



City of Foster City Request for Proposals **Rental Registry**

Release Date: Tuesday, August 20, 2024

Proposals Due: Tuesday, September 10, 2024 by 5:00 PM

Please submit an electronic version of your proposal via email to:

njabba@fostercity.org (Nori Jabba, Housing Coordinator)

Subject Line: *(your business name)* – Foster City Rental Registry Proposal Submission

Deadline for Email of Intent to Respond: Tuesday, August 27, 2024

Deadline for questions or comments regarding this Request for Proposals:
Tuesday, September 3, 2024 @ 5:00 PM

Questions/Comments Submitted to:

Nori Jabba, Housing Coordinator

<mailto:njabba@fostercity.org>

(650) 286-3230

City of Foster City Request for Proposals (RFP)

Rental Registry

1. SUMMARY

The City of Foster City is implementing a comprehensive Rental Registry for most rental units, both market rate and below market rate. The City has approximately 5,500 rental units. The registry aims to improve the information available to landlords, tenants, and decision-makers.

The City of Foster City (“City”) invites qualified firms who meet the requirements to provide a proposal for a comprehensive Rental Registry program, online portal, and associated outreach to Foster City rental unit owners and landlords in compliance with the City of Foster City’s Housing Element, Policy H-G, Affirmatively Furthering Fair Housing, and Program H-G-2-e, Rental Registry and the Housing Fair Housing Action Plan. Tenant names and unit numbers must be kept confidential. Other information will be publicly accessible through the Public Records Act. Proposals should include these two tasks:

- **TASK 1:** Software system solutions to collect and manage all information submitted
- **TASK 2:** Professional services to help administer the Rental Registry Program

A single qualified firm or a team of qualified firms may propose the requested software system solutions and professional services. City staff will provide general oversight of the program, while the City’s communications team can assist with outreach.

At a minimum, the initial and ongoing Request for Proposals (RFP) implementation components include:

1. Initial and ongoing rental unit information collection
2. Quality control
3. Registration fee collection
4. Data analysis and reporting for policymaking
5. Community notifications
6. Community education, training, outreach, and engagement efforts

The City aims to launch and roll out the initial Rental Registry software solution services in 2025.

This RFP provides an overview of the requested software and professional services for Rental Registry implementation, outlining the City's goals, purposes, and objectives for the project. It is not intended to represent all possible services. Therefore, qualified firms should include any additional items they consider relevant and important to further the project in their work plans or proposals.

2. ATTACHMENTS

The attachments below are included with this Request for Proposals (RFP) for the Proposer's review and submittal (see asterisk):

- Attachment A – Information Technology Questionnaire
- Attachment B – Scope of Work/Services
- Attachment C – Foster City Rental Population and Rental Property Types
- Attachment D – Draft Illustrative Example of Initial Rental Unit Registration Form
- Attachment E – Sample Agreement for Professional Services Insurance Requirements

3. BACKGROUND

Incorporated in 1971, the City of Foster City is a planned community in San Mateo County, California. Foster City is a General Law City with a Council-Manager form of government. It is approximately four square miles, located about 25 miles south of San Francisco and 30 miles north of Silicon Valley, with easy access from Highway 101 and Highway 92.

Foster City is a culturally diverse community of roughly 33,000 residents. It has limited space for growth in both residential and commercial areas. The developed portion of Foster City is protected from flooding by an approximately 43,000-linear-foot (8-mile) levee system that surrounds Foster City along the bayfront and an interior lagoon that serves as a drainage detention basin.

4. GENERAL PROVISIONS AND CONDITIONS

The City reserves the right to:

1. Reject any and all responses.
2. Negotiate with more than one consultant.
3. Waive minor irregularities in a response.
4. Cancel, revise, or extend this solicitation.
5. Request additional information on any response beyond that required by this RFP.
6. Modify the selection process outlined in this RFP upon written notification to all respondents who have not been rejected at the time of modification.
7. Request substitution of sub-consultants.

Should discrepancies or omissions be found in this RFP or should there be a need to clarify it, questions or comments regarding this RFP must be received by the City no later than Tuesday, September 3, 2024, at 5 PM and should be sent to **Nori Jabba, Housing Coordinator** (njabba@fostercity.org).

5. PROPOSED TENTATIVE TIMELINE

The tentative RFP timeline is provided for the convenience of the Proposers but may be subject to change at any time by the City. Any such changes will be stated in an addendum to this RFP. The tentative RFP timeline is as follows:

RFP ACTION	DATE
RFP Issued	Tuesday, August 20, 2024
Pre-Proposal Meeting	None
Deadline for questions and clarifications	Tuesday, September 3, 2024 @ 5:00 PM
Proposals Due	Tuesday, September 10, 2024 @ 5:00 PM
Finalist Identified	September 2024
Consultant Interviews	TBD
Consultant selection & contract preparation	TBD
Contract awarded	Fall 2024
Work commences	2025

6. Related Documents/Links

[Affirmatively Furthering Fair Housing, Assembly Bill AB 686: Implementing Affirmatively Furthering Fair Housing Requirements in California](#)

All housing elements due on or after 1/1/2021 must contain an Assessment of Fair Housing consistent with the core elements of the analysis required by the federal Affirmatively Furthering Fair Housing (AFFH) Final Rule of July 16, 2015. Under state law, AFFH means "taking meaningful actions, in addition to combating discrimination, which overcomes patterns of segregation and fosters inclusive communities free from barriers that restrict access to opportunity based on protected characteristics." To comply with AB 686, Foster City collaborated with Root Policy Research, 21 Elements, ABAG, and UC Merced to complete a full assessment and outreach plan. See pages 31-42 in the [Housing Element](#).

7. PROPOSAL REQUIREMENTS

Consultants interested in submitting a proposal should respond to this RFP with a written proposal providing all the requested information. The proposal will be considered complete only if it includes all the items listed under the Proposal Requirements:

1. **Title Page:** Include the RFP subject, firm name, primary contact person, title, address, telephone number, email address, and submittal date.
2. **Cover Letter of Interest:** A statement of the consultant's interests and qualifications and pertinent areas of expertise, as well as a description of the organization(s) (e.g., Corporation, Limited Liability Company, or Joint Venture). Include a summary of the proposer's understanding of the project and the proposed approach.
3. **Conflicts of interest:** Teams/firms submitting proposals in response to this RFP must disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, its management, employees, or other persons relative to the services to be awarded pursuant to this RFP. If a team/firm has no conflicts of interest, a statement to that effect shall be included in the cover letter.
4. **Scope of Work:** Provide a detailed proposed scope and projected timeline to conduct and complete the tasks outlined in the Scope of Work. Please address the project approach, reflecting knowledge about the Foster City community. This section should include the respondent's specific tasks for performing the work.
5. **Schedule:** Present a schedule reflecting timeframes and milestones for completing each phase and task.
6. **Outreach Strategy:** Outreach and engagement are critical to the deployment of the Rental Registry Program. Provide an outreach strategy with elements including, but not limited to:
 - a. **Outreach to owners/landlords:** If the vendor is conducting outreach to landlords, include the cost of the service and a description of the outreach. The City prefers that the selected vendor conduct the outreach to landlords regarding implementation.
 - b. **Community meeting:** After selecting the vendor, the City will hold a community engagement meeting to communicate timing, next steps, and costs. Please include your fee for attending and presenting at this meeting.
7. **Qualifications and References:** Provide an overview of the proposer's experience and history in performing this type of work in California. Provide at least three references from local government clients for whom the consultant has rendered similar services in the recent past.
8. **Cost Proposal:** Provide a complete description of the expected expenditure of funds for the proposed work. The cost detail should include a breakdown of expenses by task and key personnel. The cost proposal should also include options for reducing or adding

services. All costs should reflect “not to exceed” amounts per task. A breakdown of costs should include:

- a. Software
 - b. Initial launch costs and a description of services
 - c. Training costs
 - d. Overall cost to the City – software, launch/implementation in the first year, and annual/ongoing subscription
 - e. Cost to Landlords/Owners – per unit annually
 - f. Additional modules or add-ons and associated costs
 - g. Fees for additional work or assistance
9. **Acknowledgement of Contract:** Acknowledge that a contract and insurance will be provided in substantially the same form as attached and that the *City’s Finance Division will maintain a business license annually during the term of the contract.*

8. CONSULTANT SELECTION CRITERIA AND PROCEDURE

Responding consultant firms and/or teams will be evaluated based on the following criteria:

1. Demonstrated understanding of the requested work and responsiveness to the scope of services;
2. Quality and completeness of proposal;
3. Related and recent experience of similar scope and complexity in San Mateo County, the Bay Area, and California;
4. Outreach and community engagement expertise and techniques;
5. Expertise and experience of the proposed project team members and the in-house expertise, or inclusion of sub-consultants, to fully address all items noted in the scope of work;
6. Ability to perform the work within a reasonable time frame and budget;
7. Cost to City to launch software/program, annual cost to the City, and price per unit to landlords and owners;
8. Creativity in approach to the scope of work and requested deliverables;
9. Acceptance of the City’s Standard Agreement for Professional Services and insurance requirements, including any proposed changes to the agreement or insurance coverages (See Attachment); and
10. References.

The top proposals may be invited to an interview. The interview will help clarify each proposal's approach and qualifications for the project. Based on the interviews and evaluation of the proposals, the top-ranked consultant will be recommended to the City Council.

9. GENERAL PROVISIONS AND CONDITIONS

The City reserves the right to:

1. Reject any and all responses.
2. Negotiate with more than one consultant.
3. Waive minor irregularities in a response.
4. Cancel, revise, or extend this solicitation.
5. Request additional information on any response beyond that required by this RFP.
6. Modify the selection process set forth in this RFP upon written notification to all respondents who have not been rejected at the time of modification.
7. Request substitution of sub-consultants.

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

Attachment A – Information Technology Questionnaire

Please fill out the following questionnaire:

1. **Is Single-Sign-On (SSO) using Azure AD/SAML supported?**

2. **Is Multi-Factor Authentication (MFA) supported for application-level, non-federated accounts?**

3. **Is data encrypted in transit, end-to-end, between the client/endpoint system and the hosted/SaaS solution? If so, how?**

4. **Is data encrypted at rest within the application service, including but not limited to the database? If so, how?**

5. **Describe the security measures to vet employees and control and audit employee access to customer data.**

6. Do customers have control over the geographic location(s) where their data is stored? If so, list the countries to which customer may restrict their data.

7. What are the terms governing ownership of data?

8. How easy is it to export customer data from the service to move to a new service? What charges are incurred for data exports?

9. Have you completed a recent SSAE18 SOC 2 or SOC 3, Type I or Type II audit report? If requested, can a copy be provided as part of this assessment?

10. Where applicable, does the proposed solution meet the requirements of PCI DSS¹ and CCPA standards²? If so, please describe how you comply. For PCI, describe compliance with the various sections of the DSS for which your solution is called into scope.

11. Describe the process for deleting customer data on request or termination of service.

¹ The Payment Card Industry Data Security Standard (PCI DSS) and the California Consumer Privacy Act (CCPA) are both designed to protect data. PCI DSS safeguards payment cardholder data and encompasses four key areas: cardholder data protection, access control measures, secure network systems, and encrypted data transmission.

² CCPA protects personal information, including any data that can directly or indirectly identify an individual or household. Requirements under CCPA include implementing security procedures and practices, providing transparency about data collection, and establishing procedures for handling consumer requests.

Attachment B – Scope of Work/Services

The City seeks assistance for both the initial setup and ongoing implementation of the Rental Registry Program including:

- **Software System Solutions:** To collect and manage all submitted information
- **Professional Services:** To help administer the Rental Registry

These solutions and services can be proposed by either a single qualified firm or a team of qualified firms. The City will retain general oversight of the program, and the City's communications team can assist in outreach efforts.

A. The following components are the minimum requirements for initial and ongoing Rental Registry implementation:

- **Rental Unit Information Collection:** Initial and ongoing efforts.
- **Quality Control:** Ensuring data accuracy.
- **Registration Fee Collection:** Efficient fee collection mechanisms.
- **Data Analysis and Reporting:** For policymaking purposes.
- **Community Notifications:** Keeping the community informed.
- **Education, Training, Outreach, and Engagement:** Comprehensive educational and engagement efforts to owners and landlords.

B. The City anticipates the following minimum deliverables for the Rental Registry software services:

- **Database System:** For annual and event-based reporting, including information collection, quality control, data visualization, reporting, and community notification functionalities.
- **Online Portal/Dashboard:** Providing 24/7, year-round access for City staff, landlords, and the public.
- **Fee Collection System:** Integrated registration fee and penalty fee collection system.
- **Guidance and Resources Webpage:** Featuring a Rental Registry overview, training worksheets, demonstration videos, and other online resources.
- **Paper-Based Registration Forms:** For use when online registration is not feasible.
- **Staff Training Materials:** Exhibits and/or manuals for software system solutions.
- **Ongoing Maintenance:** Including updates and troubleshooting of the software system.
- **Data Management:** Ensuring data is packaged and provided to the City if the contract

ends, with the City retaining ownership of all collected data.

These components ensure a comprehensive approach to the Rental Registry implementation, facilitating efficient management and administration of rental unit registrations and related activities.

C. Additional Capabilities, Modules, Features, and Functionality for Rental Registry Program Software Solutions:

1. **User-Friendly and Customer-Oriented Interface:** The software services must feature an intuitive interface with a strong focus on customer service.
2. **Data Input and Security:** Besides data annually imported from objective, regularly updated sources (such as County parcel data), landlords and staff will be the primary data input sources, each using unique and secure login credentials. The software systems must include security features to ensure the safety and privacy of information provided to the Rental Registry.
3. **Training and Support:** Providers must offer ongoing training and support for City staff and public users of the software.
4. **Modular and Expandable Design:** Proposed software services should be designed in an expandable, modular format to facilitate future enhancements, functionality, and information collection.
5. **Development and Maintenance Quality:** The software should be developed, tested, and maintained using high-quality software development methodologies to ensure long-term reliability and technical efficiency.
6. **Regular Maintenance and Updates:** The firm or firms must provide regular maintenance, including troubleshooting and system updates.
7. **Quality Assurance and Control:** Regular quality assurance and quality control services must be provided.
8. **Minimized Downtime:** The design should minimize any periods when the software might be offline or unavailable.
9. **Data Access and Ownership:** The City must have complete access and ownership of all data collected within the software system solutions.
10. **Integration with Existing Systems:** The software system solutions should integrate with the City's existing software systems to the extent possible.

D. The software system solutions should encompass general capabilities to meet the City's goals and objectives for the initial rollout and launch of the Rental Registry Program. The proposed software should ideally include the following capabilities:

1. **Browser Compatibility:** Compatible with all major browsers, including Internet Explorer, Firefox, Google Chrome, and Safari. Detailed information on the host server environments and licensing models should be provided if relevant.
2. **Device Accessibility:** Accessible from various devices, including desktops and mobile devices.
3. **Remote Access:** Support remote access for users, such as staff using VPN to access City software and servers.
4. **24/7 Access:** Ensure round-the-clock access for landlords, the public, and City staff.
5. **User Authentication:** Implement best practices for user logins and authentication.
6. **Brand Support:** Support Foster City branding.
7. **Responsive Design:** Feature a responsive design user interface.
8. **Document Management:** Include a document repository with sufficient storage, the ability to upload and manage documents, accept document versioning, and override archived documents.
9. **Backend Capabilities:** Provide backend capabilities to manipulate reports, override automated systems, and delete entries and notes.
10. **Security Settings:** Implement security settings to limit deletion, access, and viewing rights.
11. **Search Feature:** Include a search feature on data fields.
12. **Tickler Reminder Feature:** Provide a reminder feature for administrators for time-sensitive issues, such as rental unit registration submissions.
13. **Role-Based Access:** Offer role-based access to application features.
14. **User Preferences Management:** Manage user preferences for access and frequently used reports.
15. **Customizable Data Entry Screens:** Support additional functionality through customizable data entry screens, such as detailed unit information and possible exemption status.
16. **Easy Workflow for Data Input:** Ensure an easy workflow for data input for initial property and rental unit registration, annual affidavits, and qualifying event-based reporting to assist with information quality assurance and control.
17. **Future Modifications:** Allow for future modifications to respond to program and/or legislative changes, such as creating new data fields and supporting future forms of rental unit registrations.
18. **Security and Privacy Features:** Include additional system security and privacy features.
19. **Licensing Requirements:** Provide a listing of any licensing requirements and fees.

20. Full Access for City Staff: Ensure City staff have full access to view, edit, and update the Rental Registry online systems and related databases.

21. Query and Report Generation: Enable City staff to generate queries and reports.

22. Formatted Reports: Establish reports/queries accessible to staff with Rental Registry data as needed by the City, formatted for legibility and ease of use.

E. The Rental Registry Program administrators should have the ability to manage all aspects of the software, including collecting and updating information, performing quality control, collecting registration fees, creating community notices, conducting data analysis, and generating reports. The user interface should incorporate:

Property Inventory Management Capabilities:

1. Property Inventory Upload

- a. Upload property inventory from City Geographic Information Systems (GIS) sources and County Assessor data, using the City's official GIS address/unit databases as a starting point.
- b. Enter properties and rental units not yet in the official City GIS address database, flagged for further staff research/processing.

2. Property Owner Data Management

- a. Manage property owner data.
- b. Support Property Assessor Parcel Number (APN) splits and mergers.
- c. Support multiple addresses and buildings for parcels.
- d. Maintain property ownership history.
- e. Integrate with the City GIS system (ESRI) and the City application and permit tracking system (Accela).
- f. Track Rental Registry fee payment status of each property and rental unit.

Property and Rental Unit Registration Capabilities:

1. Registration Management

- a. Add/register property and rental units on behalf of owners.
- b. Manage property owner information.
- c. Manage property management/agent contact information.
- d. Manage property and rental unit characteristics information.
- e. Manage rent and tenancy information.

- f. Manage tenant information with easy removability for reports and Public Records Act requests.
- g. Process registration affidavits.
- h. Upload documents.
- i. Generate copies of registration completion.
- j. Bulk upload data from CSV files.
- k. Tag properties for hold, exception, etc.

Event-Based Reporting Capabilities

1. **Event Tracking:** Report rent increases, new tenancy, new vacancy or eviction, offer of a one-year lease at renewal, other events, and annual affidavit.

Rental Registry Fee and Penalty Fee Payment Capabilities:

1. **Payment Processing**

- a. Secure payment of Rental Registry fees, penalties, and charges.
- b. Issue client notifications and electronic receipts via email.
- c. Confirm payment of rental unit registration fees to the database.

Customer Relationship Management (CRM) Capabilities:

1. **Community Notices**

- a. Produce community notices for all stages of Rental Registry implementation, including rental unit registration due notices, Rental Registry fee notices, and community announcements.
- b. Manage contacts (create, modify, delete, group, search).
- c. Send notifications via email, SMS, and account messaging.
- d. Manage campaigns (marketing, outreach).
- e. Integrate with third-party bulk mail systems.

Reporting and Analytics Capabilities:

1. **Report Generation**

- a. Produce reports to assist with daily quality control efforts and provide data visualization/infographics for policymaking.
- b. Feature role-based dashboards.

- c. Offer fixed and user-generated ad hoc reports.
- d. Export reports to PDF and Excel.

Owner/Property Manager/Agent Portal and Database Capabilities: *The portal should allow property owners, landlords, property managers, and agents to access their properties and rental units to register them and report events, incorporating:*

- 1. ADA Compliance:** Ensure Americans with Disabilities (ADA) compliance.
- 2. Multilingual Support:** Provide multilingual capabilities.
- 3. Help Buttons:** Include help buttons to clarify requested data input items to help with quality control.
- 2. Registration Management**
 - a. Add/register multiple properties and rental units.
 - b. Manage property owner, property management/agent contact, and property/rental unit characteristics information.
 - c. Manage rent, tenancy, and tenant information.
 - d. Process registration affidavits.
 - e. Upload documents.
 - f. Generate copies of registration completion.
 - g. Bulk upload data from CSV files.
- 4. Event-Based Reporting:** Report rent increases, new tenancy, new vacancy or eviction, offer of a one-year lease at renewal, other events, and annual affidavit.
- 5. Payment Processing**
 - a. Secure payment of Rental Registry fees, penalties, and charges.
 - b. Issue client notifications and electronic receipts via email.
 - c. Confirm payment of rental unit registration fees.

Public Portal Capabilities: *The public portal should allow users to verify if a rental unit is registered and the last registration date, as well as see if a qualifying event-based report was submitted by type and date. The user interface should incorporate:*

- 1. ADA Compliance:** Ensure Americans with Disabilities (ADA) compliance.
- 2. Multilingual Support:** Provide multilingual capabilities.
- 3. Review Status:** Review rental unit registration status/date and event-based report type/date.

Integration Support: Ideally, the Rental Registry software system solutions should:

- 1. Integrate or provide data exports** to the City's financial and utility billing systems.
- 2. GIS Integration**
- 3. Export property location and other information** to the City's GIS (GIST and ESRI – ArcGIS Enterprise).
- 4. Allow City staff access to other departments' systems to view activities** related to the property and rental units, such as inspection reports and building permits.

The Rental Registry software system solutions may benefit from additional capabilities, modules, features, and functionality, such as, but not limited to:

- 1. Proposals for Additional Enhancements:** Qualified firms are encouraged to propose additional deliverables, capabilities, modules, features, and functionality to further support the Rental Registry's goals, purposes, and objectives.
- 2. Mobile Application Development:** Qualified firms can suggest creating a downloadable app for iOS and Android as a supplementary deliverable to enhance Rental Registry participation.

Attachment C – Foster City Rental Population and Rental Property Types

According to the United States 2020 Decennial Census, Foster City had a total of 13,318 housing units, with 12,658 units occupied and 660 considered vacant.

Out of the 13,318 occupied housing units, 6,646 were owner-occupied, and 6,012 were renter-occupied. This translates to renter households representing 45% of occupied Foster City housing units in 2020. Regarding the Foster City population distribution, the 2020 ACS estimates that 40,129 (59.5%) people lived in owner-occupied housing and 27,301 people (40.5%) lived in renter-occupied housing.

33.98% of renters live in large apartment complexes of 50 units or more, followed by various property types, as shown in Table 1. The second largest portion of rental units are Medium Sized Rental Property (20 to 49 Units), at 14.57%.

Table 1: Distribution of Rental Households by Rental Unit Property Type (excluding single-family detached units)

	Mobile Home	Boat, RV, Van, etc.	Single Family Attached	Duplex	Triplex and Fourplex	Small Sized Rental Property (5 to 9 Units)	Medium Sized Rental Property (10 to 19 Units)	Medium Sized Rental Property (20 to 49 Units)	Large Sized Rental Property (50+ Units)	TOTAL
# of Units	0	0	711	126	673	533	753	792	1847	5,435
% of Total Units	00.00%	00.00%	13.08%	2.32%	12.38%	9.81%	13.85%	14.57%	33.98%	100.00%

[Source: U.S. Census Bureau, 2016-2020 American Community Survey 5-Year Estimates, B25032 Tenure by Units in Structure](#)

Attachment D: Information and Draft Illustrative Example of Initial Rental Unit Registration Form

Rental Registry Program: Information to Collect, Participating Rental Units, and Reporting Frequency

Information to be collected, rental units to be registered, and reporting frequencies for the Rental Registry Program:

A. Information to Collect

1. Reason for Vacancy

2. Deed Restriction Status: Identification if the rental unit is deed restricted.

3. Contact Information

- a. Property owner contact information.
- b. Landlord/property manager contact information.

4. Rental Unit Characteristics

- a. Rental unit size (square feet).
- b. Number of bedrooms.
- c. Property type/number of units at the property.

5. Rent Information

- a. Rent amount.
- b. Services and utilities included in rent.
- c. Mandatory additional fees such as storage, parking, renter's insurance, and utility billing administrative fees

6. Tenancy Information

- a. Tenancy status (occupied/vacant).
- b. Tenancy or vacancy commencement date.

7. Affidavit

- a. Attestation to information accuracy.
- b. Registration date of submittal.

8. State and City Renter Protections: Information relevant to implementing existing State and City renter protections.

B. Frequency of Reporting

Use initial rental unit registration and thereafter qualifying event-based reporting frequency or an annual affidavit if no qualifying events occur. Qualifying events include:

1. Qualifying Event-Based Reporting: Required after any of the following events:

- a. Rent increases.
- b. New tenancy.
- c. New vacancy or eviction.
- d. Offer of a one-year lease at renewal.
- e. Other events.

Attachment E – Sample Agreement for Professional Services Insurance Requirements

PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES

This Agreement is made and entered into as of the ____ day of _____, 20__ by and between the City of Foster City hereinafter called "CITY" and _____ hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

WHEREAS, CITY desires to engage CONSULTANT to provide professional services in the CITY;

WHEREAS, CONSULTANT is qualified to provide such services to the CITY and;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT. (b) Notwithstanding the provisions of (a) above, CITY may with or without cause, direct CONSULTANT to suspend, delay or interrupt Services, in whole or in part, for such periods of time as CITY may determine in its sole discretion. (c) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should CONSULTANT commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of CITY's written notice to CONSULTANT demanding such cure, in which case

CONSULTANT shall be liable to CITY for all loss, cost, expense, damage and liability resulting from such breach and termination. (d) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever CITY determines that such termination is in CITY's best interests, in which case CONSULTANT shall be entitled to recover its costs expended up to the termination date plus reasonable profit thereon to the termination date as this Agreement would otherwise provide, but may recover no other cost, damage or expense. CONSULTANT shall continue its work throughout the course of any dispute, and CONSULTANT's failure to continue work during a dispute shall be a material breach of this Agreement.

3. Compensation; Expenses; Payment. CITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule marked Exhibit "B" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum _____ (\$ _____). Invoices for amounts in excess of _____ (\$ _____) shall not be paid unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) evidenced by motion duly made and carried and a written contract amendment having been executed.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to CITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of CITY including, without limitation, CONSULTANT's transmittal of all deliverables to CITY required by EXHIBIT A.

CITY shall not incur any charges under this Agreement, nor shall any payments become due to CONSULTANT for any payment period on the Project, until CITY receives all deliverables required under Exhibit A, SCOPE OF WORK AND SCHEDULE, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where CONSULTANT has partially completed one or more deliverables due during a payment period, and if CONSULTANT demonstrates diligent progress thereon, then CITY may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon CITY. CITY shall not be liable for, and CONSULTANT shall not be entitled to, any payment for Services performed before this Agreement's execution.

4. Additional Services. In the event CITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to CITY for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONSULTANT. CONSULTANT represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

CONSULTANT represents that it has reviewed Exhibit A and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Exhibit A and within the times specified for each individual Project.

CONSULTANT represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.

The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of CONSULTANT for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this

Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.

9. Relationship of Parties. CONSULTANT is an independent Contractor and does not act as City's agent in any capacity, whatsoever. CONSULTANT is not entitled to any benefits that CITY provides to CITY employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the CONSULTANT's provision of Services, not the means, methods, or scheduling of the CONSULTANT's work. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Agreement. CONSULTANT shall pay all payroll taxes imposed by any governmental entity and shall pay all other taxes not specifically identified in this Agreement as CITY's responsibility.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to CITY of CITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless CITY, its Council, boards, commissions, officers, employees, directors, volunteers and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, injury (including, without limitation, economic harm, injury to or death of any person, including an employee of CONSULTANT or its Subconsultants), cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, at law or equity, which may be brought against, or suffered or sustained by, City of Foster City, its Council, boards, commissions, officers, employees, directors, volunteers or agents that arise out of, pertain to, or relate to any negligence, recklessness, or willful misconduct of CONSULTANT, any Subconsultant, anyone directly or indirectly employed or retained by them, or anyone that they control. In the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the CONSULTANT shall meet and confer with other parties regarding unpaid defense costs.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONSULTANT to indemnify City of Foster City, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the

termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

If CONSULTANT is a “design professional,” as defined in California Civil Code Section 2782.8(c), CONSULTANT shall indemnify, defend, and hold the Indemnitees harmless against Liability only to the extent such Liability arises out of, pertains to, or relates to CONSULTANT’s negligence, recklessness, or willful misconduct. In such an event, the cost to defend charged to CONSULTANT shall not exceed CONSULTANT’s proportionate percentage of fault.

12. Insurance. Prior to execution of this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in EXHIBIT C, Insurance, which are attached and made a part of this Agreement. CONSULTANT shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in EXHIBIT C. In the event CONSULTANT fails to maintain any required insurance, and notwithstanding Paragraph 3 above, CITY may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONSULTANT under this Agreement (or CONSULTANT shall promptly reimburse CITY for such expense).

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he is aware of the provisions of the Labor Code of the State of California 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 CONSULTANT certifies that he will comply with such provisions before commencing the performance of the work of this agreement.

14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-

discrimination clause.

15. Notice. All notices required by this Agreement shall be given to the CITY and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City
610 Foster City Boulevard
Foster City, CA 94404-2299
Attention: [REDACTED]

CONSULTANT: [REDACTED]
(Fill in CONSULTANT Name, Address, Phone Number, Project Manager and Email Address for CONSULTANT)

16. Non-Assignment. This Agreement is not assignable either in whole or in part.
17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
18. Validity. 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.
19. Governing Law. This Agreement shall be deemed to have been executed in the County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Any suit or action initiated by either party shall be brought in the County of San Mateo, California unless the parties agree otherwise in a written amendment to this Agreement. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.
21. Conflict of Interest. CONSULTANT represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of work and services required under this Agreement. Without limitation, CONSULTANT represents to and agrees with CITY that CONSULTANT has disclosed any potential conflict of interest, and will have no future conflict of interest, in providing CITY services hereunder, including but not limited to, any interest (financial, share ownership, shared management, shared directors, or reporting responsibilities) CONSULTANT may presently have, or will have in the future, with respect to any other person or entity (including but not limited to potential suppliers, vendors, consultants,

contractors, or regulatory agency) which may have an interest in the subject matter of the Services.

22. Liability of CITY.

Except as provided in Exhibit A, Services to be Provided by CONSULTANT and Exhibit C, Insurance, CITY's obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 1, 3, and 4 of this Agreement,

Notwithstanding any other provision of this Agreement, in no event shall CITY be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

CITY shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented or loaned to CONSULTANT by CITY. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and shall exonerate, indemnify, defend and save harmless CITY from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, CITY employees or third parties, or to property belonging to any of the above.

Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY or CONSULTANT may have under this Agreement or any applicable law. All rights and remedies of CITY or CONSULTANT, whether under this Agreement or other applicable law, shall be cumulative.

23. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

24. Force Majeure. Except for defaults of subconsultants at any tier, CONSULTANT shall not be liable for any excess costs if the failure to perform the Agreement arises from causes beyond the control and without the fault or negligence of CONSULTANT, including without limitation failure to reasonably mitigate any adverse impacts (Force Majeure). Force Majeure events include the following:

Acts of God, fires, floods, earthquake, other natural disasters, epidemics and pandemics (other than COVID-19 or variants), abnormal weather conditions beyond the parameters otherwise set forth in this Article, nuclear accidents, strikes, lockouts, freight embargos, interruptions in service by a regulated utility, or governmental statutes or regulations enacted or imposed after the fact (together, "force majeure events").

[For consideration if applicable:] Any Force Majeure event with a duration in excess of [TBD by Owner—recommend not less than 30] days entitles either party to terminate this

Agreement with written notice to the other party, without further penalty or compensation.

25. Entire Agreement. This Agreement, including Exhibits A, B, C, and D comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

Dated: _____

_____, City Manager
(for contracts less than \$50,000)
[REMOVE signature line if \$50,000 or more]

Dated: _____

_____, Mayor
(for contracts \$50,000 or more)
[REMOVE signature line if less than \$50,000]

ATTEST:

Dated: _____

Priscilla Schaus, City Clerk

APPROVED AS TO FORM

Dated: _____

Benjamin Stock, City Attorney

CONSULTANT

Dated: _____

Type Name & Title of CONSULTANT Authorized to Sign

EXHIBIT A

SERVICES TO BE PROVIDED, PAYMENTS, PROJECTS AND SCHEDULE, AND DELIVERABLES FOR

[ENTER PROJECT TITLE]

[EITHER COMPLETE EXHIBIT A OR ATTACH A PROPOSAL/SCOPE OF WORK THAT CONTAINS ALL THE INFORMATION BELOW AND DELETE THE TEXT BELOW]

SERVICES TO BE PROVIDED

This is an Exhibit attached to, and made a part of and incorporated by reference to the Agreement dated [Date of Agreement](#), by and between [Consultant Name](#), hereinafter referred to as "CONSULTANT" and the City of Foster City, hereinafter referred to as "CITY" providing for professional services.

1. **Description of the Project:**

1.1 DESCRIPTION: [Description of Project](#)

2. **Basic Services:**

The CITY has developed a general scope of work as described below.

2.1 Task 1 – [Description of Task 1](#)

2.2 Task 2 – [Description of Task 2](#)

2.3 Task 3 – [Description of Task 3](#)

PAYMENTS

1. The maximum payment to CONSULTANT under this Agreement for the Project shall be:

[Maximum Payment Amount](#)

2. METHODS OF PAYMENT FOR CONSULTANT'S SERVICES AND EXPENSES:

[List Methods of Payment](#)

3. TIMES OF PAYMENTS.

[List Times of Payments](#)

PROJECTS AND SCHEDULE

[List Project Schedule](#)

DELIVERABLES

CONSULTANT's deliverables under the Agreement are enunciated throughout the Professional Services Agreement and include but are not limited to the following:

1. **PROJECT DELIVERABLES**

1.1 **DELIVERABLES:** [List of Deliverables](#)

1.2 **OTHER:**

2. **CONSULTANT SERVICES.** The deliverables considered part of CONSULTANT's professional services are defined as, but are not limited to, the following deliverables:

2.1 **SERVICES:** [List of Services](#)

END OF EXHIBIT A

EXHIBIT B
FEE SCHEDULE

[Specify Consultant's hourly rates for which services hereunder shall be performed]

EXHIBIT C

INSURANCE FORMS

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in herein on the attached form. No substitute form will be accepted.

This is an Exhibit to, and made a part of and incorporated by reference to the Agreement dated [Date of Agreement](#), by and between [Consultant Name](#), hereinafter referred to as "**Consultant**", and the City of Foster City, hereinafter referred to as "**City**", providing for professional services.

1. **Consultant's Duty to Show Proof of Insurance.** Consultant, in order to protect City and its Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

1.1 Insurance Requirements

Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

*Please note, the City will require a separate additional insured endorsement for the Commercial General Liability policy, listing the "City of Foster City, its Council members, officials, agents, officers, and employees".

[FOR THE FOLLOWING INSURANCE REQUIREMENTS, PLEASE CONSIDER IF EACH IS APPROPRIATE FOR THE SERVICE TO BE PROVIDED AND FOR THE CONSULTANT. UNCHECK THE CHECKBOX FOR ANY INSURANCE REQUIREMENT THAT IS NOT APPLICABLE. PLEASE CONTACT THE CITY MANAGER'S OFFICE WITH ANY QUESTIONS.]

Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate.

Installation Floater

Installation Floater, covering the work performed under this Contract, against all risks of direct physical loss. The policy shall cover the Contractor's labor, materials and equipment, including materials and equipment in transit or away from the project site, to be installed in the existing structure(s). The coverage shall be written for an amount equal to the initial contract amount plus the value of any subsequent change orders, subject to a deductible of not more than [\$10,000] payable by Contractor.

Cyber Liability Insurance

Cyber Liability Insurance, covering network risk and cyber liability (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

1.2 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

1.3 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. **City as Additional Insured**

On Consultant's Commercial General Liability and Automobile policies, the City, its Council members, officers, directors, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

3. **Insurance terms and conditions:**

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

ATTACHED

1. Insurance Coverage Form

CANCELLATION NOTICE. The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____ **TITLE:** _____

ADDRESS: _____

TELEPHONE: () _____ **DATE ISSUED:** _____

EXHIBIT D
COVID-19 AMENDMENT/ATTACHMENT
(Consulting Agreement Form)

This COVID-19 Amendment/Attachment amends the Agreement between _____
("City") and _____ ("Consultant") dated _____.

1. Definitions

A. The 2019 novel coronavirus and the disease it causes are collectively referred to herein as "**COVID-19**".

B. A "**COVID-19 Condition**" is something attributable to COVID-19 not caused by the Consultant (which for purposes herein includes all subconsultants) and beyond its reasonable control including but not limited to COVID-19 Proclamations and supply chain disruptions due to COVID-19, and other circumstances concerning COVID-19 not caused by the Consultant and which are beyond its reasonable control.

C. A "**COVID-19 Proclamation**" includes but is not limited to orders, directives and guidance concerning COVID-19 that have been issued, and which may be issued from time to time, by public agencies or regulatory bodies, the CDC or OSHA or Cal/OSHA, including without limitation the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards. Consultant acknowledges that those orders, directives and guidance may require the Project to shut down or otherwise increase the Consultant's cost or time of performance by calling for things such as social distancing and the use of personal protective equipment. In the event of conflicting COVID-19 Proclamations, the Consultant shall follow the most applicable, restrictive and newest COVID-19 Proclamations.

D. An "**Unknown COVID-19 Condition**" is a COVID-19 Condition the Consultant did not know about, and reasonably should not have known about, as of the date the Consultant submitted its proposal. The requirements contained in COVID-19 Proclamations issued before submission of a proposal are not Unknown COVID-19 Conditions, and the Consultant will be deemed to have knowledge of those requirements.

E. An "**Unknown COVID-19 Cost**" is a cost that: (i) is solely attributable to an Unknown COVID-19 Condition; (ii) is reasonable and unavoidable under the circumstances; (iii) is not the result of the Consultant's failure to comply with the contract documents or a COVID-19 Proclamation; and (iv) is not the result of a subconsultants failure to comply with a COVID-19 Proclamation in connection with the performance of the Services.

2. COVID-19 Conditions and Proposal. Consultant is expected to know and is deemed to have known about COVID-19 Conditions when it submits its proposal, and COVID-19 Conditions must be accounted for in the Consultant's price and schedule. In order to be entitled to any relief from a COVID-19 Condition, the Consultant must demonstrate that the issue, cost or delay is due to an Unknown COVID-19 Condition.

3. Compliance with COVID-19 Proclamations.

A. Consultant shall comply with COVID-19 Proclamations in the performance of the Services, irrespective of when the COVID-19 Proclamations are issued, and as they pertain to performance of the

Services. The cost of such compliance is non-compensable, except as otherwise expressly stated herein.

B. Consultant is responsible to ensure that its subconsultants and suppliers comply with COVID-19 Proclamations at all times in connection with the performance of their Services.

4. Delay. The Consultant is entitled to a reasonable time extension for an Unknown COVID-19 Condition. Such time extension is non-compensable.

5. City Directed Suspension. The City may suspend Services due to COVID-19 health concerns, even though the Consultant may be allowed to proceed with the Services based on COVID-19 Proclamations. The City may suspend the Services for its convenience. The Consultant is entitled to a time extension for a City Directed Suspension, and the contract amount will be equitably adjusted if and to the extent Consultant incurs increased costs that are Unknown COVID-19 Costs.

6. Compensation for COVID-19 Costs. City will reimburse the Consultant for Unknown COVID-19 Costs that are not included in the schedule of values.

7. Safe Work Practices. Consultant shall implement safe work practices recommended by CDC or OSHA or Cal/OSHA, which may include, inter alia, screening all employees, subconsultants, or others (“worker(s)”) at all locations where Services are performed for signs and symptoms of COVID-19; adopting staggered work schedules, e.g., providing alternating workdays or extra shifts, to reduce the total number of employees on a site at any given time and to ensure physical distancing; identifying choke points where workers are forced to stand together, such as hallways and elevators, ingress and egress points, break areas, and buses, and implement policies to maintain social distancing; coordinating deliveries in line with the employer's minimal contact and cleaning protocols; and instituting a rigorous housekeeping program to reduce dust levels at all exterior locations. Consultant remains fully responsible for following and complying with changes to recommended safe work practices from time to time.

8. Monitoring and Reporting. City may require the Consultant to actively monitor the health of its workers through temperature checks and questionnaires of major COVID-19 symptoms, including but not limited to cough, fever above 100.4 degrees Fahrenheit and shortness of breath. Consultant shall immediately report to City any outbreaks of COVID-19 among its workers. The Consultant shall not knowingly allow any worker who has tested positive with COVID-19 to enter a City building. In the event of an outbreak or an exposure to COVID-19, the City may impose appropriate mitigation strategies which may be in consultation with the public health officer.

9. Conflicts. In the event of an inconsistency between this COVID-19 Amendment and the Agreement, this Addendum shall control.

[Signatures on Next Page]

IN WITNESS WHEREOF, the City and Consultant have executed this Covid-19 Amendment as of the date set forth above.

CONSULTANT:

CITY:

Signature

Signature

Print Name & Title

Print Name & Title