

# REQUEST FOR PROPOSAL

## MAINTENANCE OF THE HARBOR BAY FERRY TERMINAL

### CITY OF ALAMEDA

August 4, 2022

#### **Important Dates:**

Questions Due:	August 9, 2022
Question Response by City:	August 11, 2022
<b>Proposa; Due Date:</b>	<b>August 18, 2022</b>
Agreement Award Date:	October 19, 2022

#### Contact:

Liz Acord, Public Works Coordinator  
City of Alameda  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
Phone: (510) 747-7957  
Email: [lacord@alamedaca.gov](mailto:lacord@alamedaca.gov)

Jeanette Navarro, Engineering Office Assistant  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
Phone: (510) 747-7900  
Email: [jnavarro@alamedaca.gov](mailto:jnavarro@alamedaca.gov)

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## I. INTRODUCTION

The City of Alameda ("City") is requesting proposals from qualified organizations for Maintenance of the Harbor Bay Ferry Terminal. The Harbor Bay Ferry Terminal is one of the City's three terminals and provides weekday service between the Harbor Bay Business Park and San Francisco. The terminal facility includes a seating and loading area for passengers, public litter cans, a parking lot, and two public restroom facilities (immediately adjacent to the terminal and east along the public shoreline).

## II. SCOPE OF SERVICES

Attached as **Exhibit A** is the task list for the maintenance of the Harbor Bay Ferry Terminal, trash receptacle maintenance along the Harbor Bay Ferry pathway, and trash receptacle maintenance along the Harbor Bay Harbor Bay Shuttle route. The scope of service for this solicitation is to conduct the maintenance as detailed in Exhibit A. If you have any questions, please contact:

Liz Acord  
Public Works Department  
Alameda, CA 94501  
510-747-7957  
[lacord@alamedaca.gov](mailto:lacord@alamedaca.gov)

Jeanette Navarro, Engineering Office Assistant  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
Phone: (510) 747-7900  
Email: [jnavarro@alamedaca.gov](mailto:jnavarro@alamedaca.gov)

## III. PROPOSAL FORMAT

All Proposals shall include the following minimum information:

1. Statement of Qualifications including the following:
  - a) The Proposer shall prepare a statement of qualifications in the submitted proposal, which identifies: The size, stability, and capacity of the organization, including, at a minimum, an identification of total number of years in operation, number of employees in the office location which is intended to provide the services described in the Scope of Services, and a description of Proposer's shop and storage facilities intended to support the City. The person signing the Proposal must be a legal representative of the firm authorized to bind the firm to an agreement in the event of the award.
  - b) An identification of the Proposer's experience performing services for projects of a similar size, scope, and complexity as the services required by this RFP, including an identification of the number of years Proposer has been performing similar services; and the most recent projects for which the Proposer has performed similar services. The list of recent projects

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, the dollar amount of the contract, and the date of performance.

- c) A list of the Proposer's principals, employees, agents, and subcontractors which the Proposer intends to assign to this Project. This list shall include a summary of the qualifications (including education, training, certifications licenses, and experience) of each individual; the approximate number of hours each will devote to the Contract; and the type of work to be performed by each individual.
  - d) Description of training and safety programs for its field employees.
- 2. Statement of Exceptions, if any, to City Standard Service Provider Agreement. A sample agreement has been provided in Exhibit C of this RFP for review. If Proposer wishes to take exception to any of the terms and conditions contained in the service agreement, these should be identified specifically; otherwise include a statement of no exception in the submitted proposal. Failure to identify contractual issues of dispute can later be the basis for the City disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated.
  - 3. Completed Proposal Cost Form (Exhibit A). Service is anticipated to start October 19, 2022. The completed cost form should include costs for all tasks and service options included within, as well as the unit costs and quantity for the supplies listed, and the on call hourly rate. Completed cost form should include all incidental costs including travel and equipment.

#### **IV. PROPOSAL DUE DATE AND DELIVERY**

The Proposal, clearly marked with the project name “Maintenance of Harbor Bay Ferry Terminal”, should be submitted by email no later than:

**5:00 p.m. on August 18, 2022**

Attention to Liz Acord at the email address below. All Proposals will be considered submitted at the time date and time noted in the email transmittal. Proposals will not be accepted after the time noted above. Proposals should be addressed to:

Public Works Department  
ATTN: Liz Acord  
lacord@alamedaca.gov

Faxed, mailed or hand carried Proposals will not be accepted.

Any questions pertaining to this Request for Proposal shall be sent by August 9, 2022 at 5:00 p.m.to Liz Acord, lacord@alamedaca.gov and cc'd to Jeanette Navarro, [jnavarro@alamedaca.gov](mailto:jnavarro@alamedaca.gov).

Answers to questions, if any, will be posted online August 11, 2022 at:  
<http://alamedaca.gov/business/bids-rfps>

## IV. SELECTION PROCESS

Factors considered in reviewing the proposals will be:

1. Ability of the Proposer to Carry Out and Manage the Proposed Project (30%)  
An assessment of the statement of qualifications, including past experience of the organization in general. Qualities and indicators that will receive consideration include the number and types of projects the organization or its employees have completed; the variety of projects completed and a demonstration of the organization's ability to undertake this project; and the demonstrated ability to work with governmental bodies and a full understanding of applicable laws or regulations that relate to the project.
2. Qualifications (40%)  
The qualifications (including education, training, licenses, experience, and past performance) of the Proposer and its agents, employees, and subcontractors. The City may consider Proposer's timely and accurate performance on contracts of a similar nature.
3. Willingness to Comply with the Proposed Agreement Terms (5%)  
A sample agreement is attached. Proposals will be rated based on the exceptions taken to the proposed contract.
4. Cost of Proposal (25%)  
Cost, while not determinative, will be considered in the selection process.

Proposals will first be screened to ensure responsiveness to the RFP. The City may reject as nonresponsive any proposal that does not include the documents required to be submitted by this RFP. At any time during the evaluation process, the City reserves the right to request clarifications or additional information from any or all Proposers regarding their proposals. The City may reject any proposal in which a Proposer's approach, qualifications, or price is not considered acceptable by the City. An unacceptable proposal is one that would have to be substantially rewritten to make it acceptable. The City may conclude the evaluation process at this point and recommend award. Alternatively, the City may elect to negotiate directly with one or more Proposers to obtain the best result for the City prior to making a recommendation or selection. And lastly, the City may ask selected Proposers to participate in an oral interview. The individual(s) from Proposer's firm or entity that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview. In addition to conducting an oral interview, the City may during this stage of the evaluation process also contact and evaluate references, contact any Proposer to clarify any response or request revised or additional information, contact any current users of a Proposer's services, solicit information from any available source concerning any aspect of a proposal, and seek and review any other information deemed pertinent to the evaluation process.

The City may reserves the right to negotiate the terms and conditions of the agreement with the highest ranked firm. Recommendation for award is contingent upon the successful negotiation of final contract terms. If contract negotiations cannot be concluded successfully within a time period determined by the City, the City may terminate negotiations and commence negotiations with the next highest scoring Proposer or withdraw the RFP. Once the City selects a preferred Proposer, all other Proposers will be notified by the City in writing within fourteen working days of the decision.

## VI. CONDITIONS OF REQUEST

A. GENERAL CONDITIONS. The City reserves the right to cancel or reject all or a portion or portions of the request for Proposal without notice. Further, the City makes no representations that any agreement will be awarded to any organization submitting a Proposal. The City reserves the right to reject any and all Proposals submitted in response to this request or any addenda thereto.

Any changes to the Request for Proposal requirements will be posted to the City website. No changes will be made after August 11, 2022.

B. LIABILITY OF COSTS AND RESPONSIBILITY. The City shall not be liable for any costs incurred in response to this request for proposal. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Alameda.

The selected organization will be required to assume responsibility for all services offered in the Bid whether or not they possess them within their organization. The selected organization will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

C. VALIDITY. The proposer agrees to be bound by its proposal for in all respects until one such proposal has been accepted by the City and an agreement fully executed, or until a proposal has been specifically rejected by the City, whichever occurs first, but in no event longer than four (4) months from the date of submission.

D. PERMITS AND LICENSES. The Contractor shall procure all permits and licenses, including a City of Alameda business license, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the work. The cost for a City of Alameda business license is not reimbursable. Each Subcontractor shall have a current City of Alameda business license.

The following permit(s) and/or license(s) are required for this project:

1. A **City of Alameda Business License** from the City of Alameda, 2263 Santa Clara Avenue, Finance Department, Room 220, Alameda.

E. EXECUTION OF CONTRACT. The contract, in form and content satisfactory to the City, will be awarded at a regular City Council meeting (first and third Tuesdays of each month, except August). At least four (4) weeks prior to the anticipated award date, the Contractor will be notified of apparent award status and requested to provide the documents necessary to complete

the contract process. Required documentation shall include two (2) copies of the contract executed by the Contractor, proof of insurance and Payment and Performance bonds. The Contractor will be given five (5) business days from the date the City Council awards the contract to obtain the relevant bonds and insurance along with any other documents required for submission.

F. **CONFIDENTIALITY.** The California Public Records Act (Cal. Govt. Code Sections 6250 et seq.) mandates public access to government records. Therefore, unless information is exempt from disclosure by law, the content of any request for explanation, exception, or substitution, response to this RFP, protest, or any other written communication between the City and Proposer, shall be available to the public. The City intends to release all public portions of the proposals following the evaluation process at such time as a recommendation is made to the City Council. If Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that the City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire proposal as confidential nor designate its Price Sheet as confidential. Submission of a proposal shall indicate that, if Proposer requests that the City withhold from disclosure information identified as confidential, and the City complies with the Proposer's request, Proposer shall assume all responsibility for any challenges resulting from the nondisclosure, indemnify and hold harmless the City from and against all damages (including but not limited to attorney's fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of Proposer information. Proposer shall not make a claim, sue, or maintain any legal action against the City or its directors, officers, employees, or agents concerning the disclosure, or withholding from disclosure, of any Proposer information. If Proposer does not request that the City withhold from disclosure information identified as confidential, the City shall have no obligation to withhold the information from disclosure and may release the information sought without any liability to the City.

G. **CONFLICT OF INTEREST.** The Proposer warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code sections 1090 et seq., or sections 87100 et seq., during the performance of services under any Agreement awarded. The Proposer further covenants that it will not knowingly employ any person having such an interest in the performance of any Agreement awarded. Violation of this provision may result in any Agreement awarded being deemed void and unenforceable.

#### Attachments

Exhibit A – Harbor Bay Ferry Terminal Maintenance Proposal Cost Form

Exhibit B – Standard Service Provider Agreement

## EXHIBIT A

### HARBOR BAY FERRY TERMINAL MAINTENANCE PROPOSAL COST FORM



## **EXHIBIT A: Proposal Cost Form for Maintenance of Harbor Bay Ferry Terminal**

Costs are to include all labor, equipment, materials and other incidentals needed to perform the task.

**Task 1.** Clean and Restock Restroom 3 and Restroom 4, men's and women's restrooms. Locations see Attachment 1.

Option A: Frequency: 3x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

Option B: Frequency: 5x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

**Task 2.** Empty 10 trash cans located along Harbor Bay Ferry pathway, replace liners, remove litter and debris around containers.

Option A: Frequency: 3x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

Option B: Frequency: 5x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

**Task 3.** Pressure washing Harbor Bay Ferry Terminal seating/bench and loading gate area.

Option A: Frequency: 1x a month – Cost per washing: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

Option B: Frequency: 2x a month – Cost per washing: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

**Task 4.** Sweeping Harbor Bay Ferry Terminal parking lot.

Option A: Frequency: 1x a month – Cost per sweeping: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

Option B: Frequency: 2x a month – Cost per sweeping: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

**Task 5.** Empty 18 trash cans along Harbor Bay Shuttle route, replace liners, remove litter and debris around containers. Locations see Attachment 2.

Option A: Frequency: 3x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

Option B: Frequency: 5x a week – Cost per week: \_\_\_\_\_ Monthly Subtotal: \_\_\_\_\_

**Total Monthly Cost (OPTION A - All Tasks):** \_\_\_\_\_

**Total Monthly Cost (OPTION B - All Tasks):** \_\_\_\_\_

**Public Restroom Supply Pricing** – as needed (include quantity per unit):

1. Toilet paper: \_\_\_\_\_
2. Trash can liners: \_\_\_\_\_
3. Hand soap: \_\_\_\_\_
4. Hand towels: \_\_\_\_\_

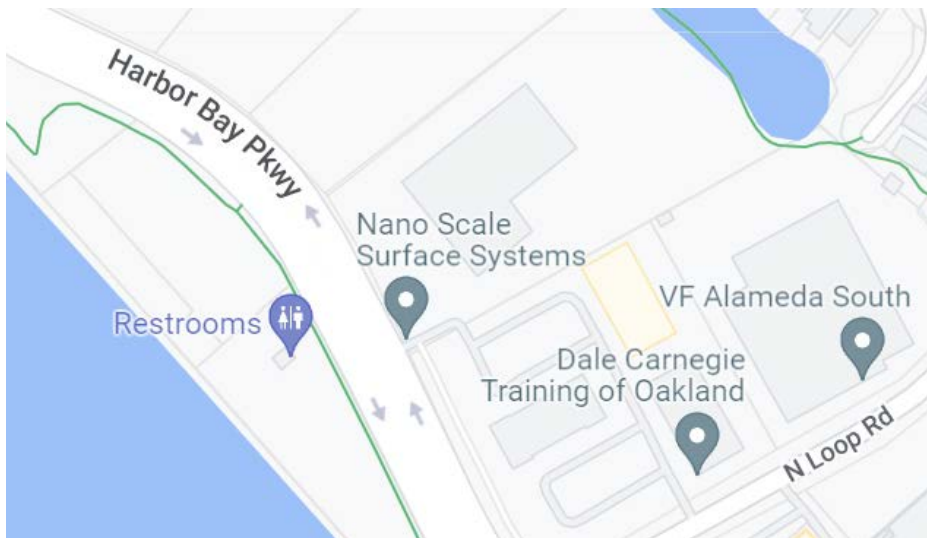
**On Call Service** – hourly rate to respond to additional service needs: \_\_\_\_\_/hour

## Attachment 1: Restroom 3 and Restroom 4 Locations

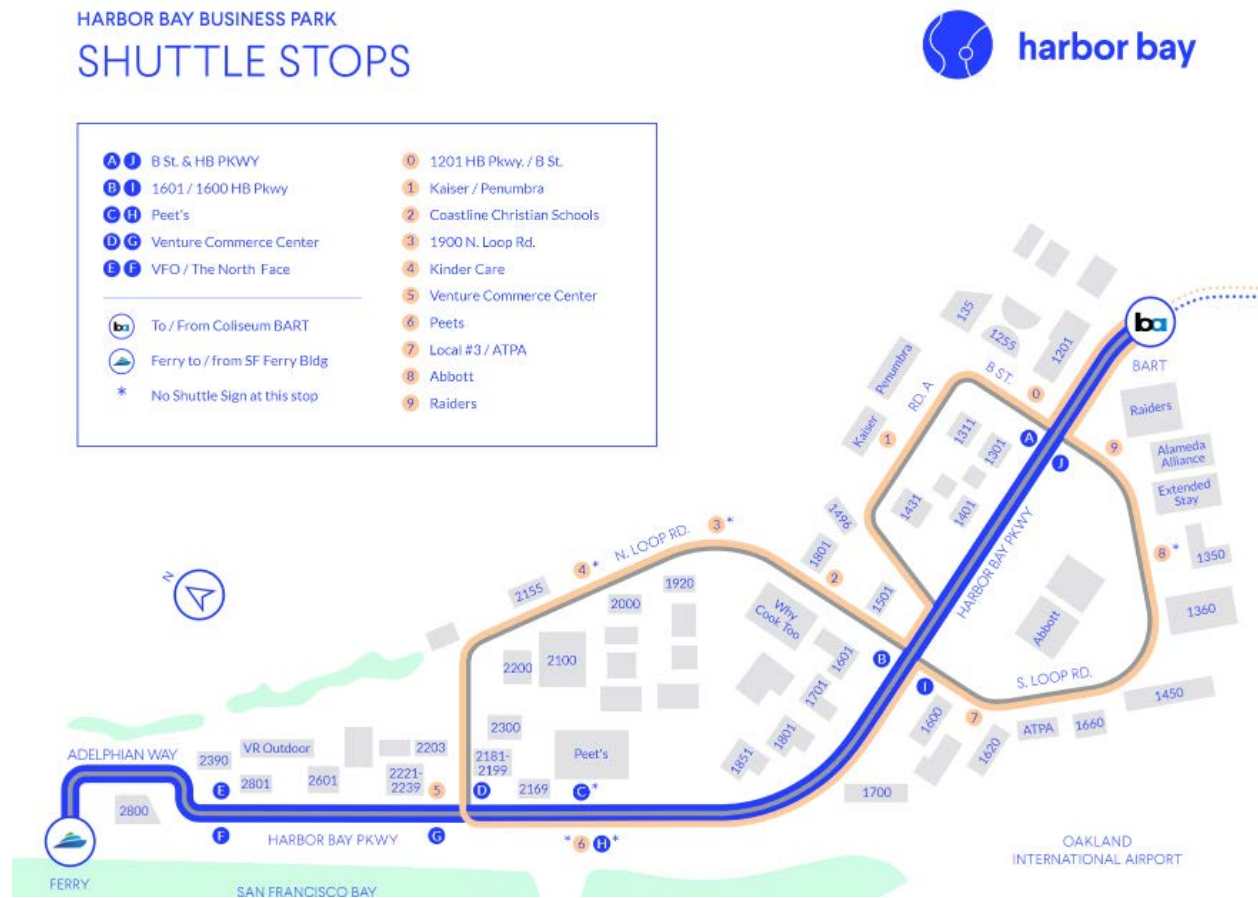
### Restroom 3 (Harbor Bay Ferry Terminal)



### Restroom 4 (2200 Harbor Bay Parkway)



## Attachment 2: Harbor Bay Shuttle Route trash can locations



## EXHIBIT B

### STANDARD SERVICE PROVIDER AGREEMENT

#### **SERVICE PROVIDER AGREEMENT**

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (“the **City**”), and COMPANY, a (California corporation, LLC, LP, GP, sole proprietor/individual), whose address is ADDRESS (“**Provider**”), in reference to the following facts and circumstances:

#### **RECITALS**

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of the following services: Maintenance of the Harbor Bay Ferry Terminal. City staff issued an RFP/RFQ on August 4, 2022 and after a submittal period of 14 days received NUMBER of timely submitted proposals. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City’s needs
- C. Provider possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. The City and Provider desire to enter into an agreement for Maintenance of the Harbor Bay Ferry Terminal, upon the terms and conditions herein.

#### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

#### **1. TERM:**

The term of this Agreement shall commence on the \_\_\_\_ day of \_\_\_\_\_ 2022, and shall terminate on the \_\_\_\_ day of \_\_\_\_\_ 2027, unless terminated earlier as set forth herein.

#### **2. SERVICES TO BE PERFORMED:**

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included

in Exhibit A as requested. Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

**3. COMPENSATION TO PROVIDER:**

a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule set forth in Exhibit B and incorporated herein by this reference.

b. The total five-year compensation for this Agreement shall not exceed \$XXX,XXX.

**4. TIME IS OF THE ESSENCE:**

Provider and the City agree that time is of the essence regarding the performance of this Agreement.

**5. STANDARD OF CARE:**

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

**6. INDEPENDENT PARTIES:**

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave, are available from the City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

**7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

**8. NON-DISCRIMINATION:**

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited

to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

**9. HOLD HARMLESS:**

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers (“Indemnitees”) from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney’s fees and costs of litigation (“Claims”), arising from or in any manner connected to Provider’s performance of its obligations under this Agreement or out of the operations conducted by Provider even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. Provider shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

b. As to Claims for professional liability only, Provider’s obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider’s obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

**10. INSURANCE:**

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City’s Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (5) Such certificates, which do not limit Provider’s indemnification, shall also contain substantially the following statement:

“Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days’ advance written notice to the City of Alameda. Attention: Risk Manager.”

Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company licensed to offer insurance business in the State of California with a current A.M. Best’s rating of no less than A:VII or Standard & Poor’s Rating (if rated) of at least BBB unless otherwise acceptable to the City. Provider shall deliver updated insurance certificates to the City at the address described

in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates.

\_\_\_\_\_  
Provider Initials

b. COVERAGE REQUIREMENTS:

Provider shall maintain insurance coverage and limits at least as broad as:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:                      \$1,000,000 each occurrence  
                                             \$2,000,000 aggregate - all other

Property Damage:                \$1,000,000 each occurrence  
                                             \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:                      \$1,000,000 each occurrence  
Property Damage:                \$1,000,000 each occurrence

or

Combined Single Limit:        \$2,000,000 each occurrence

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City.

c. SUBROGATION WAIVER:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Provider's name or as an agent of Provider and shall be compensated by Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. ADDITIONAL INSURED:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Provider's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

E. SUFFICIENCY OF INSURANCE:

The insurance limits required by the City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Provider; whichever is greater.

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.



**12. PROHIBITION AGAINST TRANSFERS:**

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Provider.

**13. APPROVAL OF SUB-PROVIDERS:**

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their agreement with any sub-provider: "Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City."

d. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

**14. PERMITS AND LICENSES:**

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

**15. REPORTS:**

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or their designee.

c. Provider shall, at such time and in such form as City Manager or their designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

#### **16. RECORDS:**

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

#### **17. NOTICES:**

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to the City shall be addressed to the City at:

City of Alameda  
[Department]  
[Address]  
Alameda, CA 94501  
ATTENTION: [Title]  
Ph: (510) [xxx-xxxx]

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

[Provider Name]  
[Department]  
[Address]  
[City, State, zip]  
ATTENTION: [Title]  
Ph: (xxx) [xxx-xxxx]

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda  
[Department]  
[Address]  
Alameda, CA 94501  
ATTENTION: [Name/Title]  
Ph: (510) [xxx-xxxx] / Email

## **18. SAFETY:**

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

**19. TERMINATION:**

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by Provider from the City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the City may thereafter immediately terminate the Agreement forthwith by giving to Provider written notice thereof.

b. The foregoing notwithstanding, the City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

**20. ATTORNEYS' FEES:**

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorney's fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

**21. HEALTH AND SAFETY REQUIREMENTS.**

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section. [See Certification of Compliance attached.]

**22. COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the

same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

**23. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**24. WAIVER:**

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**25. INTEGRATED CONTRACT:**

Subject to the language of Section 30, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

**26. DEPARTMENT OF INDUSTRIAL RELATIONS COMPLIANCE AND PREVAILING WAGE REQUIREMENTS ON PUBLIC WORKS PROJECTS:**

Effective January 1, 2015, no Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>

No Contractor or Subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Prime Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

Effective April 1, 2015, All Contractors and Subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>

**27. COMPLIANCE WITH THE CITY'S INTEGRATED PEST MANAGEMENT POLICY:**

The Contractor shall follow the requirements of the City's Integrated Pest Management (IPM) Policy to ensure the City is in compliance with the most-current version of its Municipal Regional Stormwater NPDES Permit, issued by the San Francisco Bay Regional Water Quality Control Board.

- ☐ Contractor shall use the most current IPM technologies available to ensure the long-term prevention or suppression of pest problems and to minimize negative impacts on the environment, non-target organisms, and human health for the control or management of pests in and around City buildings and facilities, parks and golf courses, urban landscape areas, rights-of-way, and other City properties.
- ☐ Contractor will consider the City IPM Policy's hierarchy of options or alternatives listed below, in the following order before recommending the use of or applying any pesticide on City property: (1)
  1. No controls (e.g. tolerating the pest infestation, use of resistant plant varieties or allowing normal life cycle of weeds);
  2. Physical or mechanical controls (e.g. hand labor, mowing, exclusion);
  3. Cultural controls (e.g. mulching, disking, alternative vegetation) and good housekeeping (e.g. cleaning desk area);
  4. Biological controls (e.g., natural enemies or predators); (5)
  5. Reduced-risk chemical controls (e.g., soaps or oils);
  6. Other chemical controls.
- ☐ Prior to applying chemical controls the contractor shall complete a checklist (attached) for the City's pre-approval that explains why a chemical control is necessary. For annual contracts that may require regular application of chemical controls the contractor shall submit one checklist annually prior to the initiation of the project demonstrating that the hierarchy has been reviewed and no other options exist. Additionally, the contractor shall provide documentation to the City's project manager of the implementation of the IPM techniques hierarchy described in the City's IPM Policy.
- ☐ Contractor shall avoid the use of the following pesticides that threaten water quality, human health and the environment:
  1. Acute Toxicity Category I chemicals as identified by the Environmental Protection Agency (EPA)
  2. Organophosphorous pesticides (e.g., those containing Diazinon, chlorpyrifos or malathion)
  3. Pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, metofluthrin, permethrin, and tralomethrin), carbamates (e.g., carbaryl), and fipronil and its degradates
  4. Diamides (chlorantraniliprole and cyantraniliprole), diuron, indoxacarb

5. Copper-based pesticides unless their use is judicious, other approaches and techniques have been considered, and the threat of impact to water quality is prevented.
- ☐ Contractor shall sign the Contractor Verification Form (attached) indicating the intent to implement the City's IPM Policy, and return a signed copy to the City's project manager.
  - ☐ Contractor shall provide to the City's project manager an annual Report of all pesticide usage in support of City operations including pesticide name, active ingredient(s), target pest(s), the total amounts used and the reasons for any increase in use of any pesticide.
  - ☐ Contractor shall provide a copy of any current IPM certifications(s) to the City's project manager prior to initiation of the service work.

A copy of the City's IPM Policy may be obtained from the City's project manager and is also on file with the City Clerk.

**28. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**29. COUNTERPARTS:**

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**30. SIGNATORY:**

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

**31. CONTROLLING AGREEMENT:**

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

COMPANY  
a (California corporation, LP, LLC,  
GP, sole proprietor/individual)

CITY OF ALAMEDA  
a municipal corporation

\_\_\_\_\_  
NAME  
TITLE

\_\_\_\_\_  
Acting City Manager

\_\_\_\_\_  
NAME  
TITLE

RECOMMENDED FOR APPROVAL

\_\_\_\_\_  
Erin Smith  
Public Works Director

APPROVED AS TO FORM:  
City Attorney

\_\_\_\_\_  
Len Aslanian  
Assistant City Attorney



**Certification of Compliance**  
**With the City of Alameda's Vaccination Requirement**

The City of Alameda ("City") requires all individuals who perform work for the City to be fully vaccinated<sup>1</sup> against COVID-19. All service providers and contractors for the City must sign the following statement certifying compliance with this requirement.

---

By signing below, I certify that all of our personnel who are performing work for the City are fully vaccinated against COVID-19. I also acknowledge that the City reserves the right to review any relevant records to demonstrate our compliance with this requirement.

I declare under penalty of perjury that the foregoing is true and correct.

[Name of Entity]

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

\_\_\_\_\_  
By: [Name of Authorized Individual]\_\_\_\_\_  
Its [Title]\_\_\_\_\_

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<sup>1</sup> For the purposes of this Certification of Compliance, an individual is considered to be fully vaccinated if two weeks have passed since their second dose in a 2-dose series (such as the Pfizer or Moderna vaccines) or if two weeks have passed since receiving their single-dose vaccine (such as Johnson & Johnson's Janssen vaccine).

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY  
CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED - OWNERS, LESSEES or PROVIDERS FORM B

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### SCHEDULE

Name of Person or Organization:

City of Alameda  
Public Works Department  
Alameda Point, Building 1  
950 West Mall Square, Room 110  
Alameda, CA 94501-7558

**SAMPLE**

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

**REF:** \_\_\_\_\_

**The City of Alameda, its City Council, boards and commissions, officers & employees are additional insured for work done on their behalf by the named insured.**

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

SEVERABILITY OF INTEREST:

IT IS AGREED THAT EXCEPT WITH RESPECT TO THE LIMIT OF INSURANCE, THIS COVERAGE SHALL APPLY AS IF EACH ADDITIONAL INSURED WERE THE ONLY INSURED AND SEPARATELY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT.

WAIVER OF SUBROGATION:

IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

POLICY NUMBER:

COMMERCIAL AUTO  
CG 20 48 02 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM  
MOTOR CARRIER COVERAGE FORM  
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provisions of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Countersigned By:
Named Insured:	(Authorized Representative)

Name of Person or Organization:

City of Alameda  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501-7558

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

**REF:** \_\_\_\_\_

**The City of Alameda, its City Council, boards and commissions, officers, employees and volunteers are additional insured for work done on their behalf by the named insured.**

### NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.