

REQUEST FOR PROPOSAL  
**SB 1383 Compost Procurement Broker Services**  
CITY OF ALAMEDA, CALIFORNIA



April 12, 2024

**Important Dates:**

Questions Due:	April 28, 2024 at 5:00 pm
Question Response by City:	April 30, 2024
<b>Proposal Due Date:</b>	<b>May 12, 2024 at 5:00 pm</b>
Estimated Agreement Award Date:	July 17, 2024

Contact:

Marc Green, Zero Waste Specialist  
City of Alameda  
Public Works  
950 West Mall Square, Room 110  
Alameda, California 94501  
Phone: 510-747-7958  
Email: [mgreen@alamedaca.gov](mailto:mgreen@alamedaca.gov)

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

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- Exhibit B: Standard Agreement

## I. INTRODUCTION

The City of Alameda (“City”) is requesting proposals from qualified and experienced compost brokers (Proposers) to provide comprehensive compost brokerage services in the Greater Bay Area of California, in accordance with the principles outlined in California Senate Bill (SB) 1383 and the sustainability goals set forth by the City of Alameda. With a commitment to environmental stewardship and waste reduction, the City aims to establish a partnership with a knowledgeable and dedicated compost broker to support our efforts in achieving compliance with SB 1383 regulations.

The main objective of the project will be to procure compost on behalf of the City in order to fulfill Alameda’s SB 1383 procurement requirement of 6471 tons of organic waste products (compost or mulch). While the City strives to apply as much of this required material locally, due to space and site-specific limitations, it may not be possible to fulfill the total requirement within the jurisdiction. The City seeks a qualified Proposer to provide compost brokerage services by way of direct service provider agreements with the options outlined in the scope of services.

## II. SCOPE OF SERVICES

Attached as Exhibit A is a list of work tasks that should be accomplished as part of the scope of services. Included in the response to the RFP, the proposer will provide a definitive approach, a well-developed and descriptive specific scope of services for all project tasks; methods and or analytical procedures to perform the objective; and, any proposed changes or additions to the RFP. Additionally, each proposal is to include the items outlined in Section IV. Proposal Format. Questions to the City for this RFP are due to the below City staff no later than April 28, 2024:

Marc Green, Zero Waste Specialist  
City of Alameda  
Public Works  
950 West Mall Square, Room 110  
Alameda, California 94501  
Phone: 510-747-7958  
Email: [mgreen@alamedaca.gov](mailto:mgreen@alamedaca.gov)

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

### III. PROPOSAL REQUIREMENTS

The Proposer shall include in its proposal the information outlined below in a manner which demonstrates the Proposer's competence and qualifications for the satisfactory performance of the services identified in this RFP.

1. Statement of Qualifications including the following:

- a) The Proposer shall prepare a statement of qualifications in the submitted proposal, which identifies: Overview of the company, including years in operation, areas of expertise, and capacity of the organization, including, at a minimum, 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 the most recent projects for which the Proposer has performed similar services.
- b) Proposer must provide three (3) references for which they currently provide or have provided similar services as requested in this RFP. Include name, title, phone, and email address for each reference, a description of the work provided, and when it was conducted. Contacts should be individuals who can verify performance on projects of a similar (or larger) scope and budget as this project.

2. Statement of Exceptions, if any, to Standard Service Provider Agreement.

The selected firm will be required to execute the Service Provide Agreement included in template form as **Exhibit B**. All proposers are directed particularly to review all Indemnification, Hold Harmless and Insurance requirements set forth in this Agreement. If Proposer wishes to take exception to any of the terms and conditions contained in the Agreement for Service, these should be identified specifically; otherwise include a statement of no exception, labeled as Exhibit B 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. Proposed Work Plan

The Proposer shall prepare a work plan based on the experience and expertise of the Proposer in managing similar projects and consistent with the scope of work presented in Exhibit A. The proposer will provide a definite approach, a well-developed and descriptive specific scope of services for all project tasks; methods and or analytical procedures to perform the objective; and, any proposed changes or additions to the RFP. The proposed work plan will include a project schedule. This project is anticipated to start July 17, 2024.

#### 4. Project Pricing

The Proposer shall provide a clear and transparent pricing structure for compost brokerage services, including any applicable fees, per ton costs, freight costs, surcharges, and/or additional costs as necessary.

#### IV. PROPOSAL DUE DATE AND DELIVERY

The Proposal, clearly marked with the project name “Compost Procurement Broker Proposal” should be submitted in Portable Document File (PDF) format by email no later than:

**5:00 pm on May 12, 2024**

Attention to Marc Green 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  
Marc Green  
[mgreen@alamedaca.gov](mailto:mgreen@alamedaca.gov)

with a copy to:

Liz Acord  
[lacord@alamedaca.gov](mailto: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 April 28, 2024 at 5:00 pm to Marc Green, [mgreen@alamedaca.gov](mailto:mgreen@alamedaca.gov) and Liz Acord, [lacord@alamedaca.gov](mailto:lacord@alamedaca.gov).

Answers to questions, if any, will be posted online April 30, 2024 at:  
<http://alamedaca.gov/business/bids-rfps>

#### V. SELECTION PROCESS

The final selection will be based upon the following criteria:

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 has 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 (20%)

The qualifications (including education, training, licenses, experience, and past performance) of the Proposer and its agents, employees, and sub Consultants. 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. Reliability and Responsiveness (20%)

A track record of reliability, responsiveness, and effective communication in managing compost logistics.

5. Cost of Proposal (25%)

Competitive pricing and value added services offered by the broker.

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 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. SELECTION TIMELINE

The City has designated the following activities and dates as key to the project schedule. Proposers are encouraged to assist the City in adhering to this timeline. The City reserves the right to change the schedule at its own discretion.

<b>Anticipated Schedule for Selection</b>	
Issuance of Request for Proposals	April 12, 2024
Deadline to submit Proposals	5:00 pm on May 12, 2024
Interviews (if deemed required)	TBD (If Necessary)
Contract Award (Anticipated)	July 17, 2024

## VII. GENERAL CONDITIONS

1. **Nondiscrimination:** Applicants for this RFP shall not discriminate against any interested individual, firm or applicant on the grounds of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation.
2. **Permits, Licenses, and Insurance:** The successful applicant for this RFP shall, at its sole expense, obtain and maintain during the term of any agreement executed pursuant to this RFP all appropriate permits, certificates, licenses, and insurance including, but not limited to, a City of Alameda Business License which may be required in connection with the performance of services hereunder.
3. **Signatures and Declarations:** Each proposal responding to this RFP must be signed on behalf of the submitting entity by an officer authorized to bind the entity to its proposal.
4. **City's Right to Waive:** The City reserves the right, in its sole discretion, to waive any immaterial irregularities in a proposal responding to this RFP or in the submission of a proposal.
5. **City's Right to Modify the RFP:** The City reserves the right, in its sole discretion, to modify this RFP should the City deem that it is in its best interests to do so. Any changes to the RFP requirements will be made by written addendum posted on the City's website. The failure of an applicant to read any addenda shall have no effect on the validity of such modification.
6. **City's Right to Suspend or Cancel the RFP:** The City reserves the right, in its sole discretion, to suspend or cancel this RFP in part or in its entirety should the City deem that it is in the City's best interests to do so.

7. **City's Right to Reject Any Proposal:** The City reserves the right, in its sole discretion, to reject any proposal responding to this RFP that the City determines does not satisfy the conditions set forth in this RFP, or contains false, misleading, or materially incomplete information. The City reserves the right, in its sole discretion, to reject all applicants and not to award to any applicant should the City deem that it is in its best interests to do so.
8. **City's Right to Extend RFP Deadlines:** The City reserves the right, in its sole discretion, to extend any of the deadlines listed in this RFP by written addenda should the City deem that it is in its best interests to do so.
9. **Cost of Proposals:** All costs incurred during proposal preparation or in any way associated with an applicant's preparations, submission, presentation or oral interview (if any) shall be the sole responsibility of Applicant.
10. **Liability for RFP Errors:** Applicants are solely responsible for all errors and omissions contained in their responses to the RFP.
11. **Proposals Property of City:** Upon receipt, each proposal responding to this RFP that an applicant submits to the City becomes the sole property of the City and will not be returned to the applicant.
12. **Oral and Written Explanations:** The City shall not be bound by oral explanations or instructions given at any time during the process or after the award. Oral explanations given during the review process and after award become binding only when confirmed in writing by an authorized City official. Written responses to question(s) asked by one proposer will be provided to all applicants to this RFP.
13. **Public Record:** All proposals submitted to the City are subject to the California Public Records Act.

#### Attachments

- Exhibit A: Proposed Scope of Work
- Exhibit B: Standard Agreement



**EXHIBIT A**  
**PROPOSED SCOPE OF WORK**

## **EXHIBIT A: Proposed Scope of Work**

### **Objectives:**

The proposed term of this agreement is up to 5 years and up to 5,410 tons (7,500 cubic yards) annually of SB 1383 approved compost and/or composted mulch, with an estimated start date of July 17, 2024.

The selected broker will be required to conduct the following tasks on an ongoing basis or as otherwise noted below:

### **Tasks:**

#### **1. Compost Procurement:**

##### **Procurement Option A:**

Contractor shall make arrangements with a Direct Service Provider (DSP) who would like to use compost and/or composted mulch. The DSP uses the subsidized compost on behalf of the City and pays for the freight cost. City only pays for the compost and/or composted mulch per agreed upon pricing.

Or

##### **Procurement Option B:**

Contractor makes arrangements with DSP that is willing to receive compost and/or composted mulch and is located in the immediate proximity to Contractor's composting facility. City pays for the compost and/or composted mulch per agreed up pricing and pays for the minimal cost of freight to transport the product to the DSP site.

Procurement can be satisfied by Option A or Option B, or a combination of both at the direction of the City.

Please note that procurement includes negotiating pricing, terms, and conditions for compost procurement contracts, ensuring competitive rates.

#### **2. Logistics Management:**

- a. Coordinate transportation and logistics for the timely delivery of compost material to designated locations.
- b. Monitor inventory levels and provide recommendations for adjustments based on demand and seasonal variations.

- c. Implement efficient routing strategies to minimize transportations costs and environmental impact.

### **3. Compost Requirements and Definitions:**

As required in 14 CC§ 18993.1(f)(1), compost procured to perform Services shall meet the following criteria:

#### **1. Materials:**

##### **a. Acceptable materials are:**

- i. Compost, including fine, medium, and coarse compost.
- ii. The portion of topsoil, biotreatment soil mix, or other blend that is compost.
- iii. See attached specification for additional requirements
- iv. Mulch

##### **b. Unacceptable materials include:**

- i. Compost that exceeds state maximum limitations for pathogens, metals, and physical contaminants in 14 CCR 17868.2 -17868.3.1
- ii. Digestate
- iii. Biosolids/sewage sludge
- iv. Manure
- v. Biochar
- vi. Uncomposted compostable materials
- vii. Synthetic fertilizer, nitrolized sawdust, gypsum, urea
- viii. Topsoil, fill (except as described in (1)(a)(ii))

#### **2. Sources:**

##### **a. Acceptable sources of compost are (per 14 CCR 18993.1(f)(1)):**

- i. A compostable materials handling facility with a Full Solid Waste Facility Permit or Registration Permit, or is authorized under the Enforcement Agency Notification Tier under 14 CCR 17854.1
- ii. A large-volume in-vessel digestion facility that composts on-site.

### **Definitions:**

“Biochar” means the charcoal product of biomass conversion through pyrolysis (along with ash and syngas).

“Biosolids” means solid, semi-soli, or liquid residue generated during the treatment of domestic sewage in a treatment works. Biosolids includes, but is not limited to, treated domestic septage and scum or solids removed in primary, secondary, or advanced wastewater treatment processes. Biosolids includes the residue solids resulting from the co-digestion of anaerobically digestible material with sewage sludge. Biosolids does not include ash generated during the firing of sewage sludge in a sewage sludge

incinerator or grit and screenings generated during the preliminary treatment of domestic sewage in treatment works. 14 CCR 17852(a)(9)

“Compost” means the product resulting from the controlled biological decomposition of organic solid wastes that are source separated from the municipal solid waste stream, or which are separated at a centralized facility. 14 CCR 17896.2(a)(4)

“Compostable Material” means any organic material that when accumulated will become active compost. 14 CCR 17852(a)(11)

“Compostable Material Handling Facility Permitted or Authorized by 14 CC\$ 17854.1” means a facility described by the tiered regulatory system adopted by the California Integrated Waste Management Board in 1994.

“Digestate” means the solid and/or liquid residual material remaining after organic material has been processed in an in-vessel digester. 14 CCR 17896.2(a)(6)

“Large Volume In-Vessel Digestion Facility” means a facility that receives an average greater than 100 tons of solid waste per operating day or greater than 700 tons (2800 cubic yards) per week of solid waste for digestion in an in-vessel digester. 14 CCR 17896.2(a)(15)

“Manure” is an agricultural material and means accumulated herbivore or avian excrement. This definition shall include feces and urine, and any bedding material, spilled feed, or soil that is mixed with feces or urine. 14 CCR 17896.2(a)(18)

#### **4. Reporting and Documentation:**

##### **1. Reporting:**

- a. Contractor shall submit quarterly reports provided services were rendered during the preceding quarter or at the request of the City.

##### **2. The following information shall be included on each quarterly report:**

- a. The total compost provided to Direct Service Providers during the reporting period and to date.
- b. The following information on the compost provided to each Direct Service Provider:
  - i) Quantity of compost
  - ii) Compost producer information:
    - (1) Name of facility
    - (2) Physical location (address)
    - (3) Contact information
  - iii) Direct Service Provider information:
    - (1) Name of Direct Service Provider

- (2) Description of where compost was used
  - (3) A general description of how the compost was used.
3. The following submittals shall be included with each quarterly report:
    - a. All invoices or similar evidencing Direct Service Provider's receipt of the compost on City's behalf.
    - b. Test data sheets showing that each compost load supplied to Direct Service Providers complies with the City specifications, including requirements described in Section 3 of this Agreement.
  4. Contractor shall report above information on a form that City and Contractor mutually agree on.
  5. Ensure compliance with all reporting requirements specified by SB 1383 regulations.

**Deliverables:**

At a minimum, deliverables for this project shall include:

1. Initial kick-off meeting with City staff to discuss program scope, deliverables, and expectations;
2. Monthly Invoices and brief progress report, including any activities between Contractor and Direct Service Provider related to Compost Procurement.
3. One (1) Annual Report submitted for the previous calendar year by January 31 (may be submitted in Microsoft PowerPoint or Word); and other work products that the City deems necessary to measure progress and success of the project.

**EXHIBIT B**  
**STANDARD AGREEMENT**

## SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this \_\_\_ day of \_\_\_\_\_, 2024 (“**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: Compost Procurement Broker. City staff issued an RFP on April 12, 2024 and after a submittal period of thirty one (31) 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. [Whereas, the City Council authorized the City Manager to execute this agreement on \_\_\_\_\_.]
- E. The City and Provider desire to enter into an agreement for sixty (60) months, upon the terms and 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 \_\_\_\_\_ 202, and shall terminate on the \_\_\_ day of \_\_\_\_\_ 20\_\_, 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 as set forth in Exhibit B and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or their designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit B.

Compensation for work done under this Agreement, shall not exceed as follows:

- FY XX-XX total compensation shall not exceed \$XX
- FY XX-XX total compensation shall not exceed \$XX
- FY XX-XX total compensation shall not exceed \$XX
- FY XX-XX total compensation shall not exceed \$XX
- FY XX-XX total compensation shall not exceed \$XX
- Total five-year compensation shall not exceed \$XXX,XXX

Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

**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 Indemnitees 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 (4). The Certificate Holder should be The City of Alameda, 2263 Santa Clara, Ave., Alameda, CA 94501. 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, as well as a Waiver of Subrogation (Rights of Recovery) endorsement.

(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. Provider shall also submit declarations and policy endorsements pages. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required. The Additional Insured Endorsement shall include primary and non-contributory coverage at least as broad as the CG 2010.

(3) Automotive:

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

Bodily injury:	\$1,000,000 each occurrence
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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.

(4) Professional Liability:

Professional liability insurance which includes coverage appropriate for the professional acts, errors and omissions of Provider's profession and work hereunder, including, but not limited to, technology professional liability errors and omissions if the services being provided are technology-based, in the following minimum limits:

\$2,000,000 each claim

Technology professional liability errors and omissions shall include, or be endorsed to include, property damage liability coverage for damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City in the care, custody, or control of Provider. If not covered under Provider's liability policy, such "property" coverage of the City may be endorsed onto Provider's Cyber Liability Policy as covered property as follows: cyber liability coverage in an amount sufficient to cover the full replacement value of damage to, alteration of, loss of, or destruction of electronic data and/or information "property" of the City that will be in the care, custody, or control of Provider.]

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 INSUREDS:

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).

f. **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.

g. **EXCESS OR UMBRELLA LIABILITY:**

If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this Agreement, then said policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this Agreement, including but not limited to, the additional insured, SIR, and primary insurance requirements stated therein. No insurance policies maintained by the indemnified parties or Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until all the primary and excess liability policies carried by or available to the Provider are exhausted.

**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  
Public Works Director  
950 West Mall Square, Room 110  
Alameda, California 94501  
ATTENTION: Marc Green  
Phone: 510-747-7958/ Email: [mgreen@alamedaca.gov](mailto:mgreen@alamedaca.gov)

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  
Public Works Department  
950 West Mall Square, Room 110  
Alameda, CA 94501  
ATTENTION: Jeanette Navarro, Engineering Office Assistant  
Ph: (510) 747-7932 / Email: [jnavarro@alamedaca.gov](mailto:jnavarro@alamedaca.gov)

**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 any litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

**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.

**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.

**29. 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.

**30. 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.

**31. 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.

**32. 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

\_\_\_\_\_  
Jennifer Ott  
City Manager

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

RECOMMENDED FOR APPROVAL

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

APPROVED AS TO FORM:  
City Attorney

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

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:  (Authorized Representative)
Named Insured:	

SCHEDULE

**SAMPLE**

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.