

**CITY OF RICHMOND
STANDARD CONTRACT**

Department:	Project Manager:
Project Manager E-mail:	Project Manager Phone No:
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:

Company Name: _____

Street Address: _____

City, State, Zip Code: _____

Contact Person: _____

Telephone: _____

Email: _____

Business License No: _____

/ Expiration Date: _____

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 _____ and it terminates _____ unless terminated as provided herein.
3. **Payment Limit.** City's total payments to Contractor under this Contract shall not exceed \$ _____. 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:

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

**EXHIBIT A
SERVICE PLAN**

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



COASTLAND

CIVIL ENGINEERING - CONSTRUCTION MANAGEMENT - BUILDING DEPARTMENT SERVICES

Scope of Service for the Keller Beach Sanitary Sewer Replacement Project, Phase I

PROJECT BACKGROUND AND UNDERSTANDING

The existing Keller Beach sanitary sewer interceptor pipeline, which serves the Point Richmond community, is located in the tidal zone of San Francisco Bay between the Keller Beach pump station and the Chevron wharf. The City has determined that the 63-year old pipeline is in poor condition and cannot be maintained in its current location due to inadequate access, pipeline structural defects, and the unlikelihood of obtaining the necessary environmental permits to repair or replace the pipeline in place. The City has therefore elected to replace the Keller Beach sanitary sewer in the public right-of-way in the streets of Point Richmond. Until the sanitary sewer is replaced, the City is under a temporary moratorium for new sewer connections to the Keller Beach sanitary sewer.

The most favorable location for a replacement sanitary sewer, due to site topography and the location of the existing sanitary sewer collection system, is in the corridor along Ocean Avenue, Grandview Court, Western Drive, and Cypress Point Road as shown in Figure 1. The new sanitary sewer pipeline is anticipated to be a combination of pump stations, force main and gravity sewer pipelines, approximately 5,800 feet in length, that will connect the existing sanitary sewer collection system to the Keller Beach pump station located near Dornan Drive. Construction methods for new and upsized sewer mains may include traditional open-cut construction, pipe-bursting, pipe-reaming, and horizontal directional drilling.



Potential project constraints include topography, the location of existing utilities, public right-of-way and utility easements, geotechnical conditions, and environmental permitting requirements. These constraints will need to be explored through surveys, studies and investigations. Subsequently, preliminary alternatives for constructing a new sanitary sewer main in the proposed corridor will be developed in consideration of these site constraints, but will be limited to the available information. These alternatives will be quantitatively and qualitatively compared to identify the most feasible solutions. It is anticipated that additional detailed investigations will be needed in the next phase to further define the most feasible alternatives.

Although service to the majority of properties served by the Keller Beach sewer will be unaffected by the new pipeline's location, the need for sewer lateral improvements on private property are anticipated for some cliffside homes with low finished floor elevations relative to the street. The feasibility of constructing these private property improvements must also be evaluated.

The Point Richmond community is concerned about potential impacts of the proposed project and will need to remain informed of the project's purpose and goals, status, and timeline. Public outreach in the form of public informational meetings, fact sheet flyer, and door-to-door communication with property owners will be critical to the project's success.



The City is also interested in evaluating opportunities for funding the proposed project.

Based on our understanding of the project needs, we offer the following scope of work for a preliminary feasibility assessment.

SCOPE OF WORK

Task 1 – Meetings, Schedule and Project Management

Project communication and coordination will be essential to keeping the City informed and the project progressing efficiently and on schedule. This task will include a kick-off meeting with City staff and the project team to discuss project details, establish project criteria and constraints, and discuss timelines. Additional progress meetings with the City will be conducted monthly or as needed to review submittals. This task assumes an initial kick-off meeting and up to eight progress meetings, all via video-conference. We will also make presentations at up to three (3) council meetings.

A detailed Phase I schedule will be developed for the kick-off meeting and will be updated as the project evolves. A more high-level schedule for the entire project timeline through construction will be developed for public outreach and the City's use.

Project management will be needed to coordinate the project team and respond to the evolving needs of the City and the project.

Deliverables: Meeting agendas and meeting notes; Phase I detailed schedule; High-level project schedule through construction.

Task 2 – Background Information and Utility Research

Coastland will review all available City information pertaining to the project including as-built drawings, water, sewer and storm drain mapping, monument data, right-of-way information, master plans, previous studies, geotechnical investigations of nearby areas, and any additional pertinent information for the project.

We will coordinate with outside utility companies to ensure that existing facilities, both underground and overhead, are properly identified. We will prepare and send letters to PG&E, EBMUD, Xfinity and AT&T informing them of the project and requesting their facility drawings.

Deliverables: None

Task 3 – Public Outreach

J Majors & Associates LLC (JMA) will provide public outreach services to the Point Richmond community, including preparation of an informational fact sheet flyer, door to door flyer distribution, gathering of contact information (where available), and organizing and facilitation of up to (3) public information meetings with the local neighborhood community council group.

Coastland will prepare a PowerPoint presentation for the public informational meeting and make the presentations.



JMA will also prepare 5-8 right-of-entry forms and obtain signatures for the purpose of obtaining access for the private sewer lateral feasibility cost estimate as described in Task 8.

Deliverable: PowerPoint presentation; Informational fact sheet flyer, Point Richmond contact information (at the City's request)

Task 4 – Topographic Survey and Base Map Preparation

Kister, Savio and Rei, Inc. will perform a detailed topographic survey of the streets within the proposed sanitary sewer corridor, extending to five feet beyond the edge of pavement on either side of the street, and including all public and private improvements within that envelope. The survey will include rim and invert elevations of all sanitary sewer and storm drain structures and culverts.

Coastland will prepare base mapping using the topographic survey and utility mapping. Coastland will conduct a field visit to verify the base mapping and correct any omissions or conflicts between utility mapping and the topographic survey.

Deliverable: Base mapping of proposed feasibility corridor in AutoCAD Civil3D format and PDF format (at the City's request).

Task 5 – Geotechnical Investigation

Cal Engineering & Geology will perform a geotechnical investigation of the proposed sanitary sewer main corridor. Their proposed scope will include:

- Review of available geologic and soils mapping, and groundwater elevation data
- Site reconnaissance, locate exploration locations, mark sites for utilities
- Prepare encroachment permit applications and drilling permits
- Geotechnical investigations including drilling and sampling of up to ten (10) exploratory borings along the alignment (up to three days of drilling), and logging of borings
- Laboratory testing to determine engineering properties including moisture content, dry unit weight, sieve analysis, Atterberg Limits, and the Caltrans corrosion testing suite.
- Preparation of report including summary of conditions, evaluation for settlement, buoyancy, temporary shoring/excavation, corrosion, and bedrock rippability. Geotechnical design recommendations will also include construction considerations for open-cut pipeline construction, horizontal directional drilling and pipe-bursting.

Deliverable: Geotechnical report presenting findings of investigation and recommendations

Task 6 – Environmental Compliance and Permit Scoping

NCE will conduct biological, cultural and paleontological investigations to evaluate CEQA compliance concerns and prepare preliminary scoping of permit requirements and additional investigations to be performed for the range of preliminary alternatives.



Task 6.1 – Biological Resources Technical Memorandum

NCE will conduct a desktop biological study of the proposed project area (including the project area where the new sewer line would be installed and the existing offshore pipe alignment) using Google Earth overhead photos to review the areas for potential wildlife habitat, wetlands, and streams. NCE will conduct a query and search of the California Natural Diversity Data Base, the U.S. Fish and Wildlife Service’s Online Inventory of Threatened and Endangered Species, and the California Native Plant Society’s Inventory of Rare and Endangered Vascular Plants of California to determine what sensitive animal, fish, and plant species potentially occur within the project area. NCE will also conduct a query of the U.S. Fish and Wildlife Service’s National Wetland Inventory to identify potential streams and wetland within the project area. After completion of this desktop study, NCE will conduct a field visit to the project area to ground check specific areas of interest determined during the desktop study. These areas of interest would include potential streams and wetland areas, known occurrences of special-status species, and areas of natural vegetation that could provide habitat for special status species. NCE will prepare a Draft Biological Resources technical memo during this task illustrating the findings of our study. Notes and data will be collected during this task and will be incorporated into the assessment of permit requirements and constraints document during Task 8.

Task 6.2 – Cultural Resources Technical Memorandum

Archival Research

At this preliminary stage of the project, it is understood that project elements are not well defined. As such, it is not yet appropriate to develop an Area of Potential Effect (APE). Generally, this is the first task in a cultural resources study used to frame subsequent tasks. Instead, a more coarsely defined project area will be used.

Archival research will begin concurrently with initiation of Tribe outreach (see Task 3b). NCE will submit a records request to the Northwest Information Center (NWIC). Records will be requested within one-quarter mile of the maximum potential project area defined in Task 1. Additional archival sources (e.g., GLO plat maps, historic USGS maps, county, and state maps) will be examined as appropriate. A non-expedited records search typically takes 30 days to process once the request has been received. The cost estimate associated with the records search for this large project area is \$3,700; however, this estimate can vary greatly depending on the number of resources identified in the quarter mile search area. As such, a change order may be requested if the records search cost exceeds \$3,700 or the results need to be expedited for a 50% surcharge.

In addition, preliminary research indicates most homes in the vicinity of the project area are historic-aged (greater than 45 years old). The results of archival research will present a table and map identifying all historic-aged buildings within the study area.

Preliminary Tribe Outreach

Although Native American consultation is not a requirement at this preliminary stage of the project, NCE recommends doing so to involve Tribes early on during the planning stage to ensure any concerns are addressed and considered for future project phasing.



NCE will prepare and submit a letter to the Native American Heritage Commission (NAHC), requesting a search of their Sacred Lands File (SLF) and contact information for interested tribes. Upon receipt of the NAHC contact list, NCE will prepare a letter for City to send each identified tribe representative on City letterhead requesting information regarding the project area. If interested Tribes provide a response, contact information will be noted and follow-up correspondence will inform them that they will be contacted during the next phase of the project when project elements are better understood.

Cultural Resources Technical Memo

Following the completion of archival research NCE will prepare a draft cultural resources technical memo summarizing the results, provide an update of Tribe coordination to date, and outline potential archaeological and architectural resource impacts.

The draft memo will be submitted to Coastland for review within 15 days working of receiving records search information from the NWIC, subconsultant findings, and completing archival research. The background data collection and analysis will be prepared in a format that may ultimately be integrated into a Cultural Resources Inventory Report consistent with requirements of Section 106 of the National Historic Preservation Act.

Task 6.3 – Paleontological Technical Memo

NCE's subconsultant Material Culture Consulting (MCC) will provide Paleontological services for purposes of this project. MCC will perform the research necessary to determine the paleontological and geological context of the project area, including a paleontological records search at the University of California Museum of Paleontology and desktop reviews of available published geologic maps, scientific literature, and online paleontological databases. The project study area will include the project area as defined in Task 1 and a ½-mile buffer to allow for refinements during final project design.

The background research will be used to determine the paleontological potential of the geologic units within the project area, including those that may be encountered in the subsurface. The paleontological potential will be assigned using the federal Potential Fossil Yield Classification system. The project area will be mapped onto the highest resolution geologic maps available and overlain with the paleontological potential rankings for ease of reference. A paleontological field survey is not included in the current scope of work but may be recommended based on the results of the desktop review.

The results of the paleontological study will be compiled in a technical memo and will include detailed recommendations for further paleontological tasks, if any.

Task 6.4 – Abbreviated Initial Study (AIS)

To identify potential project effects and develop a baseline for the project CEQA analysis, NCE will prepare an abbreviated initial study based on the current CEQA Appendix G checklist format NCE has developed for Richmond projects. The AIS will include the description of the proposed project area and range of potential project alternatives under consideration, a description of the existing environmental setting, and a brief analysis of the potential environmental considerations related to



the construction and operation of the range of alternatives for each CEQA topic. This analysis will be used to identify the potential level of required CEQA review and associated costs for each alternative assessed in the Feasibility Analysis.

Task 6.5 – Assessment of Potential Permit Requirements

After completion of the desktop studies for resources within the project area, NCE will assess the potential permitting requirements and considerations for the range of alternatives. Potential environmental permits that may be required for the project could include, but is not limited to:

- San Francisco Bay Conservation and Development Commission permit
- U.S. Army Corps of Engineers Section 404 permit and Section 10
- San Francisco Bay Regional Water Quality Board Section 401 permit
- CDFW Streambed Alteration Agreement
- CDFW, USFWS, and NOAA Fisheries Incidental Take Permits if existing infrastructure in San Pablo Bay must be removed

NCE will assess the potential environmental permitting required for the range of alternatives and detail the documentation requirements for each. The document will also describe the potential timelines for obtaining environmental permits and will provide potential costs for securing such permits.

NCE will consolidate the memos developed in Tasks 6.2 through 6.5 and prepare a Summary Memorandum that describes the opportunities and constraints identified in the project area. The memo will include the technical memos and AIS as attachments. This information is expected to provide the information Coastland needs to support development of the project alternatives for the Feasibility Analysis.

Task 6.6 – Assessment of Project Alternatives

NCE will consult with Coastland during the development of project alternatives to provide guidance on environmental issues pertaining to specific areas of the routes. In particular, NCE will utilize data collected during Tasks 6.1-6.3 to inform Coastland on where potential environmental issues may arise based on the placement of the alternatives.

Once Coastland has developed project alternatives, NCE will prepare a technical memo summarizing the alternatives, the opportunities and constraints of each, the potential required permits and environmental documentation for each, and identify the preferred environmental alternative using data obtained in Tasks 6.1-6.3. The document will also describe the potential timelines for obtaining environmental permits and CEQA documentation for the alternatives and will provide potential costs for securing such permits and conducting CEQA. NCE will provide an electronic copy of the Draft memo to Coastland for review. NCE will obtain, review, and integrate appropriate comments submitted by Coastland, and will then revise the environmental assessment memo for inclusion in Coastland's Feasibility Analysis.

Deliverables: Biological Resources Technical Memorandum, Cultural Resources Technical Memorandum, Paleontological Technical Memorandum, Abbreviated Initial Study, Summary Memorandum, Draft and Final Project Alternatives Assessment Memo



Task 7 – Sanitary Sewer Main Feasibility

Coastland will develop up to three alternatives for the new sewer main within the proposed corridor with combinations of pump stations, force mains and gravity sewers that meet project criteria. These alternatives will be based on findings from the site survey, geotechnical investigations, and environmental compliance and permit scoping. These alternatives will be presented in plan/profile exhibits.

Quantitative and qualitative comparisons of alternatives and order of magnitude cost estimates will be presented in a technical memorandum.

Tasks not included in this proposal, but which may be needed for the next phase include potholing for utilities, additional geotechnical investigations, utility relocation feasibility assessment, right-of-way and/or utility easement research, procurement of utility easements, CCTV inspection of existing sewer and storm drains, and/or additional survey.

Task 8 – Private Sewer Lateral Feasibility

Private sewer lateral improvements are expected to be needed at some cliffside properties where the house is low relative to the street. Properties with sewer laterals that cannot flow by gravity to the new sewer main will need to be provided an injector pump system which consists of a holding tank, sewage pump and force main. Other cliffside properties may need only a backwater valve if they have plumbing fixtures lower than the rim elevation of the upstream manhole of the new sewer main.

In this task, Coastland will prepare two City Standard Details for an injector pump system and backwater valve with a list of approved materials for inclusion in the City's Standard Plans. This task includes up to two revisions of each detail and materials list. City to provide the standard detail title block in AutoCAD format.

This task also includes preparing typical cost estimates for the installation of an injector pump system on up to three Point Richmond residences that represent a range of difficulty. Plumbing contractor(s) will be hired to develop an itemized bid with a sketch for implementing each system. These cost estimates will be provided to the City to evaluate potential cost-shares to be offered property owners who must install these systems. Public outreach will be required to prepare 3-4 right-of-entry letters and coordinate with property owners for signature and site access.

Tasks not included in this proposal, but which may be needed for the next phase include a GPS survey of finished floor and/or sewer lateral elevations of residences that may need one or both of these sewer lateral improvements. This effort will require the preparation of 72 right-of-entry letters and coordination with property owners for signature.

Deliverables: City Standard Details for an Injector Pump System and Backwater Valve in AutoCAD and PDF formats; and Estimates of the Costs of Construction for Installation of an Injector Pump System for up to three Point Richmond residences



different funding sources, as well as the project timelines, environmental documentation requirements, and other requirements.

The technical memorandum will include the most common funding sources used to finance sewer infrastructure projects including:

- USDA Rural Development Loans/Grants
- State Revolving Fund Clean Water Program
- Infrastructure Bank (I-Bank)
- Private funding (Bank)
- Special Assessment Districts

This task includes the preparation of a draft technical memorandum for the City's review, and a final draft.

Deliverable: Draft and Final Technical Memorandum of Funding Options for Sewer Infrastructure Projects

Not Included

The following tasks are not included in this scope of work:

- Right-of-way or boundary survey
- GPS Survey of cliffside property (as described in Task 8)
- Hydraulic Modeling
- Preparation of construction drawings or specifications
- Preparation of permits

Project Schedule

We are prepared to start work on this project upon authorization.

Estimated Cost

Based on our scope of work, we are proposing that the services associated with this project be completed for a not-to-exceed amount of \$445,360. The amount quoted is assuming that all work for this project falls under the scope of work as previously described. If additional work is necessary that falls outside of this scope of work, we can either re-negotiate a new scope of work or provide these services on a time and materials basis per our adopted schedule of hourly rates.

Please note that in the not-to-exceed amount, we have included an estimated amount of \$5,000 for reimbursable expenses (i.e. printing, plotting, etc.). These reimbursable costs will be billed at cost plus 15%.





DESIGN WORK ESTIMATE

Keller Beach Sanitary Sewer Replacement Project - Phase I	Professional Engineering Services						City of Richmond		
Task Information	Coastland Billing Classification & Rate						Hours & Cost		
TASK	Principal Engineer	Senior Engineer	Assistant Engineer	CAD Designer	Admin	Construction Manager	Subconsultant Cost	TOTAL HOURS	TOTAL COST
	\$200	\$170	\$145	\$145	\$95	\$170			
1 MEETINGS, SCHEDULE AND PROJECT MANAGEMENT									
Kick-off and Progress Meetings (9 total)	20	40						60	\$10,800
Project Schedule	4	16						20	\$3,520
Council Meeting Presentations (up to 3)	12	24						36	\$6,480
Project Management	20	100						120	\$21,000
Subtotal								236	\$41,800
2 BACKGROUND INFORMATION & UTILITY RESEARCH									
Review Background Information	1	12	4	8				25	\$3,980
Utility Research	1	1	4	8				14	\$2,110
Subtotal								39	\$6,090
3 PUBLIC OUTREACH									
Public Information Advertising, Flyer							\$3,060	0	\$3,060
Door to Door Notifications	2	6					\$8,160	8	\$9,580
Prepare Presentation	6	20		6			\$6,120	32	\$11,590
Public Informational Meetings (up to 3)	12	12					\$6,120	24	\$10,560
Meeting Summaries (up to 3)	3	6					\$4,080	9	\$5,700
Right of Entry Discussions/Field Investigations	12	12					\$4,080	24	\$8,520
Subtotal								97	\$49,010
4 TOPOGRAPHIC SURVEY & BASE MAP PREPARATION									
Topographic Survey		4		4			\$97,658	8	\$98,918
Base Map Preparation	4	8	20	20				52	\$7,960
Field Verification of Base Mapping	2	10		10				22	\$3,550
Subtotal								82	\$110,428
5 GEOTECHNICAL INVESTIGATION									
Drilling of up to 10 exploratory borings	1	2					\$27,170	3	\$27,710
Geotechnical Investigation & Testing							\$21,276	0	\$21,276
Report Preparation	1	2					\$13,599	3	\$14,139
Subtotal								6	\$63,125
6 ENVIRONMENTAL COMPLIANCE & PERMIT SCOPING									
Biological Resources TM	1	2					\$10,133	3	\$10,673
Cultural Resources TM	1	2					\$19,310	3	\$19,850
Paleontological TM	1	2					\$6,833	3	\$7,373
Abbreviated Initial Study	2	2					\$11,000	4	\$11,740
Assessment of Permit Requirements	2	4					\$14,470	6	\$15,550
Assessment of Project Alternatives	2	8					\$40,411	10	\$42,171
Subtotal								29	\$107,357
7 SANITARY SEWER MAIN FEASIBILITY									
Prepare plan/profile of 3 alternatives	8	30	30	50		8		126	\$19,660
Cost Estimates	5	10	20	10				45	\$7,050
Cost/Benefit Matrix Analysis	8	10	8			4		30	\$5,140
Prepare draft Technical Memorandum	2	30	8		2	2		44	\$7,190
Prepare final Technical Memorandum	2	10	2		2			16	\$2,580
Subtotal								261	\$41,620
8 PRIVATE SEWER LATERAL FEASIBILITY									
Prepare draft City Standard Details (2)	1	10		10				21	\$3,350
Prepare final City Standard Details (2)		4		4				8	\$1,260
Sewer Lateral Imprvmt Cost Estimates (3)	4	20	8				\$5,750	32	\$11,110
Subtotal								61	\$15,720
9 FUNDING OPTIONS									
Prepare draft Technical Memorandum	4	10	10					24	\$3,950
Prepare final Technical Memorandum		4	4					8	\$1,260
Subtotal								32	\$5,210
Direct Costs (repro, mileage, etc.)									\$5,000
Total Design Cost	144	433	118	130	4	14	\$299,230	843	\$445,360



**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: _____ Department: _____
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, _____ 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:

City of Richmond

Richmond, CA 94804-0046

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

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 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

EXHIBIT E
SPECIAL CONDITIONS

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

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, recordation, 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.

Notwithstanding the foregoing or any other provision of this Contract, City shall have no ownership of standard details, systems and specifications developed and used by Contractor ("Standard Details) which shall remain the property of Contractor and may be used with other projects. City shall have a license to use such Standard Details for the project which is the subject of this Agreement. City's rights in and Contractor's obligations with respect to all information and materials as referred to in Sections 3 and 5 are conditioned on Contractor's receipt of all undisputed amounts due to it under this Agreement. Contractor shall have no liability for the use of any such information and materials on any project other than the project which is the subject of this Agreement or modifications made to such information and materials without its consent.

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. Notwithstanding any other provision of this Contract, City shall have no rights of audit or to review financial books and records relating to fixed fee services.

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. Notwithstanding any other provision of this Contract, whenever the Contract calls for approval or acceptance of services or any other determination, it shall mean that the City is required to act reasonably in accordance with the terms of this Contract in providing such approval, acceptance or determination. 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, and 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 consistent with the Standard of Care defined in Section 39. 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 expressly disclaims all express or implied warranties and guarantees with respect to the performance of professional services.
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 reasonable 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 (provided that defense shall only be provided to the extent covered by general liability insurance required by this Contract) and indemnify the City, its officers, ~~agents,~~ employees, and volunteers from and against any and all third party claims, and the resulting damages, losses, and expenses including reasonable attorneys' fees ~~arising out of, or pertaining to, or relating to~~ the extent caused by 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 third-party claims, and the resulting 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 to the extent of Contractor's obligation of indemnity as stated above. 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 but only to the extent provided in the first sentence of this Section 15 (a).
- 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, (provided that defense shall only be provided to the extent covered by general liability insurance required by this Contract), and hold harmless the City, its officers, agents, employees and volunteers from any and all third party 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~~ to the extent caused by the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability due to negligence, or defects in design due to a failure to exercise the Standard of Care 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 to the extent provided above. Contractor shall be obligated to defend to the extent provided above, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its officers, ~~agents~~, employees, and volunteers subject also to approval by any insurer providing defense, 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. Notwithstanding the foregoing or any other provision of this Contract, with respect to the performance of professional services, Contractor's obligation is to exercise the Standard of Care to comply with laws and regulations specifically applicable to the performance of such services.

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 Cardinal Importance~~. Time is of ~~the essence cardinal importance~~ 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 reasonable 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.

Contractor's confidentiality obligations hereunder will not apply to information in the public domain or information lawfully acquired from others on a non-confidential basis.

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 (meaning goods and materials, not services) 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 under the same or similar circumstances (the "Standard of Care"), and shall be responsible for the professional quality, technical accuracy, and coordination of the services it performs under this Contract consistent with the Standard of Care. 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.

41. Limitation of Liability. Notwithstanding any other provision of this Contract, to the fullest extent permitted by law, the total liability, in the aggregate, of Contractor and its officers, directors, partners, employees, agents, and subconsultants, to City, and anyone claiming through or under City, for any claims, losses, costs, or damages whatsoever arising out of, resulting from or in any way relating to this project or Contract, from any cause or causes, including but not limited to tort (including negligence and professional errors and omissions), strict liability, breach of contract, or breach of warranty, shall not exceed the total compensation received by Contractor or \$100,000, whichever is greater.

40.42. Mutual Waiver of Consequential Damages. Notwithstanding any other provision of this Agreement, Contractor and City waive all consequential or special damages, including, but not limited to, loss of use, profits, revenue, business opportunity, or production, for claims, disputes, or other matters arising out of or relating to the Contract or the services provided by Contractor, regardless of whether such claim or dispute is based upon breach of contract, willful misconduct or negligent act or omission of either of them or their employees, agents, subconsultants, or other legal theory, even if the affected party has knowledge of the possibility of such damages. This mutual waiver shall survive termination or completion of this Contract.

For the Contract between the City of
Richmond and

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 1: Consultants and Contractors

In all instances where a CONTRACTOR or its representatives will be conducting business and/or providing services, 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 Liability insurance, CONTRACTOR shall look solely to its insurance for recovery. CONTRACTOR hereby grants to CITY, on behalf of any insurer providing Commercial General 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, 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) including coverage for bodily and personal injury, property damage, and products and completed operations.
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) 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 and Builder's Risk/ Course of Construction Insurance.
6. Builder's Risk/Course of Construction insurance covering all risks of loss less policy exclusions when the City of Richmond has a financial interest in the property. – *(Only required for Construction Contracts involving property)*
7. Contractor's Pollution Liability *(if applicable for Construction Contractors)*

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: http://www.ci.richmond.ca.us/index.aspx?nid=61 .

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

General Liability <i>(primary and excess limits combined)</i>	PROJECT COST	REQUIRED LIMIT
	\$0 - \$5 million	\$2 million p/o
	\$5 million - \$10 million	\$5 million p/o
	Over \$10 million	\$10 million p/o
	Fireworks	\$5 million p/o
	<p>Includes coverage for bodily injury, personal injury, property damage and products and completed operations. The policy shall not exclude coverage for XCU perils (explosion, collapse, or damage to underground property).</p> <p>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 (\$4 million aggregate limit).</p> <p>Policy shall be endorsed to name the City of Richmond as an additional insured per the conditions detailed below.</p>	
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage.	
<p>Builders' Risk/Course of Construction – Covers property under construction, repair or renovation as well as equipment and materials to be installed.</p> <p><i>(Only required for Construction Projects involving property and equipment installation.)</i></p>	<p>Coverage shall include all risks of direct physical loss, excluding earthquake, for an amount equal to the full completed value of the covered structure or replacement value of alterations or additions, including soft costs and business interruption.</p> <p>If the project does not involve new or major reconstruction, an Installation Floater may be acceptable. For such projects, a property installation floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken or destroyed during the performance of the Work, including during transit, installation and testing at the City of Richmond's site.</p> <p>The City of Richmond shall be named as loss payee as its interest may appear. The insurer shall waive all rights of subrogation against City.</p>	
<p>Contractor's Pollution Liability <i>(if applicable)</i></p> <p>Protects against: <i>unexpected/unintended release of pollution resulting from contractors covered operations such as:</i></p> <p>HVAC, paving, carpentry, pipeline & tank installation, drillers, remediation contractors, maintenance, mechanical, demolition, excavation, grading, street/road construction, residential & commercial builders.</p>	Same limits as General Liability.	
Required Policy Conditions		
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.	
Additional Insured Endorsement	<p>Applicable to General Liability Coverage.</p> <p>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 but not limited to bodily injury, deaths and property damage or destruction arising in any respect directly or indirectly in the performance of this contract.</p> <p>ISO form CG 20 10 (11/85) or its equivalent is required. The endorsement <u>must not</u> exclude products and completed operations coverage. If it does, then CG 20 37 (10/01) is also required.</p>	

**City of Richmond - Insurance Requirements – Type 1:
Consultants and Contractors**

Additional Insured Endorsement (continued)	<i>SAMPLE Endorsements can be found at</i> http://www.ci.richmond.ca.us/index.aspx?nid=61
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.
Waiver of Subrogation Endorsement Form	Contractor’s insurer will provide a Waiver of Subrogation in favor of the City for Workers Compensation and Builder’s Risk/ Course of Construction coverage during the life of this contract. <i>SAMPLE Endorsements can be found at</i> http://www.ci.richmond.ca.us/index.aspx?nid=61
Deductibles and Self-Insured Retentions	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. Contractor is responsible for satisfaction of the deductible and/or self-insured retention for each loss.
Loss Payable Endorsement (only required when Builder’s Risk and/or Course of Construction Insurance is required.)	Applicable to Builder’s Risk/Course of Construction naming the City of Richmond as Loss Payee.
SURETY BONDS (If a Public Works/Engineering Project)	The Contractor shall provide: <ol style="list-style-type: none"> 1. A Bid bond 2. A Performance Bond 3. A Payment Bond

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 coverages 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.

<p style="text-align: center;">City of Richmond - Insurance Requirements – Type 1: Consultants and Contractors</p>

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.**

Cancellation

CONTRACTOR shall ensure that coverage shall not be cancelled, reduced or otherwise materially changed except after thirty (30) days' prior written notice has been given to the City.

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.