



## **REQUEST FOR PROPOSAL (RFP)**

**for**

## **COMPREHENSIVE GENERAL PLAN UPDATE, ZONING CODE & MAP(S) UPDATE, AND CEQA DOCUMENT PREPARATION**

**Issued by  
Guido Persicone, AICP  
Community Development Director**

**City of Marina  
Community Development Dept.  
211 Hillcrest Avenue  
Marina, CA 93933**

**ISSUED: June 24, 2022  
DUE DATE: August 17, 2022, at 3:00 p.m.**

**Questions should be directed to:  
Guido Persicone, AICP - Community Development Director  
831/884-1289 or [gpersicone@cityofmarina.org](mailto:gpersicone@cityofmarina.org)**

## NOTICE OF REQUEST FOR PROPOSAL

### PREPARATION OF THE CITY OF MARINA COMPREHENSIVE GENERAL PLAN UPDATE AND ACCOMPANYING ZONING ORDINANCE UPDATE, MAPS, AND CEQA REVIEW

The City of Marina invites proposals from qualified firms to provide services to prepare a comprehensive update to the City's General Plan, accompanying zoning ordinance and maps, and related environmental review in conformance with the California Environmental Quality Act (CEQA) necessary for approval of the General Plan.

The Proposer's team for this project should be multi-disciplinary and shall include expertise in all appropriate areas of General Plan and zoning ordinance development as outlined in the State of California [2017 General Plan Guidelines](#).

The services to be performed by the successful respondent are described in the Request for Proposal in the Project Scope of Work Section. Copies of the Request for Proposal will be available at the City's website: <https://cityofmarina.org/Bids.aspx?CatID=30>

Qualified firms that would like to be considered will need to submit a response to this Request for Proposals (RFP) no later than **Monday, August 17, 2022, at 3:00 p.m.** Responses must be sent electronically per the requirements outlined in the Submittal Requirements section.

For further information and questions concerning this RFP, please contact Guido Persicone, AICP, Community Development Director at [gpersicone@cityofmarina.org](mailto:gpersicone@cityofmarina.org). All requests for information and responses to questions will be posted on the City's website: <https://cityofmarina.org/Bids.aspx?CatID=30>. Please check the City's website for the latest information and queries concerning this RFP.

The City intends to follow, but will not be bound by, the following timeline:

- Distribution of the RFP June 24, 2022
- Pre-Bid Informational Meeting for Interested Consultants July 21, 2022, 2:00 - 3:00 pm
- Deadline to Submit Proposals August 17, 2022, 3:00 pm
- Review of Submittals August 17-26, 2022
- Scheduled Interviews September 12-16, 2022
- Contract Review by City Council for Award October 18, 2022, or a scheduled meeting in November 2022

All responses shall be reviewed and evaluated by the City in order to determine which proposer best meets the City's needs for service. The criteria by which the City shall evaluate proposals are set forth in the Request for Proposal.

The City reserves the right to reject any and all proposals or waive any irregularities in any proposal or the proposal process.

## **BACKGROUND**

The City of Marina was incorporated in 1975 and is a Home-Rule Charter City. The City is approximately 9 square miles in size and is located in Monterey County, along the eastern shores of Monterey Bay. The City is bisected by and connected to the region by U.S. Highway 1 and located in close proximity to State Highways 156 to the north and 68 to the south. With four miles of shoreline along the Monterey Bay, a portion of the City is in the Coastal zone and is regulated by its 1982 Local Coastal Program (LCP), as amended. The proposed General Plan Update will cover those areas outside the Coastal zone. The City has considerable areas zoned Open Space (“O”) with sensitive habitat resources throughout. Agricultural lands and regional water, wastewater, and sanitary landfill operations border the City to the north, the CSU Monterey Bay (CSUMB) campus and the City of Seaside bound the City to the south, and the former Fort Ord Military Complex to the east. The Marina Municipal Airport, a general use airport, is located in the northeast corner of the City and includes areas planned and zoned for research and development and industrial uses under the Marina Municipal Airport Business and Industrial Park/UC MBEST Center Specific Plan (Airport Specific Plan).

According to the latest State Department of Finance population estimate, the City has a population of approximately 22,359 (2020 Census). Marina is a family-oriented community where, according to the 2020 Census, 21.7% of households had children under the age of 18 living at home. The City has four schools that are part of the Monterey Peninsula Unified School District. According to the 2020 Census estimates, the racial makeup of Marina is roughly 52% White, 6.9% African American, 0.2% Native American, 14.6% Asian, 1.6% Pacific Islander, 28.2% Hispanic or Latino and the remaining an unknown mix.<sup>1</sup>

The residential and commercial core of the City is focused on the Del Monte Avenue and Reservation Road corridors. These areas were developed prior to the development of the U.S. Highway 1 freeway at the time when Del Monte Avenue was the main north-south highway. Reservation Road is the primary connector between the coast and the Salinas Valley. Commercial and industrial development was oriented toward the military uses associated with the Fort Ord Army Base. Primary employment sectors in the area are agriculture, hospitality, and government (primarily at CSUMB, the State Parks, and local services). There is also a significant percentage of the population that traditionally commutes to Salinas, the Monterey Peninsula, or even the Bay Area for employment.

### **General Plan**

The City of Marina is considered a full-service city and provides a wide range of services including police, fire, planning, building and safety, maintenance of roads, engineering, water and sewer, code enforcement, recreation, and parks. The last comprehensive revision of the City’s General Plan was adopted in 2000 with amendments through 2010. The most recent Housing Element was adopted in 2015.

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<sup>1</sup> 2020 Census estimates website: <https://www.census.gov/quickfacts/marinacitycalifornia>

The [Marina General Plan](#) currently contains the following Elements that are organized in an unconventional manner: Land Use, Housing (revised in 2015), Circulation, Parks & Recreation, Public Services and Facilities, Economic Development, Conservation, Open Space, and Safety. The City is seeking a comprehensive revision to the City's General Plan to incorporate the numerous changes in State statutes that have occurred since its last update in 2000.

There are current and future challenges that the City of Marina faces that will need to be included in this General Plan update. Some of the current and anticipated challenges include:

- **Economic Development:** The City will need to develop a General Plan that will serve to address the jobs to housing imbalance that exists in the area while providing its fair share of needed housing units. Growing an economic base will be critical to continued revenue generation in order to ensure long-term fiscal sustainability. The City has considerable vacant lands that were acquired through the closure of the Fort Ord Army Base that are ripe for redevelopment.
- **Previous Land Uses, Water, and Sensitive Habitats:** As mentioned above, considerable areas of the City are available for development, but are potentially constrained by contamination left from the previous military uses, water limitations stemming from the Salinas Valley Groundwater Basin, and areas that are home to several State and federally listed sensitive plant species. A comprehensive assessment that provides for sustainable growth in strategic locations while addressing revenue enhancement and fiscal stability is required.
- **Housing:** The City is kicking-off its 6<sup>th</sup> Cycle Housing Element Update separately from this GPU effort, but updates to the Land Use and Safety Elements will need to accommodate increases in density resulting from the Housing Element update.

## **SCOPE OF WORK**

The City is seeking a qualified firm ("Consultant") that has extensive experience in preparing General Plans, a proven ability to assess a City's current conditions, and knowledge of current State and federal regulations as it applies to the completion of General Plan updates and CEQA compliance. It is anticipated that this update will result in changes to the City's Land Use Map, Zoning Map and Municipal Code. In addition, the Consultant must be familiar with innovative public participation techniques to maximize public input within the decision-making process. The Consultant should be knowledgeable and competent in the environmental analysis and CEQA compliance documents.

## **Preparation of the General Plan**

The comprehensive General Plan update must include a robust public engagement program that engages all sectors of the City's population in this planning effort; a program that identifies the community values and translates those values into a community vision out to the year 2045. The General Plan update must also identify how the community's vision and values will be implemented through the General Plan update document. A General Plan Advisory Committee (GPAC) is expected to be formed and utilized as the common thread throughout the update process.

The General Plan update must address what land use opportunities should be explored based on requests received from property owners, compatibility, and strategic locations that will promote revenue development and enhancement. The GPU will consider creating a Sphere of Influence (SOI) in compliance

with the policies of the Monterey County Local Agency Formation Commission (LAFCo) for the eventual annexation of the East Campus and East Garrison developments as well as a review of the City's existing Planning Area and Urban Growth Boundaries. The update should also address how current and future technological breakthroughs, such as telecommuting, video conferencing, driverless cars, same-day retail delivery, etc. might affect the livability of the Marina community and how infrastructure, parking lots, and community access might be affected. Due to the nature of the former Fort Ord community's ownership configuration, there are limitations in circulation and connectivity. In addition, the update will need to address all State directives including legislation adopted pertaining to General Plans since 2000, including but not limited to Climate Change and Environmental Justice.

All Elements will require a comprehensive update vs. reformatting, not only for creating a General Plan that reads as one document and is in clearer conformance with OPR Guidelines, but also a General Plan completed within budget. For these reasons, it is anticipated that the Comprehensive General Plan will not follow the form of the 2000 General Plan. The General Plan update will include all newly established Elements since the last update in addition to the following elements: Environmental Justice, Air Quality, Equitable and Resilient Communities, Hazard Mitigation, Water, Wastewater and Watershed Planning, Healthy Communities, Climate Change, Public Art, Capital Improvements, Energy, Historic District Preservation, California Main Street Program, Multi-Modal (i.e. Active) Transportation, Public Parks, Buildings and Facilities, Community Character and a Community and Economic Development Element. The City is open to suggestions for other Elements that the Consultant believes would be of value in producing a General Plan that reflects the needs of the community.

The Comprehensive General Plan update should result in a graphic and illustrative document, written in a manner that allows for flexibility rather than rigid policies. The Consultant is strongly encouraged to recommend an approach or vision for this project that will result in an innovative, user-friendly General Plan document.

### **Environmental Analysis**

The Consultant shall be responsible for all CEQA work on the General Plan Update. Any resulting mitigation measures shall be accompanied by a mitigation monitoring program prepared by the Consultant. The Consultant shall prepare a comprehensive Environmental Impact Report (EIR) for the work contemplated in the RFP in accordance with the latest procedural and substantive requirements of the California Environmental Quality Act. The EIR shall encompass the geographic area to include current City limits, and the proposed General Plan boundary and proposed Sphere of Influence surrounding Marina. Timing for the preparation of the General Plan update and the EIR shall be overlapping so that the information collection can be used for both documents. This will ensure the preparation of both documents will be parallel and consistent.

The Consultant shall be responsible for any and all procedural steps, including (but not limited to), the preparation of public notices, AB 52 & SB 18 Consultation, Notifications, Resolutions, Ordinances, Initial Study, Notice of Preparation, Notice of Completion, Notice of Determination, Filing Notices with County Offices, Filing Notices with the State Clearinghouse, providing notices to local and state agencies as needed, Statement of Overriding Considerations (if necessary), Facts and Findings and Responses to Comments. The Consultant shall also be responsible for scheduling and conducting scoping meetings. The scoping meeting shall include either meeting individually with or soliciting comments from all responsible,

affected and trustee agencies in order to identify and discuss issues, actions, alternatives, potential and significant environmental effects and potential mitigation measures.

The Consultant will prepare technical support reports, appendices, including but not limited to traffic modeling, geotechnical, biological, air quality, noise, GHG emission reductions, and archeological reports. The City shall review and approve all documents prior to distribution by the Consultant. Policy and implementation programs shall be assessed for their impacts and mitigation measures shall be identified. The EIR shall reference pertinent analysis of the General Plan sufficient to allow for enactment of future development in the City. Cumulative and growth inducing impacts shall also be included in specific sections of the document; the EIR shall consider full “build-out” of the General Plan. A technical appendix clearly identifying all supporting documents shall be part of the EIR.

A Mitigation Measures and Monitoring Program shall be prepared pursuant to CEQA. This document shall be a separately bound document from the EIR. The Consultant shall develop recommended implementation measures appropriate for each element and also identify the appropriate party responsible for implementation, monitoring, capital costs and confirmation of implementation. Recommendations shall be developed for a mitigation monitoring system designed to ensure accomplishment of the General Plan goals.

### **General Plan Management**

The Consultant shall be responsible for the following General Plan update management:

- Preparation and maintenance of a master project schedule based on anticipated project milestone schedules, and integrate all reviews, approvals or other actions required for the reviewing bodies and any other entities.
- Assistance with and/or presentation of all documents to the approval bodies, including the General Plan Advisory Committee (GPAC), Planning Commission, the City Council, and the public through a series of meetings and hearings. The schedule for each phase of the General Plan update should also include intervals or key points when the GPAC will be convened as well as when the Planning Commission and City Council will review work products.
- Assist in the organization and scheduling of, attend, and keep minutes of all project-related meetings.
- Management and supervision of Consultant team; Consultant will review and make changes to any staff reports/ordinances/resolutions during the duration of the General Plan process.
- Delivery of all work products for public review in both paper and electronic formats.
- Provision and coordination with the City IT Department of a General Plan update dedicated website and resident social media campaign on City and other related community platforms.
- The consultant will create an interactive GIS map in which users can identify parcels and inquiry about data for each one selected for the City’s use on the City’s website.

### **Existing General Plan Audit**

The City of Marina’s General Plan was last comprehensively updated in 2000 with amendments through 2010. Since that time, the State has adopted several laws that affect content and process for general

plans. The City has adopted some targeted updates to some of the General Plan elements since they were originally adopted, so some State mandates have been fulfilled.

The consultant will be expected to review the City's current General Plan in light of applicable State legislation and prepare a memorandum identifying updates needed to bring the General Plan into conformance with current State law. The consultant will ensure that the City's General Plan follows all current laws.

The City's General Plan may need to be updated to incorporate the following laws adopted since 2000 to include but not limited to the following:

- Climate Change and Greenhouse Gas (GHG) Emissions (AB 32, 2006)
- Local Hazard Mitigation Plan Integration (GHG) Emissions (AB32, 2006)
- Flood Control (AB 162, 2007; SB 5, 2007; AB 70, 2007; AB 156, 2007)
- Sustainable Communities (SB 375, 2008; SB 575, 2009)
- Complete Streets Act (AB 1358, 2008)
- Fire Hazards (SB 1207, 2010; SB 1241, 2014)
- Disadvantaged Unincorporated Communities (SB 244, 2011; SB 1090, 2012)
- Expedited Infill Development (SB 226, 2011)
- Transportation Impacts (SB 743, 2013)
- Property and Business Improvement Districts and Infrastructure Financing Districts (SB 1462, 2014)
- Sustainable Groundwater Management Act (AB 1739, 2014)
- Tribal Cultural Resources (AB 52, 2014)
- Climate Change Adaptation (SB 379, 2015)
- 2030 GHG Emissions Target (SB 32, 2016)
- Planning for Healthy Communities Act (SB 1000, 2016)
- Hazard Mitigation Planning and Safety Element (AB 747, 2019; SB 99, 2019)
- Climate Pollution Reduction in Low-Income Homes Initiative (SB 1035, 2018)
- Active Transportation Requirements for Circulation Plans (if adopted – SB 932, 2022)

### **Work Plan**

The Consultant is to provide a detailed Project Schedule/Work Plan which includes a list of required key tasks, activities, durations and milestones to complete the General Plan update and CEQA documentation. Time frames should be stated in terms of the number of calendar days required to complete the specified tasks using the City's Notice to Proceed as the start date. The schedule should identify time periods as the total elapsed time from the start date. The schedule should track the independent timing for each of the

major work components and the different documents to be developed, reviewed, and adopted. The schedule should include the public participation process, interviews, community workshops, and public hearings. City staff will discuss the Work Plan with the selected Consultant prior to execution of a contract for the project.

The Work Plan shall identify the types of data to be prepared, which shall include, but not be limited to, base maps and an inventory/summarization of the following:

1. General land use patterns checked against internal records, circulation system, and public infrastructure conditions. There are currently separate plans underway that address several of these; the GPU shall incorporate findings and recommendations as appropriate.
2. Open space, recreation, schools, library, cultural, civic, and park facilities.
3. Housing, population, demographic and social characteristics.
4. Explore, and develop if necessary, new land-use designations to serve future growth characteristics such as, but not limited to, mixed-use projects.
5. Evaluate the Land Use Element and establish internal consistency with other mandated elements in the General Plan, Zoning Ordinance and Zoning Map.
6. Economic conditions and factors, base market analysis, economic multiplier effects on City economy.
7. Critical analysis of existing economic generators and a forecast of potential significance in the near future (10 – 20 years).
8. Local business conditions, including recent commercial and industrial development trends.
9. Prevalent community identity, public perceptions and image. Important existing stakeholders include, but are not limited to: Joby Aviation, CSUMB, the agricultural and hospitality worker community, State Parks, etc.
10. Market study community wide concerning housing, retail, hotel, restaurants, office, research and development and industrial land uses.
11. Prevailing physical constraints and opportunities.
12. Public infrastructure conditions primarily related to additional capacity to accommodate projected growth. Sustainable water use will be a critical component of this analysis.
13. Assess the need for additional public facilities, based upon projected increase in land use intensity, population and the correlated need for additional services.
14. Potential hazards. A separate amendment to the City's certified LCP is currently underway to address Climate Change and Coastal Hazards. These analyses shall be incorporated in the GPU Safety and other Elements as appropriate.
15. Demographic patterns and trends.
16. Crime statistics by neighborhood.



17. Other data deemed relevant to complete the General Plan update.

18. Any pertinent analysis and reports for information/graphs/maps needed for additional Elements included in the General Plan.

The final work plan shall identify the types of graphics to be provided in the General Plan, as well as the types of large-scale colored exhibits to be prepared for workshops and Public Hearings. Components of the Work Plan provided by the Consultant shall include:

1. Public Outreach and Education Program – The Consultant shall develop and implement a public outreach and education program to reach the largest number of residents possible and to encourage participation of residents and others who do not typically attend public meetings and become involved in City issues, or face language or other barriers.

2. Meeting attendance – The Consultant should identify a number of meetings with City staff, educational workshops with community groups, the GPAC, Planning Commission and City Council.

3. Status Reports – The Consultant should prepare monthly status reports for submittal to the Council regarding progress on preparation of the General Plan update.

4. Preparation of background technical reports – The Consultant shall identify whether technical background reports will be prepared in-house or by subcontractors.

5. Environmental Review – The Consultant shall provide completion of all EIR components necessary to ensure an adequate and legally defensible document, including, but not limited to: necessary technical studies; evaluation of environmental impacts; identification of potential mitigation measures; analysis of appropriate project alternatives; Statement of Facts And Findings; Statement of Overriding Considerations, if required; and Mitigation Monitoring Program as applicable. Consultant shall also provide CEQA legal review of the draft and final EIR to ensure a legally defensible document.

6. Preparation of Notices – The Consultant shall work with staff to prepare all notices for workshops, public hearings and legal postings. Consultant shall perform all legal noticing relating to county postings, State Clearing House and/or State and Regional Government Agency notification.

7. Adoption of the General Plan – The Consultant shall work with staff to prepare for and present the General Plan update to the Planning Commission and City Council. This includes necessary revisions between the Planning Commission and City Council public hearings.

8. Preparation of the Final General Plan – The Consultant shall make all necessary revisions to the General Plan update document as a result of public comments during the public review process.

9. Format of the Final General Plan – The Consultant shall prepare a final copy of the General Plan, and Final plan text, maps and illustrations shall be submitted in an electronic format.

## **Deliverables**

As part of the City of Marina's commitment to a paperless organization, all deliverables to be used for internal staff distribution shall be submitted electronically in both Microsoft Word and PDF in a manner to be determined between the Consultant and City. Paper copies shall only be used when required for outside agencies or for the availability of the general public as required. The electronic format should be

easily viewed on a desktop or smartphone with no compatibility issues. The City requires two separate General Plans, one (1) in English and one (1) in Spanish. The City desires an electronic version of the General Plan to be an active one for the user. The user should be able to click on items in the table of contents, maps and other important information in the General Plan and be automatically directed to the page. The City desires the consultant to utilize Adobe InDesign to format and present the General Plan. A separate PDF version of the General Plan will also be expected from the consultant.

1. Maps and graphics for all community and public hearing meetings.
2. Existing Conditions Report containing a summary of findings, data, assumptions, and a draft outline of the preliminary General Plan. The report should also contain preliminary policy and land use recommendations and implementation measures.
3. Based on the Existing Conditions Report, prepare a Strengths, Weaknesses, Opportunities, and Threats (S.W.O.T.) Analysis
4. Administrative Draft General Plan
5. Draft General Plan Update
6. Administrative Final General Plan Update
7. Final General Plan Update
8. Administrative Draft EIR
9. Draft EIR
10. Administrative Final EIR
11. Final EIR
12. Facts and Findings and Statement of Overriding Considerations (if applicable)
13. Mitigation and Monitoring Program
14. Zoning Code and Map Update
15. The Administrative Record in both hard copy and digital formats
16. GIS shapefiles (.shp) shall be provided to the City within 45 days of completion of the project. Budget shall reflect the integration of consultant's .shp with the City's system

#### **MEETING SCHEDULE AND COMMUNICATION**

The Consultant will keep the City staff fully apprised of the status for the project by providing timely meetings and other forms of communication.

- Consultant will designate a Project Manager who will be the point-of-contact for the City. This individual will attend all meetings and be responsible for the overall coordination of activities and completion of the General Plan update. Communication with City staff is essential. It is anticipated that these meetings will be comprised of the Lead Consultant, and team members if appropriate, as well as City staff. These bi-monthly meetings will be held via Zoom or other comparable virtual meeting program.

- It is also anticipated that the use of conference calls will be necessary at various times throughout the process. The number of these meetings is indeterminate and are not in lieu of the bi-monthly meetings.
- A minimum of ten (10) Planning Commission meetings and ten (10) City Council meetings should be included in the Proposed Budget. Please note that at the discretion of the City, joint meetings of the City Council and Planning Commission may be convened and shall constitute as one (1) meeting. Please list the cost for each individual Planning Commission and City Council meeting as a separate cost item and include these meetings in the Work Plan and Budget, with a distinction between live and virtual meetings as an option.
- Prepare informative PowerPoint presentations for staff to reference at meetings where the Consultant is not present.
- The consultant will provide all public meetings, workshops and presentations in both English and Spanish translation. Spanish only workshops may be necessary. Staff will not serve as a translator in any meeting that requires language translation.
- The consultant will provide all documents at public meetings, workshops and presentations in both English and Spanish translation. Staff will not translate any documents into Spanish, this will be a requirement of the consultant.

## **BUDGET PROPOSAL**

Although an important aspect of consideration, financial cost estimate will not be the sole justification for consideration. The City does expect a fair and reasonable project cost backed by itemization of how the costs per phase and task were developed. Negotiations may or may not be conducted with the firm; therefore, the proposal submitted should contain the firm's most favorable terms and conditions since selection and award may be made without discussion with any firm. All prices should reflect "not to exceed" amounts per item. The City desires the Consultant to use available data sources and technical tools provided by local, regional and state government entities in order to minimize costs associated with new data collection efforts. Consultant shall list the available data sources that are proposed to be used.

Proposals should include, at minimum, the costs for the completion of each major task in the work program. Each task should clearly identify the Consultant team member who will be primarily responsible for completing the task. Costs should be segregated into a time and materials rate schedule and a not-to-exceed maximum amount for all work. Indicate hourly rates of individuals involved, number of hours for each component, task or product, and the fee structure for additional work outside of the contract and optional items. Prices shall represent the cost of finished products and cost estimates shall identify expenditures for graphics, base maps, public meetings and hearing participation, printing, legal notices, postage, mailing, advertising, travel, and other incidental and administrative costs.

A separate price quote should be provided for Environmental Review and CEQA compliance work.

**NOTE:** At the City's discretion, City reserves the right to award separate contracts to differing consultants for the CEQA and the General Plan/Public Participation work. The Consultant's budget should take this into consideration and state if there will be an impact on the work schedule or budget should the

Consultant not be awarded a contract for both the General Plan Update and CEQA work. This statement should appear in the Consultant proposal cover letter.

## **SUBMITTAL REQUIREMENTS**

### **A. Delivery of Proposal**

It is the Respondent's responsibility to ensure that the proposal is received by the City prior to the **3:00 PM PACIFIC DAYLIGHT TIME on August 17, 2022 (Wednesday)**. **Respondents are required to submit a full electronic copy or a flash drive.** Paper submittals are not requested. Documents that exceed file sizes shall contain proper instructions to download appropriate files. Note, proposal submittals received by the City after the hour and date shall be rejected and returned unopened.

### **B. Format of Proposal**

All proposals shall be typed clearly and legibly, in conformance with the Request for Proposal and submitted in an envelope plainly marked outside or titled in electronic mail: **"CITY OF MARINA COMPREHENSIVE GENERAL PLAN UPDATE PROPOSAL"**.

### **C. Quality of Proposal**

The emphasis of the proposal should be responding to the requirements set forth in this Request for Proposals and Scope of Work.

### **D. Contents of Submission**

The respondent shall include in its submission, at a minimum, the following information presented in a clear and concise format, in order to demonstrate the respondent's related experience, competence and professional qualifications in performing the services outlined in the Scope of Work.

#### **1) Introduction (transmittal letter)**

- a. A brief statement of the Responder's understanding of the scope of work to be performed;
- b. A confirmation that, if awarded the contract, the Respondent acknowledges its complete responsibility for the entire contract, including payment of any and all charges resulting from the contract;
- c. Any other information that the Respondent feels appropriate;
- d. The signature of an individual who is authorized to provide information of this nature in the name of the Respondent submitting the Request for Proposal;
- e. A statement which discloses any past, ongoing or potential personal, financial, and/or organizational conflicts of interest which the Respondent may have as a result of performing the work on this project.
- f. A statement that the Consultant understands that the City may award separate contracts to different consultants for the General Plan update and CEQA work
- g. A statement that the Consultant has read and agrees to the Standard Agreement for Consultant Services and Insurance Requirements or, if there are areas of clarification or disagreement, the Consultant will indicate such in the cover letter. If there are no exceptions, then the proposer agrees to be bound by, and

thereby represents its ability to satisfy all terms of the Agreement, if awarded a contract. Alterations or changes to the agreement which were not in the Consultant's response will not be made after the selection of the Consultant. This includes alterations, exceptions, or changes to the insurance and indemnity provisions.

**2) Executive Summary**

- a. Briefly summarize your understanding of the City's intent and purpose for completing the General Plan update. The Executive Summary should introduce your proposal and your understanding of the City of Marina, the General Plan update, significant steps, methods and procedures to be employed by your firm to ensure quality end products that can be delivered within the required time frames and your budget.

**3) Background and Experience**

- a. A list of the most recent projects for which the Respondent has performed services of similar size, scope and complexity. The list shall include the name, contact person, address and phone number of each party for whom the service was provided, as well as a description of the service performed and the dollar amount of the contract and the date of the performance;
- b. Describe any issue, the characteristics of which would be uniquely relevant, in evaluating the experience of Respondent's firm to handle the proposed project;
- c. Provide current information on professional errors and omissions coverage carried by Respondent's firm, including amount of coverage.

**4) Personnel/Professional Qualifications**

- a. A list of the Respondent's principals, employees, agents and sub-consultants (project team) which Respondent anticipates assigning to the project and the approximate number of hours each will devote to the project.
- b. Include resumes or curriculum vitae of each such staff member designated above, including name, position, telephone number, email address, education, and years and type of experience.

**5) Specialized Knowledge**

- a. Describe their knowledge and experience in the types of projects described in the Scope of Work.

**6) Scope of Work**

- a. A concise, complete response to all aspects requested in the Scope of Work.

**7) Meeting Schedule**

- a. Proposed plan to meet the expectation outlined in the document above.

**8) Pending or Completed Litigation History**

- a. Please provide all case information regarding completed or pending litigations and or settlements to any environmental work completed by your firm or a party to. Please include all pertinent legal summaries of the complaint and subsequent outcomes.

**9) References**

- a. Provide references from at least four (4) municipal agencies for whom you have provided similar services.

**10) Budget Proposal**

- a. Meeting the requirements and information described above. The cost proposal shall be submitted concurrently but under separate cover with the technical proposal. Costs shall be shown for labor by position by firm for total costs for this project. A total cost for the entire project shall be indicated. Negotiations with the selected candidate(s) may begin immediately. Cost Proposals should be broken out by the respective Tasks described in the Scope of Work.

**11) Contingency**

- a. Include a 15-20% contingency in the proposed budget.

**E. Interpretations of the Request for Proposal**

If the Respondent is in doubt as to the meaning of any part of the RFP, or finds discrepancies in or omissions from the RFP, the Respondent shall submit to the City a written request for an interpretation or clarification a minimum of forty-eight (48) hours prior to the time RFP's are due. All such requests should be addressed to:

City of Marina  
Attn: Community Development Dept.  
211 Hillcrest  
Marina, CA 93933  
Attn: Guido Persicone, AICP, Community Development Director  
Email: [gpersicone@cityofmarina.org](mailto:gpersicone@cityofmarina.org)

The City shall not be responsible for any explanations or interpretations of the RFP other than by written addendum delivered to each Proposer. No oral interpretations of any provision in the RFP shall be binding upon the City.

**F. Review of Qualifications and Evaluation Criteria**

After the Responses are received and opened by the City, an internal selection committee shall review and evaluate all proposals for responsiveness to the RFP in order to determine whether the Respondent possesses the professional qualifications necessary for the satisfactory performance of the services required. Interviews may be held by the committee as needed. It is likely in the current COVID-19 pandemic that these meetings will be held via video conference. A Professional Consulting Services Agreement will be awarded to the most qualified Consultant. Although price is a prime consideration, it is not the sole determining factor. The City reserves the right to select the appropriate firm based on the most qualified bid that provides the best value to the City. The City also reserves the right to reject any and all responses, if deemed necessary.

The City shall also investigate qualifications of all Respondents to whom the award is contemplated, and the City may request clarification of proposals directly from one or more of the Respondents. It is anticipated this review period will last approximately one (1) to two (2) weeks. In reviewing the proposals, the City may consider the following:

1. Firm's experience and past performance and quality on similar projects, including qualifications and experience of the key project staff members as demonstrated by their past experience and performance on similar projects. **(25 points)**

2. Public participation experience in working with the public formulating goals, engagement and consensus. **(20 points)**

3. Familiarity with the City of Marina and its challenges and opportunities and a clear understanding of the project and approach articulated that will be taken to accomplish the Scope of Work and help the City to meet its goals. **(20 points)**

4. Quality of the proposal: Completeness and responsiveness to the RFP. **(15 points)**

5. Ability to begin work upon issuance of a notice to proceed. **(5 points)**

6. Demonstrated ability to complete projects within proposed timelines and costs and substantiating adequate staffing levels to complete the project within the time specified in the Proposal. **(20 points)**

7. Quality of references and the results of reference checks as determined appropriate. **(10 points)**

8. Overall Budget Proposal. Price is not the sole determining factor for selection of a Consultant. Cost estimates are to be submitted in a separate electronic document at the same time and as a companion document to the proposal. **(15 points)**

CITY will review all proposals and rank Consultants according to their response to this RFP.

The City reserves the right to negotiate terms and scope of work with the highest ranked Consultant. If an agreement cannot be negotiated, the City reserves the right to negotiate with any other Consultant.

The selected Consultant agrees to maintain a City of Marina Business License for the duration of the contract.

Selection committee results will only be available through submission of a public records request to the City Clerk's office at (831) 223-5014.

#### **ADDENDA, CHANGES, AND AMENDMENTS TO THE SOLICITATION**

At any time prior to the due date for responses, the City may make changes, amendments, and addenda to this solicitation, including changing the date due to allow respondents time to address such changes. Addenda, changes and amendments, if made, will be posted on the City's website ([www.cityofmarina.org](http://www.cityofmarina.org)), which is deemed adequate notice. Any prospective respondent may submit, via U.S. mail or by e-mail, a request to the City's project coordinator to be placed on a list of persons to receive notice of any such addenda, changes, or amendments. The preferred manner of communication is e-mail due to its timeliness.

## **GENERAL INFORMATION**

1. Exceptions/Deviations: Any exceptions to the requirements of this RFP must be included in the consultant's proposal. Such exceptions must be included as a separate element of the proposal entitled "Exceptions and Deviations".
2. Right to Reject Proposals: The City reserves the right to reject any and all responses, which do not meet the requirements of this RFP, and/or any portion of the requirements of this project. Issuance of this RFP and receipt of responses does not commit CITY to award a Contract. CITY also reserves the right to postpone award of a Contract for its own convenience, accept or reject any or all responses received in response to this RFP, and cancel any or all portions of this RFP and resulting Contract.
3. Examination of Proposal Documents: By submitting a proposal, each Consultant represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the objectives of the CITY.
4. Pre-Contractual Expenses: Pre-contractual expenses are defined as expenses incurred by the consultant in: 1) preparing and reproducing its proposal in response to this RFP; 2) submitting its proposal to CITY; 3) negotiating with CITY any matter related to this RFP and consultant's proposal; 4) other matters prior to the date of award of a Contract. CITY shall not be liable for any pre-contractual expenses incurred by consultants in the preparation of proposals. Pre-contractual expenses shall not be included in the fee proposal.
5. Ownership of Reports and Documents: Originals of all documents, letters, drawings, design calculations, estimates, specifications, and other documents and data including electronic data files produced under the terms of the Contract shall become the property of CITY. Examples of data format files include but are not limited to modifiable word documents, AutoCAD files, Excel files, Adobe files. CITY shall retain all rights in copyright. Copies may be made and retained by the consultant for its records but shall not be furnished to others without the written consent of CITY for a period of three (3) years from the date of acceptance, by CITY, of all requirements of this project. All archaeological reports and data shall be kept confidentially.
6. Consultant's Representative: The Consultant shall assign a responsible representative and an alternate, both of whom shall be identified in the proposal. Should a contract be awarded, the consultant's representative shall remain in responsible representative for the duration of the project. Should the consultant's primary representative be unable to continue with the project, the consultant's alternate representative shall become the primary representative. No other changes will be acceptable without prior written approval by CITY. CITY reserves the right to reject any changes to personnel.
7. Subcontracting: Should a contract be awarded, only those firms identified in the Contract as subcontractors or subconsultants shall be allowed to perform work for this project. Any amendments to this requirement shall be made in writing by prime consultant to CITY. CITY has the right to reject any requested amendments at any time during the course of this project.
8. Federal, State, and Local Laws: The Consultant shall comply with all federal, state, and local laws, rules, regulations, ordinances, and statutes.
9. Consultant Selection: CITY will review all proposals and rank consultants according to their response to this RFP and the CITY Evaluation Criteria as outlined in this RFP.



10. Billing Rate Schedule: A billing rate schedule shall be submitted concurrently as part of the technical proposal.

11. Compensation: Should a contract be issued to consultant, all items of work required for completion of a specified project shall be paid for on a not-to-exceed time and materials basis. Costs for any and all items not specifically listed, but required to complete the work (including all exceptions and deviations stated in consultant's proposal), shall be included as part of the total cost proposed. No additional compensation shall be paid for such items. No additional compensation shall be given for any reproduction costs, except those in excess of project requirements stated in a scope of work. Only a change in scope or any significant task addition or increase shall receive consideration for additional compensation. Should a contract be issued to consultant, and the consultant believes that any work it has been directed to perform is beyond the scope of the Contract and constitutes extra work, it shall notify CITY in writing within ten (10) days. CITY will review such notice and, if justified, authorize additional compensation to the consultant on a fair and equitable basis. Should a contract be issued to consultant, monthly progress payments will be made to the consultant only upon submittal of invoices to CITY. Said invoice shall indicate the percentage completion of each task, as well as the overall percentage completion of the entire project. In addition, an updated schedule showing tasks and their degree of completion shall be provided.

**12. Indemnification: Should a contract be awarded, the consultant shall be prepared to indemnify, defend, and hold harmless CITY, its officers, directors, employees, and agents from and against any and all claims, including attorney's fees and reasonable expenses as stated in the City's Consultant Service Agreement.**

13. Insurance Requirements: In the event that a contract is awarded, the consultant shall be required to maintain and provide current copies to CITY of the minimum insurance coverages required by the City's Consultant Services Agreement.

14. Contracts/Agreements: The successful consultant shall enter into a Contract with CITY that is based on the contents of this RFP, the consultant's proposal, and CITY Contract. Where two or more consultants desire to submit a single proposal, only one consultant shall be listed as prime consultant. All others shall be listed as subconsultants. CITY shall enter into a Contract for this project with a single firm and not with multiple firms doing business as a joint venture. Issuance of this RFP and receipt of proposals does not commit CITY to award a Contract. CITY reserves the right to postpone award of a Contract for its own convenience, accept or reject any or all proposals received in response to this RFP, negotiate with a consultant other than the highest ranked consultant should negotiations with the highest ranked consultant be terminated, and cancel any or all portions of this RFP and resulting Contract. CITY also reserves the right to award individual or groups of projects to different firms at the sole discretion of CITY.

End

**CITY OF MARINA  
AGREEMENT FOR PROFESSIONAL CONSULTANT SERVICES**

**THIS AGREEMENT** is made and entered into on \_\_\_\_\_, 20\_\_\_\_, by and between the City of Marina, a California charter city, hereinafter referred to as the "City," and \_\_\_\_\_, [a California corporation, general partnership, LLC, sole proprietorship or an individual "doing business as "] hereinafter referred to as the "Contractor." City and Contractor are sometimes individually referred to as "party" and collectively as "parties" in this Agreement.

**Recitals**

- A. City desires to retain Contractor to:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_ hereinafter referred to as the "Project."
- B. Contractor represents and warrants that it has the qualifications, experience and personnel necessary to properly perform the services as set forth herein.
- C. City desires to retain Contractor to provide such services.

**Terms and Conditions**

For of good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and in consideration of the mutual promises contained herein, City and Contractor agree to the following terms and conditions:

**1. Scope of Work.**

(a) Contractor is hereby hired and retained by the City to work in a cooperative manner with the City to fully and adequately perform those services set forth in Exhibit "A" attached hereto ("Scope of Work") and by this reference made a part hereof. With prior written notice to Contractor, City may elect to delete certain tasks of the Scope of Work at its sole discretion.

(b) Contractor shall perform all such work with skill and diligence and pursuant to generally accepted standards of practice in effect at the time of performance. Contractor shall provide corrective services without charge to the City for work which fails to meet these standards and which is reported to Contractor in writing within sixty days of discovery. Should Contractor fail or refuse to perform promptly its obligations under this Agreement, the City may render or undertake the performance thereof and the Contractor shall be liable for any expenses thereby incurred.

(c) If services under this Agreement are to be performed by a design professional, as that term is defined in California Civil Code §2782.8(b)(2), design professional certifies that all design professional services shall be provided by a person or persons duly licensed by the State of California to provide the type of services described in Section 1(a). By delivery of completed work,

design professional certifies that the work conforms to the requirements of this Agreement and all applicable federal, state and local laws, and the professional standard of care in California.

(d) Contractor is responsible for making an independent evaluation and judgment of all relevant conditions affecting performance of the work, including without limitation site conditions, existing facilities, seismic, geologic, soils, hydrologic, geographic, climatic conditions, applicable federal, state and local laws and regulations and all other contingencies or considerations.

(e) City shall cooperate with Contractor and will furnish all information data, records and reports existing and available to City to enable Contractor to carry out work outlined in Exhibit "A." Contractor shall be entitled to reasonably rely on information, data, records and reports furnished by the City, however, the City makes no warranty as to the accuracy or completeness of any such information, data, records or reports available to it and provided to Contractor which were furnished to the City by a third party. Contractor shall have a duty to bring to the City's attention any deficiency or error it may discover in any information provided to the Contractor by the City or a third party.

## **2. Term of Agreement & Commencement of Work.**

(a) Unless otherwise provided, the term of this Agreement shall begin on the date of its full execution and shall expire on \_\_\_\_\_, 20\_\_\_\_, *[Insert expiration date.]* unless extended by amendment or terminated earlier as provided herein. The date of full execution is defined as the date when all of the following events have occurred:

(i) This Agreement has been approved by the City's Council or by the board, officer or employee authorized to give such approval; and

(ii) The office of the City Attorney has indicated in writing its approval of this Agreement as to form; and

(iii) This Agreement has been signed on behalf of Contractor by the person or persons authorized to bind the Contractor hereto; and.

(iv) This Agreement has been signed on behalf of the City by the person designated to so sign by the City's Council or by the officer or employee authorized to enter into this Contract and is attested to by the Marina City Clerk.

(b) Contractor shall commence work on the Project on or by \_\_\_\_\_, 20\_\_\_\_. *[Insert date work is to commence]* This Agreement may be extended upon written agreement of both parties. Contractor may be required to prepare a written schedule for the work to be performed, which schedule shall be approved by the City and made a part of Exhibit A, and to perform the work in accordance with the approved schedule.

## **3. Compensation.**

(a) City liability for compensation to Contractor under this Agreement shall only be to the extent of the present appropriation to fund this Agreement. For services to be provided under

this Agreement City shall compensate Contractor in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_.00) *[Insert written and numerical amounts]* in accordance with the provisions of this Section and the Fee Schedule attached hereto as Exhibit B and incorporated herein by this reference.

(b) Invoice(s) in a format and on a schedule acceptable to the City shall be submitted to and be reviewed and verified by the Project Administrator (see Section 5(a)) and forwarded to the City's Finance Department for payment. City shall notify Contractor of exceptions or disputed items and their dollar value within fifteen days of receipt. Payment of the undisputed amount of the invoice will typically be made approximately thirty days after the invoice is submitted to the Finance Department.

(c) Contractor will maintain clearly identifiable, complete and accurate records with respect to all costs incurred under this Agreement on an industry recognized accounting basis. Contractor shall make available to the representative of City all such books and records related to this Agreement, and the right to examine, copy and audit the same during regular business hours upon 24-hour's notice for a period of four years from the date of final payment under this Agreement.

(d) Contractor shall not receive any compensation for Extra Work without the prior written authorization of City. As used herein, "Extra Work" means any work that is determined by the City to be necessary for the proper completion of the Project but which is not included within the Scope of Work and which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Compensation for any authorized Extra Work shall be paid in accordance with Exhibit B.

(e) Expenses not otherwise addressed in the Scope of Services or the Fee Schedule incurred by Contractor in performing services under this Agreement shall be reviewed and approved in advance by the Project Administrator (Section 5(a)), be charged at cost and reimbursed to Contractor.

(f) There shall be no charge for transportation within Monterey, Santa Cruz and San Benito Counties required for the performance of the services under this Agreement; travel to other locations must be approved in writing and in advance by the City, mileage will be charged at the then current standard rate for business travel as set by the U.S. Internal Revenue Service for such approved travel.

#### **4. Termination or Suspension.**

(a) This Agreement may be terminated in whole or in part in writing by either party in the event of a substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party, provided that no termination may be effected unless the other party is given (1) not less than ten days written notice of intent to terminate, and (2) provided an opportunity for consultation with the terminating party prior to termination.

(b) If termination for default is effected by the City, an equitable adjustment in the price provided for in this Agreement shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due the Contractor at the

time of termination may be adjusted to cover any additional costs to the City because of the Contractor's default. If after the termination for failure of Contractor to fulfill its contractual obligations, it is determined that the Contractor had not failed to fulfill contractual obligations, the termination shall be deemed to have been for the convenience of the City.

(c) The City may terminate or suspend this Agreement at any time for its convenience upon not less than thirty days prior written notice to Contractor. Not later than the effective date of such termination or suspension, Contractor shall discontinue all affected work and deliver all work product and other documents, whether completed or in progress, to the City.

(d) If termination for default is effected by the Contractor or if termination for convenience is effected by the City, the equitable adjustment shall include a reasonable profit for services or other work performed. The equitable adjustment for termination shall provide for payment to the Contractor for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs reasonably incurred by Contractor relating to written commitments that were executed prior to the termination.

**5. Project Administrator, Project Manager & Key Personnel.**

(a) City designates as its Project Administrator \_\_\_\_\_ *[Insert name of person who will represent the City]* who shall have the authority to act for the City under this Agreement. The Project Administrator or his/her authorized representative shall represent the City in all matters pertaining to the work to be performed pursuant to this Agreement.

(b) Contractor designates \_\_\_\_\_ *[Insert name of person who will represent the Contractor]* as its Project Manager who shall coordinate all phases of the Project. The Project manager shall be available to City at all reasonable times during the Agreement term.

(c) Contractor warrants that it will continuously furnish the necessary personnel to complete the Project on a timely basis as contemplated by this Agreement. Contractor, at the sole discretion of City, shall remove from the Project any of its personnel assigned to the performance of services upon written request of City. Contractor has represented to City that certain key personnel will perform and coordinate the work under this Agreement. Should one or more of such personnel become unavailable, Contractor may substitute other personnel of at least equal competence upon written approval of the City. In the event that City and Contractor cannot agree as to the substitution of key personnel, City shall be entitled to terminate this Agreement for cause. The key personnel for performance of this Agreement are as follows:

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**6. Delegation of Work.**

(a) If Contractor utilizes any subcontractors, consultants, persons, employees or firms having applicable expertise to assist Contractor in performing the services under this Agreement, Contractor shall obtain City's prior written approval to such employment. Contractor's contract with any subcontractor shall contain a provision making the subcontract subject to all provisions of this Agreement. Contractor will be fully responsible and liable for the administration, completion, presentation, and quality of all work performed. If such persons are utilized, they shall be charged at cost. City reserves its right to employ other contractors in connection with

this Project.

(b) If the work hereunder is performed by a design professional, design professional shall be directly involved with performing the work or shall work through his, her or its employees. The design professional's responsibilities under this Agreement shall not be delegated. The design professional shall be responsible to the City for acts, errors or omissions of his, her or its subcontractors. Negligence of subcontractors or agents retained by the design professional is conclusively deemed to be the negligence of the design professional if not adequately corrected by the design professional. Use of the term subcontractor in any other provision of this Agreement shall not be construed to imply authorization for a design professional to use subcontractors for performance of any professional service under this Agreement.

(c) The City is an intended beneficiary of any work performed by a subcontractor for purposes of establishing a duty of care between the subcontractor and the City.

**7. Skill of Employees.** Contractor shall ensure that any employees or agents providing services under this Agreement possess the requisite skill, training and experience to properly perform such services.

**8. Confidential and Proprietary Information.** In the course of performing services under this Agreement Contractor may obtain, receive, and review confidential or proprietary documents, information or materials that are and shall remain the exclusive property of the City. Should Contractor undertake the work on behalf of other agencies, entities, firms or persons relating to the matters described in the Scope of Work, it is expressly agreed by Contractor that any such confidential or proprietary information or materials shall not be provided or disclosed in any manner to any of Contractor's other clients, or to any other third party, without the City's prior express written consent.

**9. Ownership of Data.** Unless otherwise provided for herein, all documents, material, data, drawings, plans, specifications, computer data files, basis for design calculations, engineering notes, and reports originated and prepared by Contractor, or any subcontractor of any tier, under this Agreement shall be and remain the property of the City for its use in any manner it deems appropriate. Contractor agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City. Contractor shall provide two (2) sets of reproducible of the above-cited items, except for the computer data files which shall consist of one (1) set. Contractor shall use all reasonable efforts to ensure that any electronic files provided to the City will be compatible with the City's computer hardware and software. Contractor makes no representation as to long-term compatibility, usability or readability of the format resulting from the use of software application packages, operating systems or computer hardware differing from those in use by the City at the commencement of this Agreement. Contractor shall be permitted to maintain copies of all such data for its files. City acknowledges that its use of the work product is limited to the purposes contemplated by the Scope of Work and, should City use these products or data in connection with additions to the work required under this Agreement or for new work without consultation with and without additional compensation to Contractor, Contractor makes no representation as to the suitability of the work product for use in or application to circumstances not contemplated by the Scope of Work and shall have no liability or responsibility whatsoever in connection with such use which shall be at the City's sole risk. Any

and all liability arising out of changes made by the City to Contractor's deliverables is waived against Contractor unless City has given Contractor prior written notice of the changes and has received Contractor's written consent to such changes.

**10. Conflict of Interest.**

(a) Contractor covenants that neither it, nor any officer or principal of its firm has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of the City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of the City in the performance of this Agreement. Contractor shall represent the interest of the City in any discussion or negotiation with \_\_\_\_\_, and as such, may not accept compensation, commission or payment of any type from any such party \_\_\_\_\_ or such party's agent.

(b) City understands and acknowledges that Contractor may be, as of the date of commencement of services under this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Contractor is unaware of any stated position of the City relative to such projects. Any future position of the City on such projects may result in a conflict of interest for purposes of this section.

(c) No official or employee of the City who is authorized in such capacity on behalf of the City to negotiate, make, accept, or approve, or take part in negotiating, making accepting or approving this contract, shall become directly or indirectly interested in this contract or in any part thereof. No officer or employee of the City who is authorized in such capacity and on behalf of the City to exercise any executive, supervisory, or similar function in connection with the performance of this contract shall become directly or indirectly interested personally in this contract or any part thereof.

**11. Disclosure.** Contractor may be subject to the appropriate disclosure requirements of the California Fair Political Practices Act, as determined by the City Manager.

**12. Non-Discrimination.**

(a) During the performance of this Agreement the Contractor shall comply with the applicable nondiscrimination and affirmative action provisions of the laws of the United States of America, the State of California and the City. In performing this Agreement, Contractor shall not discriminate, harass, or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (including cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. Contractor shall give written notice of its obligations under this clause to labor organizations with which it has a collective bargaining or other agreement.

(b) Contractor shall include the nondiscrimination and compliance provisions of this

Section in all subcontracts.

**13. Indemnification.**

(a) Other than in the performance of professional services by a design professional, which shall be solely as addressed by subsection (b) below, and to the full extent permitted by law, Contractor shall (1) immediately defend (with independent counsel reasonably acceptable to the City) and (2) indemnify the City, its Council, boards, commissions, employees, officials and agents ("Indemnified Parties" or in the singular "Indemnified Party") from and against all liabilities regardless of nature or type arising out of or resulting from Contractor's performance of services under this contract, or any negligent or wrongful act or omission of the Contractor or Contractor's officers, employees, agents or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines and judgments, associated investigation and administrative expenses; defense costs including but not limited to reasonable attorney's fees; court costs; expert witness fees; and costs of alternate dispute resolution ("Liabilities"). The Contractor's obligation to indemnify applies unless it is adjudicated that its liability was caused by the sole active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an Indemnified Party, the Contractor's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(b) To the fullest extent permitted by law (including without limitation California Civil Code Sections 2782.8), when the services to be provided under this Agreement by Contractor are design professional services to be performed by a design professional, as that term is defined under said section 2782.8, the design professional shall (1) immediately defend (with independent counsel reasonably acceptable to the City) and (2) indemnify the City and any Indemnified Party for all Liabilities regardless of nature or type that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of design professional, or the acts or omissions of an officer, employee, agent or subcontractor of the design professional. The design professional's obligation to indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an Indemnified Party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an Indemnified Party, then design professional's indemnification obligation shall be reduced in proportion to the established comparative liability of the Indemnified Party.

(c) All obligations under this section are to be paid by Contractor as incurred by City. The provisions of this Section are not limited by the provisions of sections relating to insurance including provisions of any worker's compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its employees and officials. An allegation or determination of comparative active negligence or willful misconduct by an Indemnified Party does not relieve the Contractor from its separate and distinct obligation to defend the City. Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor, sub tier contractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance or subject matter of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these



requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder.

(d) If any action or proceeding is brought against any Indemnified Party by reason of any of the matters against which the Contractor has agreed to defend the Indemnified Party, as provided above, Contractor, upon notice from the City, shall immediately defend any Indemnified Party at Contractor's expense by counsel reasonably acceptable to the City. An Indemnified Party need not have first paid for any of the matters to which it is entitled to indemnification in order to be so defended.

(e) The review, acceptance or approval of the Contractor's work or work product by any Indemnified Party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This obligation to indemnify and defend City, as set forth herein, is binding on the successors, assigns, or heirs of Contractor and shall survive the completion of the services or the termination of this Agreement or this Section.

#### **14. Insurance.**

(a) As a condition precedent to the effectiveness of this Agreement and without limiting Contractor's indemnification of the City, Contractor agrees to obtain and maintain in full force and effect at its own expense the insurance policies set forth in Exhibit "C" "Insurance" attached hereto and made a part hereof. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf, along with copies of all required endorsements. All certificates and endorsements must be received and approved by the City before any work commences. All insurance policies shall be subject to approval by the City Attorney and Risk Manager as to form and content. Specifically, such insurance shall: (1) protect City as an additional insured for commercial general and business auto liability; (2) provide City at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium; and (3) be primary with respect to City's insurance program. Contractor's insurance is not expected to respond to claims that may arise from the acts or omissions of the City.

(b) City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required herein by giving Contractor ninety days advance written notice of such change. If such change should result in substantial additional cost of the Contractor, City agrees to negotiate additional compensation proportional to the increased benefit to City.

(c) All required insurance must be submitted and approved the City Attorney and Risk Manager prior to the inception of any operations by Contractor.

(d) The required coverage and limits are subject to availability on the open market at reasonable cost as determined by the City. Non availability or non affordability must be documented by a letter from Contractor's insurance broker or agency indicating a good faith effort to place the required insurance and showing as a minimum the names of the insurance carriers and the declinations or quotations received from each. Within the foregoing constraints, Contractor's failure to procure or maintain required insurance during the entire term of this Agreement shall constitute a material breach of this Agreement under which City may

immediately suspend or terminate this Agreement or, at its discretion, procure or renew such insurance to protect City's interests and pay any and all premium in connection therewith and recover all monies so paid from Contractor.

(e) By signing this Agreement, Contractor hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provision of that Code, and that it will comply with such provisions at all such times as they may apply during the performance of the work pursuant to this Contract. Unless otherwise agreed, a waiver of subrogation in favor of the City is required.

**15. Independent Contractor.** The parties agree that Contractor, its officers, employees and agents, if any, shall be independent contractors with regard to the providing of services under this Agreement, and that Contractor's employees or agents shall not be considered to be employees or agents of the City for any purpose and will not be entitled to any of the benefits City provides for its employees. City shall make no deductions for payroll taxes or Social Security from amounts due Contractor for work or services provided under this Agreement.

**16. Claims for Labor and Materials.** Contractor shall promptly pay when due all amounts payable for labor and materials furnished in the performance of this Agreement, so as to prevent any lien or other claim under any provision of law from arising against any City property (including reports, documents, and other tangible matter produced by the Contractor hereunder), against the Contractor's rights to payments hereunder, or against the City, and shall pay all amounts due under the Unemployment Insurance Act with respect to such labor.

**17. Discounts.** Contractor agrees to offer the City any discount terms that are offered to its best customers for the goods and services to be provided herein, and apply such discounts to payment made under this Agreement which meet the discount terms.

**18. Cooperation; Further Acts.** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as may be necessary, appropriate or convenient to attain the purposes of this Agreement.

**19. Dispute Resolution.** If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties shall first meet and confer in a good faith attempt to resolve the matter between themselves. If the dispute is not resolved by meeting and conferring, the matter shall be submitted for formal mediation to a mediator selected mutually by the parties. The expenses of such mediation shall be shared equally between the parties. If the dispute is not or cannot be resolved by mediation, the parties may mutually agree (but only as to those issues of the matter not resolved by mediation) to submit their dispute to arbitration. Before commencement of the arbitration, the parties may elect to have the arbitration proceed on an informal basis; however, if the parties are unable so to agree, then the arbitration shall be conducted in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be binding, unless within thirty days after issuance of the arbitrator's written decision, any party files an action in court. Venue and jurisdiction for any such action between the parties shall lie in the Superior Court for the County of Monterey.

**20. Compliance with Laws.**

(a) Each party's performance hereunder shall comply with all applicable laws of the United States of America, the State of California and the City including but not limited to laws regarding health and safety, labor and employment, wage and hours and licensing laws which affect employees. This Agreement shall be governed by, enforced and interpreted under the laws of the State of California. Contractor shall comply with new, amended or revised laws, regulations or procedures that apply to the performance of this Agreement.

(b) If the Project is a "public work," or prevailing wages are otherwise required, Contractor shall comply with all provision of California Labor Code section 1720 *et seq.*, as applicable, and laws dealing with prevailing wages, apprentices and hours of work.

(c) Contractor represents that it has obtained and presently holds all permits and licenses necessary for performance hereunder, including a Business License required by the City's Business License Ordinance. For the term covered by this Agreement, the Contractor shall maintain or obtain as necessary, such permits and licenses and shall not allow them to lapse, be revoked or suspended.

**21. Assignment or Transfer.** This Agreement or any interest herein may not be assigned, hypothecated or transferred, either directly or by operation of law, 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.

**22. Notices.** All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, sent by facsimile ("fax") or certified mail, postage prepaid with return receipt requested, addressed as follows:

To City: City Manager  
City of Marina City Hall  
211 Hillcrest Avenue  
Marina, California 93933  
Fax: (831) 384-9148

To Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax (\_\_\_\_) \_\_\_\_\_

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three days after deposit in the custody of the U.S. Postal Service. A copy of any notice sent as provided herein shall also be delivered to the Project Administrator and Project Manager.

**23. Amendments, Changes or Modifications.** This Agreement is not subject to amendment,

change or modification except by a writing signed by the authorized representatives of City and Contractor.

**24. Force Majeure.** Notwithstanding any other provisions hereof, neither Contractor nor City shall be held responsible or liable for failure to meet their respective obligations under this Agreement if such failure shall be due to causes beyond Contractor's or the City's control. Such causes include but are not limited to: strike, fire, flood, civil disorder, act of God or of the public enemy, act of the federal government, or any unit of state or local government in either sovereign or contractual capacity, epidemic, quarantine restriction, or delay in transportation to the extent that they are not caused by the party's willful or negligent acts or omissions, and to the extent that they are beyond the party's reasonable control.

**25. Attorney's Fees.** In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

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

**27. Authority to Enter Agreement.** Contractor has all requisite power and authority to conduct its business and to execute, deliver and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right and authority to make this Agreement and bind each respective party.

**28. Waiver.** A waiver of a default of any term of this Agreement shall not be construed as a waiver of any succeeding default or as a waiver of the provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

**29. Severability.** Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

**30. Construction, References, Captions.** Since the parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days. The captions of the various sections are for convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement.

**31. Advice of Counsel.** The parties agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement, and that the decision of whether to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties hereto. This Agreement shall not be construed in favor or against either party by reason of the extent to which each party participated in the drafting of this Agreement.

**32. Counterparts.** This Agreement may be signed in counterparts, each of which shall

constitute an original.

**33. Time.** Time is of the essence in this contract.

**34. Entire Agreement.** This Agreement contains the entire agreement of the parties with respect to the matters as set forth in this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement shall be binding or valid.

**IN WITNESS WHEREOF,** Contractor and the City by their duly authorized representatives, have executed this Agreement, on the date first set forth above, at Marina, California.

**CITY OF MARINA**

**CONTRACTOR**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

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

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

Attest: (Pursuant to Reso: 20\_\_\_\_ - \_\_\_\_)

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

City Clerk

Approved as to form:

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

City Attorney

**INSERT EXHIBIT A**

**Section 1 (a)**

**- SCOPE OF WORK -**

**[Include Work Schedule if required.]**

SAMPLE

**INSERT EXHIBIT B**

**Section 3 (a)**

**- FEE SCHEDULE -**

SAMPLE

### **Exhibit C - Insurance**

Contractor agrees to provide insurance in accordance with the requirements set forth herein. If Contractor uses existing coverage to comply with these requirements and that coverage does not meet the requirements set forth herein, Contractor agrees to amend, supplement or endorse the existing coverage to do so. Contractor shall furnish the City with original certificates of insurance, manually autographed in ink by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements must be received and approved by the City before any work commences. The City reserves its right to require complete, certified copies of all required insurance policies at any time. The following coverage will be provided by Contractor and maintained on behalf of the City and in accordance with the requirements set forth herein.

**Commercial General Liability (primary).** Commercial general liability insurance covering Contractor's operations (and products where applicable) is required whenever the City is at risk of third party claims which may arise out of Contractor's work or presence on City premises. Contractual liability coverage is a required inclusion in this insurance.

General liability insurance coverage shall be at least as broad as ISO form CG 00 01 10 01 and approved in advance by the City Attorney and Risk Manager. Total limits shall be no less than one million dollars (\$1,000,000) combined single limit per occurrence for general liability, bodily injury, personal injury and property damage. If commercial general liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Project or the general aggregate limit shall be two million dollars (\$2,000,000). Contractor must give written notice to the City of any pending claim, action or lawsuit which has or may diminish the aggregate. If any such claim or lawsuit exists, Contractor shall be required, prior to commencing work under this Agreement, to restore the impaired aggregate or prove it has replacement insurance protection to the satisfaction of the City Attorney and Risk Manager.

City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insured, and the policy shall be endorsed with a form equivalent to ISO form CG 20 10 10 93, that contains the provisions required by this contract. Coverage shall apply on a primary, non-contributing basis in relation to any other insurance or self-insurance, primary or excess, available to the City or any agent of City. Coverage is not expected to respond to the claims which may arise from the acts or omissions of the City. Coverage shall not be limited to the vicarious liability or supervisory role of any additional insured. Coverage shall contain no contractors' limitation endorsement. There shall be no endorsement or modification limiting the scope of coverage for liability arising from pollution, explosion, collapse, underground property damage or employment-related practices.

**Umbrella Liability Insurance.** Umbrella liability insurance (over primary) shall apply to bodily injury/property damage, personal injury/advertising injury, at a minimum, and shall include a "drop down" provision providing primary coverage above a maximum \$25,000.00 self-insured retention for liability not covered by primary policies but covered by the umbrella policy. Coverage shall be following form to any underlying coverage.

Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusion and no contractor's limitation endorsement. Policies limits shall be not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, above any limits required in the underlying policies shall have starting and ending dates concurrent with the underlying coverage.



**Business Auto.** Automobile liability insurance is required where vehicles are used in performing the work under this Agreement or where vehicles are driven off-road on City premises, it is not required for simple commuting unless City is paying mileage. However, compliance with California law requiring auto liability insurance is a contractual requirement.

If automobile insurance is required for work under this Agreement coverage shall be at least as broad as ISO form CG 00 01 10 01 including symbol 1 (Any Auto) approved by the City Attorney and Risk Manager. Coverage shall be endorsed to stated that the City, its Council, boards and commissions, officers, employees, agents and volunteers shall be added as additional insured with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible with a form equivalent to ISO form CG 20 10 10 93. Limits shall be no less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage. Starting and ending dates shall be concurrent. If Contractor owns no autos, a non-owned auto endorsement to the commercial general liability policy described above is acceptable.

**Workers' Compensation/Employers' Liability.** Workers' Compensation and Employer's Liability insurance are not required for single-person contractors. However, under California law these coverages (or a copy of the State's Consent to Self-Insure) must be provided if Contractor has any employees at any time during the period of this Agreement. Policy(s) shall be written on a policy form providing workers' compensation statutory benefits as required by law. Employers' liability limits shall be no less than one million dollars (\$1,000,000) per accident or disease and shall be scheduled under any umbrella policy described above. Unless otherwise agreed, policy(s) shall be endorsed to waive any right of subrogation as respects the City, its Council, boards and commissions, officers, employees, agents and volunteers.

**Property Insurance.** Property insurance, in a form and amount approved by the City Attorney and Risk Manager, is required for Contractors having exclusive use of premises or equipment owned or controlled by the City. City is to be named a Loss Payee "As Its Interest May Appear" in property insurance in which the City has an interest, e.g., as a lien holder. Fire damage legal liability is required for persons occupying a portion of City premises.

**Errors and Omissions/Professional Liability.** Errors and Omissions or professional liability coverage appropriate to Contractor's profession, in a form and amount approved by the City Attorney and Risk Manager, will be specified on a project-by-project basis if Contractor is working as a licensed professional. Contractor shall maintain such insurance for a period of five years following completion of the project. Such insurance shall be in an amount of not less than one million dollars (\$1,000,000) per claim and in annual aggregate. Design professionals shall maintain such insurance in place until the expiration of the warranty period of the Project.

**Contractor and City further agree as follows:**

a) This Exhibit supersedes all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Exhibit.

b) Nothing contained in this Exhibit is to be construed as affecting or altering the legal status of the parties to this Agreement. The insurance requirements set forth in this Exhibit are intended to be separate and distinct from any other provision in this Agreement and shall be interpreted as such.

c) All insurance coverage and limits provided pursuant to this Agreement shall apply to the full extent of the policies involved, available or applicable. Nothing contained in this Agreement or

any other agreement relating to the City or its operations limits the application of such insurance coverage.

d) Requirements of specific coverage features or limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only and is not intended by any party to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

e) For purposes of insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or toward performance of this Agreement.

f) All general or auto liability insurance coverage provided pursuant to this Agreement, or any other agreements pertaining to the performance of this Agreement, shall not prohibit Contractor, Contractor's employees, or agents from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against the City.

g) Contractor's insurance shall be written by an acceptable insurance provided, as determined by the City, which satisfies the following minimum requirements: An insurance carried authorized and admitted to do business in the State of California and maintaining an agent for service of process within the state. Such insurance carrier shall maintain a current "A.M. Best" rating classification of "A-" or better and a financial size of \$10 million to \$24 million (Class V) or better, or a Lloyds of London program provided by syndicates of Lloyds of London and other London insurance carriers, providing all participants are qualified to do business in California and the policy provides for an agent for process in the state. Self-insurance will not be considered to comply with these insurance specifications. Workers Compensation and Employer's Liability shall be provided by an A-V rated carrier or by the California State Compensation Fund. If provided by a carrier other than California State Compensation Fund, Contractor shall provide proof of the carrier's A-V rating to the City.

h) In the event any policy of insurance required under this Agreement does not comply with these requirements or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor.

i) Contractor agrees to provide evidence of the insurance required herein, satisfactory to City Attorney and Risk Manager, consisting of certificate(s) of insurance evidencing all of the coverages required and an additional endorsement to Contractor's general liability and umbrella liability policies. Certificate(s) are to reflect that the insurer will provide at least thirty days written notice of cancellation, material reduction in coverage or reduction in limits and ten days written notice for non-payment of premium. Contractor agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions. Contractor agrees to provide complete copies of policies to City within ten days of City's request for said copies.

j) Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

k) Any actual or alleged failure on the part of the City or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City or any additional insured, in this or any other regard.

l) Contractor agrees to require all subcontractors or other parties hired for this Project to provide workers' compensation insurance as required herein and general liability insurance naming as additional insureds all parties to this Agreement. Contractor agrees to obtain certificates evidencing such coverage and make reasonable efforts to ensure that such coverage is provided as required here. Contractor agrees to require that no contract used by any subcontractor, or contracts Contractor enters into on behalf of City, will reserve the right to charge back to City the cost of insurance required by this Agreement. Contractor agrees that upon request, all agreements with subcontractors or others with whom Contractor contracts with on behalf of City will be submitted to City for review. Contractor acknowledges that such contracts or agreements may require modification if the insurance requirements do not reflect the requirements herein. Failure of City to request copies of such agreements will not impose any liability on City, its Council, boards and commissions, officers, employees, agents and volunteers.

m) If Contractor is a Limited Liability Company, general liability coverage must be amended so that the Limited Liability Company and its Managers, Affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

n) Contractor agrees to provide immediate notice to City of any claim or loss against Contractor that includes City as a defendant. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the City.

o) Coverage will not be limited to the specific location or individual entity designated as the address of the Project. Contractor agrees to have its coverage endorsed so that all coverage limits required pursuant to this requirement are available separately for each and every location at which Contractor conducts operations of any type on behalf of City. Contractor warrants that these limits will not be reduced or exhausted except for losses attributable to those specific locations and not by losses attributable to any other operations of Contractor.

p) Contractor agrees not to attempt to avoid its defense and indemnity obligations to City, its Council, boards and commissions, officers, employees, agents and volunteers by using as a defense Contractor's statutory immunity under workers' compensation or similar statutes.

r) Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and that there will be no cross liability exclusions that preclude coverage for suits between Contractor and City or between City and any other insured or Named Insured under the policy, or between City and any party associated with City or its employees.

s) Contractor shall maintain commercial general liability, and if necessary, commercial umbrella liability insurance, with a limit of not less than one million dollars (\$1,000,000) each occurrence for at least three years following substantial completion of the work.