E-Mail : email@contractor.com

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

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, INCLUDING FEDERAL OR STATE REQUIREMENTS, IF APPLICABLE

If any of the boxes are checked below, this Contract is subject to the requirements as set forth in **Exhibit C**:

- Compliance with terms and conditions set forth in **Exhibit C** is 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 by reference. With respect to any conflict between such Other Requirements, and the terms of this Contract and/or provisions of state law, **Exhibit C** shall control.

- FEMA financial assistance will be used to fund all or a portion of this contract. If FEMA financial assistance will be used to fund any portion of this Contract, the Contractor shall comply with all federal requirements including, but not limited to, the following: 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference, and Federal Contract Provisions attached hereto as **Exhibit C** and incorporated herein by reference. Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in the contract, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions. With respect to any conflict between such federal requirements and the terms of this contract and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement 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:

_____, 2021

CITY OF EMERYVILLE

Christine S. Daniel, City Manager

Dated:

_____, 2021

COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)

Type Name of Signatory, Title *(Signature)*



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.