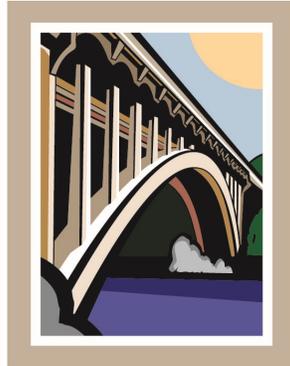


Request for Proposals



CITY OF
FOLSOM
ENVIRONMENTAL AND
WATER RESOURCES

Consulting Services for the 2020 Urban Water Management Plan

August 2020

**City of Folsom
50 Natoma Street
Folsom, CA 95630**

**REQUEST FOR PROPOSALS
2020 URBAN WATER MANAGEMENT PLAN**

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I. INTRODUCTION

The City of Folsom (City) is interested in engaging consultants or a consultant team to develop the City's 2020 Urban Water Management Plan (UWMP). Services for the 2020 UWMP would generally include data review and analysis, development of demand projections, analysis and quantification of demand management measures, population and demographic analysis, system supplies, water supply reliability, water shortage contingency planning, climate change, other factors as identified by the Urban Water Management Planning Act, and preparation of the draft and final reports. The Consultant should include a review of the 2020 Department of Water Resources (DWR) requirements for UWMP, Assembly Bill 1668 (Friedman) and Senate Bill 606 (Hertzberg), and recommend any changes to the services described above. In addition, the City wishes to update its Water Conservation Ordinance (Folsom Municipal Code Section 13.26) to match the new requirements under the Water Shortage Contingency Plan developed with the 2020 UWMP update.

II. BACKGROUND

The City of Folsom (City) is located in Sacramento County, approximately 20 miles east of the City of Sacramento. Adjacent to the American River, Folsom Reservoir (Lake), and Lake Natoma, the City has various environmentally sensitive creeks within its boundaries. The City is approximately 30 square miles in area. As of January 2020, the City's population is approximately 74,500 (excluding the Folsom Prison residents). The City expects continued growth, with build out population expected to reach approximately 111,000 residents by 2050.

The California Water Code (CWC) Section 10620(a) requires an urban water supplier to prepare and adopt an UWMP consistent with CWC Section 10640. All urban water suppliers, either publicly or privately owned, serving municipal water to 3,000 customers or supplying more than 3,000 acre-feet annually, are required to prepare an UWMP. The UWMP is required for an urban water supplier to be eligible for DWR state grants, loans, and drought assistance. The UWMP must be adopted by City Council and submitted to DWR by July 1, 2021. Included in the adoption of the 2020 UWMP shall be a Water Shortage Contingency Plan consistent with the requirements of Senate Bill 606.

III. PROJECT DESCRIPTION AND PURPOSE

The City of Folsom owns and operates one Water Treatment Plant (WTP) that utilizes the American River water supply and delivers treated surface water to approximately 22,000 residential and non-residential customer accounts. The WTP is designed to produce 50 million gallons per day (mgd) of treated drinking water. The water source is Folsom Lake, which is located approximately 1 mile north of the treatment plant. The treatment processes include rapid mix, pretreatment (parallel operation of conventional flocculation and sedimentation basin, and Actiflo high rate clarification), a conventional sand/anthracite dual media filter, chlorine contact

tank, corrosion and pH control, multi-point chlorine disinfection, Reclaimed Backwash (RBW) basin, and solids handling facilities (sedimentation basins and sludge lagoons).

After treatment at the City’s plant, water is stored and pumped through a system of reservoirs and pumping stations to seven pressure zones within the City and a small pressure zone in Southwest Folsom (the Nimbus Zone) that extends slightly beyond the City limits. Aerojet uses the Nimbus Zone to meet its potable water demands. The Nimbus Zone is located within the Nimbus Water Service Area. Aerojet also receives raw water supplies for industrial purposes within the Nimbus Area on a limited basis. There is a newer development area south of US-50, the Folsom Plan Area, where the City will experience most of its growth over the next 20-25 years.

IV. RFP TENTATIVE SCHEDULE

Milestone	Anticipated Date*
Request for Proposals Issued	August 18, 2020
Written Questions from Consultants Due	September 9, 2020 by 2:00 p.m.
Responses from City Due	September 11, 2020
Proposal Due (Date & Time)	September 18, 2020 by 2:00 p.m.
Potential Interview with Consultants	October 12, 2020
RFP Evaluation Completed	October 13, 2020
Consultant Selection	October 13, 2020
City Council Approval	October 27, 2020 or November 10, 2020
Contract Issued	November 27, 2020

*Subject to change at the City’s discretion

V. CONTACT

The primary contact person for this selection process is Kelsie Gugino. Her contact information is as follows:

Kelsie Gugino
City of Folsom – Environmental and Water Resources
50 Natoma Street
Folsom, CA 95630
(916) 461-6166
E-mail: kgugino@folsom.ca.us

VI. SUBMISSION OF PROPOSALS

A. Date and Time

All proposals must be submitted to the City Clerk's Office no later than **2:00 p.m. on Friday, September 18, 2020**. If mail delivery is used, the Consultant should mail the proposal early enough to provide for arrival by this deadline. Consultants that choose to use mail or a courier service do so at their own risk. Proposals received after the Proposal Due Date and Time will be rejected by the City as non-responsive. The City will not accept any proposals after the deadline date and time, regardless of the circumstances.

B. Identification of Proposals

1. The Consultant shall submit **five (5) hard copies** of the proposal to the City Clerk's Office, 2nd Floor.
2. The proposal package shall be addressed:

2020 Urban Water Management Plan RFP
City of Folsom
Attention: City Clerk's Office – Kelsie Gugino
Environmental and Water Resources Department
50 Natoma Street
Folsom, CA 95630

Note: By submitting a proposal, the Consultant certifies that his or her name, as well as any subcontractors, does not appear on the Controller General's list of ineligible contractors for federally assisted projects.

Until award of the contract, the City will hold all proposals in confidence and unavailable for public review. Upon award of a contract to the successful team, the City will consider all proposals as public records. No proposal will be returned after the date and time set for opening thereof.

VII. GENERAL CONDITIONS

A. Examination of Proposal Documents

By submitting a proposal, Consultants represent that they have thoroughly examined and become familiar with the requirements of the Request for Proposals (RFP) and that they are capable of meeting the proposal.

B. Limitations

This RFP does not commit the City to award a contract, to pay any costs incurred in the preparation of the contract in response to this request, or to procure or contract for services or supplies. The City expressly reserves the right to reject any and all proposals or to waive any irregularity or information in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. The City reserves the right to withdraw this RFP at any time without prior notice. Further, the City reserves the right to modify the RFP Tentative Schedule described above and/or postpone proposal opening for its own convenience.

C. Award

The City may ask RFP finalists to present oral briefings of their proposals. All finalists may be required to participate in negotiations and submit such price, technical, or other revisions of their RFPs as may result from negotiations. The City also reserves the right to award the contract without discussion, based upon the initial proposals.

D. RFP Addendum

Any changes to the RFP requirements will be made by written addenda by the City and shall be considered part of the RFP. Upon issuance, such addenda shall be incorporated in the agreement documents, and shall prevail over inconsistent provisions of earlier issued documentation. Should a Consultant have questions about this RFP, the Consultant shall notify the City in writing in accordance with Section F.2 below.

E. Verbal Agreement or Conversation

No prior, current, or post award verbal conversations or agreement(s) with any officer, agent, or employee of the City shall affect or modify any terms or obligations of the RFP, or any contract resulting from this RFP.

F. Clarification

1. Examination of Documents

Should a Consultant require clarification on this RFP, the Consultant shall notify the City in writing in accordance with Section F.2 below. Should it be found that the

point in question is not clearly and fully set forth in the RFP, the City may issue a written addendum clarifying the matter which shall be sent to all known recipients of this RFP and will be posted on the City of Folsom website.

2. Submitting Requests

- a. All Consultant questions, clarifications, or comments shall be submitted in writing and must be received by the City no later than September 9, 2020 by 2:00 p.m., and be emailed to Kelsie Gugino at kgugino@folsom.ca.us with the subject line: “**2020 UWMP RFP – Question**”.
- b. The City will only accept questions sent by email. All questions must be received by the City no later than the date and time specified above.

3. City Responses

- a. Response from the City will be communicated to all known recipients of this RFP, by way of Addendum, no later than 72 hours prior to the Proposal Due Date and Time.
- b. It is the responsibility of the Consultants to make sure they have received all addenda prior to submitting their proposal. The RFP Tentative Schedule may change at any time. Any and all changes to the RFP Tentative Schedule will be made by way of addendum. If an Addendum is issued less than 72 hours before the Proposal Due Date and Time, the Proposal Due Date will be extended.

G. Pre-contractual Expense

In any event, the City shall not be liable for any pre-contractual expenses incurred by any proposer or selected Consultant. Pre-contractual expenses are expenses incurred by proposers and selected contractors such as, but not limited to:

1. Preparing proposals in response to this RFP
2. Submitting proposals to the City
3. Negotiations with the City on any matter related to proposals
4. Other expenses incurred by a contractor or proposer prior to the date of award of any agreement

Proposers shall not include any such expenses as part of the price proposed in response to this RFP. The City shall be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

H. Signature

The proposal will need to provide the following information: name, title, address, email address, telephone number, and signature of the individual with authority to bind the company. The person who may be contacted during the period of proposal evaluation must also sign the proposal and provide their contact information.

VIII. CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

The selected Consultant will be required to enter into a Consultant and Professional Services Agreement with the City. A sample of the City's standard Consultant and Professional Services Agreement is included in Attachment A. Unless stated otherwise; submission of a proposal indicates that the proposer accepts the terms of the City's standard Consultant and Professional Services Agreement without changes.

IX. SPECIFICATIONS

A. Contract Period

The initial term shall be for one year. In order to promote efficiency and economy, the City reserves the right to extend the contract period. Such extension(s) will be at the City's option, subject to the same specifications, terms, conditions, favorable process, and agreement between the Consultant and the City.

B. Contract Award

The City plans to award a contract to the most responsible, responsive Consultant using the Proposal Evaluation and Selection Criteria section shown in this document.

C. Labor

All workmanship shall be first class throughout and only experienced qualified staff shall be employed under proper capable supervision.

D. Notice of Termination

The City reserves the right to terminate the Contract as identified in the attached sample Agreement (see Attachment A).

E. Subcontracting

The Consultant may subcontract portion(s) of the work, as long as the Consultant retains the bulk of the work. Any subcontracting will be solely between the Consultant and its

subcontractor(s). The Consultant will remain responsible for all work performed under the contract, as though the Consultant performed all the work. Additionally, the Consultant shall remain the sole agent dealing with the City.

Subcontracting is subject to prior approval from the City. Failure to provide the requested information may result in disqualification of your proposal.

F. Dismissal of Unsatisfactory Employees

If any person employed by the Consultant or any subcontractor fails or refuses to carry out the directions of a City representative, or is, in the opinion of a City representative, incompetent, unfaithful, intemperate, disorderly, or uses threatening or abusive language to any person, or is otherwise unsatisfactory, he/she shall be removed from the work immediately, and shall not again be employed on the work except upon consent of the City.

G. Fees and Costs Not Expressly Paid for by the City of Folsom

Bid prices shall include everything necessary for the completion of the work and fulfillment of the Contract, including but not limited to furnishing all materials, equipment, tools, excavation, sheeting, bracing and supports, plans, labor, and services. Bid prices shall include all Federal, State, and local taxes, and all other fees and costs. No fees or costs shall be paid for by the City. See General Provisions Section 2.02.

X. SCOPE OF WORK AND TASKS

The 2020 Urban Water Management Plan scope of work and tasks should include, but not be limited to, the following:

1. Information and data collection
2. 2015 UWMP review
3. Unit demand analysis
 - a. Review existing unit demand factors
 - b. Update unit demand factors as necessary based on recent legislative changes and consultant review of 2015 UWMP unit demand factors – provide an explanation in the proposal as to the level of effort the Consultant expects for this work
 - c. Consumption by customer class
 - d. Indoor and outdoor water use analysis to support unit demand factors
4. System description
 - a. Service area description
 - b. Per capita calculation for Single Family Residential and Multi Family Residential within the City water use areas
 - c. Service area population by City water service zones
5. System supplies
 - a. Water sources

- b. Water rights
 - c. Groundwater
 - d. Transfer opportunities
 - e. Recycled water opportunities
 - f. Future water projects
 - g. Drought planning
6. System demands by customer class
 - a. Existing potable and non-potable demands
 - b. Future potable and non-potable demands including buildout planning horizon
 - c. Distribution system losses
 - d. Low income household demands
 - e. Baseline and targets of 2010 UWMP GPCD and SB x7-7 progress
 - f. Water Use Reduction Plan
 - g. Demands by water service zone – for the Ashland service zone, the Consultant should incorporate work completed by San Juan Water District for their 2020 UWMP, which the City can provide
 7. Water Supply Reliability and Water Shortage Contingency Planning
 - a. Water supplies and demands for normal, single dry-year, and multiple dry-year scenarios (drought lasting at least 5 years)
 - b. Supply versus demand and include plausible changes to supply/demand under climate change conditions and anticipated regulatory changes
 - c. Water Shortage Contingency Plan
 - i. Written decision-making process used to determine water supply reliability
 - ii. Key data inputs and assessment methodology for current and one dry year water supply reliability
 - iii. Six standard stages, which should also apply to catastrophic interruption of water supplies, including, but not limited to, a regional power outage, an earthquake, and other potential emergency events.
 - iv. Develop template for annual water supply and demand assessment
 - d. Assess reliability of water supplies that includes potential impacts due to climate change
 - e. Water quality
 8. Demand Management Measures (DMM) – provide quantification of savings related to each of the DMMs through a separate technical memorandum and include the DMM description and savings in the 2020 UWMP report
 9. Energy usage for delivery and treatment of water supplies
 10. Draft report
 - a. Hard copies sent to regional agencies for comments
 - b. Eight hard copies submitted to the City
 - c. Electronic PDF copy
 11. Final report
 - a. 10 hard copies submitted to the City
 - b. Electronic Word copy
 - c. Electronic PDF copy
 - d. Final submittal to DWR
 12. Supporting documentation to provide to the City:
 - a. GIS files used

- b. Word files used
 - c. Excel files used
 - d. Documentation detailing any assumptions
 - e. Documentation showing how calculations were derived
 - f. Methodology for unit demand analysis
 - g. Methodology for service area population
 - h. Methodology for residential and non-residential growth
13. Project Management and Meetings
- a. Project kick-off meeting
 - b. Monthly review meetings (assume at least 10)
 - c. Two presentations to City Council
 - d. One public meeting for the Water Shortage Contingency Plan
14. Separate Memorandum
- a. Evaluate indoor, outdoor, and water loss regulations and provide recommendations to the City as to how to meet these standards
 - b. Discuss alternatives related to how the City can track and monitor indoor, outdoor, water loss, and CII water use targets
 - c. Identify products/software/tools to help the City track/monitor/evaluate its water use targets
 - d. Quantification of savings for each of the Demand Management Measures (DMM)

Other Items:

- The tasks listed above are not an exhaustive list and the Consultant should include other areas required to develop a complete 2020 UWMP.
- Update the City's Water Conservation Ordinance (Folsom Municipal Code Section 13.26) to align with the Water Shortage Contingency Plan.
- The Consultant shall develop a tool that allows the City to input data (housing growth, business growth, population changes, unit demand factor changes, and related items) to update the water demands, population figures, and development type for the Urban Water Management Plan on an annual basis.
- The Consultant shall review and understand recent legislative changes for the new criteria that are required to be included in the Urban Water Management Plan.
- The City will make available a PDF copy of the existing 2016 Water Master Plan and the 2015 Urban Water Management Plan for review. Upon selection of the Consultant team, the City will provide an electronic Word copy of the 2015 Urban Water Management Plan.
- The City can make available water use data by customer class.

XI. PROPOSAL CONTENT AND ORGANIZATION

Proposals should be limited to specific discussion of the elements outlined in this RFP. The intent of this RFP is to encourage responses which allow the City to understand a firm's experience and qualifications regarding long-term water supply planning and strategy development. *Consultants who wish to submit proposals as a team, are recommended to do so and submit while maintaining the same page limit as described below.*

Mandatory Submittal Layout

The organization of the proposal shall follow the general outline below:

- A. Transmittal Letter
- B. Introduction
- C. Proposal
- D. Consultant and Sub-Consultant Staff
- E. Consultant Qualifications and References
- F. Team Resumes
- G. Consultant Rate Schedule

A. Transmittal Letter (1 Page)

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consulting firm. The person who may be contacted during the period of proposal evaluation should also include their contact information and signature. The transmittal letter should also include a brief description of the Consultant's approach to providing its services to the City, including overall benefits to the City.

B. Introduction (Up to 2 Pages)

The proposer should demonstrate an overview of their firm's, or the project team firms', adequate experience of the variety of potential types of work that may be performed and an understanding of the role and relationships of your staff in the development of these planning documents.

C. Proposal (Up to 15 Pages)

Include a fee summary indicating, for each task, the hourly rate and the amount of time projected for each type of personnel utilized on the project, and the total cost for each task or division of work.

a. Overview and Summary

This section should clearly convey the Consultant's understanding of the work and project approach. Consultants should address the following:

- i. Understanding of the City's objective and the purpose of the project
- ii. Understanding of the project challenges

b. Project Approach

This section should include a full description of the work elements and the proposed methodology the Consultant proposes to satisfy the City's objectives. The scope of work and task provided offers a framework to performing this project. However, the Consultant is allowed to identify and describe other activities to implement. In addition, the Consultant is also allowed to discuss the reason for modifying or eliminating any task as outlined in the scope of work and tasks section.

c. Project Schedule

Include a schedule for the 2020 Urban Water Management Plan using the week of December 7, 2020 as the kick-off meeting date.

d. Project Team

This section should describe the Consultant's approach to managing the work. If the project is a team effort, the allocation of the work to the team members should be identified.

D. Consultant and Sub-Consultant Staff (Up to 4 Pages)

This section should describe the qualifications and experience of each professional who will participate in the project. An overall project manager must be designated, but the City understands that key staff will vary depending upon the services provided. Separate project managers for the various types of work are acceptable. Additionally, provide an organizational chart(s) showing the project manager and project staff. If separate teams/staff are utilized for the different work categories, please include an organizational chart for each Category. If a sub-consultant will be used, the organizational chart should indicate their role.

E. Consultant Qualifications and References (Up to 4 Pages)

This section should describe the nature and outcome of projects previously conducted by the consultant related to the work described within the RFP. Descriptions should include client contact names, address, phone numbers, descriptions of the type of work performed, approximate dates on which the work was completed, and proposed team members who performed the work.

F. Team Resumes

Include a 1-page (maximum) resume for each of the key project team members.

G. Consultant Rate Schedule (Up to 2 Pages)

Include a typical 2020 billing rate schedule for the project team and any changes that will likely occur in 2021. The proposed fee should include any likely changes in 2021.

XII. PROPOSAL EVALUATION AND SELECTION CRITERIA

A technical review committee made up of City Staff will evaluate the proposals. Proposers may be telephoned and asked for further information, if necessary, and may be expected to appear for oral interviews. Previous clients may also be called. The panel will make recommendations to the City Project Manager based on the proposal, optional oral interview, and reference check. The City reserves the right to select a consultant based solely on written proposals and not convene oral interviews.

Upon receipt of the proposals, the City will perform the technical evaluation and scoring of each proposal. The criteria to help evaluate the proposals will include the following considerations:

1. Recent relevant experience (20%)
2. Understanding of the background and requirements of the UWMP and overall implementation (20%)
3. Qualifications and experience of the project team that will be assigned to the City (25%)
4. References (10%)
5. Proposal Costs (25%)

In the event the City determines multiple proposals to be of equal value, interviews may be performed to further assess the proposals. The City may also request services based on the unique qualifications of a firm for projects requiring such qualifications.

ATTACHMENT A

Sample Contract – Consultant and Professional Services Agreement



CITY OF
FOLSOM
DISTINCTIVE BY NATURE

CITY OF FOLSOM CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into as of _____ 2020 ("Effective Date") by and between the City of Folsom, a Municipal Corporation, hereinafter referred to as "City" and _____, a _____, hereinafter referred to as "Consultant."

WITNESSETH:

WHEREAS, City desires to hire a consultant to provide _____; and,

WHEREAS, Consultant, by reason of its qualifications, experience, and facilities for performing the type of services contemplated herein, has proposed to provide the requested services.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed, City and Consultant agree as follows:

1. Scope of Service

The scope of service covered by this Agreement includes all consulting services described and contained in Exhibit A, attached hereto and by this reference incorporated into this Agreement. In the event of a conflict between the terms and conditions in this Agreement and the terms and conditions in Exhibit A, the terms and conditions set forth in this Agreement shall prevail.

2. Term of Agreement

The term of this Agreement shall commence on the Effective Date and shall continue until all services provided for in this Agreement have been performed or for one year, whichever is sooner, unless otherwise terminated as set forth in Paragraph 17 of this Agreement.

3. Schedule for Performance

City and Consultant agree that time is of the essence in the performance of this work, and Consultant agrees to produce documents in the times stated in the Proposal. Deviations from the time schedule stated in the Proposal may be made with the approval of the Environmental and Water Resources Director, or his/her authorized representative.

4. Compensation

Compensation for the services shall be paid on a time-and-materials, not-to-exceed basis.

The maximum compensation for the services specified in Exhibit A, including any and all costs or expenses, is _____. In the event the cost for services exceeds _____, Consultant agrees to complete all services enumerated in Exhibit A at no additional expense to City.

The City shall have the right to review all books and records kept by the Consultant and any subcontractors in connection with the operation and services performed under this Agreement. The City shall withhold payment for any expenditure not substantiated by Consultant's or subcontractor's books and records. In the event the City has made payment for expenditures that are not allowed, as determined by the City's audit, the Consultant shall reimburse the City for the amount of the disallowed expenditures. City shall make no payment for any services not specified in Exhibit A of this Agreement unless such additional services and the price thereof are agreed to in writing and approved by the City prior to the time that such additional services are rendered.

5. Invoicing, Payment, Notices

A. Consultant shall submit periodic invoices, not more frequently than monthly, for the services rendered during the preceding period. Invoices shall describe the services performed and costs incurred, the person(s) rendering performed services, the amount of time spent by such person(s), and the applicable hourly rate. Invoices that include charges for services rendered during the month of June shall not include any charges incurred after June 30th. A separate invoice shall be submitted for all services rendered after June 30th.

B. Consultant shall transmit invoices and any notices required by this Agreement, to City as follows:

Email address: apinvoices@folsom.ca.us
Attn: Environmental and Water Resources XP2651.

C. City shall transmit payments on invoiced amounts, and any notices required by this Agreement to Consultant as follows:

Name
Address
Phone
Email

6. Professional Services

Consultant agrees that services shall be performed and completed in the manner and according to the professional standards observed by a competent practitioner of the profession in which Consultant and its subcontractors or agents are engaged. Consultant shall not, either during or after the term of this Agreement, make public any reports or articles, or disclose to any third party any confidential information relative to the work of City or the operations or procedures of the City without the prior written consent of City.

Consultant further agrees that it shall not, during the term of this Agreement, take any action that would affect the appearance of impartiality or professionalism.

7. Independent Contractor

A. It is understood and agreed that Consultant (including Consultant's employees) is an independent contractor and that no relationship of employer-employee exists between the parties hereto. Consultant shall be responsible for the payment of all taxes, workers' compensation insurance and unemployment insurance. Should Consultant desire any insurance protection, Consultant is to acquire same at its sole expense.

B. Consultant's assigned personnel shall not be entitled to any benefits payable to employees of City.

C. City is not required to make any deductions or withholdings from the compensation payable to Consultant under the provisions of the Agreement, and is not required to issue W-2 Forms for income and employment tax purposes for any of Consultant's assigned personnel.

D. Consultant, in the performance of its obligation hereunder, is only subject to the control or direction of City as to the designation of tasks to be performed and the results to be accomplished.

E. Any third persons employed by Consultant shall be entirely and exclusively under the direction, supervision, and control of Consultant.

F. Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement. In the event Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall further indemnify, protect, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

8. Authority of Consultant

Consultant enters into this Agreement as an independent contractor and not as an officer, employee or representative of the City. Accordingly, Consultant shall provide information, recommendation, and advice to City, but shall possess no authority with respect to any City decision and no right to act on behalf of City in any capacity as agent, or to bind City to any obligations whatsoever.

9. Conflict of Interest

Consultant certifies that it has disclosed to City any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this Agreement. Consultant agrees to advise City of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this Agreement. Consultant further agrees to complete any statements of economic interest required by either City ordinance or State law.

Neither this Agreement, any duties or obligations under this Agreement, nor the intention or expectations of the City will cause the Consultant to be a “public official” as that term is used in California Government Code section 87100. The City and Consultant agree that the Consultant is not a “public official” or “participating in governmental decisions” as those terms are used in section 87100. The City and Consultant also agree that no actions and opinions necessary for the performance of duties under this Agreement will cause the Consultant to be a “public official” or “participating in a governmental decision” as those terms are used in section 87100. Nothing in this Agreement shall be construed to be inconsistent with the Consultant’s status as an independent contractor.

10. Assignment and Subcontracting

Consultant's rights, duties and obligations under this Agreement are not assignable or transferable, and Consultant shall not subcontract any work, without the prior written approval of the City.

11. Ownership of Work Product

All technical data, evaluations, reports, plans and other work products of Consultant provided hereunder shall become the property of City and shall be delivered to City upon completion of the services authorized hereunder. Consultant may retain copies thereof for its files and internal use. City representatives shall have access to work products for the purpose of inspecting same and determining that the services are being performed in accordance with the terms of the Agreement. Publication of the information derived from work performed or data obtained in connection with services rendered under this Agreement must be approved in writing by City.

Both parties recognize that the City is a public entity subject to the requirements of the California Public Records Act (“PRA”). Consultant understands that the release of any written, printed, graphic, or electronically recorded information and document delivered by Consultant to the City will be governed by the PRA and agrees that the release of such material pursuant to the PRA shall not require Consultant’s prior consent or approval.

12. Indemnification

Consultant shall indemnify, protect, defend, save and hold City, its officers, employees, and agents, harmless from any and all claims or causes of action for death or injury to persons, or damage to property resulting from intentional or negligent acts, errors, or omissions of Consultant or Consultant's officers, employees, volunteers, and agents during performance of this Agreement, or from any violation of any federal, state, or municipal law or ordinance, to the extent caused, in whole or in part, by the willful misconduct, negligent acts, or omissions of Consultant or its employees, subcontractors, or agents, or by the quality or character of Consultant's work. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply, and shall further survive the expiration or termination of this Agreement. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

13. Insurance

During the term of this Agreement, Consultant shall maintain and provide evidence of insurance coverage as set forth in Exhibit B, attached hereto and incorporated herein by reference, at its own cost and expense.

14. Employment Practices

Consultant, by execution of this Agreement, certifies that it does not discriminate against any person upon the basis of race, color, creed, national origin, age, sex, disability or marital status in its employment practices.

15. Licenses, Permits, Etc.

Consultant represents and warrants to City that it has all licenses, permits, qualifications and approvals of whatsoever nature legally required for Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, obtain and/or keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession at the time the services are performed.

16. Records

Consultant shall maintain records, books, documents and other evidence directly pertinent to the performance of work under this Agreement in accordance with generally accepted accounting principles and practices.

17. Termination

A. City or Consultant may terminate this Agreement by providing thirty (30) days written notice prior to the effective termination date.

B. In the event of such termination, City shall pay Consultant for all services actually rendered up to and including the date of termination.

C. Consultant shall deliver to City copies of all drawings, reports, analyses, and investigations whether completed or not, prepared or in the process of being prepared under the provisions of this Agreement.

18. Amendments

Any modification or amendment of any provision of this agreement shall be in writing and must be executed by both parties hereto.

19. Incidental Beneficiaries

It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Consultant. Nothing contained in the Agreement shall give or allow any claim or right of action whatsoever by any third person. It is the express intent of the City and Consultant that any such person or entity, other than City and Consultant, receiving services or benefits under this Agreement shall be deemed an incidental beneficiary.

20. Miscellaneous Provisions

A. Attorneys' Fees: In the event an action or proceeding is instituted by either party for the breach or enforcement of any provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees according to law.

B. Venue: This Agreement shall be deemed to be made in, and the rights and liabilities of the parties, and the interpretation and construction of the Agreement governed by and construed in accordance with the laws of the State of California. Any legal action arising out of this Agreement shall be filed in and adjudicated by a state court in the County of Sacramento, State of California.

C. Enforceability: If any term or provision of this Agreement is found to be void, voidable, invalid or unenforceable by a court of competent jurisdiction under the laws of the State of California, any and all of the remaining terms and provisions of this Agreement shall remain binding.

D. Time: All times stated herein or in any other contract documents are of the essence.

E. Binding: This Agreement shall bind and inure to the heirs, devisees, assignees and successors in interest of Consultant and to the successors in interest of City in the same manner as if such parties had been expressly named herein.

F. Survivorship: Any responsibility of Consultant for warranties, insurance, indemnity, record keeping or compliance with laws with respect to this Agreement shall not be invalidated due to the expiration, termination or cancellation of this Agreement.

G. Waiver: In the event that either City or Consultant shall at any time or times waive any breach of this Agreement by the other, such waiver shall not constitute a waiver of any other or succeeding breach of this Agreement, whether of the same or any other covenant, condition or obligation. Waiver shall not be deemed effective until and unless signed by the waiving party.

21. Entire Agreement

This instrument and any attachments hereto constitute the entire Agreement between the City and Consultant concerning the subject matter hereof and supersedes any and all prior oral and written communications between the parties regarding the subject matter hereof.

22. Authority to Execute

The person or persons executing this Agreement on behalf of the parties hereto warrants and represents that he/she/they has/have the authority to execute this Agreement on behalf of their entity and has/have the authority to bind their party to the performance of its obligations hereunder.

23. Counterparts

This agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties at such time as all of the signatories hereto have signed a counterpart of this Agreement. All counterparts so executed shall constitute one Agreement binding on all of the parties hereto, notwithstanding that all of the parties are not signatory to the same counterpart.

END OF TEXT - SIGNATURE PAGE FOLLOWS

EXHIBIT A

(Scope of Work)

See following pages.

SAMPLE

**EXHIBIT B
INSURANCE**

NOTE: The word “Consultant” in this Exhibit refers to either “Consultant” or “Contractor” as the term is used in the Agreement/Contract to which this Exhibit is attached.

A. During the term of this Agreement, Consultant shall maintain in full force and effect at all times during the term of the contract, at its sole cost and expense, policies of insurance as set forth herein:

1. General Liability:

- a. General liability insurance including, but not limited to, protection for claims of bodily injury and property damage liability, personal and advertising injury liability and product and completed operations liability.
- b. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability coverage form CG 0001 (occurrence).
- c. Claims-made coverage is not acceptable.
- d. The limits of liability shall not be less than:

Each occurrence: One Million Dollars
(\$1,000,000)

Products & Completed Operations: One Million Dollars (\$1,000,000)

Personal & Advertising Injury: One Million Dollars (\$1,000,000)

- e. If a general aggregate limit of liability is used, the minimum general aggregate shall be twice the ‘each occurrence’ limit or the policy shall contain an endorsement stating that the general aggregate limit shall apply separately to the project that is the subject of the contract.
- f. If a products and completed operations aggregate limit of liability is used, the minimum products and completed operation aggregate shall be twice the ‘each occurrence’ limit or the policy shall contain an endorsement stating that the products and completed operations aggregate limit shall apply separately to the project which is the subject of the contract.
- g. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

2. Automobile Liability:

- a. Automobile liability insurance providing protection against claims of bodily injury and property damage arising out of ownership, operation, maintenance, or use of owned, hired, and non-owned automobiles.
- b. Coverage shall be at least as broad as Insurance Services Office Automobile Liability coverage form CA 0001, symbol 1 (any auto).
- c. The limits of liability per accident shall not be less than:

- c. Any failure to comply with reporting or other provisions of the policies on the part of the Consultant, including breaches of warranties, shall not affect coverage provided to the City, its officers, officials, employees, agents or volunteers.
 - d. The Consultant's Workers Compensation and Employer's Liability policies shall contain an endorsement that waives any rights of subrogation against the City, its officers, officials, employees, agents, and volunteers.
 - e. Each insurance policy shall state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits, non-renewed, or materially changed except after **30 days prior written notice** by certified mail has been given to the City. Ten days prior written notice by certified mail shall be given to the City in the event of cancellation due to nonpayment of premium.
7. Acceptability of Insurers: Insurance is to be placed with insurers with a **Bests' rating of no less than A:VII**.
 8. The Consultant shall furnish the City with Certificates of Insurance and endorsements or insurance binders, signed by a person authorized by the insurer to bind coverage on its behalf, evidencing the coverage required by this section, the Standard Specifications, Special Provisions and/or any Supplementary Conditions. **The Consultant shall furnish complete, certified copies of all required insurance policies, including original endorsements specifically required hereunder if requested.**
 9. The Consultant shall report, by telephone to the Project Manager within 24 hours, and also report in writing to the City within 48 hours, after Consultant or any Subcontractors or agents have knowledge of, any accident or occurrence involving death of or serious injury to any person or persons, or damage in excess of Ten Thousand Dollars (\$10,000) to property of the City or others, arising out of any work done by or on behalf of the Consultant as part of the contract.
 10. Such report shall contain:
 - a. the date and time of the occurrence,
 - b. the names and addresses of all persons involved, and
 - c. a description of the accident or occurrence and the nature and extent of the injury or damage.
 11. The City, at its discretion, may increase the amounts and types of insurance coverage required hereunder at any time during the term of the contract by giving 30 days written notice.
 12. If the Consultant fails to procure or maintain insurance as required by this section, the Standard Specifications, and any Supplementary Conditions, or fails to furnish the City with proof of such insurance, the City, at its discretion, may procure any or all such insurance. Premiums for such insurance procured by the City shall be deducted and retained from any sums due the Consultant under the contract.
 13. Failure of the City to obtain such insurance shall in no way relieve the Consultant from any of its responsibilities under the contract.
 14. The making of progress payments to the Consultant shall not be construed as

relieving the Consultant or its Subcontractors of responsibility for loss or direct physical loss, damage, or destruction occurring prior to final acceptance by the City.

15. The failure of the City to enforce in a timely manner any of the provisions of this section shall not act as a waiver to enforcement of any of these provisions at any time during the term of the contract.
16. In the event Consultant carries Excess Liability Coverage, the Excess Liability Coverage shall apply to any and all claims related to the project on a primary and non-contributory basis, and the City's insurance or self-insurance coverage shall be excess to the Consultant's Excess Liability Coverage.

SAMPLE