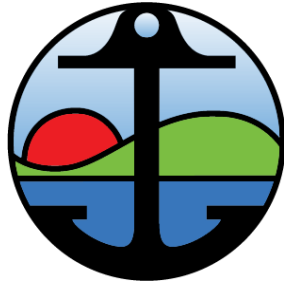


APPENDIX A



PITTSBURG
CALIFORNIA

www.pittsburgca.gov

REQUEST FOR PROPOSAL
for
On-Call Certified Arborist Services
RFP #PW112224

Release date: November 8, 2024

Proposal Deadline: November 22, 2024
City of Pittsburg
Attention: Public Works
65 Civic Ave
Pittsburg, CA 94565

Questions with regard to submission,
process, or proposal should be emailed to:

City of Pittsburg
Public Works Department

Bryan Ballardo, Superintendent
bballardo@pittsburgca.gov
and
Natasha Farmer, Administrative Analyst
nfarmer@pittsburgca.gov

**CITY OF PITTSBURG
REQUEST FOR PROPOSAL
FOR PROFESSIONAL SERVICES
RFP #PW112224**

INDEX. The following is a list of sections contained in this Request for Proposal

Section I	Instructions to Proposers
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Section VI	Award of Contract
Section VII	Terms and Conditions
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I. INSTRUCTIONS TO PROPOSERS

In February 2024, the City of Pittsburg was the recipient of the U.S. Department of Agriculture, Forest Service’s Urban and Community Forestry Grant for Pittsburg’s Urban Forest Management Launch Program. Award funding includes reimbursement funding for an Urban Forest Management Plan and Tree Inventory. The Urban Forest Management Plan and Tree Inventory will be the first completed by the City. The goal of completing an Urban Forest Management Plan and Tree Inventory is to provide the Public Works Department with the necessary tools to better manage the City’s urban forest. The project will allow the City to plan for the future and enhance the tree canopy within the City. The City currently utilizes its Public Works Department to provide tree services with no in-house Arborist. Funding for an on-call certified arborist is included in the grant award.

The City of PITTSBURG (herein called the “City”) seeks proposals to provide Certified Arborist Services as needed in support of the city’s urban forest and assisting with the Urban Forest Management Program Launch. The selected firm will provide various services to preserve, protect, and enhance the City’s overall tree canopy. The City will utilize the firm for consultation on tree trimming recommendations, input and advice for the development of the Urban Forest Master Plan, routine maintenance, and the replanting of trees on City-owned parcels and rights-of-way. The firm will also assist with volunteer planting events, review development applications, and environmental documents.

Consultants will be expected to make recommendations to City staff regarding tree removal applications and landscaping proposals, following City ordinances, General Plan policies, and best management practices. Additionally, the consultant will conduct site visits and inspections,

attend public hearings when necessary, and provide general on-call arborist consulting services to City staff. Refer to the Scope of Work Section for additional tasks.

The initial contract will run through December 2025, with the possibility of extension until December 2026. More than one firm may be selected to provide these on-call certified arborist services. The budget for this agreement is approximately \$60,000 per contract year.

The firm shall be aware of, and shall comply with, City ordinances governing trees and tree maintenance services, ANSI A300 Tree Management Standards and ISA Best Management Practices, and ANSI Z133 Tree Care Safety Standards. Please see Scope of Work/Services for task details.

All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's needs for the Project by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services. The criteria by which the City shall evaluate proposals are set forth in the Request for Proposals. The City may conduct interviews of the top ranking proposers in order to make a final selection.

The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process.

The successful consulting firm will be recommended to the City Council for authorization to enter into a Professional Services Agreement.

The Request for Proposal can be viewed and/or obtained from the City of Pittsburg website at www.pittsburgca.gov.

The Request for Proposal is not a contract and the City may reject any and all quotations. In this RFP the terms "Proposer", "Bidder", "Contractor" and "Vendor" are used interchangeably and refer to the party entering a contract as a result of this RFP.

All proposals must be submitted in the manner prescribed in Section II, Requirements for Submitting Proposals.

FIRM QUOTE. Proposers' prices shall remain firm for a period of ninety (90) days from the Date Due, unless otherwise specified in the Request for Proposal (RFP).

DISPOSITION. The City reserves the right to cancel or reject any or all proposals. All materials and documents submitted with the quote will become the property of the City.

INFORMED PROPOSERS. Before submitting proposals, Proposers must fully inform themselves of the conditions, requirements and specifications of the work or materials to be furnished. Failure to do so will be at Proposers' own risk and they cannot secure relief on the plea of error or oversight.

QUESTIONS. All questions about the proposal documents should be made via email to Natasha Farmer at nfarmer@pittsburgca.gov AND Bryan Ballardo at ballardo@pittsburgca.gov. All clarifications or responses to questions will be in writing/via email.

II. REQUIREMENTS FOR SUBMITTING PROPOSALS

SUBMITTAL TIME AND DATE. All proposals must be received by the City of Pittsburg **no later than November 22, 2024 at 2:00pm.**

Proposals are to be labeled with the following:

**REQUEST FOR PROPOSAL – PW112224
ON-CALL CERTIFIED ARBORIST SERVICES
Attn: Public Works
Proposal Date: November 8, 2024**

Proposals must be submitted electronically in PDF format via email to Natasha Farmer, Administrative Analyst II at nfarmer@pittsburgca.gov AND Bryan Ballardo, Superintendent at bballardo@pittsburgca.gov with “Certified Arborist Services” in the subject line. Proposals must be received by the closing date and time above.

Responsibility. Proposers are solely responsible for ensuring their proposal is received by the City of Pittsburg in accordance with the solicitation requirements, before the date and time specified in the RFP, and at the place specified. The City of Pittsburg shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Deliveries made before the Time and Date Due but to the wrong City of Pittsburg office will be considered non-responsive unless re-delivery is made to the office specified before the Date Due and time specified in the RFP.

Ink or Typewritten. All information, prices, notations, signatures, and corrections must be in ink or typewritten. Mistakes may be crossed out and corrections typed or printed adjacent to the mistake and initialed in ink by the person signing the quote.

Extension of Date Due and/or Time. The City of Pittsburg reserves the right to extend the Date Due and/or time at its own discretion.

Late Proposals. This is a solicitation with a formal Date Due. The Date Due has been established by the City of Pittsburg; it is a firm date. The City of Pittsburg reserves the right to accept proposals received after the Date Due. However, proposals received after an award has been made will be determined to be "late" and will not be considered.

Signature. To be considered for award, the proposal shall be signed by a duly authorized Proposer, officer or agent of the firm.

Withdrawal. Proposers’ authorized representative may withdraw Proposals only by written request received by the City, before the Proposal Due Date.

Selection Schedule

The City intends to follow, but will not be bound by, the following selection timeline:

Advertisement of RFP	November 8, 2024
Deadline for Proposal Submittal	2:00pm, November 22, 2024
Contract Award	December 16, 2024
Contract period	January 1, 2025 – December 31, 2025, with possible extension through December, 2026

III. SUBMITTAL FORMAT

The content and format of the proposal must adhere to the following specifications. Failure to adhere to this format may result in proposal disqualification. To be responsive, each proposal must include the following material.

Proposals must be submitted electronically in PDF format via email to nfarmer@pittsburgca.gov AND bballardo@pittsburgca.gov with "Certified Arborist Services" in the subject line. **Proposals must be received by 2:00 PM on November 22, 2024.** Late proposals will not be considered. The City assumes no responsibility for delays caused by delivery service. Any Proposal received prior to November 22, 2024 may be modified by written addendum or withdrawn by written request from the Proposer to the City up to the official time when all proposals are due. The proposal must be signed by an authorized representative of the Proposer and a statement to the effect that the proposal is valid for ninety (90) days. **The following information must be included:**

1. Cover Letter – This letter must include the name, address, and telephone number, e-mail address; fax number (if available) of the Contractor/Vendor. The letter must include the name, title and telephone number of the firm's designated contact person and must be signed by the person or persons authorized to negotiate agreement terms and make binding agreements.

2. Statement of Qualifications – Prepare a statement of qualifications which identifies:

- a) List of personnel who will be working on the project. Indicate experience, background, academic training and registration. Describe anticipated role in the project and how the staff would be organized. List any subcontractors here and their role if applicable.
- b) Provide a statement of what especially qualifies your firm to perform this work (certifications, member organizations, work experience, etc.)
- c) Three to five references from similar consulting experiences

3. Scope of Service – Based on your understanding of the project, provide a detailed list of services that meets the objectives of the project. This scope of service, with any amendments following negotiations, will become part of the Agreement.

4. Schedule of Fees – Provide a cost proposal for the hourly rate of the Consultant to render the list of services identified in the Services Provided by Consultant in addition to any retainer fees that may be required. Costs to be billed in increments of .25 hours. Include a statement that proposal will remain valid for at least 90 days.

5. Statement of Exceptions, if any, to Agreement - The Proposer should specifically indicate in its proposal any clauses in the City's proposed Agreement which are unacceptable to the Proposer. The City's proposed Professional Services Agreement is attached to this Request for Proposals.

6. A copy of an insurance certificate or a letter of intent to provide insurance from the issuing company (including a description of types of coverage and dollar amount limits) must be included with the proposal.

7. Forms: Include completed Proposal Worksheet and Questionnaire (Appendix A and B of this packet)

8. Other information: Provide any other information that you believe will assist the City of Pittsburg in making its selection.

IV. MANDATORY REQUIREMENTS

The firm shall be aware of, and shall comply with, City ordinances governing trees and tree maintenance services, ANSI A300 Tree Management Standards and ISA Best Management Practices, and ANSI Z133 Tree Care Safety Standards. Please see Scope of Work/Services for task details.

The minimum qualifications of the selected Arborist performing services under the contract awarded pursuant to this RFP are as follows:

- ISA Certified Arborist with a minimum of five years of experience, Tree Risk Assessment Qualification and a minimum of Bachelor's Degree from an accredited college or university in Urban Forestry or similar forestry major, or equivalent. Urban Forestry or Municipal Specialist Certification is preferred.
- Active membership in the International Society of Arboriculture and/or Society of Municipal Arborists.
- Has a thorough technical understanding of:
 - ❖ Tree identification including common and botanical names
 - ❖ Native trees to California
 - ❖ Tree physiology including the function and parts of trees and their interrelationships
 - ❖ Proper tree planting procedures and theories
 - ❖ Soil characteristics, including factors such as fertilizer, lime, soil components, pH and soil organisms that affect the health of trees
 - ❖ General tree maintenance, including insect and disease identification and both chemical and non-chemical control
 - ❖ Structured repairs, such as cabling, bracing, bark tracing, root aeration, drainage and grade changes and construction damages
 - ❖ Tree planting and remediation in relation to hardscape, i.e., sidewalk, curb and gutter
 - ❖ Proper pruning methods and theories
 - ❖ Root protection zones
- Working knowledge of municipal policies, operation, procedures, ordinances, and functions.
- Has effective communication skills, both written and oral, with staff, government officials and members of the public.
- Ability to respond to requests for service within 24 hours.
- Ability to prepare routine reports and correspondence within 72 hours.
- Ability to read and interpret technical documents, regulations, procedure manuals and plans.

V. PROPOSAL EVALUATION AND SELECTION CRITERIA

Proposals will be evaluated by a committee of City staff or other individuals selected by the City and familiar with the subject matter of the project. The panel will make a recommendation to the City Manager and/or City Council of the City of Pittsburg for final selection of a Consultant and award of a contract.

Preliminary Evaluation. The proposals will be reviewed initially to determine if mandatory requirements are met. Failure to meet mandatory requirements may result in rejection of the proposal. In the event that all vendors do not meet one or more of the mandatory requirements, the City reserves the right to continue the evaluation of the proposals and to select the proposals which most closely meets the requirements specified in the RFP.

Proposal Scoring. Accepted proposals will be reviewed by an evaluation committee and scored against the stated criteria. A Proposer may not contact any member of the evaluation committee except at the City’s direction. The committee may review references, request interviews, and conduct on-site visits and use the results in scoring the proposals. The evaluation committee’s scoring will be tabulated and proposals ranked based on the numerical scores received.

Evaluation Criteria. The award evaluation consists of four (4) criteria used to evaluate each RFP response and determine final score in ranking. The percentages assigned specify value within the RFP. The weights specify percentage values within each criterion

Each member of the evaluation panel shall be accorded equal weight in his or her rating of proposals. The evaluation panel members shall evaluate the proposals according to the specified criteria and numerical weightings set forth below:

EVALUATION CRITERIA (POINTS)

	(Maximum) Point
1. TOTAL COST	30
a. Itemized Cost Breakdown	
b. Proposed Fee Structure / Cost of Services	
2. TECHNICAL EXPERIENCE	20
a. Contractor Qualifications / Certifications	
b. Familiarity with City / Cities of similar size	
3. PROJECT UNDERSTANDING	30
a. Responses to Scope of Work	
b. Experience of Work Force	
4. REFERENCES & WORK HISTORY	20
a. Same or Similar Projects	
b. Ability to comply with Professional Services Agreement	
TOTAL POINTS:	<u>100</u>

A one percent (1%) preference for local vendors is available. To qualify for this preference, the Proposer must hold a current and valid City of Pittsburg business license and the Proposer’s place of business must be verifiable for at least six (6) days prior to proposal submission and located in Pittsburg, California.

All interested parties are encouraged to submit proposals to the RFP, as the award is not based solely on the lowest cost proposal submitted. Total cost will be taken into consideration, but the Proposer’s capabilities, competence and capacity will be considered as well. The City reserves the right to choose the overall best firm according to the City’s criteria. The City, and its designated representatives, shall be the sole judge of its own best interest, the proposal, and the resulting negotiated agreement. The City’s decision will be final.

The above factors, along with other factors that the City may deem appropriate, will be used to identify the proposal that represents the best value, which will be the basis for the contract award.

The City Manager or City Council may award the contract to a Proposer other than the Proposer receiving the highest overall rating in the event the City Council determines that another Proposer from among those technically qualified would provide the best value to the City of Pittsburg

considering cost and other factors. The determination shall be based on the Evaluation Criteria contained in the Request for Proposal, on evidence provided in the proposal and on any other evidence provided during the proposal review process. Evidence provided during the proposal review process is limited to clarification by the Proposer of information presented in the proposal.

During the selection process, the evaluation panel may wish to interview some Proposers for clarification purposes ONLY. No new material will be permitted at this time. Selection will be made based upon the above-described criteria and rating factors. The selection will be made by and is subject to City Manager and/or City Council approval.

VI. AWARD OF CONTRACT

The successful Proposer must be qualified and experienced in the services described in this RFP and must provide evidence of current licensing, insurance, and permits as required by local, State, and Federal regulations in providing such services. The City will enter into an agreement with a prime Contractor ONLY. The terms and conditions as set forth in this RFP shall be included as part of the contract. The prime Contractor must perform the tasks specified in this Request for Proposal.

The successful Proposer is required to obtain a City of Pittsburg business license. Section 5.04.050 of the City of Pittsburg's Municipal Code states in part, "It is unlawful for a person to transact and carry on business, trade, profession, calling or occupation in the City without a license from the City..." For additional information, contact Mary Ann Mejia at (925) 252-4955 of the Finance Department of the City of Pittsburg.

VII. TERMS AND CONDITIONS

Payment Terms. The payment terms of the contract will be sixty (60) days upon receipt of invoices by the Public Works Department.

Agreement. Submission of a signed quote will be interpreted to mean Proposer hereby agrees to all the terms and conditions set forth in all the pages of this Request for Proposal. Proposer's signed quote and the City of Pittsburg's written acceptance or purchase order shall constitute a contract.

Assignment of Rights and Obligations. Successful Proposer may not assign, transfer, or sell any rights or obligations resulting from this quote without first obtaining the specific written consent of the City of Pittsburg.

Cancellation. The City of Pittsburg or the Contractor may cancel the contract, without cause, at any time, for any reason by way of a written thirty (30) day notice.

Laws Governing the Contract. The contract shall be in accordance with the laws of the State of California. Parties further stipulate that this contract was entered into in the County of Contra Costa and the State of California is the only appropriate forum for any litigation resulting from breach hereof or any questions arising here from.

RIGHTS RESERVED.

- **Rejection.** The City of Pittsburg reserves the right to reject any or all proposals or any part thereof, or to accept any quote or any part thereof, or to waive any informality in any quote, whenever it is deemed to be in the best interest of the City of Pittsburg. The City of Pittsburg also reserves the right to reject the quote of any Proposer who has previously failed to perform adequately for the City of Pittsburg or any other governmental agency.

- **Cover.** Should the successful Proposer fail to comply with the conditions of this quote or fail to complete the required work or furnish the required materials within the time stipulated, the City of Pittsburg reserves the right to purchase the materials in open market, or to complete the required work, at the expense of the successful Proposer.
- **Severability.** If any provision or any portion of any provision, of any contract resulting from this quote shall be held invalid, illegal, or unenforceable, the remaining provisions or portions of any provisions shall be valid and enforceable to the extent possible.

VIII. SPECIAL PROVISIONS

Authority of the City of Pittsburg. Subject to the power and authority of the City of Pittsburg as provided by law in this contract, the City of Pittsburg shall, in all cases, determine the quantity, quality, and acceptability of the work, materials and supplies for which payment is to be made under this contract. The City of Pittsburg shall decide the questions that may arise relative to the fulfillment of the contract or the obligations of the Contractor hereunder.

Business License. Contractor agrees to obtain at Contractor's own cost and before performing services or installations within the City limits, the appropriate City of Pittsburg business license.

Cooperation between Contractors. When separate contracts are let within the limits of any one project, each Contractor shall conduct his work so as not to interfere with or hinder the progress or completion of the work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed. Each Contractor involved shall assume all liability, financial or otherwise, in connection with his contract and shall protect and save harmless the City of Pittsburg from any and all damages or claims that may arise because of inconvenience, delays, or loss experienced by him because of the presence and operations of other Contractors working within the limits of the same project.

Damage. The Contractor shall be held responsible for any breakage, loss of the City of Pittsburg and the equipment or supplies through negligence of the Contractor or his employee while working on the City of Pittsburg premises. The Contractor shall be responsible for restoring/replacing any equipment, facilities, etc., so damaged. The Contractor shall immediately report to the City of Pittsburg Public Works Superintendent or Public Works Supervisor, any damages to the premises resulting from services performed under this contract.

Examination of Specification and Site. Proposers are expected to carefully examine the site of the proposed work, the proposal, specifications, and the bid forms. They shall satisfy themselves as to the character, quality, and quantities of work to be performed, materials to be furnished, and the requirements of the proposed specifications.

Hold Harmless. Successful Proposer/Contractor agrees to indemnify, defend, and hold harmless the City of Pittsburg, it's governing body, officers, employees, and insurance carriers, individually and collectively, from all losses, claims, suits, demands, expenses, subrogation, attorneys' fees, or actions of any kind in nature resulting from personal injury to any person (including bodily injury and death), or damage to any property, arising or alleged to have arisen out of Successful Proposer/Contractor's negligent acts, errors, omissions, or performance of the work to be performed under the terms of the contract if awarded. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of indemnity in this paragraph. Such indemnity shall survive the termination of the contract.

Independent Contractor. In accepting a contract, Successful Proposer (hereinafter Contractor) covenants that it presently has no interest and shall not acquire any interest, direct or indirect,

financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. Contractor further covenants that, in the performance of this contract, no sub-Contractor or person having such an interest shall be employed. Contractor certifies that to the best of his knowledge, no one who has or will have any financial interest under this contract is an officer or employee of the City of Pittsburg. It is expressly agreed by Contractor that in the performance of the services required, Contractor, and any of its employees, shall at times be considered independent Contractors and not agents or employees of City of Pittsburg.

Permits. Successful Proposer/Contractor shall, unless otherwise provided elsewhere in the contract, at his or her expense, obtain all permits and licenses and pay all charges and fees necessary for the performance of the contract, and shall give all public notices necessary for the lawful performance of the contract.

Protection of Public. Adequate warning devices, barricades, guards, or other necessary precautions shall be taken by the Contractor to give advice and reasonable protection, and adequate safety warnings.

Rejection of Work. Contractor agrees that the City of Pittsburg has the right to make all final determinations as to whether the work has been satisfactorily completed.

Taxes. Contractor shall pay all taxes, levies, duties, and assessments of every nature due in connection with any work under the contract, shall make any and all payroll deductions required by law, and shall indemnify and hold harmless the City of Pittsburg from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.

Transition of Services. During the sixty (60) day transition employment period, the successor and terminated Contractor will comply with the stipulations of California Labor Law, Code Section 1060-1065.

IX. INSURANCE REQUIREMENTS The Contractor will be required to submit an Insurance Certificate before the commencement of work. Refer to sample Consulting Services Agreement for Insurance Requirements.

X. MISCELLANEOUS PROVISIONS

Compliance with Applicable Laws. Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Consultant shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.

The City of Pittsburg reserves the right to reject any proposals and the right to waive any minor irregularity or informality in the Contract Proposal. Costs for submitting a proposal is the sole responsibility of the Proposer and the claims for reimbursement will not be accepted by the City. The Successful Proposer must obtain a City of Pittsburg Business License upon execution of this contract. All Quotes must be signed and dated in the Proposer's handwriting or that of duly authorized officer or agent. All information, prices, notations and corrections must be in ink or typewritten. Mistakes may be crossed out and corrections typed or printed adjacent to the mistake and initialed in ink by the person signing the quote.

Execution of Contract Agreement

The Contract Agreement shall be signed by the successful Proposer and returned, together with the insurance certificate and insurance endorsements before work can begin.

XI. SCOPE OF WORK/SERVICES

Scope of Work:

The Consultant is expected, at a minimum, to complete the Scope of Services which follows. The Scope is not necessarily all-inclusive and the City may add any additional tasks or services related to tree management as necessary.

All tasks are on an as needed basis, as requested in writing, by the City.

Provide various services to preserve, protect, and enhance the City's overall tree canopy. The main tasks include:

- Consultation on tree trimming and routine maintenance recommendations for staff
- Input and advice for the development of the Urban Forest Master Plan
- Replanting of trees on City-owned parcels and rights-of-way
- Assistance with volunteer planting events
- Review of development applications and environmental documents
- Recommendations regarding tree removal applications and landscaping proposals based on City ordinances, General Plan policies, and best management practices
- Assist and advise the City on landscape plans as needed.
- Attending public hearings when necessary
- Providing general on-call arborist consulting services to City staff
- Conduct inspections and site visits for review of existing trees. Report on tree conditions, both orally and in written form, and provide an accurate and detailed assessment of tree species, size, health, evaluation of root conditions, structure, risk factors and monetary value.
- Provide pest and disease diagnostics and provide protection strategies from the physical stresses of construction.
- Photographic documentation.
- Advise staff on all matters related to tree plantings, pruning and removals for all street trees and trees in public areas. Act in an advisory capacity to the City's Commissions, City Council and City staff.
- Provide training or written guidelines to City staff regarding arboriculture and urban forestry best practices pertaining to the evaluation of diseased and hazardous trees, tree removals and pruning requirements.
- Assist the City with other duties that may be requested, related to tree protection and management.

APPENDIX A
CITY OF PITTSBURG
ON-CALL CERTIFIED ARBORIST
CONSULTING SERVICES
RFQ #PW112224

PROPOSAL WORKSHEET

Submitted By (Authorized Agent Name & Title):	Signature:
Company Name:	Date:

BUSINESS P.O. BOX _____

CITY, STATE, ZIP _____

BUSINESS STREET ADDRESS _____

CITY, STATE, ZIP _____

CONTACT PHONE _____

CONTACT EMAIL _____

CONTRACTOR'S LICENSE NUMBER _____

NOTES: _____

APPENDIX B

Questionnaire

The Proposer shall complete, under penalty of perjury, the following questionnaire:

Has the Proposer, any officer of the Proposer, or any employee of the Proposer who has a proprietary interest in the Proposer, ever been disqualified, removed or otherwise prevented from bidding on, or completing a federal, state or local government project because of violation of a law of safety regulation?

YES _____ NO _____

If YES, explain the circumstances in the following space:

(Attach additional sheet, if necessary.)

Statement

The Proposer hereby states, under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Proposer within the immediately preceding two (2) year period due to the Proposer's failure to comply with an order of a federal court which orders the Proposer to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.

Proposers are cautioned that making false certification may subject the certifier to criminal prosecution.

NONCOLLUSION AFFIDAVIT

(Public Contract Code Section 7106)

In accordance with Public Contract Code Section 7106 the Proposer declares that the quote is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the quote are true; and, further, that the

APPENDIX A

Proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal."

Note: The above Noncollusion Affidavit is part of the proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this noncollusion Affidavit.

Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

General Prevailing Wage Rates Statement

The State of California General Prevailing Wage Rates are hereby incorporated into these Contract Specifications by this reference.

If awarded the Contract, I/we will not pay less than the latest General Prevailing Wage Rates of the State of California (including any and all amendments thereto) to each employee working in connection with this Contract.

Workmen's Compensation Insurance Statement

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workmen's Compensation or to undertake self-insurance in accordance which the provisions of that code. If awarded the Contract, I will comply with such provisions and provide the City of Pittsburg with a certificate (satisfactory to the City) verifying same before commencing the work of this Contract.

City Business License Statement

If awarded this Contract, I, and each subcontractor employed in connection with this Contract, either has, or will obtain, a City of Pittsburg Business License prior to commencing any work under this Contract.

APPENDIX C

CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF PITTSBURG AND
NAME OF CONSULTANT

THIS Agreement ("Agreement") for consulting services is made by and between the City of Pittsburg ("City") and _____, a California [corporation] [limited liability company] ("Consultant") (together 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, and incorporated herein, at the time and place and in the manner specified therein.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on _____ or the date the Consultant completes the services specified in Exhibit A, whichever occurs first, unless the term of the Agreement is otherwise terminated or extended, as referenced herein.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement 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, requests in writing the reassignment of any such persons to ensure Consultant performs services in accordance with the Standard of Performance, Consultant shall, immediately upon receiving City's request, reassign such 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 herein above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed _____ (\$ _____), as set forth in Exhibit B, attached hereto and incorporated herein for services to be performed and reimbursable expenses incurred under this Agreement. This dollar amount is not a guarantee that the City will pay that full amount to the Consultant, but is merely a limit of potential City expenditures under this Agreement.

APPENDIX C

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.

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, unless waived by the City Manager, or his or her designee:

- 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.

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 pay undisputed invoices that comply with the above requirements within 30 days from the receipt of the invoice.

2.3 Final Payment. Consultant shall submit its final invoice within 60 days of completing its services. Consultant's failure to submit its final invoice within this 60 day period shall constitute Consultant's waiver of any further billings to, or payments from, City.

2.4 Reimbursable Expenses. Reimbursable expenses, if any, are specified in Exhibit B and included in the total compensation referenced in Section

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2. Expenses not listed in Exhibit B are not chargeable to, or reimbursable by, City.

2.5 Payment of Taxes. Consultant is solely responsible for the payment of all federal, state and local taxes, including employment taxes, incurred under this Agreement.

2.6 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 a written authorization from the City Manager, or his or her designee.

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

Section 4. INSURANCE REQUIREMENTS. Before beginning any services under this Agreement, Consultant, at its own cost and expense, shall procure the types and amounts of insurance specified herein and maintain that insurance throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall be fully responsible for the acts and omissions of its subcontractors or other agents.

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 in the amount required by applicable law. The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Consultant is a sole proprietor and does not have any employees and will not have any employees during the term of 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 \$2,000,000 per occurrence and \$4,000,000 aggregate, combined single limit coverage for risks associated with the work contemplated by this Agreement.

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.

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Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition) covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9). 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 Commercial General and Automobile Liability Insurance shall cover on an occurrence basis.
- b. City, its officers, officials, employees, agents, and volunteers shall be covered as additional insureds for liability arising out of work or operations on behalf of the Consultant, including materials, parts, or equipment furnished in connection with such work or operations; or automobiles owned, leased, hired, or borrowed by the Consultant. Coverage can be provided in the form of an endorsement to the Consultant's insurance at least as broad as CG 20 10 11 85, or both CG 20 10 10 01 and CG 20 37 10 01.
- 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, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents or volunteers shall be excess of the Consultant's insurance and non-contributing.
- d. The policy shall cover inter-insured suits and include a "separation of Insureds" or "severability" clause which treats each insured separately.
- e. Consultant agrees to give at least 30 days prior written notice to City before coverage is canceled or modified as to scope or amount.

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

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\$1,000,000 per occurrence or claim covering the Consultant's errors and omissions.

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 (5) years after completion of the Agreement or the work.
- 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 must purchase an extended period coverage for a minimum of five (5) 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.

4.4 All Policies Requirements.

4.4.1 Submittal Requirements. Consultant shall submit the following to City prior to beginning services:

- a. Certificate of Liability Insurance in the amounts specified in this Agreement; and
- b. Additional Insured Endorsement as required for the General Commercial and Automobile Liability Policies.

4.4.2 Acceptability of Insurers. All insurance required by this Agreement is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.3 Deductibles and Self-Insured Retentions. Insurance obtained by the Consultant shall have a self-insured retention or deductible of no more than \$100,000.

4.4.4 Wasting Policies. No policy required herein shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

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4.4.5 Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from Consultant by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City 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 endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that City, its officers, officials, employees, agents, and volunteers are covered as additional insured on all coverages.

4.4.7 Excess Insurance. If Consultant maintains higher insurance limits than the minimums specified herein, City shall be entitled to coverage for the higher limits maintained by the Consultant.

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: 1) obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement; 2) order Consultant to stop work under this Agreement and withhold any payment that becomes due to Consultant hereunder until Consultant demonstrates compliance with the requirements hereof; and/or 3) terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 General Requirement. To the fullest extent permitted by law, Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers (collectively, "Indemnitees") from and against any and all liability, loss, damage, claims, expenses, and costs, including without limitation, attorney's fees, costs and fees of litigation, (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services under this Agreement, or its failure to comply with any of its obligations contained in this Agreement, or its failure to comply with any

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applicable law or regulation, except such Liability caused by the sole negligence or willful misconduct of City.

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 damage or claims for damages whether or not such insurance policies shall be determined to apply.

- 5.2 PERS Indemnification.** In the event that 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 City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

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.
- 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 applicable to the performance of the work hereunder. Consultant shall also, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates as determined by the California Department of Industrial Relations.
- 7.3 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have, and

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will maintain at their sole cost and expense, all licenses, permits, qualifications, and approvals of whatsoever nature 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.

- 7.4 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, genetic information, marital status, sex, sexual orientation, gender or gender identity, 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.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 Termination.** Upon ten days' prior written notice, City may cancel this Agreement at any time and without cause upon such written notification to Consultant. 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 Amendments.** The parties may amend this Agreement only by a writing signed by the parties hereto.
- 8.3 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 City Manager, or his or her designee. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the

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subcontractors noted in the proposal, without prior written approval of the City Manager, or his or her designee.

8.4 Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant, including but not limited to the provisions of Section 5, shall survive the termination of this Agreement.

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

8.5.1 Immediately terminate the Agreement;

8.5.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.5.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.5.4 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.

8.5.5 The remedies mentioned in this Agreement are not exclusive of any other right, power or remedy permitted by law. The City's failure or delay in exercising any remedy shall not constitute a waiver of such remedy or preclude the further exercise of City's rights.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 Records Created as Part of Consultant's Performance. All final versions of 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, and the City may use, reuse or otherwise dispose of the documents without Consultant's permission. 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

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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 drafts and will not be released to third parties by Consultant without prior written approval of City.

- 9.2 **Consultant's Books and Records.** Consultant shall maintain any and all 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. All such records shall be maintained in accordance with generally accepted accounting principles and 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. Pursuant to Government Code Section 8546.7, the Agreement may be subject to the examination and audit of the State Auditor 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 Contra Costa County or in the United States District Court for the Northern 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.

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10.6 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.*

10.7 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.

10.8 Notices. Any notice, demand, request, consent or approval that either party is required to give the other pursuant to this Agreement, shall be in writing and may be given by either (i) personal service, or (ii) certified United States mail, postage prepaid, return receipt requested. Notice shall be effective upon personal delivery or delivery to the addresses specified below, as reflected on the receipt of delivery or return receipt, as applicable.

Consultant : _____

ATTN: _____

City: City of Pittsburg
65 Civic Avenue
Pittsburg, CA 94565
ATTN: City Manager

10.9 Professional Seal. Where applicable in the determination of the City Manager, or his or her designee, 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.”

10.10 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

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To the extent there are any inconsistencies between this Agreement, the Exhibits, and Consultant's proposal, the Agreement shall control. To the extent there are any inconsistencies between the Exhibits and the Consultant's Proposal, the Exhibits shall control.

Exhibit A Scope of Services
Exhibit B Compensation Schedule

- 10.11 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.
- 10.12 Construction of Agreement.** Each party hereto has had an equivalent opportunity to participate in the drafting of the agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting party shall not apply hereto.
- 10.13 No Third Party Beneficiaries.** This Agreement is made solely for the benefit of the parties hereto, with no intent to benefit any third parties.

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

CITY OF PITTSBURG

CONSULTANT

Garrett Evans, City Manager

Name, Title

Approved as to Form:

Donna Mooney, City Attorney

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EXHIBIT A

SCOPE OF SERVICES

This Scope of Work will be similar to Scope of Work as outlined in RFP – with additions and modifications as negotiated.

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EXHIBIT B

COMPENSATION SCHEDULE

Detailed Compensation Schedule for services will be listed here

SAMPLE

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CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700

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

CONSULTANT

By: _____

Title: _____

2784980.1

SAMPLE