



Request for Proposals

April 15, 2019

Professional Engineering Services for a Lake Curry Dam Release Plan and Bathymetric Survey

Proposals Due:

**Friday, May 24, 2019,
no later than 4:00 PM**

City of Vallejo Water Department



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Introduction

The City of Vallejo (hereinafter “City”) invites qualified individuals/companies to submit proposals for professional engineering and environmental services to generate a release plan and perform a bathymetric survey for Lake Curry. This Request for Proposals (RFP) establishes the requirements for preparation and submission of proposals as well as the requirements for the Release Plan and Bathymetric Survey. Respondents are invited to review the information and to submit their proposals in accordance with the criteria established.

Request for Proposal

The City is seeking a consultant to prepare a Release Plan and perform a bathymetric survey that will be implemented to govern operations of Lake Curry Dam. The volume of water available identified by the bathymetric survey will inform the releases identified in the Release Plan, which will replace the interim minimum flow releases the City has already established. The Release Plan should address instream flow, fishery, natural water availability, and other beneficial uses below Lake Curry Dam. The plan should address any applicable requirements imposed by regulating agencies including but not limited to the National Marine Fisheries Service (NMFS), California Department of Fish and Wildlife (CDFW), the California Water Code, the State Water Resources Control Board, and California Department of Water Resources Division of Safety of Dams (DSOD).

The City is using this approach in order to bring the best available experience and expertise to work collaboratively with the City to successfully and expeditiously meet the challenges and needs of the Project. The City requests integrated planning concepts of high quality and desires to select a Consultant(s) that will provide an effective and comprehensive Release Plan which fully meets the City’s existing program.

Delivery Requirements

Responses to this Request for Proposal shall be submitted in a sealed package addressed as below and clearly identifying the Consultant making the submission.

Consultant shall submit seven (7) printed copies of the proposal on 8-1/2” x 11” paper and bound (items not physically suitable for inclusion into a binder may be submitted separately). Consultant shall also provide one (1) electronic copy in PDF format. All copies of the proposal shall be submitted in a sealed, opaque envelope clearly marked on the outside:

“SEALED PROPOSAL
Response to RFP for Lake Curry Dam Release Plan & Bathymetric Survey
DO NOT OPEN WITH REGULAR MAIL”
To: City of Vallejo, Water Department
Attn: Mike Malone, Director
202 Fleming Hill Road
Vallejo, CA 94589”



Deadline

Responses to this Request for Proposal must be received by the Water Department by **Friday, May 24, 2019 no later than 4:00 pm**. Responses received after this date/time will not be considered. Postmarked date will not constitute timely delivery. Consultants are solely responsible for ensuring the timely receipt of their responses.

Time is of the essence, and any proposal received after the announced time and date for submittal, whether by mail or otherwise, will not be considered. It is the sole responsibility of the Consultant to ensure that its proposal is stamped “received” by the Water Department before the deadline. Proposals received after the announced time and date of receipt, by mail or otherwise, will be returned unopened.

Oral, telephonic, electronic (e-mail), or facsimile proposals are invalid and shall not be accepted.

Note: Nothing in this Section and/or this RFP, however, precludes the City from requesting additional information at any time during the proposal evaluation.

Schedule

RFP Published and Distributed	04/15/2019
Deadline to for Submittal of Questions	04/26/2019, no later than 4:00 p.m.
Response to Questions	05/01/2019
Submission Deadline for Proposals	05/24/2019, no later than 4:00 p.m.
Consultant Start	06/29/2019 (Estimated)
Consultant Completion Date	12/31/2019

Contact Information

Questions regarding this Request for Proposal should be submitted in writing no later than **4:00 pm on April 26, 2019** to:

Melissa Cansdale
 Associate Engineer
 Water Department
 City of Vallejo
 E-mail: melissa.cansdale@cityofvallejo.net
 Address: 202 Fleming Hill Rd., Vallejo, CA 94589

Any questions received by the City of Vallejo that affect the Request for Proposal process will be issued as addenda by the City of Vallejo. Addenda will be issued and posted to the City’s website on or before **May 1, 2019**.

Project Description

The Lake Curry Dam was constructed in the 1920s and is located in the Suisun Creek Watershed in Napa County on the northern end of Suisun Creek with a maximum storage capacity of 7,957 acre feet. Lake Curry Dam was constructed in the early 1920s for the purposes of expanding the City’s water supply portfolio. The dam captures the headwaters of Suisun Creek, holds the drainage capacity of 17 square



miles and covers 377 acres of land. The Suisun Creek watershed supports a diverse ecosystem both upstream and downstream of the dam.

The City has been engaged with local environmental groups to help protect the native fish populations in Suisun Creek downstream of the dam. Historically the City of Vallejo releases water throughout the year as conditions and water levels permit. The City of Vallejo is currently in discussions with the stakeholders of the Suisun Creek and Green Valley areas including environmental groups, landowners and regulatory agencies on a voluntary release agreement from Curry Dam to protect the City's existing water right as well as support native fish populations. In order to accurately identify the volume of water available for a sustainable release plan, a bathymetric survey will first need to be completed. The last bathymetric survey of the lake occurred in 2005.

Given restrictive environmental regulations and the City's interests in cooperating with downstream interests, the City is in need of a sustainable release schedule to be the official water release schedule for Lake Curry Dam. This document will also serve as the foundation for future releases from the Lake Curry dam.

The City's goals and objectives for the Release Plan and bathymetric survey include, but are not limited to the following:

- Protect fish in Lake Curry and Suisun Creek
- Maintain water quality in the Lake as well as Suisun Creek, focusing on water temperature
- Maintain safe water elevations to support water quality of the lake and ecosystem in the Suisun Creek Watershed, specifically avoiding algal blooms in the lake and maintaining dissolved oxygen levels in the creek below the dam.
- The Release Plan should include recommendations for Best Management Practices for the recording of weather observations, precipitation amounts, influent and effluent levels, appropriate monitoring equipment and training for the watershed manager and personnel.
- Contain enough information to inform a wildlife protection plan for wildlife dependent on Lake Curry

Scope of Services

All services shall be performed in accordance with all applicable State and City regulations and ordinances, including, but not limited to, the Professional Engineers Act. The Company shall submit a proposal that defines the approach it intends to use, specific scope of work, and methodology that the firm believes will achieve the goals. The proposal shall include among others, a detailed description of all tasks, schedules, staffing, and corresponding compensation.

Tasks

1. Schedule a site visit to meet with City representatives to verify the extent of project. Collect and review all existing reports and record drawings.
2. Develop a Release Plan to conform to the City's water license restrictions and a yearly safe yield release. The Release Plan shall be based on available hydrologic studies and water availability analyses as well as the bathymetric survey. Identify sustainable lake levels that supports regulated water temperatures and any potential long term impacts on the lake if releases occur during the driest periods of the year (May thru November).

3. Review existing environmental studies and biological opinions. Identify releases that would support habitat sustainability and existing wildlife composition.
4. The Consultant shall perform a bathymetric survey utilizing the most cost effective technology available to produce a map of the geometric dimensions of Lake Curry up to the spillway. The Consultant shall provide equipment, supplies, personnel, and survey boat fully equipped to perform bathymetric and topographic surveys.
5. The Consultant shall develop a model for calculating the volume in Lake Curry for any given elevation of water.
6. The Consultant shall present options for removal of silt from the lake including feasible methods with associated cost and permitting requirements (Army Corps of Engineers, California Regional Water Control Board, Fish & Wildlife, etc.).
7. The Consultant shall provide the City with the following deliverables:
 - a. A Release Plan identifying
 - i. Flow rates and corresponding reservoir elevations for dry, normal and wet year types.
 - ii. Lake elevations and/or temperatures that would yield algal blooms or poor water quality.
 - iii. Best practices to protect fish in Lake Curry and Suisun Creek, including best times for pulse flows.
 - iv. Best practices and guidelines to maintain safe water elevations to support water quality of the lake and ecosystem in the Suisun Creek Watershed, specifically avoiding algal blooms in the lake and maintaining dissolved oxygen levels in the creek below the dam.
 - v. Identify gaps in hydrologic monitoring and provide recommendations for recording of weather observations, precipitation amounts, influent and effluent levels, appropriate monitoring equipment and training for the watershed manger and personnel.
 - b. Bathymetric Survey & Topographic Survey
 - i. Establish horizontal and vertical control for the project
 - ii. A Class 1 Bathymetric Survey using methods and accuracies described in the USACE Bathymetric Survey Manual (EM1110-2-1003, 2013)
 - iii. Using the bathymetric and topographic surveys, compute elevation-area and elevation capacity relationships for the lake from the lowest point of the lake to the spillway and to the top of the gates elevation. The Consultant shall furnish data in both tabular and graphical format.
 - iv. The Consultant shall prepare a bathymetric contour map for the lake showing 2019 conditions, extending from the lowest points in the lake and seamlessly matching it to the topographic survey data. The desired contour interval is two (2) feet and the horizontal scale is 1 inch equals 50 feet.
 - v. The Consultant shall deliver a DTM, compiling lakebed and upland areas, in .DWG format and as shape files, including XYZ (easting, northing, elevation) information for the lake bottom elevations
 - vi. An isopach contour map showing the thickness of sediment in the lake as interpreted from the survey results



- vii. A contour map and associated shape files showing the elevation of the original lake bottom including XYZ (easting, northing, elevation) file of the original lake bottom elevations
- viii. Any other data that could be used for future modeling
- ix. Seven (7) copies of the draft and final reports summarizing the items above.

Fee proposal

Submit a fee proposal, including a statement of cost breakdown associated with each of the tasks as outlined in the scope of services. The fee proposal shall include all fees required to mobilize, perform testing, and compile and submit seven (7) copies of the draft and final reports.

The Fee Proposal shall be by Project component item on the form included with this RFP. Each Consultant is responsible for submitting a completed and signed Fee Proposal Form identifying the price for each component item as contained within this RFP. The Price shall be the proposed price by item, without stipulations or qualifications in any manner. Failure to submit a complete and signed form shall result in the Proposal being rejected as nonresponsive.

Consultant Requirements

Insurance: If selected to provide the services described in this RFP, the Consultant shall be required to comply with the insurance requirements set forth below:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.
4. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.
5. The City of Vallejo must be listed as an "Additional Insured" on the Consultant's policy via endorsement of the policy.
6. The Consultant must provide a current Certificate of Insurance to the City of Vallejo with the above stated requirements, along with a valid Additional Insured Endorsement.



7. The insurer must be a California-admitted surety or an insurance company listed by the State Insurance Commissioner and shall have a rating in the latest Best's Rating Guide of "A" or better, Class VI or better, or be treasury listed for the size of risk undertaken.
8. The City reserves the right to review the insurance requirements of this Article during the effective period of this Agreement and any extension or renewal hereof and to modify insurance coverage and their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or circumstances surrounding this Agreement. In no instance will City allow modification whereupon City may incur increased risk.
9. Business License: If selected to provide the services described in this RFP, throughout the duration of the contract, Consultant shall be required to hold a valid and current City of Vallejo Business License.
10. Contract Form: If selected to provide the services described in this RFP, the contract will be awarded using the City's Standard Form Consultant Agreement. A sample of this agreement is attached for the Consultant's review. Applicable portions of the Consultant's proposal, in its final form, will be incorporated in the Agreement as the Scope of Work. However, any incorporation shall be for the purpose of detailing the Scope of Work only and shall not operate to modify or amend any provision of the City's Standard Professional Services Agreement.
11. Every effort will be made to ensure equal access to business opportunities with the City, within the limits imposed by law and City policy. Consultants may be required to provide evidence of its equal employment opportunity policy. The successful Consultant, its collaborating companies, and its subcontractors will be required to follow the nondiscrimination requirements set forth in the Proposal Documents and to pay prevailing wage at the location of the work if required by the Vallejo Municipal Code or State Law

Proposal Submission Format Requirements

Consultant shall submit a written proposal which presents the Consultant's technical qualifications and professional ability and experience to meet the needs of the City of Vallejo. The proposal should be prepared in a clear and concise manner and should provide all information that is considered pertinent to creating a Release Plan. Unnecessarily elaborate or glossy proposals are neither expected nor desired. The emphasis of the proposal should be placed on comprehensive responses identifying quality approaches for the creation of a sustainable Release Plan.

Additional information and/or suggestions the Consultant believes would be beneficial and cost-effective to improve access and/or functionality of the dam may be identified and submitted; however, the City is not bound to take these items into consideration in determining the final selection.

Failure to comply with the RFP requirements or to provide the requested information may result in rejection of a proposal, and the City reserves the right to reject any and/or all submittals or to withhold the award of this Project for any reason it may determine

1. A cover letter, of not more than two pages, introducing the company and its desire to provide engineering/environmental services for the above referenced project for the City. The letter must also indicate the Consultant's willingness and ability to sign the City's Consultant & Professional Services Agreement without alteration of the standard indemnification and insurance language. The cover letter should also include:
 - Identify whether the Consultant is a single entity, partnership, corporation or joint venture, or other legal entity recognized in the State of California, and the date such entity was legally established;
 - Identify project team (including, but not limited to and as applicable, Architect, Biologist or other scientist, Structural Engineer, Civil Engineer, Mechanical Engineer, Electrical Engineer, Landscape Architect, Specifications Writer, subcontractors, etc.);
 - Provide name of contact person, phone number and facsimile number;
 - Summarize the highlights, key features, and distinguishing points of the proposal qualifications most relevant to this Project; and
 - Contain the signature of an individual authorized to make financial commitments on behalf of the Consultant.
2. A table of contents that clearly defines sections and includes page numbering.
3. General information about the firm, including the size of the organization, location of the offices, years in business, organization chart, name of owners, names of principal parties, and information regarding any associations of which the Consultant and its staff are members.
4. A narrative supported by past experience related to other similar projects, preferably reflective of work with local governments. The narrative shall establish the Consultant understands the City's objectives and the Consultant's ability to satisfy the objectives and identified requirements. Consultants may identify additional services or requirements in the narrative if Consultant believes the information will assist the City in more efficiently and effectively meeting the Project objectives. As part of this narrative proposing consultants shall include their approach and methodology the firm intends to use in completing the Scope of Work as well as present a project review and quality assurance program.
5. Project staffing organization chart, including sub-consultants identifying the names and qualifications of staff proposed for the assignment, their position in the firm, and types and amount of experience. A brief description of responsibilities on the project should be included. A description of how overall supervision will be provided should also be included. Please attach resumes for each professional who will be assigned to the Project.
6. A detailed description of the scope of work as outlined in the **"Scope of Services"** section contained in this document, including timelines and deliverables.
7. A description of Consultant's standard method of compensation, including charges for reimbursable expenses and personnel hourly billing rates. This section should also include a detailed cost estimate that should include an estimate of required personnel hours by task and job title for each corresponding task, the overhead rate as a percentage of direct labor, and the potential for billing rate adjustments during the course of the work.



8. A schedule that identifies project progress through completion. The schedule should include the major tasks and scheduled milestones (expressed in terms of days or week) from execution of the Agreement. The City reserves the right to determine the feasibility of the schedule.
9. At least three references, including contact names and telephone numbers of clients for which prior services have been provided. Emphasis should be placed on California clients and local government clients.
10. Consultant should detail what it expects and requires of the City in order to effectively perform the services outlined in this Request for Proposal.
11. A detailed cost proposal enumerating costs, as outlined in the **“Fee Proposal”** section of this document.

Review of Proposals

After proposals are received and opened by the City, the City shall review and evaluate all proposals for responsiveness to the RFP in order to determine whether the Consultant possesses the necessary qualifications. The City may also investigate qualifications of all Consultants to whom the award is contemplated, and the City may request clarifications of proposals directly from one or more Consultants.

An interview and/or presentation of one or more of the Consultants may be scheduled to facilitate evaluation of each proposal.

Evaluation Criteria

The City will review proposals and determine those that are responsive. The City will select a Consultant who in its sole judgment, best suits the needs of the City. The evaluation criteria which are neither weighted nor prioritized include, but are not limited, to the following:

1. Demonstrated understanding of the services requested.
2. Firm’s relevant experience and familiarity with issues applicable to the project. Prior experience performing similar work, with preference given to Consultants with experience working with government or California clients.
3. Qualifications of the firm and assigned individuals.
 - a. This includes the capability of providing the services, as well as the qualifications, education, certifications, experience and past performance of the Consultant and its key personnel, agents, employees and sub-contractors.
4. Acceptability and scope of service capabilities.
 - a. This includes, but is not limited to, the Consultant’s understanding of the work to be completed based upon the clarity of the proposal, responsiveness, and adequacy of staffing.



5. Fee structure and cost effectiveness of the proposal.
 - a. Note: The proposal with the lowest price will not necessarily be selected; however, price is a component of the evaluation. The City will select the proposal that is most advantageous to the City.

6. Reference checks.

Right of Refusal

The City reserves the right to reject any and all submitted proposals or to withhold the award of this Project for any reason it may determine. Additionally, the City reserves the right to waive any minor defects or irregularities in any proposal or in the proposal process; to extend the submission due date; to modify, amend, reissue or rewrite this document; to solicit new proposals on the same project or on a modified project which may include portions of the original proposed project; or to procure any or all services by other means as in the best interest of the City.

Award of Project

The City reserves the right to withhold award of this Project for any reason it may determine. Each item of the Project shall be identified individually in the proposal, and the City reserves the right to award components of this Project to more than one Consultant. Upon completion of the review period, the City shall notify those Consultants who will be considered for further evaluation. Consultants so notified shall interact in good faith in accordance with direction from the City and any delay caused by Consultant's failure to respond to direction from the City may lead to a rejection of the Proposal.

The City will notify Consultant in writing if, after due investigation, the City objects to any firm and/or subcontractor proposed by Consultant. In this event, Consultant shall propose a substitute acceptable to the City. Failure of the City to object to a proposed firm and/or subcontractor prior to award, however, shall not preclude the City from requiring replacement of any firm and/or subcontractor based upon information received subsequent to award, information which cannot be properly evaluated prior to award due to time constraints, or information relating to a failure to comply with the requirements of the Consultant & Professional Services Agreement.

No proposal or negotiated agreement shall be binding upon the City until the Consultant & Professional Services Agreement is signed by duly authorized representatives of the selected Consultant(s), the Consultant(s) provides, insurance documents, and any other documents required by the City, and the City awards the Project to Consultant(s) by returning a signed copy of the Agreement to the Consultant(s).

If a successful Consultant fails or refuses to sign the Agreement or submit the required items within ten (10) after receipt of the Professional Services Agreement, or the City subsequently deems the Consultant(s) is/are not financially or otherwise qualified to perform, City may elect to proceed with the next best Consultant, until all Consultants are exhausted, or the City may reject all Proposals.



Notification of Modification or Withdrawal of Proposal

Proposals may be modified or withdrawn at any time prior to the date and time specified for proposal submission by an authorized representative of the Consultant and by formal written notice. Written notice regarding modification shall be worded so as to not reveal the amount identified in the original proposal. A withdrawn proposal may be re-submitted up to the proposal deadline, and is subject to the provisions of this RFP. Proposals may not be modified, withdrawn, or canceled after the proposal deadline and become the property of the City of Vallejo.

Proposals are Public Record

Each Consultant is hereby informed that, upon submittal of its proposal to the City in accordance with this RFP, the proposal is the property of the City.

1. Unless otherwise compelled by a court order, the City will not disclose any proposal while the City conducts its deliberative process in accordance with the procedures identified in this RFP. However, after the City either awards an agreement to a successful Consultant, or the City rejects all proposals, the City shall consider each proposal subject to the public disclosure requirements of the California Public Records Act (California Government Code sections 6250, et seq.), unless there is a legal exception to public disclosure.
2. If a Consultant believes that any portion of its proposal is subject to a legal exception to public disclosure, the Consultant shall: (1) clearly mark the relevant portions of its proposal "Confidential"; (2) upon request from the City, identify the legal basis for exception from disclosure under the Public Records Act; and (3) the Consultant shall defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the "Confidential" portion of the proposal.



Attachment A: City's Standard Consultant & Professional Services Agreement

CONSULTANT AND PROFESSIONAL SERVICES AGREEMENT

This Consultant and Professional Services Agreement ("Agreement") is made at Vallejo, California, dated for reference this ____ day of _____, 20__, by and between the City of Vallejo, a municipal corporation ("City"), and [type in name], [type in the type of entity], hereinafter referred to as "Consultant", who agree as follows:

- 1. Services.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work."
- 2. Payment.** City shall pay Consultant for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Consultant for services rendered pursuant to this Agreement.
- 3. Facilities and Equipment.** Consultant shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
- 4. Indemnification.** Consultant shall indemnify, hold harmless, and defend City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, consultant's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Consultant's operations, or any subcontractor's operations, to be performed under this agreement for Consultant's or subcontractor's tort negligence including active or passive, or strict negligence, including but not limited to personal injury including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons and/or damage to property of anyone, including loss of use thereof, caused or alleged to be caused by any act or omission of Consultant, or any subcontractor, or anyone directly or indirectly employed by any of them or anyone for the full period of time allowed by the law, regardless to any limitation by insurance, with the exception of the sole negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement.

- 5. Insurance Requirements.** Consultant agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Consultant." Failure to maintain required insurance at all times shall constitute a default and material breach.

6. Accident Reports. Consultant shall immediately report (as soon as feasible, but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses, and telephone numbers of any known witnesses, (c) the date, time, and description of the accident or other occurrence.

7. Conflict of Interest. Consultant warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Consultant's family, business, real property or financial interests and the services to be provided under this Agreement. Consultant shall comply with the City of Vallejo Conflict of Interest Code and not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Consultant's family, business, real property, or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Consultant shall disclose such conflict in writing to City. Every individual who performs services on behalf of Consultant pursuant to this Agreement must file a full Statement of Economic Interests (also known as Form 700) with the City Clerk if the work of the individual involves making a governmental decision whether to issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement; authorizes the City to enter into, modify, or renew a contract; grants City approval of specifications for a contract; adopts or approves for the City any policy, standard or guideline; lobbies on behalf of the City, or performs the same or substantially all the same duties for the City that would otherwise be performed by an individual holding a position specified in the City's Conflict of Interest Code.

8. Independent Contractor. Consultant is an independent contractor. Neither Consultant nor any of Consultant's officers, employees, agents, or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Consultant accomplishes services pursuant to this Agreement.

9. Licences, Permits, Etc. Consultant represents and warrants to City that all consultant services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Consultant has all the permits, qualifications and approvals of whatsoever nature which are legally required for Consultant to practice its profession. Consultant represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Consultant to practice its profession.

10. Business License. Consultant, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Consultant until such business license(s) has been obtained.

11. Standard of Performance. Consultant shall provide products and perform all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of Consultant's profession currently practicing in California.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation applicable federal, state, and local laws and regulations, and all other contingencies or considerations.

Consultant's responsibilities under this section shall not be delegated. Consultant shall be responsible to City for acts, errors, or omissions of Consultant's subcontractors.

Consultant is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work and shall prepare plans, reports, and/or other work products in such a way that additional costs will not be incurred beyond a project budget approved or amended by the City Manager or his or her designee.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Consultant is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Consultant of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Consultant.

12. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by causes or circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slowdown or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Consultant is unable to meet the completion date or schedule of services, Consultant shall immediately inform the City Representative of this in writing. If additional time is required to perform the work, the City Representative may adjust the schedule.

13. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

14. Personnel. Consultant agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement.

The payment made to Consultant pursuant to this Agreement shall be the full and complete compensation to which Consultant and Consultant's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Consultant nor Consultant's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Consultant. The City shall not be required to pay any workers' compensation insurance on behalf of Consultant.

Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

15. Consultant Not Agent. Except as authorized under this Agreement or as City may authorize in a letter of authorization signed by the City Manager or his or her designee, 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, under this Agreement, to bind City to any obligation whatsoever.

16. Term. The term of this Agreement shall commence on [type in start date] and shall continue in full force and effect until [type in end date].

City shall, at its discretion, have the right to extend the term of this Agreement, in intervals of [type in time period, e.g., one month, one year, 90 days], by written notice to Consultant. The total duration of this Agreement, including the exercise of any options under this section, shall not exceed [type in time period, e.g., , one year, 90 days].

If the term of this Agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the Agreement is contingent on the

appropriation of funds for such purpose by the City Council of the City of Vallejo. If funds to effect such continued payment are not appropriated, Consultant agrees to terminate any services supplied to City of Vallejo under this Agreement, and relieve City of any further obligation therefore.

17. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to immediately terminate or abandon any portion or all of the services to be provided under this Agreement by giving notice to Consultant. Upon receipt of a notice of termination, Consultant shall perform no further work except as specified in the notice. Before the date of termination, Consultant shall deliver to City all City records and documents, all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City shall pay Consultant for services performed in accordance with this Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Consultant for the portion of work completed in conformance with this Agreement before the date of termination. In addition, the City will reimburse Consultant for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

18. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Consultant resulting from services rendered pursuant to this Agreement, shall become the property of City. Consultant agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office Suite (2002) format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

19. Cooperation by City. City shall, to the extent reasonable and practicable, assist and cooperate with Consultant in the performance of Consultant's services hereunder.

20. Assignment and Subcontracting. Consultant shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of the City Manager or his or her designee in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without said consent shall be void and of no effect.

If subcontracting of work is permitted, Consultant shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Consultant. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for Consultant to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Consultant's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

Any subcontractor or assignee consented to by City shall be bound by all terms and conditions of this agreement and the same shall be incorporated into and made a part of any assignment or subcontractor agreement.

21. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

22. Non-Discrimination/Fair Employment Practices.

(a) Consultant shall not, because of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation of any person, refuse to hire or employ, or to bar or discharge from employment, or to discriminate in compensation, or in terms, conditions or privileges any person, and every employee will receive equal opportunity for employment and shall be granted equal treatment with respect to compensation, terms, conditions or other privileges of employment, without regard to his race, religious creed, color, sex, national origin, ancestry, or disability, medical condition, age, marital status or sexual orientation.

Consultant warrants and represents it is an equal opportunity employer and agrees it shall not discriminate on the basis of race, religious creed, color, sex, national origin, ancestry, disability, medical condition, age, marital status or sexual orientation in the selection and retention of employees, subcontractors or procurement of materials or equipment.

In all solicitations either by competitive bidding or negotiations made by Consultant

for work to be performed under any subcontract, including procurement of materials or equipment, each potential subcontractor or supplier shall be notified by Consultant of Consultant's obligation under this Agreement relative to nondiscrimination and fair employment practices.

Consultant shall include the above provisions of this section in every subcontract, including procurement of materials or equipment.

(b) Consultant agrees to comply with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1990, any other applicable federal and state laws and regulations and City ordinances and regulations hereinafter enacted.

23. Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City: [insert name]
[insert title]
[insert Department name]
555 Santa Clara Street
Vallejo, CA 94590

If to Consultant: [insert name]
[insert title]
[insert company name]
[insert street name and suite #, if any]
[insert city, state and zip code]

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of Exhibit A.

24. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

25. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

26. Law Governing. This Agreement shall in all respects be governed by the law of the State of California without regard to its conflicts of law rules. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of Solano County in the State of California or in the United States District Court, Eastern District of California, Sacramento, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

27. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

28. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

29. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

30. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

31. Compliance with Laws. Consultant will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

32. Confidentiality of City Information. During the performance of services under this Agreement, Consultant may gain access to and use City information regarding, but not limited to, procedures, policies, training, operational practices, and other vital information (hereafter collectively referred to as "City Information") which are valuable, special and unique assets of the City. Consultant agrees that it will not use any information obtained as a consequence of the performance of services under this Agreement for any purpose other than fulfillment of Consultant's scope of work , to protect all City Information and treat it as strictly confidential and proprietary to City, and that it will not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City Information to any third party, other than its own employees, agents or subcontractors who have a need for the City Information for the performance of services under this Agreement, without the prior written consent of City, or as required by law.

Consultant shall treat all records and work product prepared or maintained by Consultant in the performance of this Agreement as confidential.

A violation by Consultant of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Consultant's obligations under this section shall survive the completion of services, expiration or termination of this Agreement.

33. News and Information Release. Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

34. City Representative. The City Representative specified in Exhibit A, or the representative's designee, shall administer this Agreement for the City.

35. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

36. Facsimile Signature; Electronic Signature. This Agreement shall be binding upon the receipt of facsimile signatures or e-mailed by PDF or otherwise. Any person transmitting his or her signature by facsimile or electronically shall promptly send an original signature to the other party pursuant to the notice provision of this Agreement. The failure to send an original shall not affect the binding nature of this Agreement.

37. Authority. The person signing this Agreement for Consultant hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Consultant.

38. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A, entitled "Scope of Work," including any attachments

Exhibit B, entitled "Compensation," including any attachments

Exhibit C, entitled "Insurance Requirements," including attachments

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

[INSERT CONSULTANT NAME]
[INSERT TYPE OF ENTITY]

CITY OF VALLEJO,
a municipal corporation

By: _____
[insert name]
[insert title]

By: _____
Greg Nyhoff
City Manager

DATE: _____

DATE: _____

Vallejo Business License No.

(City Seal)

ATTEST:

By: _____
Dawn Abrahamson
City Clerk

APPROVED AS TO CONTENT:

[insert Department Head Name]
[insert Department Head Title]

APPROVED AS TO FORM:

Claudia Quintana
City Attorney

APPROVED AS TO INSURANCE:

Erika Leahy
Acting Risk Manager

EXHIBIT A

SCOPE OF WORK

1. **Representatives.** The City Representative for this Agreement is:

[insert name]
[insert title]
[insert Department name]
555 Santa Clara Street
Vallejo CA 94590
[insert telephone number]
[insert facsimile number]

The Consultant's Representative for this Agreement is:

[insert name]
[insert title]
[insert company name]
[insert street name and suite #, if any]
[insert City, state and zip code]
[insert telephone number]
[insert facsimile number]

All routine administrative communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission, or electronic mail as agreed between the Consultant Representative and City's Representative.

2. **Services to be Provided.** The services provided shall be as set forth in Attachment 1 of Exhibit A, attached hereto and incorporated herein by this reference.

3. **Time for Performance.** Consultant will perform the services according to the schedule below. If the schedule calls for the services to be performed in phases or discrete increments, Consultant shall not proceed from one phase or increment to the next without written authorization from the City's Representative. Consultant will complete all services by [insert date].

OR

Consultant will perform the services according to the schedule contained in Attachment [insert number] of Exhibit A. If the schedule calls for the services to be performed in phases or discrete increments, Consultant shall not proceed from

one phase or increment to the next without written authorization from the City's Representative. Consultant will complete all services by [insert date].

4. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Consultant recognizes that the composition of this team was instrumental in the City's decision to award the work to Consultant and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Consultant's obligations under this Agreement and shall be grounds for termination.

Key personnel are as follows: [INSERT LIST OF EMPLOYEE NAMES]

EXHIBIT B
COMPENSATION

1. Consultant's Compensation.

A. Services: City agrees to pay Consultant, at the rate(s) specified below, for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses, for a total not to exceed [insert dollar amount in words - e.g. Two Thousand Five Hundred Fifty Dollars and 13 Cents] [insert dollar amount in number- e.g., \$2,550.13].

Consultant shall notify City in writing no later than thirty (30) days prior to the estimated date when Consultant will have billed City the maximum payment amount permitted under this Agreement, and Consultant shall provide City with an estimate of the additional compensation required to complete the project.

City agrees to pay Consultant for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses, in a lump sum of [insert dollar amount in words - e.g. Two Thousand Five Hundred Fifty Dollars and 13 Cents] [insert dollar amount in number- e.g., \$2,550.13] upon satisfactory completion of the services and delivery of the work product.

B. Additional Services:

1. Additional Services are those services related to the scope of Services of Consultant as set forth in Exhibit A but not anticipated at the time of execution of this Agreement. Additional Services shall be provided only when a Supplemental Agreement authorizing such Additional Services is approved by the City Manager, or his or her designee. City reserves the right to perform any Additional Services with its own staff or to retain other Consultants to perform said Additional Services.

2. Consultant's compensation for Additional Services shall be based on the total number of hours spent on Additional Services multiplied by the employees' appropriate billable hourly rate as established below. City, at its option, may negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual Agreement between City and Consultant, compensation to Consultant shall not exceed the fixed fee amount.

2. Appropriate Billable Hourly Rates for Services and Additional Services. Consultant's billable hourly rates shall be:

OR

Consultant's billable hourly rates shall be as listed in Attachment 1 of Exhibit B, attached hereto and incorporated herein by this reference.

3. Consultant's Reimbursable Expenses. Reimbursable Expenses shall be limited to actual reasonable expenditures of Consultant for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by City.

4. Payments to Consultant.

A. Payments to Consultant shall be made within a reasonable time after receipt of Consultant's invoice, said payments to be made in proportion to services performed. Consultant may request payment on a monthly basis. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Consultant shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Consultant for correction. City shall not be responsible for delays in payment to Consultant resulting from Consultant's failure to comply with the invoice format described above.

D. Request for payment shall be sent to:

[insert name]
[insert title]
[insert Department name]
555 Santa Clara Street
Vallejo CA 94590

5. Accounting Records of Consultant. Consultant shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Consultant's direct salary costs for all Services and Additional Services performed under this Agreement and

records of Consultant's Reimbursable Expenses, in accordance with generally accepted accounting practices. Consultant shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24) hours' notice.

The obligations of Consultant under this section shall survive this Agreement.

6. Taxes. Consultant shall pay, when and as due, any and all taxes incurred as a result of Consultant's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

7. Taxpayer Identification Number. Consultant shall provide City with Consultant's complete Request for Taxpayer Identification Number and Certification, Form W-9, as issued by the Internal Revenue Service, and any other State or local tax identification number requested by City.

EXHIBIT C

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of this Agreement, including any extensions thereto, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by the Consultant, their agents, representatives, or employees or subcontractors.

1. Minimum Scope of Insurance. Coverage shall be at least as broad as:

A. Insurance Services Office form number GL 0002 covering Comprehensive General Liability and Insurance Services Office form number GL 0404 covering Broad Form Comprehensive General Liability; or Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).

B. Insurance Services Office form number CA 0001 covering Automobile Liability, code 1 any auto and endorsement CA 0025.

C. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

D. Professional Liability insurance appropriate to the Consultant's profession (Errors and Omission).

2. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

A. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

B. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

C. Workers' Compensation and Employer's Liability: \$1,000,000 per accident for bodily injury or disease. If Consultant is not subject to California Workers' Compensation requirements, Consultant shall file a completed certificate of exemption form which may be obtained from the City prior to commencing any activity authorized hereunder.

D. Professional Liability (Errors and Omission): \$1,000,000 combined single limit per occurrence, and annual aggregate.

3. Deductible and Self-Insured Retention. Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City of Vallejo, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4. Other Insurance Provisions. The general liability and automobile liability policies, as can be provided, are to contain, or be endorsed to contain, the following provisions:

A. The City of Vallejo, its officers, officials, employees, agents and volunteers are to be covered as additional insureds as respects; liability, including defense costs, arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Vallejo, its officers, officials, employees, agents or volunteers. The insurance is to be issued by companies licensed to do business in the State of California.

B. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City of Vallejo, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City of Vallejo, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

C. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees, agents, or volunteers.

D. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

E. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

F. The workers' compensation and employer's liability policy required hereunder shall be endorsed to state that the workers' compensation carrier

waives its right of subrogation against City, its officers, officials, employees, agents and volunteers, which might arise by reason of payment under such policy in connection with Consultant's performance under this Agreement.

5. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

6. Verification of Coverage. Consultant shall furnish the City with certificates of insurance and original endorsements effecting general and automobile liability insurance coverage required by this clause. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received and approved by the City before work commences.

7. 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.

8. Payment Withhold. City will withhold payments to Consultant if the certificates of insurance and endorsements required in Paragraph F, above, are canceled or Consultant otherwise ceases to be insured as required herein.