



**December 20, 2021**

**REQUEST FOR PROPOSALS (RFP)**

**The City of El Cerrito is inviting proposals from qualified planning consultants/teams to update the City's Housing Element for the 2022-2030 Reporting Period (6<sup>th</sup> Cycle)**

**PROPOSALS DUE: January 4, 2022, by 5PM**

City of El Cerrito  
Community Development Department  
10890 San Pablo Avenue  
El Cerrito, CA 94530  
[www.el-cerrito.org/CommDev](http://www.el-cerrito.org/CommDev)  
510-215-4361

## **INTRODUCTION**

The City of El Cerrito, Community Development Department seeks proposals from qualified consultants or consultant teams to complete a Housing Element update, related rezoning and all necessary environmental review as required under State law, in a manner consistent with the Regional Housing Needs Allocation 6 (RHNA 6) planning period (2022-2030). The City is requesting proposals from qualified consultants with experience developing clear, concise, and legally defensible Housing Elements and supporting environmental documents. The City is required to achieve certification by the California Department of Housing and Community Development (HCD) no later by January 31, 2023.

The City of El Cerrito, located in Contra Costa County, was incorporated in 1917 and has a total area of 3.7 square miles located on the eastern shore of the San Francisco Bay along Interstate-80 and State Route-123 also known as San Pablo Avenue. Our population of 25,000 is well served by regional mass transportation, including two Bay Area Rapid Transit (BART) stations. As a result of the [San Pablo Avenue Specific Plan](#) (adopted in 2014 and currently being updated), the City is actively experiencing growth in the Priority Development Area with the creation of new transit-oriented development around both BART stations and along San Pablo Avenue. The El Cerrito del Norte BART station serves as a major bus hub with multiple regional and local bus lines converging at the station. The El Cerrito Plaza BART station is adjacent to the City's downtown commercial corridor, along Fairmount Ave linking to the city's theater block (home to the Cerrito Theater) on San Pablo Avenue. Most of the Plan area is bordered by the Ohlone Greenway, a multi-use path beneath the elevated BART tracks, providing bicycle and pedestrian access with dedicated pockets of open space that connect with the neighboring cities of Albany, Richmond, and Berkeley.

Since 2014, six projects were completed providing 335 new housing units at all income levels. Currently, five additional projects are under construction, which once built will deliver 343 additional units. There are several other projects in the pipeline, including a proposed transit-oriented development mixed income housing project at the El Cerrito Plaza Station [www.el-cerrito.org/TOD](http://www.el-cerrito.org/TOD). Current 5<sup>th</sup> Cycle RHNA progress is shown in Table 1, and El Cerrito is one of 29 jurisdictions currently exempt from SB 35.

**Table 1: El Cerrito, 5<sup>th</sup> Cycle RHNA by Income Category**

	<b>Very Low</b>	<b>Low</b>	<b>Moderate</b>	<b>Above Moderate</b>	<b>Total</b>
<b>2015-22 RHNA</b>	100	63	69	166	398
Permitted/Built	62	6	15	509	592
Percent Achieved	62%	10%	22%	307%	149%

## **BACKGROUND**

For context, El Cerrito expects a 6<sup>th</sup> Cycle RHNA of approximately **1,391**, compared to **398** in RHNA 5, representing a 350% increase from the last planning cycle. Table 2 provides the anticipated number of housing units for El Cerrito by income level based on the Final RHNA for 2023-2031 Plan adopted by the Association of Bay Area Governments (pending adoption 12/16/2021). The City does not anticipate any rezoning outside of the San Pablo Avenue Specific Plan area, but this determination will be evaluated during the inventory of viable sites.

**Table 2: El Cerrito, 6<sup>th</sup> Cycle RHNA by Income Category**

Very Low	Low	Moderate	Above Moderate	Total
334	192	241	624	1,391

El Cerrito’s 2015-2023 Housing Element ([www.el-cerrito.org/housingelement](http://www.el-cerrito.org/housingelement)) was certified by the California Department of Housing and Community Development in 2014. Staff also implements many other housing policies adopted by the City Council:

- 1999: General Plan – [www.el-cerrito.org/generalplan](http://www.el-cerrito.org/generalplan)
- 2008: El Cerrito Zoning Ordinance - [https://library.municode.com/ca/el\\_cerrito/codes/code\\_of\\_ordinances?nodeId=TIT19ZO](https://library.municode.com/ca/el_cerrito/codes/code_of_ordinances?nodeId=TIT19ZO)
- 2014: San Pablo Avenue Specific Plan – [www.el-cerrito.org/SPASP](http://www.el-cerrito.org/SPASP)
- 2017: Affordable Housing Strategy – [www.el-cerrito.org/affordablehousing](http://www.el-cerrito.org/affordablehousing)

The City’s San Pablo Avenue Specific Plan includes a Form-Based Code, a Complete Streets Element, an Infrastructure Analysis and a Programmatic Environmental Impact Report (EIR). In 2014, the EIR analyzed the capacity for 1,706 units along with 243,112 square feet of commercial space. Beginning in 2019, staff kicked off an update to the Specific Plan – [www.el-cerrito.org/spaspcurrent](http://www.el-cerrito.org/spaspcurrent) - which will result in the preparation of a Supplemental Environmental Impact Report for the plan area. The SEIR analysis includes a development capacity of 2,500 new residential units and 100,000 square feet of new commercial space. The draft SEIR is scheduled for release in early 2022 and presented to the City Council in Spring 2022. The Plan update is an important component to our Housing Element as it will create additional capacity within the EIR to be able to achieve our RHNA and provide substantial sites to be included in the sites inventory.

In 2020, the City received grant funds through the State Department of Housing and Community Development’s (HCD) Local Early Action Planning (LEAP) Program that provides a spectrum of support, incentives, resources, and accountability to meet California’s housing goals. LEAP provides one-time funding to local jurisdictions for the preparation and adoption of planning documents, process improvements that accelerate housing production, and facilitate compliance in implementing the sixth RHNA cycle. The City is entitled to a maximum award of \$150,000, of which a significant portion will be put towards the Housing Element Update.

## **SCOPE OF WORK**

### **1. Consultant Responsibilities:**

El Cerrito is seeking professional consulting services to update the City’s adopted Housing Element in a manner consistent with current State law, ensuring certification of the final element by HCD by January 2023. Proposals must include a project description and schedule, including timelines for responses to HCD’s review and certification processes. Additional or optional tasks may be included, and creative approaches are welcome. The final scope of work will be subject to refinement and mutual agreement following the project’s launch and further discussion.

Upon consultant selection, the consultant will undertake the following tasks pursuant to California Government Code Section 65580-65589.8:

#### ***Task 1: Project Management and Coordination***

This task covers communication and coordination between the consultant and city staff, including meetings, phone conferences, email exchanges, and other communications to

ensure timely delivery and adoption of the City's updated Housing Element. The proposal should identify the number of meetings anticipated and expectations for staff. Strategies or practices to ensure clear and timely communication and effective project coordination should be described. Strategies for ensuring coordination with HCD over the course of the project should also be addressed, as needed.

***Task 2: Community Outreach and Engagement Plan***

The City is deeply committed to developing a program that effectively reaches, educates and engages the community throughout the Housing Element update, reaching all economic segments of the community. This should include strategies to ensure broad inclusion, particularly of hard-to-reach groups and special needs populations, with special attention given to communicating information so it is accessible and easy to understand. The consultant will assist in the preparation of meeting presentation collateral, staff reports, and other documents required by City staff. Outreach is expected to begin early in the process and continue throughout for feedback on important topics such as draft ideas, site options, the draft Housing Element and environmental reviews. Based on public health guidance, outreach/engagement may vary during the project based on safety considerations related to COVID-19. Consultant should lead the engagement and provide summaries from each state of outreach. At a minimum outreach should consist of:

- Two community meetings
- Online/virtual participation opportunities
- One presentation to the Planning Commission
- One presentation to City Council

***Task 3: Housing and Special Housing Needs Assessment***

The selected consultant shall examine and quantify the City's demographics, population, employment and housing trends and conditions that affect the housing needs of the community. Evaluation of quantifiable objectives and programs to address housing needs for all income levels, including extremely, very-low, low-income as well as elderly, veterans, population with disabilities, special needs, or experiencing homelessness. Analysis in the area should also include the City's capacity to meet RHNA in consideration with the availability of sustainable sites.

***Task 4: Housing Constraints Analysis***

Identify potential and actual governmental and nongovernmental constraints for the preservation, protection or production of housing across income levels within the city. The consultant shall prepare updated population, demographic, employment data and existing housing stock analysis. This should also evaluate the 6<sup>th</sup> Cycle RHNA allocation at all income levels in consideration with site availability.

***Task 5: Evaluate Existing Housing Element***

Review the current Housing Element and identify El Cerrito's success in accomplishing/implementing the identified goals, policies and programs; and provide explanations and updates where goals, policies or programs are in progress, have been abandoned or have not proven effective.

***Task 6: Sites Inventory***

The consultant shall prepare the sites inventory section of the Housing Element, demonstrating how El Cerrito will satisfy its RHNA in each income category. This includes identifying safe assumptions, evaluating sites and analyzing potential policy strategies to

increase site capacity, demonstrating development viability (per State law) and inputting the information into HCD's electronic form for submittal with the updated element. We anticipate that this will be the most significant area of work for the update process and will need to start early to ensure adequate time for consideration of potential areas for rezoning, if needed, or other changes to development standards needed to achieve the RHNA. Sites listed in the existing Housing Element should also be analyzed during the inventory. This assessment should also identify methods/strategies to affirmatively further fair housing (AFFH) through an analysis of the City's fair housing practices.

***Task 7: Goals, Policies, Programs and Quantified Objectives***

Identify goals, policies, programs and quantified objectives to include in the Housing Element to ensure compliance with State law and effective response to the housing needs, constraints and key priorities identified through the update process. This task includes ensuring responsiveness to priorities articulated through the community engagement process as well as ensuring internal consistency with other elements of the General Plan. This task will include identification of other General Plan policy updates or revisions needed to ensure consistency.

***Task 8: Rezoning (Based on Rezoning Recommendations)***

Based on the sites analyses, the consultant shall work with City staff to identify potential areas for rezoning, if necessary. This must include consideration of the State requirement for maintaining an adequate housing sites inventory throughout the eight-year planning period. If rezoning is recommended, the consultant shall prepare the required ordinance/policy update(s) and City staff will oversee adoption/implementation with the Planning Commission/City Council.

***Task 9: Draft Housing Element and Public Hearings***

Prepare and submit an administrative draft Housing Element for City staff review. Staff will provide a comprehensive set of desired changes. Once edits are complete, prepare a draft Housing Element to be made available to the public and presented to both the Planning Commission and City Council at public hearings. Based on Commission and Council input, prepare a HCD review draft and submit to HCD for the mandated review.

- Administrative draft and draft Housing Element (Microsoft Word)
- PowerPoint
- 2 public hearings

***Task 10: Final Draft Hearings, Final Adoption and Certification***

The consultant will work closely with HCD and City staff to respond to any comments and produce a final draft Housing Element for adoption. The final plan will be presented to the Planning Commission and City Council at public hearings. Prepare the final Housing Element, including any changes from the public hearings, and submit to HCD for final certification as well as the water/sewer district and the California Office of Planning and Research.

- Draft final and final Housing Element (Microsoft Word and PDF)
- PowerPoint
- 2 public hearings

***Task 11: CEQA Documentation***

The consultant shall prepare all required documents for California Environmental Quality Act (CEQA) review and submittal, including the Initial Study and subsequent documents identified as needed pursuant to CEQA. This should include public posting and noticing for comment as required. For budget purposes, consultant may list different prices depending on the level of analysis that may be needed. Consultant should detail assumptions made regarding the type of proposed CEQA document and any prior environmental documents which may be relied on for tiering purposes.

*Please note: This RFP does not include the Health and Safety Element Update or SB 1000: Environmental Justice. The City envisions a subsequent RFP opportunity to identify qualified consultants that will coordinate with the Housing Element update. These processes will occur in parallel and subsequently under separate contract awards.*

## 2. Work Schedule

Ability to perform work in a timely manner will be considered during consultant selection process. The City's target timeframe for disseminating a public draft is May 2022. Per HCD, the 6<sup>th</sup> Cycle Housing Element is due by January 31, 2023. Due to the compressed schedule, timelines provided by this RFP were determined by HCD deadlines.

## **RESPONSE TO REQUEST FOR PROPOSALS**

Responses to this RFP shall contain the following elements:

### *Background*

1. Information on the firm's qualifications and experience in preparing/certifying Housing Elements, including all associated project staff members. If sub-consultants will be used, please provide the same information on the firm's qualifications.
2. Please provide a list of California cities and contacts where the consultant has prepared a Housing Element and environmental documents.
3. References for previous Housing Element certifications with reference (Name, Position and Contact Information for personnel involved in effort).
4. Any additional information that would reflect on your firm's qualifications and ability to complete the scope described in this RFP.
5. Statement acknowledging receipt and review of City's standard Professional Services Contract.
  - a. The selected consultant will be required to execute a Professional Services Contract with the City and meet the insurance and other requirements therein. (Attachment 1)
  - b. Please include any proposed modifications to the City's standard Professional Services Contract that would be sought.

### *Proposed Scope of Work*

- A statement reflecting the consultant's approach to carrying out the scope of work contained in this RFP.
- Provide a project schedule showing the time required for completion of the project and addressing the State's deadline for submission to HCD.
- A description of the objective criteria your firm uses in determining the cost of preparing analyses, plans and opinions. The information provided should include the consultant's

schedule of fees, including hourly rates for employees and estimated costs for materials testing.

- A proposed list of tasks, including optional tasks, costs\*, total budget and timeline for each task within the Scope of Work, including expected typical amount of time and budget for each task
- Signature line, with name and title of signatory; firm address, email, and telephone number.

*\*Note: If the costs associated with the full Scope of Work exceeds the available grant funds, the City may work with the qualified consultant(s) to negotiate the final award in consideration with all required tasks.*

Consultant questions pertaining to the RFP shall be submitted no later than **5:00 pm, December 27, 2021, by email to [aashoori@ci.el-cerrito.ca.us](mailto:aashoori@ci.el-cerrito.ca.us).**

### **DELIVERABLES**

Deliverables include the draft(s) and certified 2023-2031 6th Cycle Housing Element, memos, and other materials listed in the Scope of Work section. In addition to the original copies of all final documents, the consultant shall provide the following deliverables

- Three (3) copies of the Draft Housing Element, including one (1) reproducible original and one (1) digital file; and
- Three (3) copies of the Certified Housing Element, including one (1) reproducible original and one (1) digital file

### **SELECTION PROCESS**

Selection of the consultant will be based on the City's review of the individual submittals, based on the following qualification considerations:

1. Background/Qualifications (50%)
  - The consultant team's experience in preparing Housing Elements.
  - The character, integrity, experience, and reputation of the consultant team.
  - The consultant's record of performance on previous contracts.
2. Proposed Scope of Work (50%)
  - Demonstrated understanding of the project.
  - Completeness of scope and ability to meet budget and timeline.
  - Overall ability, capacity, and skill of the consultant team, including individual team members.

It is the City's intent to select the consultant that presents the proposal that, in opinion of the City, is the most advantageous to the City, based on considerations outlined above. All other things being equal, priority will be given to qualified professionals who are members of protected classes. The City reserves the right to reject any and all responses for any reason whatsoever.

### **CONTRACT AWARD SCHEDULE**

Responses to this RFP will be evaluated in January. The selection committee, comprised of City staff, may conduct interviews on January 7<sup>th</sup>. The anticipated date for Council awarding the contract is January 18, 2022.

### **DEADLINE FOR RESPONSE**

The response to this RFP is to be received by the Community Development Department by **5:00 pm, Tuesday, January 4, 2022**. You must submit digital responses by email. Respond by email to:

City of El Cerrito, Community Development Department  
Attn: Aissia Ashoori, Housing Analyst, [aashoori@ci.el-cerrito.ca.us](mailto:aashoori@ci.el-cerrito.ca.us)

**ATTACHMENTS**

Attachment 1: Standard Professional Services Agreement

CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY OF \_\_\_\_\_ AND  
[NAME OF DESIGN PROFESSIONAL CONSULTANT]  
[USE THIS AGREEMENT FOR CONSULTING AGREEMENTS WITH LICENSED ARCHITECTS,  
LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, PROFESSIONAL LAND SURVEYORS,  
AND DESIGN FIRMS CONTAINING THESE DESIGN PROFESSIONALS]

THIS AGREEMENT for consulting services is made by and between the City Of \_\_\_\_\_ ("City") and \_\_\_\_\_ ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 20\_\_ (the "Effective Date").

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on \_\_\_\_\_, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.
- 1.5 **Public Works Requirements.** Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the Labor Code applicable to public works, to the extent set forth in Exhibit C.

[NOTE TO STAFF: IF THE SERVICES ARE NOT WITHIN THE STATUTORY DEFINITION OF A PUBLIC WORKS PROJECT, THEN SECTION 1.5 AND EXHIBIT C MAY BE DELETED. CHECK WITH THE CITY ATTORNEY IF THERE IS A QUESTION ABOUT WHETHER THE SERVICES CONSTITUTE A PUBLIC WORKS PROJECT.]

**Section 2. COMPENSATION.** City hereby agrees to pay Consultant a sum not to exceed \_\_\_\_\_, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT.]

2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;

- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

**[NOTE TO STAFF: THE 800-HOUR LIMIT HAS BEEN ADDED BECAUSE OF RECENT COURT DECISIONS THAT INDICATE THAT INDEPENDENT CONTRACTORS MAY BECOME ELIGIBLE FOR PERS AFTER 1000 HOURS OF WORK FOR A CITY WITHIN A 12-MONTH PERIOD, ENTITLING THE CONTRACTOR TO AN EMPLOYER CONTRIBUTION FROM THE CITY.]**

- 2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 **Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are specified below, and shall not exceed \$ \_\_\_\_\_. Expenses not listed below are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.

**[NOTE TO STAFF: IF NECESSARY, THE EXPENSES MAY BE INCLUDED IN OR ATTACHED AS EXHIBIT [C or D], AND THE PRECEDING LANGUAGE MODIFIED APPROPRIATELY.]**

- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**[NOTE TO STAFF: SECTION 3 MAY BE MODIFIED AS NECESSARY FOR THE TYPE OF WORK.]**

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of

not less than \$ \_\_\_\_\_ [dollar amount to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required] per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

#### 4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$ \_\_\_\_\_ [dollar amount to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required] per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant

- c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- d. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.3 **Professional Liability Insurance.**

4.3.1 **General requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$ \_\_\_\_\_ [**dollar amount to be determined based on the nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required**] covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 **Claims-made limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of five years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.3.3 **Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy

4.4 **All Policies Requirements.**

- 4.4.1 **Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 4.4.2 **Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- 4.4.3 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 4.4.4 **Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).
- 4.4.5 **Waiver of Subrogation.** Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the consultant, its employees, agents, and subcontractors.
- 4.4.6 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- 4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.** Consultant shall, to the fullest extent allowed by law, with respect to all Services performed in connection with this Agreement, defend with counsel acceptable to City, indemnify, and hold City, its officers, employees, agents, and volunteers, harmless from and against any and all claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, (“Claims”). Consultant will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly (“Liability”). Such obligations to defend, hold harmless and indemnify the City shall not apply to the extent that such Liabilities are caused by the sole negligence, active negligence, or willful misconduct of the City.

With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type of express or implied indemnity against the Indemnitees.

Notwithstanding the forgoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code section 2783, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

**Section 6. STATUS OF CONSULTANT.**

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an

agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7. LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's Failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

**Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon \_\_\_\_\_ days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.

- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:

8.6.1 Immediately terminate the Agreement;

- 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
- 8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
- 8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

**Section 10 MISCELLANEOUS PROVISIONS.**

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which

that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County \_\_\_\_\_ or in the United States District Court for the \_\_\_\_\_ District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **Contract Administration.** This Agreement shall be administered by \_\_\_\_\_ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

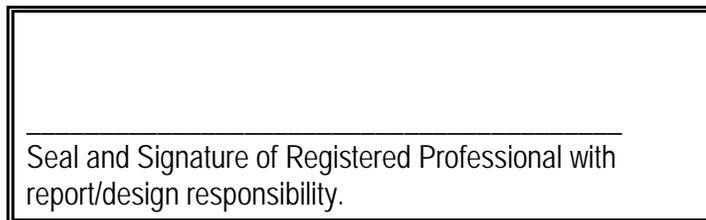
10.10 **Notices.** Any written notice to Consultant shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Any written notice to City shall be sent to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



10.12 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, [and C], and D] [ENSURE THAT THE CORRECT EXHIBITS ARE LISTED] represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

- Exhibit A            Scope of Services
- Exhibit B            Payment Schedule
- Exhibit C            Public Works Requirements [DELETE IF NOT APPLICABLE]
- Exhibit [C or D]    Expenses [DELETE IF NOT APPLICABLE]

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]

The Parties have executed this Agreement as of the Effective Date.

CITY OF \_\_\_\_\_

CONSULTANT

\_\_\_\_\_  
[NAME, TITLE]

\_\_\_\_\_  
[NAME, TITLE]

Attest:

\_\_\_\_\_  
[NAME], City Clerk

Approved as to Form:

\_\_\_\_\_  
[NAME], City Attorney

1011035\_1.DOC

EXHIBIT A  
SCOPE OF SERVICES

EXHIBIT B  
COMPENSATION SCHEDULE

## EXHIBIT C

### PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

#### HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.
- B. In accordance with Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply Labor Code Section 1775, which establishes a penalty of up to \$50 per day for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of

prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

1. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
  4. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be available for inspection by the Owner and its authorized representatives, the

Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
  
- E. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

EXHIBIT [C OR D]

REIMBURSABLE EXPENSES

1081612.1