

REQUEST FOR PROPOSAL
2023 Zero Waste Implementation Plan Update

CITY OF ALAMEDA

February 23, 2023

Important Dates:

Questions Due:	March 2, 2023 at 5:00 pm
Question Response by City:	March 9, 2023
Proposal Due Date:	March 16, 2023 at 5:00 pm
Agreement Award Date:	May 16, 2023

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@almedaca.gov

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@almedaca.gov

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

I. INTRODUCTION

The City of Alameda (“City”) is requesting the services of an outside consultant to update the City’s Zero Waste Plan (Plan). The proposal requires that prospective consultants have an extensive perspective and experience in the municipal process and implementation of Plans. The Consultant should demonstrate knowledge of municipality and community residential and commercial Zero Waste programs and practices; have the ability to document and conduct workshops; interface with City staff (Staff); provide written analysis of current Zero Waste programs and the City’s progress towards its Zero Waste goals; propose future options for an updated Plan and; the ability to develop a guidebook that will be useful for the municipality as a whole in the implementation of the Plan.

II. SCOPE OF WORK

Attached as Exhibit B is a list of major 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 or this RFP are due to the below City staff no later than March 2, 2023:

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@almedaca.gov

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@almedaca.gov

III. SCOPE OF WORK

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 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.

- 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.
 - c) A list of the Proposer's principals, employees, agents, and subConsultants 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.
2. The City's standard service provider 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. A Proposed 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 B. 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 May 17, 2023.
 4. Budget. Provide a detailed budget by task, team member and sub-consultant, if applicable, that covers a baseline budget for this project. Cost saving measures that recommend ways to save on the budget may be suggested. Budget may include options not identified in Exhibit B. The final budget will be negotiated by the City and Proposer deemed most responsive in demonstrating their expertise and capacity to deliver the desired professional services.

IV. PROPOSAL DUE DATE AND DELIVERY

The Proposal, clearly marked with the project name "2023 Zero Waste Update" should be submitted by email no later than:

5:00 pm on March 16, 2023

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

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

Any questions pertaining to this Request for Proposal shall be sent by March 2, 2023 at 5:00 pm to Marc Green, mgreen@alamedaca.gov and Liz Acord, lacord@alamedaca.gov.

Answers to questions, if any, will be posted online March 9, 2023 at:
<http://alamedaca.gov/business/bids-rfps>

V. SELECTION PROCESS

Factors considered by the 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 subConsultants. 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 March 9, 2023.

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 Consultant 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 SubConsultant 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 Consultant 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 Consultant and proof of insurance. The Consultant will be given five (5) business days from the date the City Council awards the contract to obtain the 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: Zero Waste Implementation Plan Update 2018
- Exhibit B: Proposed Scope of Work
- Exhibit C: Standard Agreement

EXHIBIT A
2018 ZERO WASTE IMPLEMENTATION UPDATE

Proposers may access the City's most recent (2018) Plan update via the following link:

https://www.alamedaca.gov/files/content/public/departments/public-works-department/zero-waste/alameda_zwip_update_final_draft_073018.pdf

**EXHIBIT B
PROPOSED SCOPE OF WORK**

EXHIBIT B
PROPOSED SCOPE OF WORK
2023 Zero Waste Implementation Plan Update

This proposed scope of work includes the minimum major work tasks to be completed as part of the 2023 Zero Waste Implementation Plan Update (Plan).

The Plan aims to conduct a review of the City's progress towards Zero Waste to date, including evaluation of strategies included in the previous Zero Waste Implementation Plan Update (2018), and set forth actionable next steps, costs, and an achievable timeline by which the City will meet its Zero Waste goal.

Proposer shall 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; any proposed changes or additions; and detailed deliverables and costs for each task. Proposers will include a project schedule as part of their submittal and in compliance with the requirements set forth in Section III. Proposal Format of this RFP.

Task 1: Evaluate past Plans and Review Effectiveness of Current Programs

Proposer shall provide a comprehensive review and evaluation of City's progress towards latest Zero Waste Implementation Plan (link provided in Exhibit A) and stated diversion goal, including effectiveness of any previous strategy work completed and current City programs, outreach and partnerships. Proposers shall evaluate whether City is meeting its Zero Waste goal and proposers will prepare a detailed report for inclusion in the new Plan that measures progress towards goal.

Task 2: Recommend New Zero Waste Strategies and Current Policy and Program Enhancements

Once City's progress towards meeting goal has been defined, Proposers will suggest next steps for achieving zero waste, these may include continued, enhanced, or new strategies/programs/policies and should take into consideration existing policy directives. Completion of this task will include a new goal date as well as proposed timeline for staff to evaluate progress towards goal.

Task 3: Use Data-Driven Approach to Estimate Diversion Potential and Costs

Proposers will provide data supported diversion estimates for any recommended strategies or enhancements in Task 2, and provide an estimate of staff time and external/additional costs for executing future items. Proposers will utilize data from CalRecycle, City's franchised hauler and technical assistance contractors who have identified diversion tonnage not being captured for the City among other sources to ensure thorough evaluation of proposed diversion targets and cost.

Task 4: Community Engagement, Survey and Presentation

Proposers should include in their response a robust, diverse community engagement plan that at minimum includes two community meetings with City staff and a community wide survey, and presentation of engagement results to City staff. The community engagement plan should aim to capture a broad representation of the community and reflect the diverse ideas of the community's input. Proposer will include a report outlining community input efforts and response in the Plan.

Task 5: Prepare new Zero Waste Implementation Plan Report and Goal Date/Timeline

A final comprehensive Plan will be prepared for the City, presented to City staff and elected officials. Proposers should include cost here for a minimum of one City Council presentation and an alternative cost proposal for additional presentations to staff and/or City boards and commissions.

**EXHIBIT C
STANDARD AGREEMENT**

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this ___ day of _____, 2023 (“**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: update the City’s Zero Waste Plan. City staff issued an RFP on February 23, 2023 and after a submittal period of twenty-two 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 to update the City’s Zero Waste Plan, 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 _____ 2023, and shall terminate on the ___ day of _____ 20__, unless terminated earlier as set forth herein.

[The parties may agree to extend the term of this Agreement on a year-by-year basis, for up to xxxx (x) additional years. Any extension shall be documented in a signed amendment. In the event that the parties agree to extend the Agreement, all provisions of the Agreement shall remain unchanged [with the exception that the compensation shall be adjusted by the Consumer Price Index for the San Francisco Bay area as reported by the U.S. Department of Labor, Bureau of Labor Statistics for the previous calendar year.][with the exception that the compensation shall be adjusted by the Construction Cost Index for the San Francisco Bay Area as reported in the Engineering News Record for the previous calendar year for the trade(s) associated with the services or tasks.][Other: Describe any compensation escalator.]

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 7th 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.

b. [If you wish to encumber department funds for the aggregate amount of the contract compensation, then state: The total five-year compensation for this Agreement 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.]

[If you wish to encumber department funds annually in the same amount, or if you are doing a contract with one-year extensions, then state: Compensation for this contract shall not exceed \$XX,XXX per year, for a total five-year compensation not to exceed \$XXX,XXX. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City]

[If the compensation is to be encumbered annually, but in different amounts because of an escalator then state: 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 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.

(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 occurrence

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.

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(S):

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:

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@almedaca.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

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.

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

RECOMMENDED FOR APPROVAL

NAME
TITLE

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

(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.