

**CITY OF RICHMOND  
STANDARD CONTRACT**

Department: Public Works	Project Manager: Patrick Phelan
Project Manager E-mail: patrick_phelan@ci.richmond.ca.us	Project Manager Phone No: (510) 307-8111
PR No: Vendor No:	P.O./Contract No:
Description of Services:	

The parties to this STANDARD CONTRACT do mutually agree and promise as follows:

1. Parties. The parties to this Contract are the City of Richmond (herein referred to as the "City") and the following named Contractor:

American Rivers

Company Name:

Street Address: 1832 Second Street

City, State, Zip Code: Berkeley, CA 94710

Contact Person: Sarah Puckett

Telephone: (415) 203-3766

Email: spuckett@americanrivers.org

Business License No: 40063052 / Expiration Date: December 31, 2022

A California ☐ corporation, ☐ limited liability corporation ☐ general partnership, ☐ limited partnership, ☐ individual, ☒ non-profit corporation, ☐ individual dba as [specify:] \_\_\_\_\_, ☐ other [specify:] \_\_\_\_\_

2. Term. The effective date of this Contract is July 1, 2022 and it terminates March 1, 2024 unless terminated as provided herein.
3. Payment Limit. City's total payments to Contractor under this Contract shall not exceed \$ 300,500 . City shall not pay for services that exceed the Contract Payment Limit unless a contract amendment has been approved by the City Council or City Manager.
4. Contractor's Obligations. Contractor shall provide those services and carry out that work described in the Service Plan (Exhibit A) which is attached hereto and is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
5. City's Obligations. City shall make to the Contractor those payments described in the Payment Provisions (Exhibit B) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. Authorized Representatives and Notices. This Contract is subject to the Authorized Representatives and Notices Provisions (Exhibit C) which are attached hereto and are incorporated herein by reference.
7. General Conditions. This Contract is subject to the General Conditions (Exhibit D) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
8. Special Conditions. This Contract is subject to the Special Conditions (Exhibit E) (if any) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein. (Note: other than Public Works contracts, the City will agree to Special Conditions only in unusual circumstances.)
9. Insurance Provisions. This Contract is subject to the Insurance Provisions (Exhibit F) which are attached hereto and are incorporated herein by reference.
10. Signatures. These signatures attest the parties' Contract hereto:

CITY OF RICHMOND  
a municipal corporation

CONTRACTOR:  
American Rivers

By: \_\_\_\_\_

(\* The Corporation Chairperson of the Board,  
President or Vice President should sign below)

Title: \_\_\_\_\_

By: \_\_\_\_\_

I hereby certify that this Contract  
has been approved by City Council.

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

By: \_\_\_\_\_  
City Clerk

(\* The Corporation Chief Financial Officer,  
Secretary or Assistant Secretary should sign below)

Approved as to form:

By: \_\_\_\_\_

By: \_\_\_\_\_  
City Attorney

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

(NOTE: Pursuant to California Corporations  
Code Section 313, if Contractor is a corporation  
or nonprofit organization, this Contract (1) must  
be signed by (a) the Chairperson of the Board,  
President or Vice-President and (b) the  
Secretary any Assistant Secretary, the Chief  
Financial Officer or any Assistant Treasurer.

LIST OF ATTACHMENTS:

Service Plan  
Payment Provisions  
Authorized Representatives and Notices  
General Conditions  
Special Conditions  
Insurance Provisions  
Standard Contract/EJ/TE 9-26-07

Exhibit A  
Exhibit B  
Exhibit C  
Exhibit D  
Exhibit E  
Exhibit F

For the Contract between the City of  
Richmond and  
American Rivers

---

**EXHIBIT A**  
**SERVICE PLAN**

Contractor shall, to the satisfaction of the City Engineer, perform the following services and be compensated as outlined below:

See following page

## **EXHIBIT A – SERVICE PLAN**

### **SCOPE OF SERVICES AND COMPENSATION SCHEDULE**

American Rivers will support the City of Richmond in implementing the tasks and deliverables in the California Natural Resources Agency's Urban Flood Protection grant for the *Flood Risk Reduction in the Rheem Creek Watershed* project to restore Rheem Creek to address creek overflows and flooding in the Rollingwood community.

**Term of Services:** July 1, 2022 to March 1, 2024

**Total Amount:** \$300,500

#### **Task 1. DIRECT PROJECT MANAGEMENT & ADMINISTRATION**

American Rivers (AR) will help the City of Richmond manage the California Natural Resources Agency (CNRA) *Flood Risk Reduction in the Rheem Creek Watershed* grant, including subcontracting with Restoration Design Group (RDG) and The Watershed Project (TWP).

#### **AR Deliverables:**

- Prepare and submit signed subcontracts to the City of Richmond
- Prepare and submit invoices to the City of Richmond
- Organize monthly check-in calls with project partners
- Develop Operation, Maintenance, Monitoring and Funding Plan
- Work with the City to provide project reports and/or photographs upon request by the State

#### **City Responsibilities:**

- Prepare and submit Payment Request Form (including proof of payment) to CNRA
- Provide project reports and/or photographs upon request by the State
- Submit CEQA documents to State
- Provide evidence of adequate Land Tenure/Site Control to State
- Submit final site design/plans/specifications (including plant palette) to State
- Work with The Watershed Project to design one funding acknowledgement sign
- Submit evidence of funding acknowledgement signage to State
- Submit evidence of interpretive signage to State
- Record deed restriction and submit project closeout package with final payment request to State
- Submit all documentation for Project completion within 90 days of Project completion, but no later than March 1, 2024

#### **RDG Responsibilities:**

- Sign contract between RDG and AR
- Prepare and submit invoices to AR
- Obtain agency permits
- Prepare 100% construction documents for public bid and construction

**The Watershed Project Responsibilities:**

- Sign contract between TWP and AR
- Prepare and submit invoices to AR
- Design one interpretive sign
- Work with the City of Richmond to design one funding acknowledgement sign
- Pre and post (five years) project construction monitoring of creek water quality, sediment flow, and plant survival and establishment
- Lead community outreach and engagement and work with community partners to keep residents informed about the final design and planned construction activities

**Task 2. CONSTRUCTION**

The City will manage the construction of this Capital Improvements Project with support from RDG, who will help provide construction oversight and management to the City.

**City Responsibilities:**

- Prepare Request for Proposals to bid construction and landscape contractor
- Oversee construction and landscape contract
- Manage contingency

**RDG Responsibilities:**

- Provide construction contract administration to support the City of Richmond

**Task 3. GREENING/REVEGETATION**

The City will oversee the construction contract and the construction contractor will likely subcontract to a landscape contractor to implement and manage the planting/revegetation. TWP will obtain additional plants that are not a part of the landscape contract, which they will work with Urban Tilth and other community partners to install as part of workforce development and community engagement.

**The Watershed Project Responsibilities:**

- Obtain additional plants not associated with landscape contractor
- Work with Urban Tilth and other community partners to oversee installation of plants as part of workforce development and community engagement

**Budget\***

<b>Task</b>	<b>Project Element</b>	<b>Urban Flood Protection Grant</b>
<b>1.00</b>	<b>Non-Construction Costs - Direct Project Management &amp; Administration</b>	
1.01	Staff Time – American Rivers	\$ 50,000.00
1.02	Technical Consultants - TBD	\$ 5,000.00
1.03	Design and Engineering Services - RDG	\$ 77,500.00
1.04	Interpretive Sign Design - TWP	\$ 3,000.00
1.05	Environmental Documents (CEQA) - RDG	\$ 18,000.00
1.08	OM&M Funding Plan – American Rivers	\$ 10,000.00
1.09	Monitoring of water quality and sediment flow (pre & post) - TWP	\$ 27,000.00
1.10	Community Outreach and Engagement - TWP	\$ 50,000.00
		<b>\$ 240,500.00</b>
<b>2.00</b>	<b>Construction</b>	
2.12	Construction Oversight and Management - RDG	\$ 30,000.00
	<b>SUBTOTAL</b>	<b>\$ 30,000.00</b>
<b>3.00</b>	<b>Greening / Revegetation</b>	
3.02	Plants to be installed by volunteers – TWP	\$ 5,000.00
3.05	Planting Oversight – TWP	\$ 25,000.00
	<b>SUBTOTAL</b>	<b>\$ 30,000.00</b>
	<b>TOTAL</b>	<b>\$ 300,500.00</b>

This is an estimate of how funding will be allocated by task. American Rivers will not exceed the total contract amount, but funding allocated within each task may change. Any changes may require an informal or formal amendment from CNRA.

Mileage will be reimbursed at the IRS Standard Mileage Rates. Beginning July 1, 2022, the rate is \$0.625/mile. All mileage and other expenses will be included in the total contracted amount.

**EXHIBIT B  
PAYMENT PROVISIONS**

***{PLEASE NOTE THAT THE CITY OF RICHMOND SHALL NOT PAY FOR SERVICES THAT EXCEED THE CONTRACT PAYMENT LIMIT UNLESS A CONTRACT AMENDMENT HAS BEEN APPROVED BY THE CITY COUNCIL OR THE CITY MANAGER}***

1. Provided Contractor is not in default under this Contract, Contractor shall be compensated as provided below.
2. Any and all payments made pursuant to this Contract shall be subject to the Contract Payment Limit. The Payment Limit includes expenses (phones, photo copying, meals and travel etc). Invoices, shall be adequately detailed, based on accurate records, and be in a form reasonably satisfactory to the City. Contractor may be required to provide back-up material upon request.
3. Contractor shall submit timely invoices to the following address:  
  
Attention: City of Richmond, Finance Department - Accounts Payable  
Project Manager: Patrick Phelan Department: Public Works  
PO Box 4046  
Richmond, CA 94804-0046
4. All invoices that are submitted by Contractor shall be subject to the approval of the City's Project Manager, Patrick Phelan before payments shall be authorized.
5. The City will pay invoice(s) within 45 days after completion of services to the City's satisfaction. The City shall not pay late fees or interest.
6. A Richmond business license shall be obtained before any payment under this Contract shall be authorized and the business license must be kept current during the term of this Contract for payments to continue to be authorized.
7. All insurance coverage required by this Contract shall be provided by the Contractor before this Contract shall be executed by the City. The insurance coverage must be kept current during the term of this Contract for payments to continue to be authorized.

**EXHIBIT C**  
**AUTHORIZED REPRESENTATIVES AND NOTICES**

1. Notices. All notices, demands, statements, or communications provided for by this Contract shall be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to the City shall be addressed to the Department Head and (as delineated below in section 1.1) to the project manager responsible for the administration of or the supervision of the scope of work under this Contract. Notices to the Contractor shall be addressed to the party designated by Contractor (as delineated below in section 1.2). Notice shall be deemed delivered (a) upon personal delivery; (b) as of the fifth business day after mailing by United States certified mail, postage prepaid, addressed to the proper party; or (c) as of 12:00 p.m. on the second business day immediately after the day it is deposited with and accepted by Federal Express, or a similar overnight courier service, addressed to the proper party and marked for next business day morning delivery. For the purposes of this Contract, a "business day" means any day Monday through Friday that is not a holiday recognized by the federal government or the State of California.

1. 1 CITY hereby designates as its Authorized Representative the Project Manager whose name and address are as follows:

Patrick Phelan

City of Richmond

450 Civic Center Plaza

Richmond, CA 94804-0046

1. 2 CONTRACTOR hereby designates as its Authorized Representative the Project Manager whose name and address are as follows:

Sarah Puckett

American Rivers

1832 Second Street

Berkeley, CA 94710



## **EXHIBIT D GENERAL CONDITIONS**

1. Independent Contractor. Contractor acknowledges, represents and warrants that Contractor is not a regular or temporary employee, joint venturer or partner of the City, but rather an independent Contractor. This Contract shall not be construed to create an agency, servant, employee, partnership, or joint venture relationship. As an independent Contractor, Contractor shall have no authority to bind City to any obligation or to act as City's agent except as expressly provided herein. Due to the independent Contractor relationship created by this Contract, City shall not withhold state or federal income taxes, the reporting of which shall be Contractor's sole responsibility.
2. Brokers. Contractor acknowledges, represents and warrants that Contractor has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
3. City Property. The rights to applicable plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials prepared for or obtained pursuant to this Contract, which, upon request, are to be delivered to City within a reasonable time, shall be deemed assigned to City. If applicable, Contractor shall prepare check prints upon request. Notwithstanding the foregoing, Contractor shall not be obligated to provide to City proprietary software or data which Contractor has developed or had developed for Contractor's own use; provided, however, that Contractor shall, pursuant to Section 15 below, indemnify, defend and hold harmless City from and against any discovery or Public Records Act request seeking the disclosure of such proprietary software or data.
4. Patents, Trademarks, Copyrights and Rights in Data. Contractor shall not publish or transfer any materials, discoveries, developments, concepts, designs, ideas, know how, improvements, inventions and/or original works of authorship resulting from activities supported by this Contract without the express prior written consent of the City Manager. If anything resulting from activities supported by this Contract is patentable, trademarkable, copyrightable or otherwise legally protectable, City reserves the exclusive right to seek such intellectual property rights. Notwithstanding the foregoing, Contractor may, after receiving City's prior written consent, seek patent, trademark, copyright or other intellectual property rights on anything resulting from activities supported by this Contract. However, City reserves, and Contractor irrevocably grants, a nonexclusive, fully paid-up, royalty-free, assumable, perpetual, worldwide license, with the right to transfer, sublicense, practice and exploit said license and the right to make, have made, copy, modify, make derivative works of, use, sell,

import, and otherwise distribute under all applicable intellectual properties without restriction of any kind said license.

Contractor further agrees to assist City, at City's expense, in every proper way to secure the City's rights in any patents, trademarks, copyrights or other intellectual property rights relating thereto, including the disclosure to City of all pertinent information and data with respect thereto. Contractor shall also assist City in the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments which City shall deem necessary in order to apply for, obtain, maintain and transfer such rights, or if not transferable, to waive such rights. Contractor shall further assist City in the execution of all applications, specifications, oaths, assignments, recordations and all other instruments which City shall deem necessary in order to assign and convey to City, and any assigns and nominees the sole and exclusive right, title and interest in and to any patents, trademarks, copyrights or other intellectual property rights relating thereto. Contractor further agrees that its obligation to execute or cause to be executed, when it is in Contractor's power to do so, any such instruments or papers shall continue during and at all times after the end of Contractor's services and until the expiration of the last such intellectual property right. Contractor hereby irrevocably designates and appoints City, and its duly authorized officers, agents and servants, as its agent and attorney-in-fact, to act for and in its behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance or transfer of letters of patents, copyright and other registrations. This power of attorney is coupled with an interest and shall not be affected by Contractor's subsequent incapacity.

5. Inspection. Contractor's performance, place of business and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the CITY, the State of California, and the United States Government.

If the project or services set forth in Exhibit A shall be performed on City or other public property, City shall have the right to inspect such work without notice. If such project or services shall not be performed on City or other public property, City shall have the right to inspect such work upon reasonable notice.

6. Services. The project or services set forth in Exhibit A shall be performed to the full satisfaction and approval of City. In the event that the project or services set forth in Exhibit A are also itemized by price, City, in its sole discretion, may, upon notice to Contractor, delete certain items or services set forth in Exhibit A, in which case there shall be a corresponding reduction in the amount of compensation paid to Contractor.

Contractor shall, at its own cost and expense, furnish all facilities and equipment necessary for Contractor to complete the project or perform the services required herein, unless otherwise provided in Exhibit A.

7. Records. Contractor shall keep and make available for inspection and copying by authorized representatives of the City, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the City.

Contractor shall retain all documents pertaining to this Contract for a period of five (5) years after this Contract's termination (or for any further period that is required by law) and until all Federal or State audits are complete and exceptions resolved for this contract's funding period. Upon request, CONTRACTOR shall make these records available to authorized representatives of the CITY, the State of California, and the United States Government.

Contractor shall keep full and detailed accounts, maintain records, and exercise such controls as may be necessary for proper financial management under this Contract. The Contractor's accounting and control systems shall be satisfactory to City. Contractor's accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this Contract, including properly executed payrolls, time records, utility bills, invoices and vouchers. The City shall be afforded prompt access to Contractor's records, books, and Contractor shall preserve such project records for a period of at least five (5) years after the termination of this Contract, or for such longer period as may be required by law.

Contractor shall permit City and its authorized representatives and accountants to inspect, examine and copy Contractor's books, records, accounts, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the project or services set forth in Exhibit A, and any and all data relevant to this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this Contract and shall provide such assistance as may be reasonably required in the course of such inspection. Contractor shall also allow City access to the record keeping and accounting personnel of Contractor. City further reserves the right to examine and re-examine said books, records, accounts, and data during the five (5) year period following the termination of this Contract; and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for five (5) years after the termination of this Contract.

Pursuant to California Government Code § 10527, the parties to this Contract shall be subject to the examination and audit of representatives of the Auditor General of the State of California for a period of three (3) years after final payment under this Contract. The examination and audit shall be confined to those matters connected with the performance of this Contract including, but not limited to, the cost of administering this Contract.

8. Changes and Extra Work. All changes and/or extra work under this Contract shall be performed and paid for in accordance with the following:

Only the City Council or the City Manager may authorize extra and/or changed work. Contractor expressly recognizes that other City personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Contractor to secure the authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and Contractor thereafter shall be entitled to no compensation whatsoever for performance of such extra and/or changed work.

If Contractor is of the opinion that any work which Contractor has been directed to perform is beyond the scope of this Contract and constitutes extra work, Contractor shall promptly notify City of the fact. The City shall make a determination as to whether or not such work is, in fact, beyond the scope of this Contract and constitutes extra work. In the event that City determines that such work does constitute extra work, City shall provide extra compensation to Contractor on a fair and equitable basis. A change order or Contract Amendment providing for such compensation for extra work shall be negotiated between City and Contractor and executed by Contractor and the appropriate City official.

In the event City determines that such work does not constitute extra work, Contractor shall not be paid extra compensation above that provided herein and if such determination is made by City staff, said determination may be appealed to the City Council; provided, however, a written appeal must be submitted to the City Manager within five (5) days after the staff's determination is sent to Contractor. Said written appeal shall include a description of each and every ground upon which Contractor challenges the staff's determination.

9. Additional Assistance. If this Contract requires Contractor to prepare plans and specifications, Contractor shall provide assistance as necessary to resolve any questions regarding such plans and specifications that may arise during the period of advertising for bids, and Contractor shall issue

any necessary addenda to the plans and specifications as requested. In the event Contractor is of the opinion that City's requests for addenda and assistance is outside the scope of normal services, the parties shall proceed in accordance with the changes and extra work provisions of Section 8 of these General Conditions.

10. Professional Ability. Contractor acknowledges, represents and warrants that Contractor and its employees are skilled and able to competently provide the services hereunder, and possess all professional licenses, certifications, and approvals necessary to engage in their occupations. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Contract. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession. In the event that City, in its sole discretion, desires the removal of any person employed or retained by Contractor to perform services hereunder, such person shall be removed immediately upon receiving notice from City.
11. Business License. Contractor shall obtain a Richmond Business License before performing any services required under this Contract. The failure to so obtain such license shall be a material breach of this Contract and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual or extraordinary circumstances without necessitating any modification of this Contract to reflect such waiver.
12. Termination Without Default. Notwithstanding any provision herein to the contrary, City may, in its sole and absolute discretion and without cause, terminate this Contract at any time prior to completion by Contractor of the project or services hereunder, immediately upon written notice to Contractor. Contractor may terminate this Contract at any time in its sole and absolute discretion and without cause upon 30 days' written notice to City. In the event of termination by either party, Contractor shall be compensated for: (1) all authorized work satisfactorily performed prior to the effective date of termination; (2) necessary materials or services of others ordered by Contractor for this Contract, prior to receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, provided that Contractor is not able to cancel such orders. Compensation for Contractor in such event shall be determined by City in accordance with the percentage of the project or services completed by Contractor; and all of Contractor's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to City. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.

13. Termination in the Event of Default. Should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Contract, City may immediately terminate this Contract by giving written notice of such termination, stating the reasons for such termination. Contractor shall be compensated as provided in Section 12 of these General Conditions; provided, however, there shall be deducted from such amount the amount of damage, including attorney's fees, expert witness fees and costs, if any, sustained by City by virtue of Contractor's breach of this Contract. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.

14. Conflict of Interest. Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Contract. Contractor further acknowledges, represents and warrants that no City official or employee has any economic interest, as defined in Title 2, California Code of Regulations §§ 18703.1 through 18703.5, with Contractor that would invalidate this Contract. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Contract, all consideration received under this Contract shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Contract for one (1) year.

15. Indemnification.

(a) If this Contract is a contract for design professional services subject to California Civil Code Section 2782.8(a) and Contractor is a design professional, as defined in California Civil Code Section 2782.8(b)(2), Contractor shall hold harmless, defend and indemnify the City, its officers, agents, employees, and volunteers from and against any and all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor, except where caused by the active negligence, sole negligence, or willful misconduct of the City. To the fullest extent permitted by law, Contractor shall immediately defend and indemnify the City and its officers, agents, employees, and volunteers from and against any and all liabilities, regardless of nature or type, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, or its employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, any and all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Contractor's obligation to

indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party.

- (b) If this Contract is not a contract for design professional services subject to California Civil Code Section 2782.8(a) or Contractor is not a design professional as defined in California Civil Code Section 2782.8(b)(2), Contractor shall indemnify, defend, and hold harmless the City, its officers, agents, employees and volunteers from any and all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by Contractor or any person directly or indirectly employed by, or acting as, the agent for Contractor in the performance of this Contract, including the concurrent or successive passive negligence of the City, its officers, agents, employees or volunteers.
- (c) It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its officers, agents, employees, and volunteers, immediately upon tender to Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Contractor are responsible for the claim does not relieve Contractor from its separate and distinct obligation to defend under this Section 15. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent counsel if Contractor asserts that liability is caused in whole, or in part, by the negligence or willful misconduct of an indemnified party.
- (d) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section 15 survives completion of the services or the termination of this Contract. The provisions of this Section 15 are not limited by, and do not affect, the provisions of this Contract relating to insurance.
- (e) Acceptance of insurance certificates and endorsements required under this Contract does not relieve Contractor from liability under this Section 15. This Section 15 shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

16. Safety. Contractor acknowledges that the City is committed to the highest standards of workplace safety. Contractor shall perform all work hereunder in full compliance with applicable local, state and federal safety requirements including but not limited to Occupational Safety and Health Administration requirements, and shall assume sole and complete

responsibility for the safety of Contractor's employees and any subContractor's employees. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Contractor shall immediately notify the City by telephone.

17. Insurance. Insurance requirements are set forth in Exhibit F to this Contract. Contractor shall abide by the insurance requirements set forth in said Exhibit F.
18. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Contract.
19. Compliance with Laws. Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Contract, including without limitation environmental laws, employment discrimination laws and prevailing wage laws. Compliance under this provision includes compliance with all provisions of the Richmond Municipal Code ("Municipal Code"), including Chapters 2.50, 2.52, 2.56, and 2.60, if applicable.

Contractor acknowledges that under § 2.60.070 of the Municipal Code ("Living Wage Ordinance"), Contractor shall promptly provide to City documents and information verifying its compliance with the Living Wage Ordinance. Also as prescribed in § 2.60.070, Contractor shall notify each of its affected employees with regards to the wages that are required to be paid pursuant to the Living Wage Ordinance.

Contractor shall comply with § 2.28.030 of the Municipal Code, obligating every Contractor or subcontractor under a contract or subcontract with the City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin or ancestry of any employee, any applicant for employment or any potential subcontractor.

Contractor acknowledges that the City's Drug Free Workplace Policy, Violence in the Workplace Policy and the Policy Against Workplace Harassment, are available on the City's website at <http://www.ci.richmond.ca.us/workplacepolicies> . Contractor agrees to abide by the terms and conditions of said policies.

20. Limitations upon Subcontracting and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. The Contractor shall not enter into subcontracts for any work contemplated



under this Contract and shall not assign this Contract, nor any portion hereof or monies due or to become due, without the prior written consent of the City Council or its designee.

Contractor acknowledges that the services which Contractor shall provide under this Contract are unique, personal services which, except as otherwise provided herein, Contractor shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in City's sole and absolute discretion. In the event that City, in writing, approves any assignment or subletting of this Contract or the retention of subcontractors by Contractor, Contractor shall provide to City upon request copies of each and every subcontract contract prior to the execution thereof by Contractor and subcontractor. Any assignment by Contractor of any or all of its rights under this Contract without first obtaining City's prior written consent shall be a default under this Contract.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor (if applicable), or of the interest of any general partner or joint venturer or syndicate member if Contractor is a partnership or joint-venture or syndicate, which shall result in a change of control of Contractor, shall be deemed an assignment. For this purpose, control shall mean fifty percent or more of the voting power or twenty-five percent or more of the assets of the corporation, partnership or joint-venture.

21. Integration. This Contract constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Contractor and City may be used to assist in the interpretation of the Exhibits to this Contract.
22. Modifications and Amendments. This Contract may be modified or amended only by a change order or Contract Amendment executed by both parties and approved as to form by the City Attorney.
23. Conflicting Provisions. In the event of a conflict between these General Conditions and those of any Exhibit or attachment hereto, these General Conditions shall prevail; provided, however, that any Special Conditions as set forth in Exhibit E shall prevail over these General Conditions. In the event of a conflict between the terms and conditions of any two or more Exhibits or attachments hereto, those prepared by City shall prevail over those prepared by the Contractor, and the terms and conditions preferred by the City shall prevail over those preferred by the Contractor.
24. Non-exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Contractor hereunder shall be non-exclusive, and

City reserves the right to employ other Contractors in connection with the project.

25. Exhibits. All Exhibits hereto are made a part hereof and incorporated herein by reference; provided, however, that any language in Exhibit A which does not pertain to the project description, proposal, scope of services, or method of compensation (as applicable) , or any corresponding responsibilities of City, shall be deemed extraneous to, and not a part of, this Contract.

26. Force Majeure. Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such an obligation is prevented or delayed by reason of acts of God, strikes, boycotts, lock-outs, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations enacted after the date of this Contract, riots, civil unrest, acts of terrorism, insurrection, war, declaration of a state or national emergency or other reasons of a like nature not within the reasonable control of such party.

27. Time of the Essence. Time is of the essence of this Contract. Contractor and City agree that any time period set forth in Exhibit A represents their best estimates with respect to completion dates and both Contractor and City acknowledge that departures from the schedule may occur. Therefore, both Contractor and City will use reasonable efforts to notify one another of changes to the schedule. Contractor shall not be responsible for performance delays caused by others, or delays beyond Contractor's control, and such delays shall extend the times for performance of Contractor's work.

28. Confidentiality. Contractor agrees to comply with, and to require its employees, agents and partners to comply with, all applicable State or Federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purposes not directly connected with the administration of such service.

No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service.

29. Third Parties. Nothing herein shall be interpreted as creating any rights or benefits in any third parties. For purposes hereof, transferees or assignees as permitted under this Contract shall not be considered "third parties."
30. Governing Law. This Contract shall be construed in accordance with the law of the State of California without regard to principles of conflicts of law. This Contract is made in Contra Costa County, California, and any action relating to this Contract shall be instituted and prosecuted in the courts of Contra Costa County, California.
31. Nonrenewal. Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased or renewed by the City under a new contract following expiration or termination of this Contract, and waives all rights or claims to notice or hearing respecting any failure by City to continue the purchase of all or any failure to continue purchase of all or any such services from Contractor.
32. Claims. Any claim by Contractor against City hereunder shall be subject to Government Code §§ 800 et seq. The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six months after accrual of the cause of action.
33. Interpretation. This Contract shall be interpreted as if drafted by both parties.
34. Warranty. In the event that any product shall be provided to the City as part of this Contract, Contractor warrants as follows: Contractor possesses good title to the product and the right to transfer the product to City; the product shall be delivered to the City free from any security interest or other lien; the product meets any specifications contained herein; the product shall be free from material defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery; and the product shall be fit for its intended purpose(s). Notwithstanding the foregoing, consumable and maintenance items (such as light bulbs and batteries) shall be warranted for a period of one hundred and eighty (180) days from the date of delivery. All repairs during the warranty period shall be promptly performed by Contractor, at Contractor's expense, including shipping.
35. Severability. In the event that any of the provisions or portions or applications thereof of this Contract are held to be unenforceable or invalid by any court of competent jurisdiction, City and Contractor shall negotiate an equitable adjustment in the provisions of the Contract with a view

toward effecting the purpose of this Contract, and the validity and enforceability of the remaining provisions or portions or applications thereof, shall not be affected thereby.

36. Authority. City warrants and represents that the signatory hereto (the Mayor of the City of Richmond or the City Manager) is duly authorized to enter into and execute this Contract on behalf of City. The party signing on behalf of Contractor warrants and represents that he or she is duly authorized to enter into and execute this Contract on behalf of Contractor, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Contract on behalf of Contractor.
37. Waiver. The waiver by City of any breach of any term or provision of this Contract shall not be construed as a waiver of any subsequent breach. Inspections or approvals, or statements by any officer, agent or employee of the City relating to the Contractor's performance, or payments therefore, or any combination of these acts, shall not relieve the Contractor's obligation to fulfill this Contract as prescribed; nor shall the City be thereby stopped from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.
38. Possessory Interest. If this Contract results in the Contractor having possession of, claim to or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue and Taxation Code 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest.
39. Performance and Final Acceptance.

Contractor represents that it is experienced, qualified, registered, licensed, equipped, organized and financed to perform the services under this Contract.

Contractor shall perform the services under this Contract with that degree of skill and judgment normally exercised by professional firms performing services of a similar nature in the State of California, and shall be responsible for the professional quality, technical accuracy and coordination of the services it performs under this Contract. In addition to the other rights and remedies which City may have, Contractor shall, at its own expense, correct any services which fail to meet the above standard.

City shall provide Contractor an opportunity to cure errors and omission which may be disclosed during the review of submittals, with no increase in the authorized Contract Payment Limit. Should Contractor fail to make necessary corrections in a timely manner, such corrections shall be made by the City and the cost thereof shall be charged to Contractor.

If warranted, City shall determine, and Contractor may request such determination, that Contractor has satisfactorily completed performance of this Contract. Upon such determination, City shall issue to Contractor a written Notice of Final Acceptance, after which Contractor shall not incur further costs under this Contract. Contractor shall respond to such Notice of Final Acceptance by executing and submitting to City a Release and Certificate of Final Payment.

40. Survival. The rights and obligations of the parties which by their nature survive termination or completion of the services covered by this Contract shall remain in full force and effect after termination or completion.

For the Contract between the City of  
Richmond and  
American Rivers

---

**EXHIBIT E**  
**SPECIAL CONDITIONS**

The General Conditions are hereby amended to include the following modifications and/or provisions (if applicable):

For the Contract between the City of  
Richmond and  
American Rivers

---

**EXHIBIT F**  
**INSURANCE PROVISIONS**

During the entire term of this Contract and any extension or modification thereof, the CONTRACTOR shall keep in effect insurance policies meeting the insurance requirements specified in the insurance provisions which are attached hereto and incorporated herein by this reference.

## City of Richmond - Insurance Requirements - Type 2

### Professional Services

In all instances where CONTRACTOR or its representatives will provide professional services (*architects, engineers, construction management, counselors, medical professionals, hospitals, clinics, attorneys, accountants, etc.*) to the City of Richmond (City), the City requires the following MINIMUM insurance requirements and limits.

CONTRACTOR shall procure and maintain for the duration of the contract, agreement, or other order for work, services or supplies, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors. **Maintenance of proper insurance coverage is a material element of the contract. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.**

CONTRACTOR agrees that in the event of loss due to any of the perils for which it has agreed to provide Commercial General and Auto Liability insurance, CONTRACTOR shall look solely to its insurance for recovery. CONTRACTOR hereby grants to CITY, on behalf of any insurer providing Commercial General and Automobile Liability insurance to either CONTRACTOR or CITY with respect to the services of CONSULTANT herein, a waiver of any right to subrogation which any such insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance.

Original, signed certificates and original, separate policy endorsements, naming the City as an additional insured for general liability and auto liability coverage as well as a waiver of subrogation for Workers' Compensation Insurance shall be received and approved by the City before any work may begin. However, failure to do so shall not operate as a waiver of these insurance requirements.

City reserves the right to modify or require additional coverages for specific risk exposures depending on scope of CONTRACTORS work.

Minimum coverage is detailed below. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated herein shall not serve to reduce the policy limits of coverage of CONTRACTOR.

**Minimum Scope of Insurance** – the following forms shall be provided and coverage shall be at least as broad as the following:

1. Insurance Services Office Commercial General Liability coverage (ISO Occurrence Form CG 0001), and including coverage for operations, and products and completed operations (if applicable).
2. Insurance Services Office Automobile Liability coverage (ISO Form CA 0001, Code 1, Any Auto).
3. Original and Separate Additional Insured Endorsements for General Liability (ISO Form CG 20 10 11/85 or its equivalent) and Auto Liability with primary and non-contributory language.
4. Workers' Compensation Insurance as required by the State of California including Employer's Liability coverage.
5. Original and Separate Waiver of Subrogation for Workers' Compensation Insurance.
6. Professional Liability or Errors & Omissions Liability Insurance appropriate to the CONTRACTOR's profession (if required.)

Required Coverage	Minimum Limits
Workers' Compensation and Employers' Liability	Statutory limits as required by the State of California including \$1 million Employers' Liability per accident, per employee for bodily injury or disease. If CONTRACTOR is self-insured, provide a certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations and Self-Insurance. If contractor is a sole proprietor (has no employees) than contractor must sign "Contractor Release of Liability" found at: <a href="http://www.ci.richmond.ca.us/RiskManagement">www.ci.richmond.ca.us/RiskManagement</a> .
General Liability (primary and excess limits combined)	<b>\$2,000,000</b> per occurrence for bodily injury, personal injury and property damage. If the policy includes a general aggregate, either the general aggregate shall apply separately to this project, service or location or the minimum required aggregate limit shall be twice the per occurrence limit. Policy shall be endorsed to name the City of Richmond as an additional insured per the conditions detailed below.
Automobile Liability	<b>\$1,000,000</b> per occurrence for bodily injury and property damage.



## City of Richmond - Insurance Requirements - Type 2

### Professional Services

	Policy shall be endorsed to name the City of Richmond as an additional insured per the language detailed below.	
Professional Liability or Errors & Omissions Liability – <i>Required for all professionals including architects, engineers, construction management, counselors, medical professionals, hospitals, clinics, attorneys and accountants, as may be required by the City.</i>	<b>PROJECT COST</b>	<b>REQUIRED LIMIT</b>
	\$0 - \$1 million	\$1 million p/o
	\$1 million - \$5 million	\$2 million p/o
	Over \$5 million	\$5 million p/o
	<b>Architects and Engineers coverage shall be endorsed to include contractual liability.</b>	

Required Policy Conditions	
Additional Insured Endorsement	<p>Applicable to General Liability and Automobile Liability Insurance coverages.</p> <p><b>The City of Richmond, its officers, officials, employees, agents and volunteers are to be named as additional insureds for all liability arising out of the operations by or on behalf of the named insured including bodily injury, deaths and property damage or destruction arising in any respect directly or indirectly in the performance of this contract.</b></p> <p><b><i>ISO form CG 20 10 (11/85) or its equivalent is required. If the Contractor is supplying their product or providing a service then the endorsement <u>must not</u> exclude products and completed operations coverage. If it does, then CG 20 37 (10/01) is also required. SAMPLE Endorsements can be found at <a href="http://www.ci.richmond.ca.us/RiskManagement">www.ci.richmond.ca.us/RiskManagement</a>.</i></b></p>
Primary and Noncontributory	The contractor's insurance coverage must be primary coverage as it pertains to the City, its officers, officials, employees, agents and volunteers. Any insurance or self insurance maintained by the City is wholly separate from the insurance of the contractor and in no way relieves the contractor from its responsibility to provide insurance.
Deductibles and Self-Insured Retentions	<p>Any deductible 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 or the CONTRACTOR shall procure a financial guarantee in an amount equal to the deductible or self-insured retention guaranteeing payment of losses and related investigations, claims administration and defense expenses.</p> <p>Contractor is responsible for satisfaction of the deductible and/or self-insured retention for each loss.</p>
A. M. Best Rating	A:VII or Better. If the A.M. Best Rating falls below the required rating, CONTRACTOR must replace coverage immediately and provide notice to City.
Cancellation	Each required policy shall be endorsed to state that coverage shall not be cancelled, reduced or otherwise materially changed except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

## **City of Richmond - Insurance Requirements - Type 2**

### **Professional Services**

#### **Umbrella/Excess Liability Policies**

If an Umbrella or Excess Liability Policy is used to meet the liability limits, coverage shall be as broad as specified for underlying coverage's and cover those insured in the underlying policies.

#### **Claims-Made Policies**

If any insurance policy is written on a claims-made form: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of contract work. 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

#### **Subcontractors**

CONTRACTOR shall include all subcontractors as insured under its policies or shall furnish to the City for review and approval, separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

CONTRACTOR agrees to defend and indemnify the City of Richmond for any damage resulting to it from failure of either CONTRACTOR or any subcontractor to take out or maintain the required insurance policies. The fact that insurance is obtained by CONTRACTOR, and/or CONTRACTOR's subcontractors, will not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions of this contract. Damages recoverable by CITY from CONTRACTOR or any third party will not be limited by the amount of the required insurance coverage.

#### **Verification of Coverage**

All original certificates and endorsements shall be received and approved by the City before work may begin. The City of Richmond reserves the right to require complete, certified copies of all required insurance policies including endorsements affecting the coverage at any time.

**Original insurance certificates and required policy endorsements shall be mailed or delivered to the Designated Project Manager for the City of Richmond.**

Insurance certificates and endorsements may be faxed to the Designated Project Manager. However, CONTRACTOR must mail the original certificates and endorsements to Designated Project Manager once faxed.

#### **Continuous Coverage**

CONTRACTOR shall maintain the required insurance for the life of the contract. Should the CONTRACTOR cease to have insurance as required during this time, all work by the CONTRACTOR pursuant to this agreement shall cease until insurance acceptable to the City is provided. In the event that CONTRACTOR fails to comply with the City's insurance requirements, the City may take such action as it deems necessary to protect the City's interests. Such action may include but is not limited to termination of the contract, withholding of payments, or other actions as the City deems appropriate.

If services or the scope of work extend beyond the expiration dates of the required insurance policies initially approved by the City, CONTRACTOR must provide updated certificates and endorsements indicating that the required coverage, terms and conditions are still in place. **Renewal certificates and updated endorsements shall be mailed to the Designated Project Manager.**

#### **Reporting Requirements**

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 or volunteers.

#### **Consistent with Public Policy**

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms and provisions herein may be consistent with public policy and thus enforceable.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/29/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Summit, NJ-Hub International Northeast 180 River Road 2nd Floor Summit NJ 07901	<b>CONTACT</b> NAME: Kristen Steskel PHONE (A/C, No, Ext): 908-790-6837 E-MAIL ADDRESS: Kristen.steskel@hubinternational.com FAX (A/C, No): 917-934-9041												
<b>INSURED</b> American Rivers, Inc. 1101 14th Street NW Suite 1400 Washington DC 20005	<b>INSURER(S) AFFORDING COVERAGE</b> <table><tr><td>INSURER A: Valley Forge Insurance Company</td><td>NAIC # 20508</td></tr><tr><td>INSURER B: The Continental Insurance Company</td><td>35289</td></tr><tr><td>INSURER C: American Casualty Co of Reading PA</td><td>20427</td></tr><tr><td>INSURER D: Nautilus Insurance Company</td><td>17370</td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER A: Valley Forge Insurance Company	NAIC # 20508	INSURER B: The Continental Insurance Company	35289	INSURER C: American Casualty Co of Reading PA	20427	INSURER D: Nautilus Insurance Company	17370	INSURER E:		INSURER F:	
INSURER A: Valley Forge Insurance Company	NAIC # 20508												
INSURER B: The Continental Insurance Company	35289												
INSURER C: American Casualty Co of Reading PA	20427												
INSURER D: Nautilus Insurance Company	17370												
INSURER E:													
INSURER F:													

**COVERAGES**

CERTIFICATE NUMBER: 2135267905

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Contractual Liab GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	7011731436	11/8/2021	11/8/2022	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y		7011723417	11/8/2021	11/8/2022	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y		7011734241	11/8/2021	11/8/2022	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
C	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	7011724177	11/8/2021	11/8/2022	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D	Pollution/Professional Liab			CPP2019930-15	11/8/2021	11/8/2022	Each Occurrence/Aggr 3,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: California Natural Resources Agency's Urban Flood Protection Grant

Project Management Services for Rheem Creek Watershed Project - June 15, 2022 - March 1, 2024 (\$300,500)

The City of Richmond, its officers, officials, employees, agents and volunteers are included as Additional Insured for General Liability, Automobile Liability and Umbrella policies where required by written contract and in accordance with all policy terms and conditions. 30 days Notice of Cancellation/10 days non-payment of premium. Waiver of Subrogation in favor of Certificate Holder as per written contract. Umbrella is follow form to underlying coverages.

**CERTIFICATE HOLDER****CANCELLATION**

City of Richmond  
450 Civic Center Plaza  
Richmond CA 94804-0046

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.

**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART**

It is understood and agreed as follows:

- I. WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
- A.** in the performance of your ongoing operations subject to such **written contract**; or
  - B.** in the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    - 1. the **written contract** requires you to provide the additional insured such coverage; and
    - 2. this **coverage part** provides such coverage.
- II.** But if the **written contract** requires:
- A.** additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
  - B.** additional insured coverage with "arising out of" language; or
  - C.** additional insured coverage to the greatest extent permissible by law;
- then paragraph **I.** above is deleted in its entirety and replaced by the following:
- WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **coverage part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.
- III.** Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
- A.** coverage broader than required by the **written contract**; or
  - B.** a higher limit of insurance than required by the **written contract**.
- IV.** The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:
- A.** the rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:
    - 1. the preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
    - 2. supervisory, inspection, architectural or engineering activities; or
  - B.** any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **coverage part**.
- V.** Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **coverage part**:

**Blanket Additional Insured - Owners, Lessees or  
Contractors - with Products-Completed  
Operations Coverage Endorsement****Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. primary and non-contributing with other insurance available to the additional insured; or
2. primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

**VI. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:**

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. make available any other insurance, and tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to insurance on which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.

**VII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:**

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **coverage part**, provided the contract or agreement:

- A. is currently in effect or becomes effective during the term of this policy; and
- B. was executed prior to:
  1. the **bodily injury** or **property damage**; or
  2. the offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage.

Any coverage granted by this endorsement shall apply solely to the extent permissible by law.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.





## General Liability Extension Endorsement

not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

- D. This **PERSONAL AND ADVERTISING INJURY - LIMITED CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B – Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

**17. PROPERTY DAMAGE – ELEVATORS**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3), (4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.
- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**18. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph **1.b.** is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph **1.d.** is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**19. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**20. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the **Transfer Of Rights Of Recovery Against Others To Us** Condition is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage** or **personal and advertising injury** giving rise to the claim.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.



**Workers Compensation And Employers Liability Insurance  
Policy Endorsement**

**BLANKET WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS**

This endorsement changes the policy to which it is attached.

It is agreed that **Part One - Workers' Compensation Insurance G. Recovery From Others** and **Part Two - Employers' Liability Insurance H. Recovery From Others** are amended by adding the following:

We will not enforce our right to recover against persons or organizations. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

**PREMIUM CHARGE** - Refer to the Schedule of Operations

The charge will be an amount to which you and we agree that is a percentage of the total standard premium for California exposure. The amount is 3%.

All other terms and conditions of the policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the policy issued by the designated Insurers, takes effect on the Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: G-19160-B (11-1997)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 2; Page: 1 of 1

Underwriting Company: Valley Forge Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: WC 7 11722915

Policy Effective Date: 11/08/2021

Policy Page: 32 of 48

**AGREEMENT BETWEEN**  
**AMERICAN RIVERS, INC. AND RESTORATION DESIGN GROUP**

American Rivers, Inc. ("American Rivers") and Restoration Design Group ("Contractor") hereby agree as follows:

1. **Parties.** This professional services agreement (the "Agreement") is made and concluded by American Rivers, a nonprofit corporation organized and existing under the laws of the District of Columbia, having its principal business address at 1101 14<sup>th</sup> Street, N.W., Suite 1400, Washington, D.C. 20005 and Contractor, a corporation having its principal business address at 2332 5th Street, Suite C Berkeley, California 94710.
2. **Work Plan.** Contractor agrees to perform the work as outlined in the attached Scope of Work ("Attachment A") which is hereby incorporated by reference and made a part of this Agreement.
3. **Project Management.** The following individuals are designated as project managers for their respective parties:  
  

Contractor:	Rich Walkling Planning Director and CFO 2332 5th St, Suite C, Berkeley CA 94710
Phone:	(510) 644-2798
E-mail:	<a href="mailto:rich@rdgmail.com">rich@rdgmail.com</a>
American Rivers:	Sarah Puckett Director, California Central Valley River Conservation 1832 Second Street, Berkeley, CA 94710
Phone:	(415) 203-3766
E-mail:	<a href="mailto:spuckett@americanrivers.org">spuckett@americanrivers.org</a>
4. **Budget and Payment Terms.** American Rivers will pay Contractor as set out in the Scope of Work. American Rivers must receive a completed W-9 from Contractor before any payments can be processed. American Rivers will pay all approved invoices within 30 days of receipt.
5. **Company Information.** Pursuant to this Agreement, Contractor will use and obtain company information concerning American Rivers. Such "Company Information" includes, but is not limited to: mailing lists, reports, files, memoranda, records and software, computer, and other physical personal property, which Contractor has or will receive or prepare or help to prepare in connection with this project. Contractor will not retain any copies, duplicates, reproductions or excerpts thereof.
6. **Confidentiality.** In the course of this project, Contractor will acquire confidential information. The term "Confidential Information" as used in this Agreement includes, without limitation, (a) Company Information as defined in Section 5 of this Agreement; (b) information received from third parties under confidential conditions, and (c) other technical, business or financial information or trade secrets, the use or disclosure of which might reasonably be construed to be contrary to the best interests of American Rivers. Contractor understands and agrees that such Confidential Information is disclosed to Contractor in confidence and solely for the use of American Rivers. Contractor acknowledges that Contractor has no ownership right or interest in any Confidential Information used or developed during the course of this work. Contractor understands and agrees to (a) keep such



Confidential Information confidential at all times after the completion of work with American Rivers, and (b) not make use of the Confidential Information for Contractor's own behalf or on behalf of any third party.

7. Ownership of Intellectual Property. Materials prepared or delivered by Contractor to American Rivers under the terms of this Agreement ("Work") shall be works made for hire created for and owned by American Rivers and are the exclusive property of American Rivers. To the extent that any material does not constitute work made for hire as a matter of law, Contractor hereby grants and assigns to American Rivers exclusive rights to the material under United States intellectual property law and all international conventions, including without limitation, copyrights, trade secrets, and patents in and to such materials and the right to copyright the material and any renewals thereof in the name of American Rivers. Contractor also hereby assigns to American Rivers and/or waives any and all claims that Contractor may now or hereafter have in any jurisdiction to so-called "moral rights" in connection with the Work. Contractor shall secure the same agreement from all independent contractors performing services in connection with Contractor's performance under this Agreement. Contractor warrants that it is the sole creator of the Work except for such material from copyrighted sources as is reproduced by written permission of the copyright owner, and that the Work: (i) is original (except for such material from copyrighted sources as is reproduced by written permission of the copyright owner); (ii) contains no matter that is scandalous, obscene or libelous or otherwise contrary to law; and (iii) contains only information and data that is true and accurate to the best of Contractor's knowledge, belief, and expertise.
8. Termination without Cause. American Rivers may cancel this Agreement, at any time and without cause, by giving the Contractor fifteen (15) calendar days' written notice of cancellation. In the event of termination of this Agreement for a reason other than Contractor's default, American Rivers shall pay Contractor for (i) all services rendered and all reimbursable costs incurred by Contractor up to the date of receipt of notice of termination, and (ii) all direct and documented expenses reasonably incurred by Contractor in connection with the orderly termination of this Agreement, as determined by American Rivers in its sole discretion. In no event shall American Rivers be liable for any indirect, special or consequential expenses incurred by Contractor or its subconsultants, including, but not limited to, lost profits, overhead, margin, or intangible costs.
9. Termination for Lack of Funding. Should the primary source of funding for this project be reduced, deleted or delayed by the federal or state budget process or other budget control actions, and the work under this agreement is canceled or suspended, American Rivers shall provide written notice to Contractor and be liable for any work completed pursuant to the Task Order up to the date of receipt of the written notice and shall have no liability for payment for work undertaken after such date.
10. Termination with Cause. In the event that one of the parties is in default as defined below, the non-breaching party may, in its sole reasonable discretion, immediately cancel the Agreement without penalty by giving the breaching party written notice of such cancellation which shall not excuse breaches of this Agreement that already may have occurred.
  - A. Contractor Default: Default on the part of Contractor shall include, without being limited to, the occurrence of any of the following events:
    - (i) failure by Contractor to comply with any of the provisions of this Agreement in a satisfactory manner as reasonably determined by American Rivers and failure to cure

such violation within five (5) calendar days after receipt of written notice of said violation; or

- (ii) Contractor becomes listed on the federal government's list of parties excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and each agency's codification of the Common Rule for Nonprocurement suspension and debarment ([www.sam.gov](http://www.sam.gov) -- System for Award Management (SAM)); or
- (iii) filing by Contractor of a voluntary petition under any bankruptcy, reorganization, insolvency, or any other law for the relief of, or relating to debtors; the filing against Contractor of an involuntary petition in bankruptcy or a receiver or trustee is appointed to take possession of Contractor's property, any of Contractor's property is subjected to levy, seizure, assignment, application or sale for or by any creditor or governmental agency, and such action is not dismissed within thirty (30) calendar days thereafter; or Contractor becomes insolvent; or
- (iv) dissolution of Contractor voluntarily, involuntarily or by operation of law; or
- (v) assignment of this Agreement by Contractor to any other entity without the prior written consent of American Rivers.

B. American Rivers Default: Default on the part of American Rivers shall include, without being limited to, the occurrence of any of the following events:

- (i) failure by American Rivers to make approved payments to Contractor within sixty (60) business days after receipt of written notice from Contractor of failure to comply with the payment specifications described in this Agreement; or
- (ii) dissolution of American Rivers voluntarily, involuntarily or by operation of law.

11. Time is of the Essence. Time is of the essence for this Contract and American Rivers and Contractor agree that any time period set forth in Attachment A represents their best estimates with respect to completion dates. However, both American Rivers and Contractor acknowledge that departures from the schedule may occur and will make reasonable efforts to notify the other party of changes to the schedule. Further, neither American Rivers nor Contractor shall be responsible for any delay in performance arising from any event that is not caused by and is beyond the reasonable control of the nonperforming Party, regardless of whether the event was foreseeable. Such events include, but are not limited to, force majeure events such as natural disasters, pandemics, action or inaction by a government entity, an accident such as a fire or explosion not due to the negligence of the Party seeking to be excused, war, acts of terrorism including threats of terrorism, a riot, or unusually severe weather. The Party affected by the event shall provide notice of the delay in writing to the other Party no later than (7) calendar days after the Party has knowledge that a delay has, will, or may occur. Following the occurrence of such an event, American Rivers and Contractor shall confer to determine the best course of action for resuming the Work and setting new performance timelines. Both American Rivers and Contractor shall, at all times, take reasonable steps within their respective powers and consistent with best practices to:
- (a) Prevent force majeure events from affecting the performance of their obligations under this Agreement
  - (b) Mitigate the effects of force majeure events; and
  - (c) Timely comply with their obligations under this Agreement.
12. Nonassignability. This Agreement may not be assigned to any other entity or person without the express written consent of American Rivers.

13. Indemnification. Contractor agrees to indemnify and to hold American Rivers, the City of Richmond, and each entity's directors, officers, employees, and agents harmless from and against all claims, actions, damages, liabilities, demands, costs, and expenses, including reasonable attorney fees, resulting from or attributable to any act within the scope of this Agreement by Contractor, its employees, or agents (i) in violation of any of the provisions of this Agreement, or (ii) in violation of any law, rule, or regulation of the United States or its agencies or of any state or its agencies, or (iii) resulting from the negligence or willful misconduct of Contractor. The foregoing indemnity provision shall survive and remain in full force and effect following termination of this Agreement for any such act occurring during the initial term or any renewal term of this Agreement.

American Rivers agrees to indemnify and to hold Contractor, its directors, officers, employees, and agents harmless from and against all claims, actions, damages, liabilities, demands, costs, and expenses, including reasonable attorney fees, resulting from or attributable to any act within the scope of this Agreement by American Rivers, its employees, or agents (i) in violation of any of the provisions of this Agreement, or (ii) in violation of any law, rule, or regulation of the United States or its agencies or of any state or its agencies, or (iii) resulting from the negligence or willful misconduct of American Rivers. The foregoing indemnity provision shall survive and remain in full force and effect following termination of this Agreement for any such act occurring during the initial term or any renewal term of this Agreement.

14. Insurance. Contractor and its subcontractor(s) shall obtain and maintain for the Term of this Agreement, usual and customary policies of insurance, including, Errors and Omissions in the amount of \$1,000,000; Workers' Compensation in the maximum amounts required by law; Automobile Liability with bodily injury limits of at least \$1,000,000.00 per accident for bodily injury and property damage.; and Commercial General Liability (CGL) insurance in the amount of \$2,000,000 per occurrence for bodily injury, personal injury and property damage, and Worker's Compensation as required by law with Employer's Liability of no less than \$1,000,000. All policies shall be with insurers admitted to transact business in the State of California and having a current Best's rating of "A:VII" or better, and shall name American Rivers, Inc., , Contra Costa County, the State of California and City of Richmond, and their respective elective and appointive boards, commissions, officers, agents, employees, and volunteers as additional insureds. Contractor's policy shall cover the additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations, including completed operations, performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with the work or operations.

Such policies shall state "insurance is primary and all other insurance shall be noncontributory", shall waive all rights of subrogation against the additional insureds; and shall also contain a provision that American Rivers shall be notified in writing thirty (30) days before the policies may be canceled or allowed to expire or any reduction in coverage. include American Rivers and the State of California as an additional insured under its CGL policy, and provide American Rivers with a copy of the Endorsement.

Delivery of this Endorsement to American Rivers shall be a condition precedent to the first payment to Contractor. The insurance policies shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days written notice to American Rivers.

15. Right of Entry. Contractor shall coordinate with American Rivers, in obtaining the right to

enter the property where the Work is to be performed.

16. Compliance.
  - A. Throughout the term of the Agreement, Contractor and its subcontractors shall comply with all rules indicated in the Attachment B, terms and conditions imposed by the funder(s) of this project.
  - B. Contractor shall comply with all federal, state and local laws, applicable statutes, Executive Orders, Office of Management and Budget circulars, and terms and conditions of the applicable source of funding for this Agreement, and regulations in effect, or reasonably expected to be in effect, including but not limited to, environmental laws and regulations, as of the date of completion of the Agreement.
  - C. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle Contractor to a reasonable adjustment in the Project schedule and additional compensation as necessary to complete the tasks outlined in the Task Order affected by such newly enacted laws, codes and regulations.
17. Warranty. All supervisors, employees, subcontractors and authorized representatives assigned to perform services under this Agreement shall be fully qualified and specially trained in their respective responsibilities and shall perform the assigned services with care and diligence. Contractor represents and warrants that all of Contractor's services, including the estimate of cost, the setting of the schedule, and all work performed by subcontractors shall be performed in a professional and workmanlike manner.
18. Safety Precautions and Protection of Property. Contractor shall plan and conduct the work to safeguard its staff and property from injury. Contractor shall direct performance of work in compliance with reasonable safety and work practices and applicable federal, state, and local laws, rules, and regulations including, but not limited to, occupational safety and health standards. Contractor shall follow any site-specific safety plans, as may be required by state and local government during the global pandemic caused by the Covid-19 virus. Neither the issuance of special instructions by American Rivers nor the adherence thereto by Contractor shall relieve Contractor of the sole responsibility to maintain safe and efficient working conditions. Should a death, serious personal injury, or substantial property damage occur in connection with the performance of this Contract, Contractor shall notify American Rivers immediately.
19. Applicable Law. This Agreement will be governed by the laws of the State of California and any action relating to this Agreement shall be instituted and prosecuted in the courts of Contra Costa County, California. This Agreement can be amended only by a written amendment signed by American Rivers and Contractor.
20. Legal Relationship of Parties. Nothing in this Agreement shall be construed as constituting a partnership, joint venture, employment relationship, agent/principal relationship, or other association of any kind, between the parties hereto, and neither party shall have the power to obligate or bind the other party in any manner whatsoever.
21. Conflict of Interest. Contractor agrees to notify American Rivers of any potential conflict of interest and/or related party transaction that could occur as a result of performance of the contract. Notification should be sent to American Rivers' primary business address to the attention of the Office of the General Counsel.
22. Merger and Modification. This Agreement contains the entire agreement between the parties

and any previous agreement is merged into this Agreement. This Agreement may be modified only by subsequent written agreement signed by both parties.

23. Survival of Certain Provisions. Any rights or remedies accruing to a party hereto after the termination or cancellation of this Agreement, including, without limitation, the provisions regarding Indemnification, Confidentiality, and Company Information shall survive such termination or cancellation.

DRAFT

ACCEPTED AND AGREED:

American Rivers, Inc.

Restoration Design Group

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Kristin M. May

PRINTED  
NAME: \_\_\_\_\_

Chief Financial Officer

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

DRAFT

**SCOPE OF WORK**

1. **Work to be performed:**

Please see below Scope of Services dated June 3, 2022.

2. **Term:**

July 1, 2022 – March 1, 2024

3. **Budget:**

Not to exceed \$125,500

American Rivers must receive or have on file a completed W-9 and insurance documentation from Contractor before payment can be processed.

Contractor shall invoice American Rivers quarterly as certain work and deliverables are completed. Invoices shall describe the activities used in support of this Agreement in the relevant quarter. American Rivers shall pay the undisputed portion of invoices within thirty (30) calendar days after receipt of invoice. All invoices must include: 1) the total contract amount, 2) less previous invoice(s) amounts, 3) less the current invoice amount, 4) total amount of contract remaining, and 5) evidence of any match fulfilled with during that invoicing period.



# SCOPE OF SERVICES

## Flood Risk Reduction in the Rheem Creek Watershed

### **Task 1.03. Design and Engineering Services**

#### **A. UPDATED PERMIT SET**

This task will update the existing 65%/Permit set of construction documents in response to initial permit agency requests. The updated 65% Design set will be submitted to the permit agencies with other updated permit materials.

##### Deliverables:

- Updated 65% Plans in PDF and AutoCAD Civil 3D format

#### **B. 90% PLANS, SPECIFICATIONS, AND ESTIMATE (PS+E)**

This task will advance the 65% design based on redline, mark-ups, phone calls, updates and refinements from Client, stakeholder, and permit agency input. After submittal, RDG will have a review meeting with the Client to advance planning and design for the 100% set.

##### Deliverables:

- 90% Opinion of Probable Costs
- 90% Plans in PDF and AutoCAD Civil 3D format
- Draft Technical Specifications in CSI Format
- Review meeting with Client

##### Assumptions:

- Technical specifications are in CSI format (per RDG standards)
- Storm Water Pollution Prevention Plan (SWPPP) will be prepared by the selected contractor for the project (post-bid)
- Client will assemble a single set of written review comments from all reviewers and resolve any conflicting or unclear comments prior to submitting to RDG

#### **C. 100% PLANS, SPECIFICATIONS, AND ESTIMATE (PS+E)**

This task will advance the 90% PS+E based on redline, mark-ups, phone calls, updates and refinements from Client and stakeholder input.

##### Deliverables:

- 100% Opinion of Probable Costs
- 100% Design Drawings in PDF and AutoCAD Civil 3D format
- Final Technical Specifications in CSI Format

##### Assumptions:

- Technical specifications are in CSI format (per RDG standards)

**RESTORATION  
DESIGN  
GROUP, INC**

BERKELEY  
2332 5th Street, Suite C  
Berkeley  
California 94710  
510.644.2798

MEDFORD  
1495 S Oakdale Avenue  
Medford  
Oregon 97501  
541.238.2812

RestorationDesignGroup.com



- Client will provide Division 1 specifications
- Plans do not include dewatering plans (assumed to be provided by the selected construction contractor)
- Project will be constructed in a single phase - Services related to preparing plans for phased construction other than that noted in the scope of services are not included

#### **D. BID SET PLANS, SPECIFICATIONS, AND ESTIMATE (PS+E)**

This task will advance the 100% PS+E based on redline, mark-ups, phone calls, updates and refinements from Client and stakeholder input. Changes to the bid set plan will be limited to corrections and do not include design changes. Plans, Specifications, and Estimate will be suitable for public bid.

Deliverables:

- Bid set Opinion of Probable Costs
- Bid set Design Drawings in PDF and AutoCAD Civil 3D format
- Final Technical Specifications in CSI Format

#### **E. COORDINATING MEETINGS**

This task includes time for monthly check-in meetings through June 2023 (initiation of construction).

Deliverables:

- Attendance at monthly coordinating meetings
- Figures, documents, and meetings not listed in the scope are assumed to be not included in the scope and available via a contract amendment

### **Task 1.05. Environmental Documents**

RDG will revise the permit application, attachments, and supporting documents for the US Army Corps of Engineers 404 CWA Certification, Regional Water Quality Control Board 401 CWA Certification, and California Department of Fish and Wildlife 1600 Lake and Streambed Alteration Agreement. RDG will submit revised permit packets (including updated permit set construction documents (Task 1.02) to the respective permit agencies. RDG will follow up with contacts at the permitting agencies, arrange an on-site meeting with agency staff.

Deliverables:

- Modification of three permit applications (USACE 404, CDFW Lake and Streambed Alteration Agreement, Region 2 RWQCB 401 Certification)
- Coordination and follow up with permit agencies
- One on-site visit if necessary

Assumptions:

- Letter of Map Revision (LOMR) or Conditional Letter of Map Revision not included

- Preparation of a Biological Assessment or coordination of a Section 7 Consultation with US Fish and Wildlife or National Marine Fisheries Service is not included
- Fee for Task 1.05 includes \$7500 for permit fees which will be paid by RDG and reimbursed by the grant

### **Task 2.12. Construction Contract Administration**

RDG will provide Construction Contract Administration (CCA) to support the Client. During construction, RDG will be available to observe the site work to evaluate compliance with the Construction Documents. This will include a series of meetings on-site between RDG and the contractor. After each site visit RDG shall prepare a written memo or email to document the field discussions and decisions made. Review Requests for Change Order proposals from contractor and advise Client on costs and payments. Included is a series of Punch List visits with Client, and a letter of Substantial, and Final project acceptance.

#### **Deliverables:**

- Responses to Requests for Information (RFI's)
- Process and review submittals
- Site Visits and Documentation
- Attendance up to 12 weekly construction meetings (one staff person)
- Letter of substantial and final project acceptance

#### **Assumptions:**

- Construction will last 12 weeks

## **COMPENSATION**

<b>Task</b>	<b>Fee</b>
Task 1.03 Design and Engineering Services	\$77,500
Task 1.05 Environmental Documents	\$18,000
Task 2.12 Construction Contract Administration	\$30,000
<b>TOTAL</b>	<b>\$125,500</b>

Typical project reimbursables include printing costs, mileage, parking, or courier delivery (if requested). If courier delivery is not requested, hardcopies of deliverables can be picked up at RDG offices in Berkeley; electronic copies will be emailed on request.

#### **Hourly Staff Rates**

RDG Principal

**2022**

\$200/hr

Principal Civil Engineer	\$200/hr
Principal Landscape Architect	\$175/hr
Director	\$150/hr
Landscape Designer	\$125/hr
Junior Engineer	\$125/hr

### **Reimbursables**

Mileage	\$.56/mile
Direct Costs/Reimbursables	(Cost+10%)

DRAFT

### **COMPLIANCE PROVISIONS**

The following provisions apply to this Agreement because this Agreement is funded in whole or in part by State of California (State) and the City of Richmond (“City”) funds.

1. ***Air and Water Law Compliance*** – Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of Federal law relating to air or water pollution.
2. ***Labor Compliance*** -- Contractor must comply with applicable California Labor Code requirements, including, but not limited to, Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4) and payment of prevailing wages for work done and funded pursuant to this Project, including any payments to the Department of Industrial Relations under California Labor Code Section 1771.3.
3. ***Union Organizing*** – Contractor certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.
4. ***Budget Contingency/Limit On State Funds*** – Should State funding for this project be reduced, deleted or delayed by the federal or state budget process or other budget control actions, and the work under this agreement is canceled or suspended, American Rivers shall provide written notice to Contractor and be liable for any work completed up to the date of receipt of the written notice and shall have no liability for payment for work undertaken after such date.
5. ***Acknowledgment*** – Contractor shall coordinate with American Rivers to include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project or using any data and/or information developed under this Project.
6. ***Disclosure Agreement*** – Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through support from Federal and State funding. Contractor shall coordinate with American Rivers in fulfilling this requirement.
7. ***Americans with Disabilities Act*** – By signing this Agreement, Contractor assures American Rivers that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
8. ***Audits*** – American Rivers, City, and the State, or their designated representative, reserve the right to conduct an audit at any time until the completion of the Project, with the costs of such audit borne by auditing entity. Contractor shall allow auditor(s) access to relevant records during normal business hours and allow interviews of any employees who might reasonably have information related to such records. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the construction and implementation of the project, and the use, management, operation and maintenance of the real property. Time and effort reports are also required. The Contractor’s accounting and control

systems shall conform to generally accepted accounting principles. All records shall provide a breakdown of total costs charged under this Contract, including properly executed payrolls, time records, utility bills, invoices, and vouchers. Contractor shall preserve all records pertaining to the Project for this purpose for at least five (5) years after Project completion and until all Federal or State audits are complete and exceptions resolved for this contract's funding period.

9. **Inspection** – City shall have the right to inspect the project or services without notice if they are being performed on City or other public property. If such project or services shall not be performed on City or other public property, City shall have the right to inspect such work upon reasonable notice.
10. **Conflict of Interest** – Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Contract. Contractor further acknowledges, represents and warrants that no City official or employee has any economic interest, as defined in Title 2, California Code of Regulations §§ 18703.1 through 18703.5, with Contractor that would invalidate this Contract. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Contract, all consideration received under this Contract shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Contract for one (1) year.
11. **Independent Capacity** – Contractor and its employees shall act in an independent capacity and not as officers, employees, or agents of the State for the duration of its performance of services under this Agreement.
12. **Business and Professions Code and Business License** – Contractor and its subcontractor(s) (if applicable) must comply with the Business and Professions Code, including, but not limited to, section 6700 et seq. (Professional Engineers Act) or section 7800 et seq. (Geologists and Geophysicists Act). Further, the Contractor will conduct all work consistent with the professional standards of the industry and type of work performed in the course of the Project. Contractor acknowledges, represents and warrants that Contractor and its employees are skilled and able to competently provide the services hereunder, and possess all professional licenses, certifications, and approvals necessary to engage in their occupations. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Contract. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession. In the event that City, in its sole discretion, desires the removal of any person employed or retained by Contractor to perform services hereunder, such person shall be removed immediately upon receiving notice from City.

Contractor shall obtain a City of Richmond Business license before commencement of work, and the business license must be kept current during the term of this Contract for payments to continue to be authorized.

13. **Drug-Free Workplace Certification** -- By signing this Agreement. Contractor and its subcontractors hereby certify under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and that it will have or will provide a drug-free workplace by taking the following actions:
  - a. publish a statement notifying employees, and its subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, or subcontractors for violations as required

- by Government Code Section 8355(0). b) Establish a Drug-Free Awareness Program, as required by Government Code Section 8355
- b. to inform employees or subcontractors about all of the following:
    1. The dangers of drug abuse in the workplace,
    2. Grantee's policy of maintaining a drug-free workplace,
    3. Any available counseling, rehabilitation, and employee assistance programs, and
    4. Penalties that may be imposed upon employees and subcontractors for drug abuse violations.
  - c. Provide as required by Government Code Sections 8355(c), that every employee, and/or subcontractor who works under this Agreement:
    1. Will receive a copy of Contractor's drug-free policy statement, and
    2. Will agree to abide by terms of Contractor's condition of employment, contract or subcontract.
14. **Non-Discrimination** – During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, allow harassment against any employee or applicant for employment or deny benefits to any person because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), genetic information, age (over 40), marital status, gender, gender identity, gender expression, sexual orientation, military and veteran status, denial of pregnancy disability leave or reasonable accommodation, and denial of family and medical care leave. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12990 (a-f) et seq.), the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the California Government Code (Gov. Code, § 11135-11139.5), and the regulations or standards adopted by the State Coastal Conservancy to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
15. **Compliance with City Laws** – Contractor shall comply with all provisions of the Richmond Municipal Code ("Municipal Code"). Contractor acknowledges that under § 2.60.070 of the Municipal Code ("Living Wage Ordinance"), Contractor shall promptly provide to American Rivers documents and information verifying its compliance with the Living Wage Ordinance. Also as prescribed in § 2.60.070, Contractor shall notify each of its affected employees with regards to the wages that are required to be paid pursuant to the Living Wage Ordinance. Contractor shall comply with § 2.28.030 of the Municipal Code, obligating every Contractor or subcontractor under a contract or subcontract with the City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin or ancestry of any employee, any applicant for employment or any potential subcontractor. Contractor acknowledges that the City's Drug Free Workplace Policy, Violence in the Workplace Policy and the Policy Against Workplace Harassment, are available on the City's website at <http://www.ci.richmond.ca.us/workplacepolicies>. Contractor agrees to abide by the terms and conditions of said policies.

16. ***Rights in Data*** – If applicable, American Rivers and State retain rights to all final products, or any part thereof, produced as a result of this Project, including usage, reproduction, and publication. American Rivers and State reserve all rights in copyright works created by Contractor in the performance of work under this Project.
17. ***Confidentiality of Data*** – All data, reports, information, inventions, improvements and discoveries used, compiled, developed, processed, stored or created by Contractor using Confidential and/or Sensitive Information shall be treated as Confidential and/or Sensitive Information by Contractor. No such data, reports, information, inventions, improvements or discoveries shall be released, published or made available to any person (except to State) without prior written approval from American Rivers.
18. ***Protection of Information*** – Contractor shall work with American Rivers to take all necessary measures to protect Confidential or Sensitive Information to which it gains access from unauthorized access (accidental or intentional), modification, destruction, or disclosure. These measures may include but are not limited to: password protection of electronic data, encrypted transmission of electronic data, and secure mailing and locked storage of paper and taped copies. Such measures may also include establishment of secure workstations and maintenance of a secure workstation access log. Contractor shall also apply appropriate security patches and upgrades and keep virus software up-to-date on all systems on which Confidential or Sensitive Information may be used.
- Contractor shall ensure that all media, including electronic media, containing Confidential or Sensitive Information, to which they are given access are protected at the level of the most confidential or sensitive piece of data on the media. Contractor shall limit personnel allowed access to Confidential and Sensitive Information to those persons with a demonstrable business need for such access. Contractor shall maintain a current list of all personnel with access to Confidential and Sensitive Information.
19. ***Indemnification*** – This Contract is a contract for design professional services subject to California Civil Code Section 2782.8(a) and Contractor is a design professional as defined in California Civil Code Section 2782.8(b)(2). Contractor shall hold harmless, defend and indemnify the City, its officers, agents, employees, and volunteers from and against any and all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor, except where caused by the active negligence, sole negligence, or willful misconduct of the City. To the fullest extent permitted by law, Contractor shall immediately defend and indemnify the City and its officers, agents, employees, and volunteers from and against any and all liabilities, regardless of nature or type, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, or its employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, any and all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Contractor's obligation to General Conditions/EJ/TE 01-19-11 7 of 13 indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party.
20. ***Intellectual Property*** – If anything resulting from activities supported by this Contract is patentable, trademarkable, copyrightable, or otherwise legally protectable, City reserves the exclusive right to seek such Intellectual Property rights. Contractor will work with American Rivers to ensure that City can secure these rights.

**AGREEMENT BETWEEN**  
**AMERICAN RIVERS, INC. AND THE WATERSHED PROJECT**

American Rivers, Inc. ("American Rivers") and The Watershed Project ("Contractor") hereby agree as follows:

1. Parties. This professional services agreement (the "Agreement") is made and concluded by American Rivers, a nonprofit corporation organized and existing under the laws of the District of Columbia, having its principal business address at 1101 14<sup>th</sup> Street, N.W., Suite 1400, Washington, D.C. 20005 and Contractor, a corporation having its principal business address at 1327 South 46th Street, Building 155, Richmond, CA 94804.
2. Work Plan. Contractor agrees to perform the work as outlined in the attached Scope of Work ("Attachment A") which is hereby incorporated by reference and made a part of this Agreement.
3. Project Management. The following individuals are designated as project managers for their respective parties:  
  

Contractor:	Juliana Gonzalez 1327 South 46th Street Building 155 Richmond, CA 94804
Phone:	(510) 665-3430
E-mail:	<a href="mailto:juliana@thewatershedproject.org">juliana@thewatershedproject.org</a>
American Rivers:	Sarah Puckett Director, California Central Valley River Conservation 1832 Second Street, Berkeley, CA 94710
Phone:	(415) 203-3766
E-mail:	<a href="mailto:spuckett@americanrivers.org">spuckett@americanrivers.org</a>
4. Budget and Payment Terms. American Rivers will pay Contractor as set out in the Scope of Work. American Rivers must receive a completed W-9 from Contractor before any payments can be processed. American Rivers will pay all approved invoices within 30 days of receipt.
5. Company Information. Pursuant to this Agreement, Contractor will use and obtain company information concerning American Rivers. Such "Company Information" includes, but is not limited to: mailing lists, reports, files, memoranda, records and software, computer, and other physical personal property, which Contractor has or will receive or prepare or help to prepare in connection with this project. Contractor will not retain any copies, duplicates, reproductions or excerpts thereof.
6. Confidentiality. In the course of this project, Contractor will acquire confidential information. The term "Confidential Information" as used in this Agreement includes, without limitation, (a) Company Information as defined in Section 5 of this Agreement; (b) information received from third parties under confidential conditions, and (c) other technical, business or financial information or trade secrets, the use or disclosure of which might reasonably be construed to be contrary to the best interests of American Rivers. Contractor understands and agrees that such Confidential Information is disclosed to Contractor in confidence and solely for the use of American Rivers. Contractor acknowledges that Contractor has no ownership right or interest in any Confidential Information used or



developed during the course of this work. Contractor understands and agrees to (a) keep such Confidential Information confidential at all times after the completion of work with American Rivers, and (b) not make use of the Confidential Information for Contractor's own behalf or on behalf of any third party.

7. Ownership of Intellectual Property. Materials prepared or delivered by Contractor to American Rivers under the terms of this Agreement ("Work") shall be works made for hire created for and owned by American Rivers and/or the City of Richmond. To the extent that any material does not constitute work made for hire as a matter of law, Contractor hereby grants and assigns to American Rivers exclusive rights to the material under United States intellectual property law and all international conventions, including without limitation, copyrights, trade secrets, and patents in and to such materials and the right to copyright the material and any renewals thereof in the name of American Rivers. Contractor also hereby assigns to American Rivers and/or waives any and all claims that Contractor may now or hereafter have in any jurisdiction to so-called "moral rights" in connection with the Work. Contractor shall secure the same agreement from all independent contractors performing services in connection with Contractor's performance under this Agreement. Contractor warrants that it is the sole creator of the Work except for such material from copyrighted sources as is reproduced by written permission of the copyright owner, and that the Work: (i) is original (except for such material from copyrighted sources as is reproduced by written permission of the copyright owner); (ii) contains no matter that is scandalous, obscene or libelous or otherwise contrary to law; and (iii) contains only information and data that is true and accurate to the best of Contractor's knowledge, belief, and expertise.

Notwithstanding the foregoing, Contractor may, working with American Rivers and American Rivers receiving City of Richmond's prior written consent, seek patent, trademark, copyright or other intellectual property rights on anything resulting from activities supported by this Contract. However, American Rivers and the City of Richmond reserves and Contractor irrevocably grants, a nonexclusive, fully paid-up, royalty-free, assumable, perpetual, worldwide license, with the right to transfer, sublicense, practice and exploit said license and the right to make, have made, copy, modify, make derivative works of, use, sell, import, and otherwise distribute under all applicable intellectual properties without restriction of any kind said license. If required by the City of Richmond and at its expense, Contractor further agrees to assist, in every proper way to secure such intellectual property rights with respect thereto.

8. Termination without Cause. American Rivers may cancel this Agreement, at any time and without cause, by giving the Contractor fifteen (15) calendar days' written notice of cancellation. In the event of termination of this Agreement for a reason other than Contractor's default, American Rivers shall pay Contractor for (i) all services rendered and all reimbursable costs incurred by Contractor up to the date of receipt of notice of termination, and (ii) all direct and documented expenses reasonably incurred by Contractor in connection with the orderly termination of this Agreement, as determined by American Rivers in its sole discretion. In no event shall American Rivers be liable for any indirect, special or consequential expenses incurred by Contractor or its subconsultants, including, but not limited to, lost profits, overhead, margin, or intangible costs.
9. Termination for Lack of Funding. Should the primary source of funding for this project be reduced, deleted or delayed by the federal or state budget process or other budget control actions, and the work under this agreement is canceled or suspended, American Rivers shall provide written notice to Contractor and be liable for any work completed pursuant to the

Task Order up to the date of receipt of the written notice and shall have no liability for payment for work undertaken after such date.

10. Termination with Cause. In the event that one of the parties is in default as defined below, the non-breaching party may, in its sole reasonable discretion, immediately cancel the Agreement without penalty by giving the breaching party written notice of such cancellation which shall not excuse breaches of this Agreement that already may have occurred.

A. Contractor Default: Default on the part of Contractor shall include, without being limited to, the occurrence of any of the following events:

- (i) failure by Contractor to comply with any of the provisions of this Agreement in a satisfactory manner as reasonably determined by American Rivers and failure to cure such violation within five (5) calendar days after receipt of written notice of said violation; or
- (ii) Contractor becomes listed on the federal government's list of parties excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S.C. 6101, note, E.O. 12549, E.O. 12689, 48 CFR 9.404, and each agency's codification of the Common Rule for Nonprocurement suspension and debarment ([www.sam.gov](http://www.sam.gov) -- System for Award Management (SAM)); or
- (iii) filing by Contractor of a voluntary petition under any bankruptcy, reorganization, insolvency, or any other law for the relief of, or relating to debtors; the filing against Contractor of an involuntary petition in bankruptcy or a receiver or trustee is appointed to take possession of Contractor's property, any of Contractor's property is subjected to levy, seizure, assignment, application or sale for or by any creditor or governmental agency, and such action is not dismissed within thirty (30) calendar days thereafter; or Contractor becomes insolvent; or
- (iv) dissolution of Contractor voluntarily, involuntarily or by operation of law; or
- (v) assignment of this Agreement by Contractor to any other entity without the prior written consent of American Rivers.

B. American Rivers Default: Default on the part of American Rivers shall include, without being limited to, the occurrence of any of the following events:

- (i) failure by American Rivers to make approved payments to Contractor within sixty (60) business days after receipt of written notice from Contractor of failure to comply with the payment specifications described in this Agreement; or
- (ii) dissolution of American Rivers voluntarily, involuntarily or by operation of law.

11. Time is of the Essence. Time is of the essence for this Contract and American Rivers and Contractor agree that any time period set forth in Attachment A represents their best estimates with respect to completion dates. However, both American Rivers and Contractor acknowledge that departures from the schedule may occur and will make reasonable efforts to notify the other party of changes to the schedule. Further, neither American Rivers nor Contractor shall be responsible for any delay in performance arising from any event that is not caused by and is beyond the reasonable control of the nonperforming Party, regardless of whether the event was foreseeable. Such events include, but are not limited to, force majeure events such as natural disasters, pandemics, action or inaction by a government entity, an accident such as a fire or explosion not due to the negligence of the Party seeking to be excused, war, acts of terrorism including threats of terrorism, a riot, or unusually severe weather. The Party affected by the event shall provide notice of the delay in writing to the

other Party no later than (7) calendar days after the Party has knowledge that a delay has, will, or may occur. Following the occurrence of such an event, American Rivers and Contractor shall confer to determine the best course of action for resuming the Work and setting new performance timelines. Both American Rivers and Contractor shall, at all times, take reasonable steps within their respective powers and consistent with best practices to:

- (a) Prevent force majeure events from affecting the performance of their obligations under this Agreement
- (b) Mitigate the effects of force majeure events; and
- (c) Timely comply with their obligations under this Agreement.

12. Nonassignability. This Agreement may not be assigned to any other entity or person without the express written consent of American Rivers.
13. Indemnification. Contractor agrees to indemnify and to hold American Rivers, the City of Richmond, and each entity's directors, officers, employees, and agents harmless from and against all claims, actions, damages, liabilities, demands, costs, and expenses, including reasonable attorney fees, resulting from or attributable to any act within the scope of this Agreement by Contractor, its employees, or agents (i) in violation of any of the provisions of this Agreement, or (ii) in violation of any law, rule, or regulation of the United States or its agencies or of any state or its agencies, or (iii) resulting from the negligence or willful misconduct of Contractor. The foregoing indemnity provision shall survive and remain in full force and effect following termination of this Agreement for any such act occurring during the initial term or any renewal term of this Agreement.

American Rivers agrees to indemnify and to hold Contractor, its directors, officers, employees, and agents harmless from and against all claims, actions, damages, liabilities, demands, costs, and expenses, including reasonable attorney fees, resulting from or attributable to any act within the scope of this Agreement by American Rivers, its employees, or agents (i) in violation of any of the provisions of this Agreement, or (ii) in violation of any law, rule, or regulation of the United States or its agencies or of any state or its agencies, or (iii) resulting from the negligence or willful misconduct of American Rivers. The foregoing indemnity provision shall survive and remain in full force and effect following termination of this Agreement for any such act occurring during the initial term or any renewal term of this Agreement.

14. Insurance. Contractor and its subcontractor(s) shall obtain and maintain for the Term of this Agreement, usual and customary policies of insurance; Workers' Compensation in the maximum amounts required by law; Automobile Liability with bodily injury limits of at least \$1,000,000.00 per accident for bodily injury and property damage.; and Commercial General Liability (CGL) insurance in the amount of \$2,000,000 per occurrence for bodily injury, personal injury and property damage, and Worker's Compensation as required by law with Employer's Liability of no less than \$1,000,000. All policies shall be with insurers admitted to transact business in the State of California and having a current Best's rating of "A:VII" or better, and shall name American Rivers, Inc., Contra Costa County, the State of California and City of Richmond, and their respective elective and appointive boards, commissions, officers, agents, employees, and volunteers as additional insureds. Contractor's policy shall cover the additional insureds with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and with respect to liability arising out of work or operations, including completed operations, performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with the work or operations.

Such policies shall state "insurance is primary and all other insurance shall be noncontributory", shall waive all rights of subrogation against the additional insureds; and shall also contain a provision that American Rivers shall be notified in writing thirty (30) days before the policies may be canceled or allowed to expire or any reduction in coverage. include American Rivers and the State of California as an additional insured under its CGL policy, and provide American Rivers with a copy of the Endorsement.

Delivery of this Endorsement to American Rivers shall be a condition precedent to the first payment to Contractor. The insurance policies shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days written notice to American Rivers.

15. Right of Entry. Contractor shall coordinate with American Rivers, in obtaining the right to enter the property where the Work is to be performed.
16. Compliance.
  - A. Throughout the term of the Agreement, Contractor and its subcontractors shall comply with all rules indicated in the Attachment B, terms and conditions imposed by the funder(s) of this project.
  - B. Contractor shall comply with all federal, state and local laws, applicable statutes, Executive Orders, Office of Management and Budget circulars, and terms and conditions of the applicable source of funding for this Agreement, and regulations in effect, or reasonably expected to be in effect, including but not limited to, environmental laws and regulations, as of the date of completion of the Agreement.
  - C. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle Contractor to a reasonable adjustment in the Project schedule and additional compensation as necessary to complete the tasks outlined in the Task Order affected by such newly enacted laws, codes and regulations.
17. Warranty. All supervisors, employees, subcontractors and authorized representatives assigned to perform services under this Agreement shall be fully qualified and specially trained in their respective responsibilities and shall perform the assigned services with care and diligence. Contractor represents and warrants that all of Contractor's services, including the estimate of cost, the setting of the schedule, and all work performed by subcontractors shall be performed in a professional and workmanlike manner.
18. Safety Precautions and Protection of Property. Contractor shall plan and conduct the work to safeguard its staff and property from injury. Contractor shall direct performance of work in compliance with reasonable safety and work practices and applicable federal, state, and local laws, rules, and regulations including, but not limited to, occupational safety and health standards. Contractor shall follow any site-specific safety plans, as may be required by state and local government during the global pandemic caused by the Covid-19 virus. Neither the issuance of special instructions by American Rivers nor the adherence thereto by Contractor shall relieve Contractor of the sole responsibility to maintain safe and efficient working conditions. Should a death, serious personal injury, or substantial property damage occur in connection with the performance of this Contract, Contractor shall notify American Rivers immediately.
19. Applicable Law. This Agreement will be governed by the laws of the State of California and any action relating to this Agreement shall be instituted and prosecuted in the courts of Contra Costa County, California. This Agreement can be amended only by a written

amendment signed by American Rivers and Contractor.

20. Legal Relationship of Parties. Nothing in this Agreement shall be construed as constituting a partnership, joint venture, employment relationship, agent/principal relationship, or other association of any kind, between the parties hereto, and neither party shall have the power to obligate or bind the other party in any manner whatsoever.
21. Conflict of Interest. Contractor agrees to notify American Rivers of any potential conflict of interest and/or related party transaction that could occur as a result of performance of the contract. Notification should be sent to American Rivers' primary business address to the attention of the Office of the General Counsel.
22. Merger and Modification. This Agreement contains the entire agreement between the parties and any previous agreement is merged into this Agreement. This Agreement may be modified only by subsequent written agreement signed by both parties.
23. Survival of Certain Provisions. Any rights or remedies accruing to a party hereto after the termination or cancellation of this Agreement, including, without limitation, the provisions regarding Indemnification, Confidentiality, and Company Information shall survive such termination or cancellation.

ACCEPTED AND AGREED:

American Rivers, Inc.

The Watershed Project

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Kristin M. May

PRINTED  
NAME: \_\_\_\_\_

Chief Financial Officer

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

DRAFT

## **SCOPE OF WORK**

### **1. Work to be performed:**

The Watershed Project (TWP) will support American Rivers (AR) in implementing the tasks and deliverables in the California Natural Resources Agency (CNRA) Urban Flood Protection grant to the City of Richmond for the *Flood Risk Reduction in the Rheem Creek Watershed* project to restore Rheem Creek to address creek overflows and flooding in the Rollingwood community.

#### **Task 1. DIRECT PROJECT MANAGEMENT & ADMINISTRATION**

TWP will help AR manage the CNRA *Flood Risk Reduction in the Rheem Creek Watershed* grant, including preparing and submitting invoices to AR, designing signage, conducting pre and post construction monitoring, and leading community outreach and engagement.

##### **Responsibilities:**

- Sign contract between TWP and AR
- Prepare and submit invoices to AR
- Design one interpretive sign
- Work with the City of Richmond to design one funding acknowledgement sign
- Pre and post (five years) project construction monitoring of creek water quality, sediment flow, and plant survival and establishment
- Lead community outreach and engagement and work with community partners to keep residents informed about the final design and planned construction activities

#### **Task 3. GREENING/REVEGETATION**

TWP will supplement the contractor's planting/vegetation by obtaining additional plants that are not a part of the landscape contract, which they will work with Urban Tilth and other community partners to install as part of workforce development and community engagement.

##### **Responsibilities:**

- Obtain additional plants not associated with landscape contractor
- Work with Urban Tilth and other community partners to oversee installation of plants as part of workforce development and community engagement

### **2. Term:**

July 1, 2022 – March 1, 2024

3. **Budget:**

Not to exceed \$110,000

Task	Project Element	Urban Flood Protection Grant
<b>1.00</b>	<b>Non-Construction Costs - Direct Project Management &amp; Administration</b>	
1.04	Interpretive Sign Design	\$ 3,000.00
1.09	Monitoring of water quality and sediment flow (pre & post)	\$ 27,000.00
1.10	Community Outreach and Engagement	\$ 50,000.00
		<b>\$ 80,000.00</b>
<b>3.00</b>	<b>Greening / Revegetation</b>	
3.02	Plants to be installed by volunteers	\$ 5,000.00
3.05	Planting Oversight	\$ 25,000.00
	<b>SUBTOTAL</b>	<b>\$ 30,000.00</b>
	<b>TOTAL</b>	<b>\$ 110,000.00</b>

This is an estimate of how funding will be allocated by task. Contractor will not exceed the total contract amount, but funding allocated within each task may change. Any changes may require an informal or formal amendment from California Natural Resources Agency. Mileage will be reimbursed at the Internal Revenue Service Standard Mileage Rates. After July 1, 2022, the rate is \$0.625/mile. All mileage and other expenses will be included in the total contracted amount.

American Rivers must receive or have on file a completed W-9 and insurance documentation from Contractor before payment can be processed.

Contractor shall invoice American Rivers quarterly as certain work and deliverables are completed. Invoices shall describe the activities used in support of this Agreement in the relevant quarter. American Rivers shall pay the undisputed portion of invoices within thirty (30) calendar days after receipt of invoice. All invoices must include: 1) the total contract amount, 2) less previous invoice(s) amounts, 3) less the current invoice amount, 4) total amount of contract remaining, and 5) evidence of any match fulfilled with during that invoicing period.



### **COMPLIANCE PROVISIONS**

The following provisions apply to this Agreement because this Agreement is funded in whole or in part by State of California (State) and the City of Richmond (“City”) funds.

1. ***Air and Water Law Compliance*** – Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of Federal law relating to air or water pollution.
2. ***Labor Compliance*** -- Contractor must comply with applicable California Labor Code requirements, including, but not limited to, Section 1720 et seq. of the California Labor Code regarding public works, limitations on use of volunteer labor (California Labor Code Section 1720.4) and payment of prevailing wages for work done and funded pursuant to this Project, including any payments to the Department of Industrial Relations under California Labor Code Section 1771.3.
3. ***Union Organizing*** – Contractor certifies that no request for reimbursement, or payment under this agreement, will seek reimbursement for costs incurred to assist, promote or deter union organizing.
4. ***Budget Contingency/Limit On State Funds*** – Should State funding for this project be reduced, deleted or delayed by the federal or state budget process or other budget control actions, and the work under this agreement is canceled or suspended, American Rivers shall provide written notice to Contractor and be liable for any work completed up to the date of receipt of the written notice and shall have no liability for payment for work undertaken after such date.
5. ***Acknowledgment*** – Contractor shall coordinate with American Rivers to include appropriate acknowledgement of credit to the State and to all cost-sharing partners for their support when promoting the Project or using any data and/or information developed under this Project.
6. ***Disclosure Agreement*** – Any document or written report prepared in whole or in part pursuant to this Agreement shall contain a disclosure statement indicating that the document or written report was prepared through support from Federal and State funding. Contractor shall coordinate with American Rivers in fulfilling this requirement.
7. ***Americans with Disabilities Act*** – By signing this Agreement, Contractor assures American Rivers that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C., 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.
8. ***Audits*** – American Rivers, City, and the State, or their designated representative, reserve the right to conduct an audit at any time until the completion of the Project, with the costs of such audit borne by auditing entity. Contractor shall allow auditor(s) access to relevant records during normal business hours and allow interviews of any employees who might reasonably have information related to such records. The records shall include, without limitation, evidence sufficient to reflect properly the amount, receipt, deposit, and disbursement of all funds related to the construction and implementation of the project, and the use, management, operation and maintenance of the real property. Time and effort reports are also required. The Contractor’s accounting and control

systems shall conform to generally accepted accounting principles. All records shall provide a breakdown of total costs charged under this Contract, including properly executed payrolls, time records, utility bills, invoices, and vouchers. Contractor shall preserve all records pertaining to the Project for this purpose for at least five (5) years after Project completion and until all Federal or State audits are complete and exceptions resolved for this contract's funding period.

9. **Inspection** – City shall have the right to inspect the project or services without notice if they are being performed on City or other public property. If such project or services shall not be performed on City or other public property, City shall have the right to inspect such work upon reasonable notice.
10. **Conflict of Interest** – Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Contract. Contractor further acknowledges, represents and warrants that no City official or employee has any economic interest, as defined in Title 2, California Code of Regulations §§ 18703.1 through 18703.5, with Contractor that would invalidate this Contract. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Contract, all consideration received under this Contract shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Contract for one (1) year.
11. **Independent Capacity** – Contractor and its employees shall act in an independent capacity and not as officers, employees, or agents of the State for the duration of its performance of services under this Agreement.
12. **Business and Professions Code** – Contractor and its subcontractor(s) (if applicable) must comply with the Business and Professions Code, including, but not limited to, section 6700 et seq. (Professional Engineers Act) or section 7800 et seq. (Geologists and Geophysicists Act). Further, the Contractor will conduct all work consistent with the professional standards of the industry and type of work performed in the course of the Project. Contractor acknowledges, represents and warrants that Contractor and its employees are skilled and able to competently provide the services hereunder, and possess all professional licenses, certifications, and approvals necessary to engage in their occupations. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Contract. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession. In the event that City, in its sole discretion, desires the removal of any person employed or retained by Contractor to perform services hereunder, such person shall be removed immediately upon receiving notice from City.
13. **Drug-Free Workplace Certification** -- By signing this Agreement. Contractor and its subcontractors hereby certify under penalty of perjury under the laws of State of California, compliance with the requirements of the Drug-Free Workplace Act of 1990 (Government Code 8350 et seq.) and that it will have or will provide a drug-free workplace by taking the following actions:
  - a. publish a statement notifying employees, and its subcontractors that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees, or subcontractors for violations as required by Government Code Section 8355(0).
  - b. Establish a Drug-Free Awareness Program, as required by Government Code Section 8355
  - b. to inform employees or subcontractors about all of the following:
    1. The dangers of drug abuse in the workplace,
    2. Grantee's policy of maintaining a drug-free workplace,

3. Any available counseling, rehabilitation, and employee assistance programs, and
  4. Penalties that may be imposed upon employees and subcontractors for drug abuse violations.
  - c. Provide as required by Government Code Sections 8355(c), that every employee, and/or subcontractor who works under this Agreement:
    1. Will receive a copy of Contractor's drug-free policy statement, and
    2. Will agree to abide by terms of Contractor's condition of employment, contract or subcontract.
14. **Non-Discrimination** – During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, allow harassment against any employee or applicant for employment or deny benefits to any person because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), genetic information, age (over 40), marital status, gender, gender identity, gender expression, sexual orientation, military and veteran status, denial of pregnancy disability leave or reasonable accommodation, and denial of family and medical care leave. Contractor and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (California Government Code Section 12990 (a-f) et seq.), the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the California Government Code (Gov. Code, § 11135-11139.5), and the regulations or standards adopted by the State Coastal Conservancy to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing California Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
15. **Compliance with City Laws** – Contractor shall comply with all provisions of the Richmond Municipal Code (“Municipal Code”). Contractor acknowledges that under § 2.60.070 of the Municipal Code ("Living Wage Ordinance"), Contractor shall promptly provide to American Rivers documents and information verifying its compliance with the Living Wage Ordinance. Also as prescribed in § 2.60.070, Contractor shall notify each of its affected employees with regards to the wages that are required to be paid pursuant to the Living Wage Ordinance. Contractor shall comply with § 2.28.030 of the Municipal Code, obligating every Contractor or subcontractor under a contract or subcontract with the City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin or ancestry of any employee, any applicant for employment or any potential subcontractor. Contractor acknowledges that the City’s Drug Free Workplace Policy, Violence in the Workplace Policy and the Policy Against Workplace Harassment, are available on the City’s website at <http://www.ci.richmond.ca.us/workplacepolicies>. Contractor agrees to abide by the terms and conditions of said policies.
16. **Rights in Data** – If applicable, American Rivers and State retain rights to all final products, or any part thereof, produced as a result of this Project, including usage, reproduction, and publication. American Rivers and State reserve all rights in copyright works created by Contractor in the performance of work under this Project.

17. **Confidentiality of Data** – All data, reports, information, inventions, improvements and discoveries used, compiled, developed, processed, stored or created by Contractor using Confidential and/or Sensitive Information shall be treated as Confidential and/or Sensitive Information by Contractor. No such data, reports, information, inventions, improvements or discoveries shall be released, published or made available to any person (except to State) without prior written approval from American Rivers.
18. **Protection of Information** – Contractor shall work with American Rivers to take all necessary measures to protect Confidential or Sensitive Information to which it gains access from unauthorized access (accidental or intentional), modification, destruction, or disclosure. These measures may include but are not limited to: password protection of electronic data, encrypted transmission of electronic data, and secure mailing and locked storage of paper and taped copies. Such measures may also include establishment of secure workstations and maintenance of a secure workstation access log. Contractor shall also apply appropriate security patches and upgrades and keep virus software up-to-date on all systems on which Confidential or Sensitive Information may be used.
- Contractor shall ensure that all media, including electronic media, containing Confidential or Sensitive Information, to which they are given access are protected at the level of the most confidential or sensitive piece of data on the media. Contractor shall limit personnel allowed access to Confidential and Sensitive Information to those persons with a demonstrable business need for such access. Contractor shall maintain a current list of all personnel with access to Confidential and Sensitive Information.
19. **Intellectual Property** – If anything resulting from activities supported by this Contract is patentable, trademarkable, copyrightable, or otherwise legally protectable, City reserves the exclusive right to seek such Intellectual Property rights. Contractor will work with American Rivers to ensure that City can secure these rights.