

CITY OF AUBURN

Request for Proposals For Janitorial Services for the City of Auburn



City of Auburn
Public Works Department
1225 Lincoln Way, Room 3
Auburn, CA 95603
Phone (530) 823-4211 x133
Fax (530) 823-4209

Date of Issuance: **July 5, 2017**

Submittal Deadline: **August 31, 2017
5:00 PM**

City of Auburn

Request for Proposals - Janitorial Services

I. INTRODUCTION

A. General Information

The City of Auburn intends to seek and obtain professional janitorial services, for multi-year contracts to perform necessary janitorial services to City-owned and/or leased facilities, located within the City limits of Auburn.

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this request. Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 6250 et seq.), unless exempt. Any language purporting to render the entire proposal confidential or proprietary will be ineffective and will be disregarded.

All property rights, including publication rights of all reports produced by proposer in connection with services performed under this agreement, shall be vested in the City. The proposer shall not publish or release any of the results of its examination without the expressed written permission of the City.

During the evaluation process the Public Works Director reserves the right - where it may serve the City of Auburn's best interests - to request additional information or clarifications from the proposers. At the discretion of the City of Auburn, firms submitting proposals may be requested to make oral presentations as part of the evaluation process.

The City of Auburn reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether the proposal was selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposals, unless clearly and specifically noted in the proposal submitted and confirmed in the professional services contract between the City of Auburn and the contractor selected.

It is anticipated the selection of a firm or firms will be completed by **September 8, 2017**. Following the notification of the selected firm(s) it is expected that contracts will be executed between both parties no later than **September 15, 2017**. The City of Auburn reserves the right to reject any or all proposals, to waive any non-material irregularities or information in any proposal, and to accept or reject any items or combination of items.

B. Term of Engagement

It is the intent of the City of Auburn to contract for the services presented herein for a term of two (2) years. The City reserves the right to extend the term of this contract for two (2) additional one-year terms subject to the annual review and recommendation of City management, the satisfactory negotiation of terms (including a price acceptable to both the City of Auburn and the selected firm), the concurrence of the City Council of the City of Auburn and the annual availability of an appropriation.

The proposal package shall present all inclusive service fees for both options for each year of the contract term (i.e., service fees for initial two (2) year term and service fees for two (2) additional one-year term extensions).

II. NATURE OF SERVICES REQUIRED

A. Non-Mandatory Pre-Proposal Walk-Through of Facilities

Bidders who intend to submit proposals may attend a non-mandatory pre-proposal meeting and walk-through of the City facilities. This will provide an opportunity for the bidder(s) to ask any questions of the proposal, and receive clarity of the intent of the proposal through mutual understanding. The walk-through is scheduled for Wednesday, July 14, 2017 at 10:00 a.m. The Public Works and Administrative Services Departments will coordinate the pre-proposal meeting and walk-through. Please meet in the Rose Room, located on the parking level in the City Hall main building, 1225 Lincoln Way, Auburn.

B. Need for Service

The City of Auburn currently operates varied services to the community using many City-owned and/or leased facilities. Seven of these facilities currently require periodic janitorial services. The City has limited staff for facility maintenance to perform these services. The City currently contracts janitorial services to a private contractor to provide maintain the facilities. Normal business hours are between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Cleaning hours for certain facilities will be expected during normal business hours, while others will require special schedules.

C. Objective and Scope

The City of Auburn wishes to secure timely, consistent, and cost-effective janitorial services, from one or more contractors, to ensure clean and safe office and public facilities for employees and persons doing business with the City and using City owned facilities.

The objectives of the City are as follows:

1. Clean Buildings and Facilities. The definition of clean means “free of dirt, pure, spotless, sanitary, sterile, and uncontaminated”.

2. To contract for cost efficient and effective janitorial services.
3. Timely removal of trash, dirt, dust, cobwebs, and other waste.
4. Minimal interruptions to City operations.
5. Ensure consistent and reliable janitorial services from one or more contractors for all City-owned/leased facilities.

D. Services Required

Contractor(s) shall perform the duties, functions and all other work described in the below Schedule of Duties in a consistent and professional manner. Contractor(s) shall furnish, at its own expense, all labor, materials, machinery and appliances that may be necessary or appropriate for the performance of the work, including all related management, supervisory and administrative services. The City will be responsible for and make available to contractor(s) paper-related supplies (toilet paper, paper towels, napkins, cups, trash bags, gloves, etc.) for all facilities.

The facilities for which this Request for Proposal applies are as follows:

- City of Auburn City Hall, 1225 Lincoln Way, Auburn
- City of Auburn Police Administration Building, 1215 Lincoln Way, Auburn
- City of Auburn Municipal Airport Terminal Operations Building, 13626 New Airport Road, Auburn
- 1101 High St. Down Town Public Restroom
- 1103 High St. Chamber of Commerce
- City of Auburn Old Town Public Restrooms
- City of Auburn Robert F. Conheim Multimodal Station Restroom
- City of Auburn Corporation Yard, 11500 Blocker Drive, Auburn

Bidders may bid on any number of the above referenced facilities Awards of contract may be made to multiple bidders based on the City's review of proposals submitted. The scope of services required for each facility is listed below:

1. City of Auburn City Hall

- o Services to be performed twice weekly (Monday and Thursday), unless otherwise noted, during normal business hours
 - Empty trash throughout entire building
 - Thoroughly clean restrooms
 - Sanitize toilets and counters
 - Sanitize partitions
 - Mop floors
 - Restock paper and soap supplies
 - Vacuum or sweep all offices, stairs and hallways

- Clean all interior hard surfaced walls in all lobby /reception areas every other month.
- Dust moldings, desk tops, other furniture, counters, window sills, partitions, railings, ledges and other places dust collects – monthly
- Remove cobwebs from ceiling, corners, walls and window sills- monthly
- **Clean Council Chambers**
 - Counters wiped down
 - Vacuum, dust and mop all flooring
 - Balcony vacuumed and glass railing cleaned as needed
 - Floor to the outside of Building mopped
- **Clean Rose Room**
 - Kitchen counters sanitized
 - Sinks and appliances sanitized
 - Floors mopped and vacuumed
 - All tables wiped down
 - Remove Cobwebs and dust as needed
 - Windows and glass doors cleaned weekly or as needed
 - Trash removed
- Blinds in all offices, conference rooms and stairways cleaned once annually
- Inside of windows in all offices and stairways dusted and oiled every quarter
- Dust and oil stairway banisters quarterly
- Air vents cleaned as needed
- Elevator is polished with stainless steel cleaner quarterly
- **Clean reprographics room**
 - Table and counter sanitized
 - Trash taken out
 - Sinks cleaned and scoured
 - Paper towel and cup supplies replenished
 - Recyclables and cardboard removed from building and placed in recycling container in parking lot
- **Clean downstairs break room**
 - Tables and counters sanitized
 - Trash removed
- Carpets cleaned once annually or as needed (spot removal as needed)
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

Storage room for supplies and delivery of supplies located in Basement at City Hall

2. City of Auburn Police Administration Building

- Services to be performed twice weekly (Monday and Thursday), unless otherwise noted, during normal business hours
 - Empty trash throughout entire building

- Thoroughly clean all restrooms (Admin, Dispatch, Hallway, Lobby and Locker room)
 - Sanitize toilets and counters
 - Sanitize partitions
 - Mop floors
 - Restock paper and soap supplies
- Dust moldings, desk tops, other furniture, counters, window sills, partitions, railings, ledges and other places dust collects – monthly
- Remove cobwebs from ceiling, corners, walls and window sills- monthly
- Vacuum or sweep entire building
- Clean glass doors weekly
- Clean windows monthly
- Blinds in all offices and conference rooms cleaned once annually
- Gym cleaned weekly
 - Empty trash
 - Sanitize equipment
 - Mop floor
 - Floors buffed annually
- Carpets cleaned once annually or as needed (spot removal as needed)
- Floors stripped and waxed annually
- Air vents cleaned as needed
- Disinfect drinking fountain daily
- Walls are spot-cleaned weekly
- **Kitchens-**
 - Tables and counters sanitized
 - Trash taken out
 - Sink cleaned and scoured
 - Paper towels and cups replenished
- **Dispatch Center**
 - Dusting as required
 - Vacuum or sweep area
- **Locker Rooms**
 - Showers scrubbed and buffed annually
 - Shower mopped and sanitized
- **Holding Room**
 - Disinfect Bench and Mop Floor
 - Eye Wash Station annually
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

Small Storage closet for cleaning supplies located in Hallway at Police Station

3. City of Auburn Municipal Airport Terminal Operations Building

- Services to be performed twice weekly (Tuesday and Thursday), unless otherwise noted, during normal business hours
 - Thoroughly clean restrooms (in office building and satellite restroom)
 - Sanitize toilets and counters
 - Sanitize partitions
 - Mop floors
 - Restock paper and soap supplies
 - Vacuum or sweep common area in building, including the conference room
 - Kitchen area in conference room
 - Tables and counters sanitized
 - Trash taken out
 - Sink cleaned and scoured
 - Paper towels and cups replenished
 - Carpets cleaned once annually or as needed (spot removal as needed)
 - Air vents cleaned as needed
 - Clean glass doors weekly
 - Clean windows monthly
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

Storage available for all Airport Supplies in Stock Room off Public Lounge behind Kitchen

4. 1103 High St.

- Services to be performed twice weekly (Tuesday and Thursday), unless otherwise noted, during normal business hours
 - Empty trash throughout entire building
 - Thoroughly clean restrooms
 - Sanitize toilets and counters
 - Sanitize partitions
 - Mop floors
 - Restock paper and soap supplies
 - Clean all glass doors weekly
 - Clean windows monthly
 - Clean air vents as needed or requested
 - Remove cobwebs from ceiling, corners, walls and window sills- monthly
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

Small storage Closet for Supplies in Hallway

5. City of Auburn Old Town/Down Town Public Restroom

- Services to be performed every day between 6:00 pm and 9:00 pm unless otherwise noted:
 - During winter period (October – March) unlock restroom at 9:00 am and lock restroom at 6:00 pm.
 - During summer period (April – September) unlock restroom at 9:00 am and lock restroom at 7:00 pm.
 - Empty all trash cans and replace liners
 - Thoroughly clean restrooms
 - Sanitize toilets and counters
 - Sanitize partitions
 - Mop floors
 - Clean mirrors
 - Check and fill feminine napkin holders
 - Restock paper and soap supplies
 - Disinfect Baby changing station in Restroom
 - Sweep wood floors daily, mop wood floors monthly
 - Turn off lights and lock front metal doors daily
 - Clean windows monthly
 - Wash metal walls separating toilets from the sinks weekly, all sides in each restroom
 - Availability for special events cleaning as required (**advance notification to be provided and additional cost to be incurred by City**)
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

**Small Storage Closet in Women’s Restroom in Old Town Restroom
No storage in Down Town Restroom**

6. City of Auburn Robert F. Conheim Multimodal Station Restroom

- Services to be performed every weekday:
 - Unlock restroom at 5:30 am / Lock restroom at 9:00 pm
 - Thoroughly clean restroom at 9:00 pm
 - Clean, disinfect and sanitize toilet bowl, sink, mirror and other bathroom fixtures
 - Sweep, mop and disinfect bathroom floors
 - Replace all toilet tissue, soap and paper towels (supplied by the City)
 - Empty and clean trash container in restroom
 - Empty and clean all eleven garbage containers at the Auburn Robert F. Conheim Multimodal Station and Blocker Drive parking lots
 - Clean and disinfect water fountain
 - Clean all Ash Trays

- Empty Ash Tray and Trash can across the street under the Bus Stop Awning
- Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

No storage space available- Supplies can be kept at Corporation Yard in Storage Closet

7. City of Auburn Corporation Yard

- Services to be performed once each week (day to be determined):
 - Remove cobwebs from ceiling, corners, walls and window sills- monthly
 - **Thoroughly clean restrooms**
 - Clean, disinfect and sanitize toilet bowl, sink, mirror and other bathroom fixtures
 - Sweep, mop and disinfect bathroom floors
 - Replace all toilet tissue, soap and paper towels (supplied by the City)
 - Empty and clean trash container in restroom
 - **Clean office area (downstairs/upstairs)**
 - Vacuum floor
 - Wash front windows and frames (once each month)
 - Wash mini-blinds (once each quarter)
 - Empty trash
 - **Clean Corporation Yard conference room/Breakroom**
 - Vacuum and mop floors
 - Wash conference table
 - Empty trash
 - Occasional special event services including one or more of the services noted above, the need for which will be communicated to the vendor at least forty-eight (48) hours prior to work commencing.

Storage Supply Closet located at Corporation Yard sufficient for Corp Yard and Multi-Modal Restroom

E. Plan Requirements

The contents of the work plan submitted shall include, at a minimum, the following:

1. Number of employees to be assigned to each facility (for those included in the submitted response)
2. Number of hours per day each employee will be assigned to each facility
3. Start and end times for employees

4. Description of cleaning methods

5. Proposal Cost Table (please create separate matrix as part of response using the below matrix as an example):

City Facility	Vendor Name	Occasional Special Event Services (Hourly Rate)	Monthly Cost	Comments
Auburn City Hall				
Auburn Police Admin				
Auburn Airport				
1103 High St.				
Old Town Restroom Down Town Restroom				
Multimodal Restroom				
Corporation Yard				

III. GENERAL PROPOSAL REQUIREMENTS

A. The proposals shall include the following:

1. Name of firm or company, business address, name of contact person, telephone number, fax number and email address (if applicable).
2. Price of service per facility and aggregate price for all facilities for which a bid is submitted (using a table format as under section II.E.5. – Plan Requirements).
3. Number of hours that your project will be necessary to perform the described duties, per facility and aggregate.
4. References, especially governmental organizations, preferably governmental entities in California; and specifically in the greater Placer County region.
5. Description of your firm, personnel and services provided.

6. Reason(s) why you believe your firm should provide these services to the City of Auburn.
7. Copies of all applicable licenses and insurance certificates (i.e. worker's compensation, general liability, unemployment compensation, etc.).
8. Any other pertinent information that you believe will assist the City in understanding your company and assurances if awarded the contract, i.e. most recent financial statement, bonding certificate.

B. Changes made to the RFP as the result of a response by the City, to questions or concerns raised through correspondence with prospective bidders, will be in writing and provided to each bidder until 12:00 noon on **July 21, 2017.**

C. All information contained in a proposal is subject to disclosure.

IV. SELECTION CRITERIA

Responses to this RFP will be evaluated based upon the following factors as presented in the bid proposals:

A. Capability, Qualifications and References (30%)

1. The written proposal should indicate the ability of the contractor to meet the terms of the RFP.
2. The written proposal should indicate the competence of personnel whom the bidder intends to assign to the project.
3. Qualifications will be measured by training and experience, with particular reference to work experience in facilities of equal or greater size to that described in the RFP.
4. Emphasis will be placed upon the qualifications of bidder's project manager.

B. Method of Approach (20%)

1. This factor will be judged based upon the Work plan provided in the Proposal.

C. Price (50%)

1. This factor will be based on the total cost and the per hour rate of the service.

D. Background Check

1. All employees of the successful bidder(s) will be subject to a background check by the City of Auburn Administrative Services and Police Departments to determine if the employee can be assigned to this project, particularly in the facilities occupied by the Police Department.

V. PROPOSAL DEADLINE

Five (5) copies of the proposal shall be submitted no later than the date and time listed above **August 31, 2017 by 5:00 PM**, to the following:

Location: City of Auburn Public Works Department
1225 Lincoln Way, Room 8
Auburn, CA. 95603

Label: JANITORIAL SERVICES CITY OF AUBURN

Proposals received after the deadline will not be considered.

VI. DESCRIPTION OF THE CITY OF AUBURN

A. Name and Telephone Number, of Contact Person

Any questions regarding this proposal or additional information required by the respondents should be directed to:

Bernie Schroeder Planning/Public Works Director
Dean Stalder Facilities/Building
City of Auburn
1225 Lincoln Way, Room 3
Auburn, CA 95603
Dstalder@auburn.ca.gov (*preferred method*)
(530) 823-4211, extension 133
Fax (530) 823-4209

B. Background Information

The City of Auburn is a general law city incorporated under California law in 1888. The City serves a population of approximately 14,070 and is located in Placer County. The governing body is a five-member City Council composed of the Mayor and four council members all of whom are elected at-large and serve four-year terms.

The City, organized into five departments and two offices, provides a full range of municipal services including public safety (police and fire), community development, wastewater collection and disposal, public works, general government and the Auburn Urban Development Authority.

C. Exemplar Agreement

It is expected that the selected firm will enter into a contract with the City of Auburn for the performance of services outlined in the contract's Scope of Services Section based on a fee structure outlined in the contract's Compensation Section. Other than for the Scope of Services and Compensation Sections as mentioned above, the City of Auburn prefers not deter from the language as outlined in Sections one (1) through eighteen (18) of the Exemplar Agreement attached as part of this Request for Proposal.

VI. TIME REQUIREMENTS

A. Proposal Calendar

The following is a list of key dates up to, and including, the date proposals are to be submitted:

<u>Date</u>	<u>Activity</u>
July 5, 2017	Request for Proposal issued
July 14, 2017 10:00 am	Non-Mandatory pre-proposal walk-through of facilities
August 31, 2017 5:00 pm	Due date for technical and cost proposals
September 15, 2017	Selected firm(s) notified
September 18, 2017	Contract(s) recommended to City Council

**PROFESSIONAL SERVICES AGREEMENT
FOR CONSULTANT SERVICES**

(City of Auburn / [Company or Individual])

1. IDENTIFICATION

This PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of Auburn, a California municipal corporation (“City”), and _____, a _____ (“Consultant”).

2. RECITALS

- 2.1. City has determined that it requires the following professional services from a consultant: [enter description of consultant’s services]
- 2.2. Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.
- 2.3. Consultant represents that it has no known relationships with third parties, City Council members, or employees of City which would (1) present a conflict of interest with the rendering of services under this Agreement under Government Code Section 1090, the Political Reform Act (Government Code Section 81000 *et seq.*), or other applicable law, (2) prevent Consultant from performing the terms of this Agreement, or (3) present a significant opportunity for the disclosure of confidential information.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Consultant agree as follows:

3. DEFINITIONS

- 3.1. “Scope of Services”: Such professional services as are set forth in Consultant’s [enter consultant’s proposal date] proposal to City attached hereto as Exhibit A and incorporated herein by this reference.
- 3.2. “Agreement Administrator”: The Agreement Administrator for this project is [Name and title]. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Consultant

- 3.3. "Approved Fee Schedule": Consultant's compensation rates are set forth in the fee schedule attached hereto as Exhibit B and incorporated herein by this reference. This fee schedule shall remain in effect for the duration of this Agreement unless modified in writing by mutual agreement of the parties.
- 3.4. "Maximum Amount": The highest total compensation and costs payable to Consultant by City under this Agreement. The Maximum Amount under this Agreement is _____ Dollars (\$_____).
- 3.5. "Commencement Date": [date].
- 3.6. "Termination Date": [date]

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 18 ("Termination") below. Consultant may request extensions of time to perform the services required hereunder. Such extensions shall be effective if authorized in advance by City in writing and incorporated in written amendments to this Agreement.

5. CONSULTANT'S DUTIES

- 5.1. **Services.** Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with City.** In performing services under this Agreement, Consultant shall coordinate all contact with City through its Agreement Administrator.
- 5.3. **Budgetary Notification.** Consultant shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Consultant shall concurrently inform the Agreement Administrator, in writing, of Consultant's estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Consultant shall obtain and maintain in force a City business license for the duration of this Agreement.
- 5.5. **Professional Standards.** Consultant shall perform all work to the standards of Consultant's profession and in a manner reasonably satisfactory to City. Consultant shall keep itself fully informed of and in compliance with all local, state, and federal

laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the conflict of interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.6. **Avoid Conflicts.** During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if such work would present a conflict interfering with performance under this Agreement. However, City may consent in writing to Consultant's performance of such work.
- 5.7. **Appropriate Personnel.** Consultant has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. [Name of Project Manager] shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.
- 5.8. **Substitution of Personnel.** Any persons named in the proposal or Scope of Services constitutes a promise to the City that those persons will perform and coordinate their respective services under this Agreement. Should one or more of such personnel become unavailable, Consultant may substitute other personnel of at least equal competence upon written approval of City. If City and Consultant cannot agree as to the substitution of key personnel, City may terminate this Agreement for cause.
- 5.9. **Permits and Approvals.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary for Consultant's performance of this Agreement. This includes, but shall not be limited to, professional licenses, encroachment permits and building and safety permits and inspections.
- 5.10. **Notification of Organizational Changes.** Consultant shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Consultant's firm or of any subcontractor. Change of ownership or control of Consultant's firm may require an amendment to this Agreement.
- 5.11. **Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and

this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6. SUBCONTRACTING

- 6.1. **General Prohibition.** This Agreement covers professional services of a specific and unique nature. Except as otherwise provided herein, Consultant shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. **Consultant Responsible.** Consultant shall be responsible to City for all services to be performed under this Agreement.
- 6.3. **Identification in Fee Schedule.** All subcontractors shall be specifically listed and their billing rates identified in the Approved Fee Schedule, Exhibit B. Any changes must be approved by the Agreement Administrator in writing as an amendment to this Agreement.
- 6.4. **Compensation for Subcontractors.** City shall pay Consultant for work performed by its subcontractors, if any, only at Consultant's actual cost plus an approved mark-up as set forth in the Approved Fee Schedule, Exhibit B. Consultant shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

- 7.1. **General.** City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept payment in accordance with the Fee Schedule in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Consultant shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 7.2. **Invoices.** Consultant shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. All labor charges shall be itemized by employee name and classification/position with the firm, the corresponding hourly rate, the hours worked, a description of each labor charge, and the total amount due for labor charges.

- 7.3. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Consultant except as otherwise required by law. Consultant shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Consultant.
- 7.5. **Additional Work.** Consultant shall not be reimbursed for any expenses incurred for work performed outside the Scope of Services unless prior written approval is given by the City through a fully executed written amendment. Consultant shall not undertake any such work without prior written approval of the City.
- 7.6. **City Satisfaction as Precondition to Payment.** Notwithstanding any other terms of this Agreement, no payments shall be made to Consultant until City is satisfied that the services are satisfactory.
- 7.7. **Right to Withhold Payments.** If Consultant fails to provide a deposit or promptly satisfy an indemnity obligation described in Section 11, City shall have the right to withhold payments under this Agreement to offset that amount.

8. PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Consultant shall defend, indemnify, and hold the City, its elected officials, officers, employees, and agents free and harmless from any claim or liability arising out of any failure or alleged failure of Consultant to comply with the Prevailing Wage Laws. The parties acknowledge the provisions of California Code of Regulations, Title 8, Section 16000 which excludes from the definition of “maintenance” for purposes of the prevailing wage laws, “[j]anitorial or custodial services of a routine, recurring or usual nature” including the Scope of Services contemplated by this Agreement.

9. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material (“written products” herein) developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

10. RELATIONSHIP OF PARTIES

- 10.1. **General.** Consultant is, and shall at all times remain as to City, a wholly independent contractor.
- 10.2. **No Agent Authority.** Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of City.
- 10.3. **Independent Contractor Status.** Under no circumstances shall Consultant or its employees look to the City as an employer. Consultant shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Consultant's previously earned California Public Employees Retirement System ("CalPERS") retirement benefits, if any, and Consultant specifically assumes the responsibility for making such a determination. Consultant shall be responsible for all reports and obligations including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation, and other applicable federal and state taxes.
- 10.4. **Indemnification of CalPERS Determination.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

11. INDEMNIFICATION

- 11.1 **Definitions.** For purposes of this Section 11, "Consultant" shall include Consultant, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Consultant or its subcontractors, in the performance of this Agreement. "City" shall include City, its officers, agents, employees and volunteers.
- 11.2 **Consultant to Indemnify City.** To the fullest extent permitted by law, Consultant shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Consultant's alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Consultant or failure to comply with any provision in this Agreement.

- 11.3 **Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential or otherwise, Property damage shall include injury to any personal or real property. Consultant shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.
- 11.4 **Attorneys Fees.** Such costs and expenses shall include reasonable attorneys' fees for counsel of City's choice, expert fees and all other costs and fees of litigation. Consultant shall not be entitled to any refund of attorneys' fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 11.5 **Defense Deposit.** The City may request a deposit for defense costs from Consultant with respect to a claim. If the City requests a defense deposit, Consultant shall provide it within 15 days of the request.
- 11.6 **Waiver of Statutory Immunity.** The obligations of Consultant under this Section 11 are not limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City.
- 11.7 **Indemnification by Subcontractors.** Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Consultant's behalf.
- 11.8 **Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this Agreement. Consultant's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

12. INSURANCE

- 12.1. **Insurance Required.** Consultant shall maintain insurance as described in this section and shall require all of its subcontractors, consultants, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Consultant Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.
- 12.2. **Documentation of Insurance.** City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. Consultant shall file with City:
- Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A:VII showing. The Certificate of Insurance must include the following reference: [insert project name]

- Documentation of Best's rating acceptable to the City.
- Original endorsements effecting coverage for all policies required by this Agreement.
- Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.

12.3. **Coverage Amounts.** Insurance coverage shall be at least in the following minimum amounts:

- Professional Liability Insurance: \$1,000,000 per occurrence,
\$2,000,000 aggregate
- General Liability:
 - General Aggregate: \$2,000,000
 - Products Comp/Op Aggregate \$2,000,000
 - Personal & Advertising Injury \$1,000,000
 - Each Occurrence \$1,000,000
 - Fire Damage (any one fire) \$ 50,000
 - Medical Expense (any 1 person) \$ 5,000
- Workers' Compensation:
 - Workers' Compensation Statutory Limits
 - EL Each Accident \$1,000,000
 - EL Disease - Policy Limit \$1,000,000
 - EL Disease - Each Employee \$1,000,000
- Automobile Liability
 - Any vehicle, combined single limit \$1,000,000

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

12.4. **General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited or restricted Occurrence forms are not acceptable.

12.5. **Worker's Compensation Insurance.** Consultant is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Consultant will comply with such provisions before commencing the performance of the work of this

Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.

- 12.6. **Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and, trucks.
- 12.7. **Professional Liability Insurance or Errors & Omissions Coverage.** The deductible or self-insured retention may not exceed \$50,000. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage shall be continued for two years after the completion of the work by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.
- 12.8. **Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.
- 12.9. **Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of the City of Auburn must be endorsed as an additional insured for each policy required herein, other than Professional Errors and Omissions and Worker's Compensation, for liability arising out of ongoing and completed operations by or on behalf of the Consultant. Consultant's insurance policies shall be primary as respects any claims related to or as the result of the Consultant's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or consultants shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Consultant's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 12.10. **Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Consultant does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Consultant under this Agreement. Failure of the Consultant to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.

- 12.11. **Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Consultant shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Consultant shall provide proof that cancelled or expired policies of insurance 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. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is: City of Auburn, Attn: [insert department or individual], 1225 Lincoln Way, Auburn, CA 95603.
- 12.12. **Consultant's Insurance Primary.** The insurance provided by Consultant, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.
- 12.13. **Waiver of Subrogation.** Consultant hereby waives all rights of subrogation against the City. Consultant shall additionally waive such rights either by endorsement to each policy or provide proof of such waiver in the policy itself.
- 12.14. **Report of Claims to City.** Consultant shall report to the City, in addition to the Consultant's insurer, any and all insurance claims submitted to Consultant's insurer in connection with the services under this Agreement.
- 12.15. **Premium Payments and Deductibles.** Consultant must disclose all deductibles and self-insured retention amounts to the City. The City may require the Consultant to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.
- City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Consultant shall be responsible for all premiums and deductibles in all of Consultant's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.
- 12.16. **Duty to Defend and Indemnify.** Consultant's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

13. MUTUAL COOPERATION

- 13.1. **City Cooperation in Performance.** City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.
- 13.2. **Consultant Cooperation in Defense of Claims.** If any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require in the defense of that claim or action.

14. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City

If to Consultant

[Name]
City of Auburn
[Department/Division]
1225 Lincoln Way
Auburn, CA 95603
Telephone: (530) 823-4211

[Name]
[Address]
[Address]
Telephone:
Facsimile:

With courtesy copy to:

Michael G. Colantuono, Esq.
Auburn City Attorney
Colantuono, Highsmith & Whatley, PC
420 Sierra College Drive, Suite 140
Grass Valley, CA 95945
Telephone: (530) 432-7357
Facsimile: (530) 432-7356

15. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.11 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnity), paragraph 12.8 (Claims-Made Policies), paragraph 13.2 (Consultant Cooperation in Defense of Claims), and paragraph 18.1 (Confidentiality) of this Agreement shall survive the

expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

16. TERMINATION

- 16.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Consultant. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.
- 16.2. **Consultant Termination.** Consultant may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 16.3. **Compensation Following Termination.** Upon termination, Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.
- 16.4. **Remedies.** City retains any and all available legal and equitable remedies for Consultant's breach of this Agreement.

17. INTERPRETATION OF AGREEMENT

- 17.1. **Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 17.2. **Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed on by City and Consultant.
- 17.3. **Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.

- 17.4. **Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 17.5. **Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
- 17.6. **No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

18. GENERAL PROVISIONS

- 18.1. **Confidentiality.** All data, documents, discussion, or other information developed or received by Consultant for performance of this Agreement are deemed confidential and Consultant shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 18.2. **Conflicts of Interest.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. Consultant further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 18.3. **Non-assignment.** Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Consultant.
- 18.4. **Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.

- 18.5. **No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.6. **Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 18.7. **Non-Discrimination.** Consultant shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms, conditions or privileges of employment, and selection for training. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, the provisions of this nondiscrimination clause.
- 18.8. **Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Consultant of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 18.9. **Excused Failure to Perform.** Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.
- 18.10. **Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers or remedies.
- 18.11. **Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs expended in the action.

18.12. **Venue.** The venue for any litigation shall be Los Angeles County, California and Consultant hereby consents to jurisdiction in Los Angeles County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”
City of Auburn

“Consultant”
[Name of Company or Individual]

By: _____
Signature

By: _____
Signature

Printed: _____

Printed: _____

Title: _____

Title: _____

Date: _____

Date: _____

Attest:

By: _____
Amy Lind, City Clerk

Date: _____

Approved as to form:

By: _____
Michael G. Colantuono, City Attorney

Date: _____

EXHIBIT A – SCOPE OF SERVICES

EXHIBIT B – APPROVED FEE SCHEDULE