



# City of Emeryville

CALIFORNIA

## Request for Proposals

FOR

**COMMUNITY SERVICES DEPARTMENT – PARATRANSIT SERVICES**

**ADDENDUM ISSUED 6/17/26**

**REVISED ADDENDUM ISSUED 6/18/26**

**DEADLINE FOR SUBMISSION: ~~June 22, 2026 BY 5:00 PM.~~**

**~~June 26, 2026 BY 5:00 PM~~**

**July 1, 2026, BY 5:00pm**

**STAFF CONTACT INFORMATION:**

Hazel Barry, Recreation Supervisor  
City of Emeryville  
1333 Park Avenue, Emeryville, CA 94608  
510-596 4308  
Hazel.barry@emeryville.org

## 1. INTRODUCTION

The City of Emeryville is seeking qualified transportation service providers to operate the Emeryville 8-to-Go Paratransit Shuttle, offering flexible curb-to-curb transportation for eligible older adults and persons with disabilities. The City intends to award a contract based on best value, quality of service, safety, and demonstrated experience.

## 2. BACKGROUND

The City of Emeryville is issuing this Request for Proposal (“RFP”) to solicit bids for providing all necessary tools, materials, labor, and supervision—including insurance and all payroll taxes—to operate paratransit and transportation services in support of the 8-To-Go program. Services include weekday curb-to-curb shuttle operations for older adults and persons with disabilities, with optional on-call field trip transportation. Detailed service requirements are specified in Exhibit A – Specifications / Scope of Work..

## 3. PROPOSAL

The Proposer shall submit a clear, comprehensive, and well-organized proposal that demonstrates the firm’s capability, experience, and approach to providing high-quality paratransit and supplemental transportation services for the City of Emeryville. The proposal should reflect a full understanding of the 8-To-Go Program’s purpose, the transportation needs of older adults and persons with disabilities, and the City’s expectations for safe, reliable, and customer-centered service delivery.

**At minimum, each proposal shall include:**

### Understanding of the Project

A narrative demonstrating the Proposer’s understanding of the 8-To-Go Program, its operational requirements, its role within the Community Services Department, and the unique mobility challenges faced by the service population. Proposers should articulate how their service philosophy aligns with the City’s commitment to accessibility, independence, and program enhancement.

### Approach to Service Delivery

A detailed description of how the Proposer intends to deliver daily paratransit operations and optional on-call field trip transportation. The approach should address:

### Driver staffing and supervision

- Dispatch and communication systems
- Scheduling procedures and manifest management
- Passenger assistance and ADA compliance
- Strategies for on-time performance and service reliability
- Contingency planning for emergencies, equipment failures, or unexpected delays

### Operational Capacity

Evidence of the Proposer's operational readiness to assume services upon contract award, including:

Availability of qualified drivers  
Maintenance infrastructure and safety protocols  
Administrative support and management oversight

### Experience and Qualifications

A description of the firm's relevant experience providing paratransit, human-service transportation, or similar community mobility programs. Include examples of past performance, especially projects involving senior populations or accessibility-focused services.

### Innovation and Service Enhancements

Optional but encouraged: proposals may include innovative ideas, technology solutions, training enhancements, passenger support strategies, or operational efficiencies that would strengthen the quality and responsiveness of the 8-To-Go Program.

The Proposal section should provide the City with confidence in the Proposer's ability to deliver consistent, high-quality transportation services that are safe, equitable, and supportive of community members who rely on the 8-To-Go Program for their daily mobility.

## **4. SCHEDULE AND SUBMITTAL REQUIREMENTS**

### **4.1 Schedule**

The following schedule details key dates and times related to this RFP. City reserves the right to revise this schedule.

<b>BID TIMELINE SCHEDULE</b>		
<b>Date</b>	<b>Time</b>	<b>Activity</b>
May 29, 2026	by 5:00 PM	<b>RFP Issued</b>
June 8, 2026	12:00 PM	Submit all questions about the RFP to <a href="mailto:hazel.barry@emeryville.org">hazel.barry@emeryville.org</a>
June 15, 2026	by 5:00 PM	<b>Addendum Issued</b> Posted on website at <a href="http://www.emeryville.org">www.emeryville.org</a> (Addendum may include revisions and/or responses to RFP questions)
<b>June 22, 2026</b> <b>June 26, 2026</b> <b>July 1, 2026</b>	<b>12:00pm</b> <b>5:00pm</b> <b>5:00pm</b>	<b><u>BID DUE DATE</u></b> via Postal Mail or Hand Delivery City of Emeryville Attn: City Clerk 1333 Park Avenue Emeryville, CA 94608

## **4.2 Submittal Contents and Format**

The City of Emeryville is issuing this Request for Proposal (including all attachments hereto) (“RFP”) in order to solicit Bids to furnish all necessary tools, materials, labor, and supervision (including cost of insurance and all payroll taxes on such labor) to provide the above service(s)/product(s), all as more particularly described in the applicable Exhibits mentioned below.

A. Specifications: Please refer to “Exhibit A of Attachment A – Specifications/Scope of Work” for details on the specifications.

B. Bid Submittal Form: Please refer to “Attachment B – Bid Submittal Form” for details on Bid submission requirements and required documents.

### **Bid Submittal Delivery Method**

Submittal shall be by hard copies to the location specified in the ‘Bid Timeline Schedule’ table on the front cover.

You must include 3 copies including the original.

### **Bid Submittal Contents**

Bid submittal should be in the following order:

Attachment B - Bid Submittal Form: Please complete this form and provide any of the required information as applicable below and include any requested documents as required.

### **Attachment C - Exceptions to Specifications/Requirements:**

No exceptions or alternative products are permitted.

Bidder must provide with the submittal, utilizing the form in “Attachment C – Exceptions to Specifications/Requirements”. Any and all exceptions to either the specifications and/or the terms and conditions contained herein. Failure to note exceptions shall be interpreted to convey the bidder agrees to perform in the manner described and/or specified in this RFP.

Other Required Documents: Please submit any additional documents specified in any of the above or described in the “Exhibit A of Attachment A - Scope of Services/Specifications”.

## **5. EVALUATION OF SUBMITTALS**

### **5.1 Selection Process Generally**

Submittals received in response to this Request for Proposals will undergo a structured, multi-step evaluation process designed to ensure a fair, transparent, and comprehensive review of all qualified firms. Upon receipt, City staff will first conduct an administrative review to verify that each proposal is complete, compliant with submittal requirements, and submitted by the deadline.

All compliant proposals will then be forwarded to an Evaluation Committee composed of representatives from relevant City departments. This may include staff from the

Community Services Department, the Emeryville Senior Center, the Public Works Department, and other divisions with operational or administrative oversight of transportation services. Committee members will independently review and score proposals based on criteria outlined in this RFP, including qualifications, service approach, experience, cost effectiveness, and demonstrated understanding of the program's goals.

Following individual evaluations, the Committee will convene to discuss findings, compare assessments, and determine either a shortlist of top-ranked Proposers or a single recommended firm. Shortlisted firms may be invited to participate in interviews, provide additional information, or clarify elements of their proposals if deemed necessary by the Committee.

Based on combined evaluation results, the Committee will prepare a recommendation for consideration by the City Manager. Depending on the procurement threshold and the City's contracting policies, the City Manager may approve the final award or forward a recommended contract to the Emeryville City Council for authorization.

Throughout the process, the City strives to ensure that all evaluations are conducted impartially, consistently, and in the best interest of the community. The City retains the right to seek additional information, negotiate contract terms, or decline to award a contract if doing so is determined to better serve program needs.

## **5.2 Evaluation Criteria and Scoring**

Proposals submitted in response to this RFP will be evaluated using a structured scoring system designed to ensure fairness, transparency, and consistency across all submissions. Each complete and responsive proposal will be independently reviewed and scored by the Evaluation Committee according to the criteria listed below. Scores will reflect both the quality of the written proposal and the Proposer's demonstrated ability to meet the City's operational, safety, and customer-service expectations. The revised evaluation criteria and weights are as follows:

### **1. Understanding of Program Needs (25%)**

Evaluation of the Proposer's demonstrated understanding of the 8-To-Go Paratransit Program, its objectives, service population, operational requirements, and the role of the program within the City's Community Services framework. Higher scores will be awarded to proposals showing clear insight, contextual awareness, and strong alignment with program goals.

### **2. Technical Approach and Service Methodology (30%)**

Assessment of how the Proposer intends to deliver daily paratransit operations and optional on-call field trip services. This includes:

- Operational plans for scheduling, dispatch, and communication Driver training in ADA assistance, safety, and customer service Manifest management and reliability strategies
- Contingency planning for delays, emergencies, and service disruptions
- Proposals that demonstrate thoughtful, practical, and well-structured service methods will score highest.

### 3. Experience and Qualifications (25%)

Evaluation of the Proposer's relevant experience providing paratransit, human-service transportation, or similar mobility services. Considerations include:

- Past performance on comparable contracts
- Experience serving seniors and persons with disabilities Demonstrated reliability and safety performance
- Qualifications of proposed staff and management oversight

### 4. Cost Proposal (10%)

Review of the proposed pricing structure as submitted in the Bid Submittal Form. Evaluation will focus on clarity, completeness, cost-effectiveness, and alignment with the City's budget and service expectations. While cost is an important factor, it will be considered in balance with demonstrated capabilities. Please provide a detailed cost proposal broken down by each year for a total period of five years.

### 5. Innovation, Enhancements, and Added Value (10%)

Consideration of optional service improvements, technologies, training elements, or operational enhancements that go beyond minimum requirements. This may include communication tools, scheduling efficiencies, customer-service innovations, or additional supportive practices that improve the passenger experience.

## 6. GENERAL TERMS AND CONDITIONS

### 6.1 *Errors and Omissions*

Consultants are responsible for reviewing all portions of this Request. Consultants are to promptly notify the City, in writing, if the firm discovers any ambiguity, discrepancy, omission or other error in this request. Any such notification should be directed to the City staff contact person listed on the cover page promptly after discovery, but in no event, later than five (5) working days prior to the date for receipt of submittals.

### 6.2 *Additional Questions*

Any questions regarding this request must be submitted in writing to the City staff contact person listed on the cover page at least **TEN (10) WORKING DAYS** prior to the submittal deadline. The City may share the question(s) and its response(s) with all known consultants who are considering a response to this request.

### 6.3 *Addendum*

The City may revise this request prior to the submittal deadline. The City will communicate modifications to this request by issuing an addendum. The City may extend the submittal deadline in its sole discretion.

### 6.4 *Additional Information*

In the City's sole discretion, it may contact any, all or no consultant to seek additional



information about a submittal. Such additional information may include requesting that



the consultant meet with the selection committee, financial information, clarification on the submittal, etc.

### **6.5 No Contract**

This request and the selection process shall in no way be deemed to create a binding contract, agreement or offer of any kind between the City and submitting consultant. If the City selects a consultant(s) pursuant to this request, any legal rights and obligations between the successful firms, if any, and the City will come into existence only when a written contract is fully executed by the parties, and the legal rights and obligations of each party shall at that time be only those rights and obligations which are set forth in the contract and any other documents specifically referred to in that contract.

### **6.6 No Costs to City**

Each consultant submitting a response to this request agrees that it shall bear all costs and expenses associated with the preparation of the submittal, and the City shall not be responsible for any costs or expenses incurred by the consultant, under any circumstances.

### **6.7 Public Records**

All submittals become the property of the City, regardless of whether the City enters into a contract with the consultant, and no submittals will be returned to a consultant. In accordance with California law relating to access to public records, the City may be required to publicly disclose all submitted information and materials to third parties requesting such information. At the City's sole discretion, it may delay disclosure of submittals until negotiations with the selected consultant(s) has concluded, if such disclosure would compromise the City's negotiating position. If the submitting consultant claims that any submitted information constitutes a trade secret or is proprietary, the bidder shall identify the trade secret or proprietary information in the submittal. Pricing is not considered a trade secret or proprietary information.

### **6.8 Award**

This request does not commit the City to award a contract. The City reserves the right to accept or reject any or all submittals, to negotiate a different proposal, to split the award, to waive irregularities, and technicalities, to alter the selection process in any way, to postpone the selection process for its own convenience at any time for any reason, to waive any defects or irregularities in any submittal, to issue a new Request at any time, or to hire any consultant it deems appropriate in its sole and absolute discretion within or outside of the evaluation process.

### **6.9 Federal, State and Local Laws**

Any consultant executing a contract with the City will be required to comply with all applicable federal, state and local laws, including without limitation state Prevailing Wage Law (Cal. Labor Code, § 1720, et seq.) and the City of Emeryville's Minimum Wage, Paid Sick Leave, and Other Employment Standards (Emeryville Municipal Code

Chapter 37) and Living Wage Ordinance (Emeryville Municipal Code Chapter 31), as applicable.

#### **6.10 City Contract**

A sample of the standard City professional services contract is attached as Attachment A for reference. By submitting a response to this request, the consultant represents that it is willing and able to execute the City's standard professional services contract, including but not limited to, the applicable insurance requirements.

#### **7. ATTACHMENTS:**

- Exhibit A – Specifications / Scope of Work
- Exhibit B – Contract Insurance Requirements
- Bid Submittal Form
- Exceptions to Specifications / Requirements
- Purchase Order Terms and Conditions
- Form W-9 – Request for Taxpayer Identification Number and Certification
- City General Requirements Appendix
- Professional Services Contract



# City of Emeryville

C A L I F O R N I A

## EXHIBIT A Specifications / Scope of Work

As used in this Exhibit A, Contractor refers to **COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)**.

### EMERYVILLE SENIOR CENTER

The Contractor shall provide daily 8-To-Go paratransit operations during Senior Center operating hours to qualified participants within the designated operational area.

There is the supplementary option for on-call field trip transportation services for the City of Emeryville's Community Services Department in support of older adults, individuals with disabilities, and program participants who require group transportation for planned outings, special events, and community activities.

#### 1. SCOPE OF WORK

##### 8 TO GO PARATRANSIT PROGRAM

##### Service Description

- a) Door to door shuttle service conducted on weekdays during senior center opening hours. Transporting members to activities, appointments and other services within the approved operational area.
- b) Daily manifest provided by the City on the business day prior.
- c) Contractor shall ensure timely arrival for pick up and drop off at all scheduled locations.
- d) Transportation is conducted in city owned WAV unless otherwise agreed.

## **Reporting**

- a. Contractor shall track and report each door-to-door ride provided, including:
  - Date of service
  - Pick up and drop off times
  - Destination
  - Number of passengers transported
  - Same Day ride add-ons
  - ADA passenger accommodations
  - Trip duration
- b. Monthly summaries shall be submitted to the City with invoices.

## **Compensation**

- a. Contractor shall provide a separate rate schedule for on call field trip transportation, which may include hourly rates, mileage rates, or flat fees per trip.
- b. Overtime, extended wait times, or changes to scheduled itineraries must be pre-approved by the City.
- c. Invoicing shall occur monthly and must include trip logs supporting billed services.

## **City Responsibilities**

- i. The city will provide daily manifest one day prior for door-to-door rides
- ii. The City will ensure participants are ready to pick up at the established times.
- iii. The City will maintain a designated operating area and standards for consistent programming

## **ON CALL FIELD TRIP TRANSPORTATION SERVICES**

**OPTIONAL:** On call field trip transportation includes transporting groups to and from City approved destinations on predetermined dates.

- i. Services may occur during regular weekday operating hours, evenings, or weekends, depending on program needs.
- ii. Each trip will be scheduled in advance by the city and confirmed with the Contractor.
- iii. The Contractor shall provide a vehicle type appropriate for the group size and accessibility needs, including ADA compliant vehicles equipped with wheelchair lifts or ramps.

### **Scheduling and Coordination**

- a. The City will submit a transportation request to the Contractor at least 10 business days prior to the anticipated field trip.
- b. Each request will include the number of participants, accessibility needs, pick up and drop off times, destination address, anticipated duration, and any special instructions.
- c. Contractor shall confirm availability within 2 business days of the City's request.
- d. Last-minute or emergency trip requests may be made at the City's discretion; Contractor is encouraged, but not required, to accommodate these requests.

### **Driver Requirements**

- a. All drivers assigned to field trip transportation must meet the same qualifications as those operating the regular 8 To Go service, including required licensing, training, and background clearances.
- b. Drivers shall receive training in ADA passenger assistance, customer service, defensive driving, and emergency procedures.
- c. Drivers must assist participants during boarding and alighting as needed, ensuring safety and comfort.

### **Vehicle Standards**

- a. All vehicles must meet or exceed City standards for safety, cleanliness, accessibility, and maintenance.
- b. Vehicles must be inspected regularly and maintained in safe operating condition.

c. A sufficient number of ADA accessible vehicles must be available to meet the needs of planned trips.

d. Vehicles must have functioning heating/air conditioning, seat belts, communication equipment, and securement systems for mobility devices.

### **Safety and Compliance**

a. Contractor must comply with all applicable federal, state, and local regulations governing paratransit transportation, including ADA requirements.

b. Drivers must follow all safety protocols for loading, unloading, and securing passengers and mobility devices.

c. Contractor must maintain appropriate insurance coverage as required in Exhibit B of the Professional Services Contract.

d. Incident reports must be provided to the City within 24 hours of any safety occurrence, injury, or disruption of service.

### **Performance Requirements**

a. On time performance is expected for all field trip services.

b. Contractor shall provide replacement vehicles in the event of breakdowns or mechanical issues that would otherwise disrupt the trip.

c. Customer service issues or passenger complaints shall be reported to the City immediately and resolved promptly.

### **City Responsibilities**

- i. The City will provide clear instructions for each trip, including schedules, destinations, participant counts, and accessibility needs.
- ii. The City will ensure participants are ready for pick up at the established times.
- iii. The City will designate a staff member or trip leader to accompany participants as needed.

Interested vendors must submit **3 copies including the original** of their response to this Request for Proposals via postal mail or hand delivered no later than ~~June 22~~ **June 26, 2026, by 5:00 PM** **July 1, 2026, by 5:00pm**. Late proposals will not be considered under any circumstances. ~~Also Please note the contract can only be for one (1) year only with the option to renew.~~ Contract allows for a maximum term of 5 years, with the initial term of 1 year after which the city has the option to extend for additional years, up to the full 5 year period

**Via Postal Mail or Hand Delivered:**

City of Emeryville  
ATTN: City Clerk  
1333Park Avenue  
Emeryville, CA 94608

**E-mail:**

Vendors are requested to submit any questions regarding the RFP in writing via email by June 8, 2026, by 12:00 PM, to Hazel Barry at [hazel.barry@emeryville.org](mailto:hazel.barry@emeryville.org). Once proposals are reviewed, vendors may be contacted for a follow-up interview and/or oral presentation.

Submittals must be valid for 60 days following the submission deadline.









**EXHIBIT B**  
**Contract Insurance Requirements**

As used in this Exhibit B, Contractor refers to **COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)**.

**1. MINIMUM REQUIREMENTS**

Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work or Services required by the Contract hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage, as checked below:

**1.1 Minimum Scope of Insurance**

Coverage shall be at least as broad as the latest version of the following:

- ☐ **General Liability**  
Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- ☐ **Automobile Liability**  
Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto) or if Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the General Liability Policy.
- ☐ **Professional Liability / Errors and Omissions**  
Written on a policy form specifically designed to protect against acts, errors or omissions of the Contractor wherein "Covered Professional Services" as designated in the policy must specifically include Services performed under this Contract.
- ☐ **Workers' Compensation and Employer's Liability**  
Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.
- ☐ **Pollution Liability Insurance**  
Pollution Liability insurance for claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater. This shall

include on and off-site clean up and emergency response costs and claims arising from above ground and below ground storage tanks.

## 1.2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

### ☐ General Liability

#### ☒ All Contract Types

**\$1,000,000.00** per occurrence and **\$2,000,000.00** aggregate for bodily injury,

personal injury and property damage, including without limitation, blanket contractual liability.

**OR**

#### ☒ Construction Specific

**\$2,000,000.00** per occurrence and **\$4,000,000.00** aggregate for bodily injury,

personal injury and property damage, including without limitation, blanket contractual liability, and coverage for explosion, collapse and underground property damage hazards.

### ☐ Automobile Liability

**\$2,000,000.00** per accident for bodily injury and property damage.

### ☐ Professional Liability / Errors and Omissions

**\$2,000,000.00** per claim and aggregate.

### ☐ Workers' Compensation and Employer's Liability

Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\$1,000,000.00** each accident, policy limit bodily injury or disease, and each employee bodily injury or disease.

### ☐ Pollution Liability Insurance

**\$2,000,000.00** per occurrence and **\$2,000,000.00** aggregate.

Except for the professional liability / errors and omissions policy, defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the Parties required to be named as additional insureds pursuant to this Contract.

## 2. INSURANCE ENDORSEMENTS

The insurance policies shall contain the following provisions, if checked, or Contractor

shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions, if checked, to the insurance policies:

☐ **General Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 or CG20 37, or endorsements providing the exact same coverage, with respect to the work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it; and (4) the insurance coverage shall contain standard separation of insureds provisions.

☐ **Automobile Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

☐ **Professional Liability Coverage**

Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and Contractor agrees to maintain continuous coverage through a period no less than three years after termination of the Contract.

☐ **Workers' Compensation and Employer's Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

☐ **Pollution Liability Coverage**

(1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

**ALL COVERAGES**

Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) 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 officials, employees, agents and authorized volunteers.

**3. NO SPECIAL LIMITATIONS**

The required insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

**4. DEDUCTIBLES AND SELF-INSURANCE RETENTIONS**

Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

## **5. ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

## **6. VERIFICATION OF COVERAGE**

Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

## **7. SUBCONTRACTORS**

All subcontractors shall meet the requirements of this Section before commencing any work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

## **8. REPORTING OF CLAIMS**

Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the work performed under this Contract.



# City of Emeryville

CALIFORNIA

## ATTACHMENT B Bid Submittal Form

**TO THE CITY OF EMERYVILLE:** In compliance with the notice inviting bids, the undersigned hereby proposes to furnish all necessary tools and equipment, materials, labor, and supervision (including cost of Workers' Compensation Insurance and all payroll taxes on such labor) to provide the above, in accordance with the Special Provisions and Specifications and City of Emeryville General and Work Conditions therefore, and further agrees to enter into a Contract therefore, at the prices listed in the accompanying proposal. All costs, except sales tax, must be included in the submittal.

### NOTE:

- A. Submittal is to include the number of calendar days delivery will be made after receipt of a City of Emeryville purchase order; and
- B. This purchase requires City Council award. As such, regarding vehicles that are currently in inventory, the City must depend that the vehicle offered is available upon award. The City will notify bidders as soon as possible of the intent to award a specific bidder and the probable Council award date. If a bidder offers a vehicle as "immediately available" but "subject to prior sale" (or similar language), the bid will not be considered and will render the entire bid submittal unresponsive.
- C. **Please provide a detailed cost proposal broken down by each year for a total period of five years.**

COST INFORMATION	
Door to Door Shuttle Service	\$ 0.00
Field Transportation	\$ 0.00
<b>TOTAL COST</b>	<b>\$ 0.00</b>

**Total Cost (written amount):**

*This bid will be awarded based upon the total bid amount as written in words. Where there is a discrepancy between words and figures, **words will govern.***

SUBMITTED BY			
Company Name:			
Mailing Address:	(No P.O. Boxes)		
Phone No.:		Email:	
Your Name:		Your Title:	
Signature:		Date:	





# City of Emeryville

CALIFORNIA

## ATTACHMENT C

### Exceptions to Specifications / Requirements

☐ Please check if you have **NO EXCEPTIONS** to our requirements.

List below requests for clarifications, exceptions, and amendments, if any, to the RFB and its exhibits, and submit with your Bid response.

The City is under no obligation to accept any exceptions and such exceptions may be a basis for Bid disqualification.

Item No.	Reference To:		Description
	Page No.	Paragraph No.	

Bidder Name

Signature

Date



**ATTACHMENT D**  
**Purchase Order Terms and Conditions**

**1. ENTIRE AGREEMENT**

This Purchase Order ("Order") together with any attached drawing or specifications constitutes the entire agreement between the parties, and no other terms shall be binding on CITY unless accepted in writing by the person who signed this Purchase Order on behalf of CITY. These TERMS AND CONDITIONS shall govern this Order. In the event of any conflicts between the printed provisions of this Order and those of CONTRACTOR'S offer or acceptance, the provisions of this Order shall prevail.

**2. ACKNOWLEDGMENT OF PURCHASE ORDER**

If an Order that CITY sends to CONTRACTOR is not returned within seven (7) working days of CONTRACTOR'S receipt of it, the CITY will deem the Order to have been accepted by CONTRACTOR and thereby a CONTRACT entered by both parties.

**3. CHANGES**

CITY may make changes in any terms and conditions governing this Order at any time. If any change causes a change in the price of this Order or in the time required for its performance, CONTRACTOR shall promptly submit its claim for adjustment in writing to CITY. All changes shall be by confirmed written amendment issued by CITY. Nothing in this clause excuses CONTRACTOR from proceeding immediately with this Order as changed.

**4. CANCELLATION**

Default and Excess Procurement Liability. CITY reserves the right to cancel this Order at any time prior to acceptance and for any reason, upon written notice to CONTRACTOR. If CONTRACTOR fails, after reasonable notice by CITY, to cure a deficiency in performance or lack of progress, CITY shall have such additional remedies as may be available, whether or not it terminates this Order, including, but not limited to the payment by CONTRACTOR to CITY of all expenses incurred by CITY in reprocurring from another source or similar goods or services that CONTRACTOR failed to furnish satisfactorily.

**5. INSPECTION AND ACCEPTANCE**

All items are subject to final inspection and acceptance by CITY at destination, notwithstanding the fact the CITY may have made a prior payment, CONTRACTOR is to pay transportation charge to remove rejected materials or products.

## **6. TITLE AND RISK OF LOSS**

Unless otherwise provided in the Order, CONTRACTOR shall have the title to and bear the risk of any loss or damage to the goods ordered until they are delivered in conformity with this Order at the specified F.O.B. point. Upon such delivery, title shall pass from CONTRACTOR to CITY and CONTRACTOR'S responsibility for loss or damage shall cease, except for loss or damage occurring prior to or upon delivery, or loss or damage resulting from CONTRACTOR'S negligence. Passing of the title upon such delivery shall not constitute acceptance of the goods and services by CITY.

## **7. DELIVERY CHARGES**

If price quoted on this Order includes an additional charge for delivery from point of origin, CONTRACTOR shall show such delivery charge on the invoice as a separate item and such charge shall not be subject to California State Sales/Use Tax. No additional charge for transportation, containers, packing, etc. will be allowed unless so specified in this Order.

## **8. ORDERING AND INVOICING**

Each Order and shipment shall be invoiced separately. Payment shall be made within thirty (30) days of CITY'S acceptance of the invoice. All invoices and packing slips/bills of lading shall reflect the CITY'S Purchase Order number.

## **9. MATERIALS REQUIREMENTS AND CONDITIONS**

CONTRACTOR warrants that all materials furnished (1) shall meet all requirements and conditions of the CITY'S Order and manufacturer's warranty, if any, (2) shall be free from defects in design, material and workmanship, and (3) shall be fit for the purpose intended. CONTRACTOR agrees that by acceptance of this warranty and acceptance of the materials or supplies provided by CONTRACTOR, CITY does not waive any warranty, either expressed or implied, in California Commercial Code Sections 2312-2317, inclusive.

## **10. ASSIGNMENT AND SUBCONTRACTING**

Neither this Order nor any interest herein nor any claim hereunder may be assigned or subcontracted by CONTRACTOR neither voluntarily or by operation of law, without the prior written consent of CITY. No such consent shall relieve CONTRACTOR of its obligations to comply fully with the requirements hereof.

## **11. INDEMNIFICATION INSURANCE**

CONTRACTOR shall indemnify, defend and hold harmless CITY, City of Emeryville as Successor to the Emeryville Redevelopment Agency and their officials, officers, employees and agents against all suits, claims or losses that may be based on any injury or damage to, or death of any persons or any damage to property that may occur, or that may be alleged to have occurred, arising from the performance of this Order by

CONTRACTOR, whether or not it shall be claimed that the injury was caused through a negligent act or omission of CONTRACTOR or its employees or other agents. This indemnification includes any claim that the materials or equipment provided under this Order, or any part thereof, or any tool, article or process used in the manufacture thereof constitutes an infringement of any patent issued by the United States. The indemnification in this Section survives termination or cancellation of the Order.

CONTRACTOR shall maintain public liability policies covering personal injury and property damage and products liability insurance policies with terms and limits and in companies satisfactory to CITY and shall maintain proper workers' compensation and employer's liability insurance covering all of its employees engaged in the performance of the work under this Order.

## **12. COMPLIANCE WITH LAWS**

CONTRACTOR'S acceptance of this Order certifies that goods and services sold and furnished to CITY by CONTRACTOR are produced and sold in conformity with all applicable federal, state and local laws rules, ordinances and regulations.

## **13. ENVIRONMENTAL COMPLIANCE**

CONTRACTOR shall comply with applicable environmental statutes, regulations and guidelines in performing the work under this Order, including laws on the disposal of hazardous wastes. CONTRACTOR shall bear full and exclusive responsibility for any release of hazardous or nonhazardous substances or disposal of hazardous wastes during the course of performance of this Order. CONTRACTOR shall be solely responsible for all claims and expenses associated with the disposal of hazardous wastes or with the response to or removal of any release, including without limit, payment of any fines or penalties levied against CITY by any agency as result of such release. CONTRACTOR shall hold harmless, indemnify, and defend CITY from any claims, suits actions, costs or expenses arising from such disposal or release.

## **14. INDEPENDENT CONTRACTOR**

CONTRACTOR, and any agents and employees of CONTRACTOR, in the performance of this Order, shall act in an independent capacity and not as officers, employees or agents of CITY.

## **15. TIME IS OF THE ESSENCE BINDING ON SUCCESSORS**

Time is of the essence of each and all provisions of this Order. The provisions of this Order shall be binding upon and incur to the benefit of the heirs, executors, administrators, successors, and assigns of the parties hereto.

## **16. NO WAIVER**

Failure of CITY to insist upon strict performance of any of the terms and conditions hereof, or failure or delay to exercise any rights or remedies or to properly notify CONTRACTOR in the event of breach, or the acceptance of or payment for any goods hereunder, shall not release CONTRACTOR of any of the warranties or obligations of this Order and shall not be deemed a waiver of any right of CITY to insist upon strict performance hereof.

## **17. GENERAL**

The definition of terms used, interpretation of this Order and the rights of all parties hereunder shall be construed under and governed by the laws of the State of California, including but not limited to the California Commercial Code. Any legal actions taken pursuant to this Order shall be venues in the Superior Court of the County of Alameda, State of California or in the United States District Court, Northern District of California. CITY means the City of Emeryville. CONTRACTOR means the person, firm, or corporation to which this Order is addressed.

An individual or entity (Form W-9 requester) who is required to file an

information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*



By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

**a. Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

**b. Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

**c. Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

**d. Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

**e. Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

## Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

## Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.**

You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.



The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.



**ATTACHMENT F**

**City General Requirements Appendix**

\_\_\_\_\_ (“Contractor”) agrees to comply with the requirements set forth below.

**1. GRANT REQUIREMENTS**

Funds received pursuant to a grant from Alameda County Transportation Commission (“Grant”) will be used to make payments required by the Agreement. By executing the Agreement, Contractor acknowledges that it has received a copy of the Grant, and will comply with its terms and conditions, as applicable.

**2. INDEMNITY**

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City and City’s members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or Contractor’s subcontractors as well as any claim by any employee, agent, contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of City, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys’ fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend City, its members, officers, agents, employees and volunteers shall survive termination of the Agreement.

Contractor shall also agree to indemnify, defend and hold harmless City, and its members, officers, employees, agents and volunteers for any costs, including attorney’s fees, expenses, damages, or liability that City may incur as a result of any proceedings chagrining infringement of any patent, copyright, or trademark by use of the produce and services furnished by Contractor.

**3. BUSINESS LICENSE REQUIREMENTS**

Contractor shall obtain a business license from the City of Emeryville.

#### **4. CITY LABOR STANDARDS**

If the Agreement provides for compensation to Contractor of \$25,000 or more within a single fiscal year, then Contractor shall comply with the requirements of the Living Wage Ordinance set forth in Chapter 31 of Title 5 of the Emeryville Municipal Code, unless (i) Contractor is a governmental entity, (ii) this Agreement is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Agreement is subject to federal or state laws or regulations that would preclude the application of the City's laws. Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Agreement for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Agreement, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to Section 5-31.08 of the Emeryville Municipal Code.

Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City. Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, City may terminate the Agreement and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance. Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Agreement. "Living Wage" means no less than \$16.97 per hour (which is subject to increase annually on July 1st to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees. In the event that compliance with the Living Wage Ordinance is not required, the Contractor may still be required to comply with the City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance as set forth in Chapter 37 of Title 5 of the Emeryville Municipal Code, to the extent it is applicable.

#### **5. CALIFORNIA LABOR REQUIREMENTS**

##### **5.1 *Prevailing Wage Requirements***

Contractor is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is

\$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

## **5.2 Registration**

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

## **5.3 Labor Compliance Oversight**

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

## **5.4 Workers’ Compensation**

Pursuant to the requirements of section 1860 of the California Labor Code, Contractor will be required to secure the payment of workers’ compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

“I am aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake



self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

## **6. INSURANCE REQUIREMENTS**

Contractor agrees to comply with the insurance requirements as set forth in Exhibit B.



# City of Emeryville

CALIFORNIA

## PROFESSIONAL SERVICES CONTRACT

**THIS PROFESSIONAL SERVICES CONTRACT** ("Contract") is effective as of \_\_\_\_\_ (the "Effective Date"), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

### WITNESSETH THAT

**WHEREAS**, the City desires to engage Contractor for *Project Name and Brief Description*; and

**WHEREAS**, the City finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Contract; and

**WHEREAS**, the City has determined that the Contractor is qualified by training and experience to render such services; and

**WHEREAS**, the Contractor desires to provide such services; and,

**WHEREAS**, the public interest will be served by this Contract; and

**NOW, THEREFORE**, the Parties hereto do mutually agree as follows:

#### 1. SCOPE OF SERVICES AND TERMINATION DATE

##### 1.1 *Project Description*

A complete project description is set forth in the Scope of Work, attached hereto as **Exhibit A** and incorporated herein by this reference.

##### 1.2 *Services*

The services to be completed under this Contract ("Services") are described in the Scope of Work set forth in **Exhibit A**. The Services shall be performed in accordance with terms, conditions, and specifications set forth herein. To the extent there is a conflict between the Scope of Work, and the terms, conditions, and specifications set forth herein, the terms, conditions, and specifications set forth herein shall govern.

#### FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

### **1.3 Schedule and Completion Date**

The Services to be provided by Contractor under this Contract shall commence on the Effective Date and terminate on **END DATE**. The Parties may, by mutual, written consent, extend the term of this Contract.

## **2. WORK CHANGES**

### **2.1 City Rights to Change**

The City reserves the right to order changes in the Services to be performed under this Contract by altering, adding to or deducting from the Scope of Work. All such changes shall be incorporated in amendments executed by the Contractor and the City. Such amendments shall specify the changes ordered and any necessary adjustment of compensation and completion time.

### **2.2 Additional Work Changes**

Any work added to the Scope of Work by an amendment shall be executed under all the applicable conditions of this Contract. No claim for additional compensation or extension of time shall be recognized unless contained in an amendment duly executed on behalf of the City and the Contractor.

### **2.3 City Manager Execution**

The City Manager has authority to execute without further action of the Emeryville City Council, any number of amendments so long as their total effect does not materially alter the terms of this Contract or increase the total amount to be paid under this Contract, as set forth in Section 3.2 below.

## **3. COMPENSATION AND METHOD OF PAYMENT**

### **3.1 Compensation for Services Performed**

City agrees to pay the Contractor for the Services performed and costs incurred by Contractor upon certification by the City that the Services were actually performed and costs actually incurred in accordance with the Contract. Compensation for Services performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Services performed and costs incurred. The City shall pay the Contractor within forty-five (45) days after approval of the invoice by City staff.

### **3.2 Total Compensation Amount**

The total amount paid under this Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **FORTY-FIVE THOUSAND DOLLARS AND NO CENTS (\$45,000.00)**, except as outlined in Section 2.3 above. The compensation for Services performed shall be as set forth in **Exhibit A**. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail

charges, photocopying and microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

#### **4. COVENANTS OF CONTRACTOR**

##### **4.1 *Assignment of Contract***

The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Contract, without the prior express written consent of the City. As to any approved subcontractors, the Contractor shall be solely responsible for reimbursing them and the City shall have no obligation to them.

##### **4.2 *Responsibility of Contractor and Indemnification of City***

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City and City's members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the City, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend the City, its members, officers, agents, employees and volunteers shall survive termination of this Contract.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

### **4.3 Independent Contractor**

The Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Services as an independent contractor and not as the agent or employee of the City. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Services; hiring of contractors, agents or employees to complete the Services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

### **4.4 Insurance**

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

### **4.5 Records, Reports and Audits**

#### **4.5.1 Records**

- A. Records shall be established and maintained by the Contractor in accordance with requirements prescribed by the City with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.
- B. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

#### **4.5.2 Reports and Information**

Upon request, the Contractor shall furnish to the City any and all statements, records, reports, data and information related to matters covered by this Contract in the form requested by the City.

#### 4.5.3 Audits and Inspections

At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City for examination all records with respect to all matters covered by this Contract. The Contractor will permit the City to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Contract.

#### **4.6 Conflicts of Interest**

The Contractor covenants and declares that, other than this Contract, it has no holdings or interests within the City of Emeryville, nor business holdings, contracts or agreements with any official, employee or other representative of the City. For the duration of this Contract, in the event the Contractor or its principals, agents or employees acquire such a holding, interest, contract, or agreement within the City of Emeryville or with any official, employee or representative of the City in the future, the Contractor will immediately notify the City of such holding, interest, contract, or agreement in writing.

#### **4.7 Confidentiality**

The Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. The Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether deemed confidential or not.

#### **4.8 Discrimination Prohibited**

The Contractor covenants and agrees that in performing the Services required under this Contract, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

#### **4.9 Licenses, Certifications and Permits**

The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Services contracted for under this Contract. All work performed by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

#### **4.10 Key Personnel**

*The Project Manager is / Key Personnel are* necessary for the successful prosecution of the Services due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the project team

without the City's approval. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Contractor's obligations under this Contract and shall be grounds for termination.

#### **4.11 Authority to Contract**

The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Contract, if applicable.

#### **4.12 Ownership of Work**

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the Services to be performed by the Contractor ("Materials") shall be and are the property of the City and the City shall be entitled to full access and copies of all such Materials. Any such Materials remaining in the hands of the Contractor or subcontractor upon completion or termination of the work shall be delivered immediately to the City. The Contractor assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged or destroyed before final delivery to the City, the Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

#### **4.13 City Labor Requirements**

##### **4.13.1 Compliance**

At the Effective Date, compliance with the City's living wage ordinance is ☐ **required** / ☐ **not required** for this Contract. If this Contract provides for compensation to Contractor of \$25,000 or more within a single fiscal year for providing Services to the City, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.

##### **4.13.2 Applicability**

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to

[Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.

#### 4.13.3 Non-Compliance

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Contract and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.

#### 4.13.4 Living Wage

Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$50.00 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.

#### 4.13.5 Minimum Wage and Paid Sick Leave

In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

### **4.14 *California Labor Requirements***

#### 4.14.1 Prevailing Wage Requirements

Contractor is aware of the requirements of [California Labor Code](#) Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775),



employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

#### 4.14.2 Registration

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

#### 4.14.3 Labor Compliance Oversight

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

#### 4.14.4 Workers’ Compensation

Pursuant to the requirements of section 1860 of the [California Labor Code](#), Contractor will be required to secure the payment of workers’ compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

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

#### 4.14.5 Event of Default

Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

### 5. **TERMINATION**

- A. The City shall have the right to terminate this Contract for any reason whatsoever by providing written notice thereof at least five (5) calendar days in advance of the termination date.
- B. All termination notice periods triggered pursuant to written notice shall begin to run from the date of the United States Postal Service postmark.
- C. Upon termination, City shall provide for payment to the Contractor for Services rendered and expenses incurred prior to the termination date.
- D. Upon receipt of a termination notice the Contractor shall: (1) promptly discontinue all Services affected, unless the notice directs otherwise; and (2) promptly deliver to the City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Contractor in performing this Contract, whether completed or in process, in the form specified by the City.
- E. Notwithstanding anything to the contrary, this Contract is subject to immediate termination in the event the City Council does not appropriate sufficient funds for this Contract.
- F. The rights and remedies of the City and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Contract or at law or in equity.

### 6. **NO PERSONAL LIABILITY**

No member, official or employee of the City shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

### 7. **ENTIRE AGREEMENT**

This Contract constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Contract not contained in this Contract shall be valid or binding. This Contract may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

## 8. SUCCESSORS AND ASSIGNS

Subject to the provisions of this Contract regarding assignment, this Contract shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

## 9. APPLICABLE LAW AND ATTORNEY'S FEES; VENUE

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

## 10. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

## 11. BUSINESS TAX CERTIFICATE

Prior to commencement of the Services to be provided hereunder, Contractor shall apply to the City of Emeryville Finance Department for a business tax certificate, pay the applicable business tax and maintain said business tax certificate during the term of this Contract, as provided in Article 1 of Chapter 1 of Title 3 of the Emeryville Municipal Code.

## 12. NOTICES

### 12.1 Communications Relating to Daily Activities

All communications relating to the day-to-day activities of the work and invoices shall be exchanged between *Project Manager* for the City and *Point of Contact* for the Contractor:

#### CITY

*Project Manager, Title*  
Phone No: 510-596-4300  
E-Mail : *email@emeryville.org*

#### CONTRACTOR

*Point of Contact, Title*  
Phone No: 510-000-0000  
E-Mail : *email@contractor.com*

## 12.2 Official Notices

All other notices, writings or correspondence as required by this Contract shall be directed to the City and the Contractor, respectively, as follows:

CITY	CONTRACTOR
Department Head, Title	CEO / President, Title
Street Address	Street Address
Emeryville, California 94608	City, State, Zip Code
Phone No: 510-596-4300	Phone No: 510-000-0000
E-Mail : email@emeryville.org	E-Mail : email@contractor.com
with a copy to:	
Project Manager, Title	
Street Address	
Emeryville, California 94608	
Phone No: 510-596-4300	
E-Mail : email@emeryville.org	

## 13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

## 14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

## 15. NON-EXCLUSIVITY

City reserves right to employ other contractors in connection with the Services covered under this Contract.

## 16. ASSIGNMENT OR TRANSFER

Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Contract or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

## 17. WAIVER

The City's failure to enforce any provision of this Contract or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

## 18. OTHER REQUIREMENTS

Compliance with terms and conditions set forth in **Exhibit C** is ☐ **required** / ☐ **not required** for this Contract. Contractor shall also fully and adequately comply with the provisions included in **Exhibit C** ("Other Requirements") when attached hereto and incorporated herein by reference ("Other Requirements"). With respect to any conflict between such Other Requirements and the terms of this Contract and/or the provisions of state law, **Exhibit C** shall control.

*SIGNATURES ON FOLLOWING PAGE*

**19. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT**

**IN WITNESS WHEREOF** the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

\_\_\_\_\_  
City Attorney

Dated:

**CITY OF EMERYVILLE**

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
LaTanya Bellow, City Manager

Dated:

\_\_\_\_\_  
COMPANY / CONTRACTOR NAME (INC, LLP, LLC...)

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Type Name of Signatory, Title

\_\_\_\_\_  
(Signature)