

CITY OF OAKLEY  
DEPARTMENT OF PUBLIC WORKS  
3231 MAIN STREET, OAKLEY, CA 94561

REQUEST FOR PROPOSAL  
FOR SERVICES

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HVAC Preventative Maintenance Services

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PROPOSAL SUBMITTAL DEADLINE:

DATE: November 14, 2019

TIME: 5:00 P.M.



RFP

# REQUEST FOR PROPOSAL

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## 1. INTRODUCTION

The City of Oakley (“City”) is soliciting a Request for Proposals (RFP) from qualified firms to perform contract Heating, Ventilating, and Air Conditioning (HVAC) Preventative Maintenance and Repair Services. The selected proposer will be expected to deliver complete, high-quality services, and to consult and work with City staff and others who are involved with the services. The award of any contract shall be at the sole discretion of the City. It is the intent to make one award to one Bidder for all requirements. The City reserves the right to make multiple awards depending on the City’s needs and what is in the best interest of the City.

**More detailed information on the project is included in Attachment A.**

## 2. ATTACHMENTS

The attachments below are included with this Request for Proposal (“RFP”). The items in this RFP must be completed, signed by the appropriate representative of the company, and returned with the submittal.

Attachment A – Scope of Services

Attachment B – Proposer’s Information Form

Attachment C – Agreement for Services

Attachment D – Cost Proposal Format

Attachment E – Schedule of Non-Routine Maintenance Services

## 3. INSTRUCTIONS TO PROPOSERS

3.1 Pre-proposal Conference: All interested proposers are required to attend a mandatory pre-bid meeting on Thursday, October 10, 2019 at 10:00 a.m. at the City of Oakley City Hall located at 3231 Main Street.

3.2 Examination of Proposal Documents.

The submission of a proposal shall be deemed a representation and certification by the Proposer that they:

1. Have carefully read and fully understand the information that was provided by the City to serve as the basis for submission of this proposal.
2. Have the capability to successfully undertake and complete the responsibilities and obligations of the proposal being submitted.

3. Represent that all information contained in the proposal is true and correct.
4. Did not, in any way, collude, conspire to agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms or conditions of this proposal.
5. Acknowledge that the City has the right to make any inquiry it deems appropriate to substantiate or supplement information supplied by the Proposer, and the Proposer hereby grants the City permission to make these inquiries, and to provide any and all related documentation in a timely manner.

3.3 No request for modification of the proposal shall be considered after its submission on grounds that the Proposer was not fully informed of any fact or condition.

3.4 Questions:

Any questions by the Proposer regarding this RFP or the project must be put in writing and received by the City no later than 5:00 p.m. on October 25, 2019. Correspondence shall be addressed to:

Kevin Rohani, P.E.  
Public Works Director/City Engineer  
Department of Public Works  
3231 Main Street  
Oakley, CA, 94561  
Telephone: (925) 625-7003  
E-mail: [rohani@ci.oakley.ca.us](mailto:rohani@ci.oakley.ca.us)

The City shall not be responsible for nor be bound by any oral instructions, interpretations, or explanations issued by the City or its representatives.

Responses from the City to questions by any Proposer will be communicated in writing to all recipients of this RFP. Questions received after the date and time stated above will not be accepted and will be returned to sender(s) without response.

3.5 Any addenda issued by the City shall be in writing, shall become a part of this RFP, and shall be acknowledged and responded to by the Proposer.

3.6 Submission of Proposals:

All proposals shall be submitted to:

Kevin Rohani, P.E.  
Public Works Director/City Engineer  
Department of Public Works  
3231 Main Street  
Oakley, CA 94561  
Telephone: (925) 625-7003

E-mail: [rohani@ci.oakley.ca.us](mailto:rohani@ci.oakley.ca.us)

Proposals must be delivered no later than **5:00 pm on November 14, 2019**. All proposals received after that time will not be accepted.

### 3.7 Withdrawal of Proposals.

A Proposer may withdraw its proposal at any time before the expiration of the time for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of, the Proposer.

## **4. RIGHTS OF THE CITY OF OAKLEY**

This RFP does not commit the City to enter into a contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract. The City reserves the right to:

- Make the selection based on its sole discretion;
- Reject any and all proposals;
- Issue subsequent Requests for Proposals;
- Postpone opening proposals for its own convenience;
- Remedy errors in the Request for Proposals process;
- Approve or disapprove the use of a particular subcontractor;
- Negotiate with any, all or none of the Proposers regarding project scope;
- Accept other than the lowest cost offer;
- Waive informalities and irregularities in the Proposals; and/or
- Enter into an agreement with another Proposer in the event the originally selected Proposer defaults or fails to execute an agreement with the City.

An agreement shall not be binding or valid with the City unless and until it is executed by authorized representatives of the City and of the Proposer.

## **5. RFP TIMELINE**

The City intends to select a contractor prior to January 1, 2020 which will be the start date of this maintenance contract. The City may, at its own discretion, conduct interviews and other evaluations of some, all, or none of the applicants prior to selection. The City will select the firm that best meets the needs of the City.

## **6. INFORMATION TO BE SUBMITTED**

These guidelines govern the format and content of the proposal. The intent of the RFP is to encourage responses that clearly communicate the Proposer's understanding of the City's requirements and the contractor's ability to meet those requirements.

In addition to the items included within this RFP and attachments, the proposal should include the following information:

- Cover letter describing how the consultant can meet the needs of the City.

- Relevant experience and expertise of the firm working for municipalities.
- Identification of the project team, including the main project contact.
- Resumes for the project team identifying relevant experience.
- Description of and three references for projects of similar size and scope.

## **7. CONTRACT TYPE AND METHOD OF PAYMENT**

It is anticipated that the agreement resulting from this RFP, if awarded, will be an Agreement for Services. The method of payment to the successful Proposer shall be for services provided based on established rates for services with a maximum “not to exceed” fee as set by the Proposer in the proposal or as negotiated between the Proposer and the City as being the maximum cost to perform all work. This figure shall include direct costs and overhead, such as, but not limited to, materials, equipment, delivery, transportation, communications, and any subcontracted items of work.

Proposers shall be prepared to accept the terms and conditions of the Agreement, including Insurance Requirements.

The above factors will be taken into account in evaluating proposals. Proposals that take exceptions to the proposed Agreement may be determined by the City, at its sole discretion, to be unacceptable and no longer considered for award.

## **8. INSURANCE REQUIREMENTS**

The selected Proposer(s), at the Proposer’s sole cost and expense and for the full term of the agreement or any extension thereof, shall obtain and maintain, at a minimum, all of the insurance requirements outlined.

All policies, endorsements, certificates and/or binders shall be subject to the approval of the City of Oakley as to form and content. These requirements are subject to amendment or waiver, if so approved in writing by the City of Oakley. The selected Proposer agrees to provide the City with a copy of said policies, certificates and/or endorsement upon award of Agreement.

## **9. PUBLIC NATURE OF PROPOSAL MATERIAL**

Responses to this RFP become the exclusive property of the City of Oakley. At such time as the City awards a contract, all proposals received in response to this RFP become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Proposer as business or trade secrets and plainly marked as “Confidential,” “Trade Secret,” or “Proprietary.” The City shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as “Confidential,” “Trade Secret,” or “Proprietary,” or if disclosure, in the City’s sole discretion, is required under the California Public Records Act as addressed below. Any proposal which contains language purporting to render all or significant portions of the proposal “Confidential,” “Trade Secret,” or “Proprietary” shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Oakley may determine, in its sole discretion that the information that a Proposer submits is not a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City shall provide the Proposer who submitted the information reasonable notice to allow the Proposer to seek protection from disclosure by a court of competent jurisdiction, at the Proposer's sole expense.

## **10. COLLUSION**

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and made in the interest of or on behalf of any person not named therein; that the Proposer has not directly induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and that the Proposer has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

## **11. DISQUALIFICATION**

Factors, such as, but not limited to, any of the following, may disqualify a proposal without further consideration:

- Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms or conditions of this proposal;
- Any attempt to improperly influence any member of the evaluation team;
- Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City;
- Evidence of incorrect information submitted as part of the proposal;
- Evidence of Proposer's inability to successfully complete the responsibilities and obligations of the proposal; and
- Proposer's default under any previous agreement with the City.

## **12. NON-CONFORMING PROPOSAL**

A proposal shall be prepared and submitted in accordance with the provisions of these RFP instructions and specifications. Any alteration, omission, addition, variance, or limitation of, from or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City.

## **13. GRATUITIES**

No person shall offer, give or agree to give any City employee any gratuity, discount or offer of employment in connection with the award of contract by the City. No City employee shall solicit, demand, accept or agree to accept from any other person a gratuity, discount or offer of employment in connection with a City contract.

#### **14. TERM OF AGREEMENT**

The initial term of this agreement is anticipated to be for two (2) years beginning January 1, 2020, subject to appropriation of funds, notwithstanding any other provision in this agreement.

#### **15. PREVAILING WAGES**

In accordance with the provisions of Sections 1770 et seq., of the Labor Code, the Director of the Industrial Relations of the State of California has determined the general prevailing rate of wages applicable to the work to be done. Service Provider will be required to pay to all persons employed on the project by the Service Provider sums not less than the sums set forth in the documents entitled "General Prevailing Wage Determination made by the Director of Industrial Relations pursuant to California Labor Code, part 7, Chapter 1, Article 2, Sections 1770, 1773, 1773.1." These documents may be obtained from the State of California.

Pursuant to Labor Code section 1725.5, no contractor or subcontractor may be awarded a contract for public works on a public works project unless registered with the Department of Industrial Relations.

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

**The Contractor is required to post notices on Public Works requirements.**

**ATTACHMENT A**  
**Scope of Services**

**SCOPE OF WORK**

**Locations**

The Contractor shall for the term of the contract furnish all labor, equipment, materials and supplies (where indicated) necessary to provide HVAC Services at the following locations:

| <b>Facility Name</b>             | <b>General Description</b>  | <b>Address</b>             |
|----------------------------------|---|----------------------------|
| Civic Center                     | City Hall Offices, Council Chambers, Police Department, Restrooms | 3231 Main Street           |
| Recreation Center                | Offices, Great Room, Kitchen, Restrooms                           | 1250 O'Hara Avenue         |
| Public Works Operations Building | Offices, Locker Room, Restrooms                                   | 310 4 <sup>th</sup> Street |
| Entrepreneur Center              | Offices, Restrooms  | 3330 Main Street           |
| Restaurant                       | Kitchen, dining room, restrooms                                   | 3070 Main Street           |
| Restaurant                       | Kitchen, dining room, restrooms                                   | 3080 Main Street           |

**General Specifications**

The HVAC preventative maintenance and repair services involve regular preventative maintenance and repair of HVAC equipment at four City building locations by licensed contractors with properly trained, experienced and qualified personnel.

The contract which may result from this Request for Proposals will include, but is not be limited to, the following provisions:

- Quarterly preventative maintenance of all HVAC systems
- 24-hour on-call services for the repair of HVAC systems
- Response to and repair of trouble calls within the specified time
- Regular submission to the City of accurately maintained and detailed work records

**Site Specific Specifications**

The Contractor shall provide ongoing maintenance and repair of HVAC equipment by duly trained and qualified personnel. During the term of the agreement, the contract shall provide a 24 hour per day, 7 days per week service and force of qualified workers, sufficient to respond to calls at any time and promptly make temporary and permanent repairs.



## Emergency Repair Services

The Contractor shall provide and maintain emergency service response on a 24 hour per day, 7 days per week basis, including all holidays, and within a 2 hour arrival window. The Contractor shall have available and readily accessible, and in functioning order, all required tools, equipment, apparatus, facilities, and materials needed to perform all work necessary to maintain and repair the equipment listed in this specifications document.

## Preventative Maintenance

The Contractor shall for the term of the contract furnish all labor, equipment, and materials and perform all work necessary to repair and maintain the heating, ventilating, and air conditioning (HVAC) system at the Civic Center, Recreation Center, Public Works Operation Building, Entrepreneur Center, and Restaurant Building(s). The HVAC system shall be maintained in an order that will keep the system balanced at all times. The HVAC system for the purpose of this maintenance specification shall be defined as all heating, ventilating, and air conditioning equipment, and controls therefore included:

### **Civic Center Complex – 3231 Main Street**

#### **Police**

| <i>Component</i> | <i>Manufacturer</i> | <i>Model Number</i> |
|------------------|---------------------|---------------------|
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Exhaust Fan      | GREENHECK           | GB0914XQDR2         |

#### **Planning/Public Works/Finance**

| <i>Component</i> | <i>Manufacturer</i> | <i>Model Number</i> |
|------------------|---------------------|---------------------|
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Package Unit     | Carrier             | 48HJD0006541        |
| Exhaust Fan      | GREENHECK           | GB0914XQDR2         |

#### **City Hall**

| <i>Component</i> | <i>Manufacturer</i> | <i>Model Number</i> |
|------------------|---------------------|---------------------|
| Package Unit     | Trane               | YHC033A3ELA13A      |
| Package Unit     | Trane               | YHC120A3RLA2KC      |
| Package Unit     | Trane               | YHC120A3RLA2KC      |
| Package Unit     | Trane               | YHC033A3ELA13A      |
| Package Unit     | Trane               | YHC033A3ELA13A      |
| Package Unit     | Trane               | YHC033A3ELA13A      |
| Package Unit     | Trane               | YHC033A3ELA13A      |

## Recreation Center – 1250 O’Hara Avenue

| <i>Component</i>  | <i>Manufacturer</i> | <i>Model Number</i> |
|-------------------|---------------------|---------------------|
| Condensing Unit   | Daikin              | RXYQ120TATJU        |
| Condensing Unit   | Daikin              | RXYQ96TATJU         |
| Condensing Unit   | Daikin              | RXYQ72TATJU         |
| Condensing Unit   | Daikin              | REYQ120TATJU        |
| Condensing Unit   | Daikin              | REYQ120TATJU        |
| Condensing Unit   | Daikin              | REYQ120TATJU        |
| Condensing Unit   | Daikin              | REYQ120TATJU        |
| Mini Split System | Daikin              | RK24NMVJU           |
| Mini Split System | Daikin              | RK15QMVJU           |
| Mini Split System | Daikin              | FFQ15Q2VJU          |
| Air Handler       | Daikin              | FXMQ96MVJU          |
| Air Handler       | Daikin              | FXMQ96MVJU          |
| Air Handler       | Daikin              | 3P364703-7A         |
| Air Handler       | Daikin              | 3P364703            |
| Air Handler       | Daikin              | FXMQ96MVJU          |
| Air Handler       | Daikin              | FXMQ15PBVJU         |
| Air Handler       | Daikin              | FXMQ96MVJU          |
| Air Handler       | Daikin              | 3P3647003-3A        |
| Package Unit      | BARD                | WH602A05PV4         |
| Package Unit      | BARD                | N/A                 |
| Package Unit      | BARD                | N/A                 |
| Package Unit      | BARD                | N/A                 |
| Package Unit      | BARD                | WH421A05VP4         |

## Public Works Operation Building – 310 4<sup>th</sup> Street

| <i>Component</i> | <i>Manufacturer</i> | <i>Model Number</i> |
|------------------|---------------------|---------------------|
| Condensing Unit  | Carrier             | 58PAV16120135       |
| Furnace          | Carrier             | 38CKC060301         |
| Exhaust Fan      | N/A                 | N/A                 |

## Entrepreneur Center – 3330 Main Street

| <i>Component</i> | <i>Manufacturer</i> | <i>Model Number</i> |
|------------------|---------------------|---------------------|
| Package Unit     | Bryant              | 582AJW048090NAAG    |
| Package Unit     | Bryant              | 582ANW036060ABAF    |
| Package Unit     | Bryant              | 582AJW048090AAAG    |
| Package Unit     | Bryant              | PGD448090K001E1     |
| Condensing Unit  | N/A                 | N/A                 |
| Condensing Unit  | N/A                 | N/A                 |
| Condensing Unit  | N/A                 | M4M448GKG101        |
| Condensing Unit  | N/A                 | NXH536GKA200        |

## Restaurant Building – 3070 Main Street

| <i>Component</i>   | <i>Manufacturer</i> | <i>Model Number</i> |
|--------------------|---------------------|---------------------|
| Package Unit       | Carrier             | 48HCDD08C2A5A0A0C0  |
| Package Unit       | Carrier             | 48HCDD08C2A5A0A0C0  |
| Evaporative Cooler | N/A                 | N/A                 |
| Evaporative Cooler | N/A                 | N/A                 |
| Exhaust Fan        | N/A                 | WCA16FA             |
| Exhaust Fan        | N/A                 | N/A                 |
| Exhaust Fan        | N/A                 | N/A                 |
| Mini Split System  | Heatcraft           | MOHo10X63CFM        |
| Mini Split System  | Fujitsu             | AOU18CL             |

## Restaurant Building – 3080 Main Street

| <i>Component</i>   | <i>Manufacturer</i>           | <i>Model Number</i> |
|--------------------|-------------------------------|---------------------|
| Package Unit       | Carrier                       | 48HCDA04A2A5A0A0CO  |
| Package Unit       | International Comfort Product | RGS036HLCAOAAAA     |
| Evaporative Cooler | N/A                           | 55OOSD/N55S         |

Preventative maintenance procedures shall be performed quarterly per the following table.

|  |
|--|
| Check building controls and thermostats for proper programming/operation – recalibrate as necessary.   |
| Check and reset as necessary fan system temperature controls including dampers.  |
| Check air temperature in supply ducts.   |
| Change air filters.  |
| Check and record volts/amps of air conditioning compressors. Check refrigerant charge, add additional refrigerant as necessary. If leaks are found, repair leaks, recharge and test the system. Check oil level in compressors, check for oil contamination (replace as required), check head pressure controls, check hot gas bypass control where applicable |
| Check fan shafts, belts, pulleys, and fan bearings of all air handling equipment. Check all sheaves for proper alignment. Check for proper belt alignment. Lube motor bearings where applicable.   |
| Check all air handling systems for proper flow, operation and sequencing. All related controls are included. Check fans and fan shafts for proper balance.   |
| Air conditioning condenser coils will be cleaned annually and may require an additional cleaning at no additional cost to the City due to environmental factors. Wash external/internal cooling coils on HVAC units (once a year).   |
| Test and cycle all equipment as a system after it has been cleaned, lubricated, adjusted and calibrated to assure that it operates to original design specifications.  |
| This preventive maintenance program includes all parts, labor and materials necessary to perform preventive maintenance services to increase the performance and reliability of the HVAC system.   |

### **Extra Work**

No additional extra work shall be commenced or undertaken by the Contractor unless authorized in advance in writing by the City. Said written authorization is a precedent to the Contractor's entitlement to reimbursement or remuneration for such services. This work shall be performed within a specified time limit established by the City and for a mutually agreed upon price.

The City shall retain discretionary right to perform any extra work through the use of City staff, by negotiated agreement, or to advertise such work by others.

## **AWARD CRITERIA**

**General Provision** – The award of any contract shall be at the sole discretion of the City. It is the intent to make an award to one Bidder for all requirements. The City may accept or reject any or all bid proposals in whole or in part and may waive informalities in the process. The contents of the proposal of the selected Bidder will become the basis for a contractual obligation when the award of bid is made.

**HVAC Preventative Maintenance and Repair Services** – The City will award a contract to the most responsible bidder, provided that the Bidder is determined to be qualified based on the requirements listed herein. To determine the lowest bid, the City will review the Grand Total for each Bidder as indicated on the Bidder's Bid Price Sheet.

In order to be determined responsive, a Bidder must respond to all requested information and supply all required information in this RFP. Any bid may be rejected if it is conditional, incomplete or contains irregularities. Minor or immaterial irregularities in a bid may be waived. Waiver of an irregularity shall in no way modify this RFP nor affect recommendation for award of a contract.

**Grand Total Bid** - The grand total bid shall be calculated by adding the extended prices for all services as listed under Attachment D.

The extended prices shall be calculated by each Bidder and tallied for each service as well as each sub-total and the grand total. The extended prices are intended to show a potential amount of monthly service and are being used for the sole purpose of evaluating unit service costs to determine the lowest bidder. Nothing in this RFP or in the estimated amount of units shown in the extended prices is intended to be nor shall be taken to be a guarantee of such amount of any work, or amount of compensation under any future contract. The successful Bidder shall be paid on the unit price only for work performed under the awarded contract executed by the successful Bidder and the City. The Contractor shall pay California Prevailing Wage Rates to all its employees.

The City will review only the grand totals for determination of the lowest Bidder and will confirm the unit prices of the lowest Bidder for accuracy. If the apparent lowest Bidder is determined to have a mathematical error in the tabulation of the grand total, a sub-total, or an extended price, the City shall notify all bidders of such error and shall revise such Bidder's grand total to reflect the corrected sum.

## **REQUIRED QUALIFICATIONS**

Contractors submitting bids must hold both a valid State California C-20 Contractor's License. License must be in good standing for the previous five (5) consecutive years without any official unresolved record of complaints registered or filed with the California Department of Consumer Affairs.

The Contractor shall be held liable for the faithful observance of any lawful instructions of the City, not in conflict with the awarded contract, which may be delivered to said party or representative at the work site.

The Contractor must keep all equipment in good working order and shall maintain and operate such equipment in full compliance with OSHA regulations and State of California Department of Transportation (DOT) requirements.

The Contractor should have at least three (3) similar and separate California governments or municipal multi-year HVAC maintenance contracts which have been successfully completed within the last ten (10) years. Each project shall be of comparable size and scope of this project (descriptions of these projects and contact persons must be provided with bid submission). The bid shall include a detailed description of their proposed inventory program along with sample reports.

**ATTACHMENT B**  
**Proposer's Information Form**

**PROPOSER** (please print): \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

1<sup>st</sup> Contact person (Name): \_\_\_\_\_

Title: \_\_\_\_\_ Office Tel: \_\_\_\_\_

Direct/Cell: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

2<sup>nd</sup> Contact person (Name): \_\_\_\_\_

Title: \_\_\_\_\_ Office Tel: \_\_\_\_\_

Direct/Cell: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Proposer, if selected, intends to carry on the business as (check one):

Individual     Joint Venture     Partnership     Corporation

Year incorporated? \_\_\_\_\_ In what state? \_\_\_\_\_

When authorized to do business in California? ): \_\_\_\_\_

Other (explain): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ADDENDA**

To assure that all Proposers have received each addendum, check the appropriate box (es) below. Failure to acknowledge receipt of an addendum/addenda may be considered an irregularity in the Proposal:

Addendum number(s) received:

1     2     3     4     5     6

\_\_\_\_\_ No Addendum/Addenda Were Received (check and initial)

**PROPOSER’S SIGNATURE**

No proposal shall be accepted which has not been signed in ink in the appropriate space below:

By signing below, the submission of a proposal shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and they have read and understand the RFP. No request for modification of the proposal shall be considered after its submission on the grounds that the Proposer was not fully informed as to any fact or condition.

**(1) If Proposer is an *INDIVIDUAL*, sign here:**

\_\_\_\_\_  
Proposer’s Signature

\_\_\_\_\_  
Proposer’s name and title (type or print)

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

**(2) If Proposer is a *PARTNERSHIP* or *JOINT VENTURE*, at least (2) Partners or each of the Joint Venturers shall sign here:**

\_\_\_\_\_  
Partnership or Joint Venture Name  
(type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Member of the Partnership or Joint  
Venture (type or print)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Member of the Partnership or Joint  
Venture Name (type or print)

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



**(3) If Proposer is a CORPORATION, the duly authorized officer(s) shall sign as follows:**

The undersigned certify that they are respectively:

\_\_\_\_\_ (Title)

and \_\_\_\_\_ (Title)

of the corporation named below; that they are designated to sign the Proposal Cost Form by resolution (attach a certified copy, with corporate seal, if applicable, notarized as to its authenticity (City or Secretary's certificate of authorization) for and on behalf of the below named CORPORATION, and that they are authorized to execute same for and on behalf of said CORPORATION.

\_\_\_\_\_  
Corporation Name (type or print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Member of the Corporation (type or print)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Member of the Corporation (type or print)

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

**CONTRACTING SERVICES AGREEMENT BETWEEN THE  
CITY OF OAKLEY AND \_\_\_\_\_  
FOR \_\_\_\_\_ MAINTENANCE WORK**

THIS AGREEMENT for contracted park and landscape maintenance services is entered into by and between the City of Oakley, a municipal corporation in the State of California (hereinafter referred to as "City") and \_\_\_\_\_ (hereinafter referred to as "Contractor") as of **January 1, 2020** (the "Effective Date").

**Section 1. ATTACHMENTS.** The attached exhibits are made a part of this Agreement. Exhibit "A" contains the prevailing wage requirements. Prevailing wages are required in the performance of this Contract as set forth in Exhibit "A". Exhibit "A" contains the Hours of Work provisions, Exhibit "B" contains the Scope of Services and Compensation Schedule, Exhibit "C" contains the Specific Insurance Requirements, and Exhibit "D" contains the Verification of Required Insurance. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the City the services described in Exhibit "B" at the place(s) and in the manner specified therein.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on **DATE June 30, 2022** and Contractor shall complete all the work described in Exhibit B prior to that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8. The City reserves the right to extend the contract an additional two years from the original completion date for a revised completion date of June 30, 2024.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards and specifications stated and as observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession. Contractor shall prepare all work products required by this Agreement in a substantial, first-class manner and shall conform to the standards of quality normally observed by a person practicing in Contractor's profession. If conflict exists between standards and specifications the more strict of the two shall be adhered to.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Contractor's obligations hereunder.

**Section 2. COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed \_\_\_\_\_ **DOLLARS (\$ \_\_\_\_\_)** annually as described in Exhibit B, notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred

under this Agreement. In the event of a conflict between this Agreement and Contractor's proposal, regarding the amount of compensation, the Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

**2.1 Invoices.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Name of company and remittance address;
- Name and telephone number of contact for billing inquires;
- The beginning and ending dates of the billing period (Date(s) of work performed);
- A Task Summary containing the original contract amount, the amount of prior billings with dates, and the total due this period.
- Itemized - City Maintenance Zone Number listed/line item by cost; City Maintenance Area Description listed/line item by cost. City Billing/Coding Number listed for each billed item.
- Attachment of approved proposals to monthly invoice if extra work (separate from regular maintenance work payment schedule) was performed.
- The Contractor's signature.

**2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above and in the exhibits to pay Contractor.

**2.3 Total Payment.** City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

**2.4 Extra Work / Non-Contractual Work.** Any work not specifically included in Exhibit B that is either required to be done for Contractor to do proper maintenance or is a recommendation by the Contractor, shall be submitted in writing to the City prior to start of work, and no work shall commence until signed approval is provided by the City to the Contractor for said work.

All cost proposals shall be listed as a Time and Materials work with each line item listed for each material cost and labor costs, unless otherwise requested by the City.

- 2.5 Payment of Taxes.** Contractor is solely responsible for the payment of employment and income taxes incurred under this Agreement and any similar federal or state taxes.
- 2.6 Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 2.7 Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Contractor's use while meeting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

- 3.1 Recycling Requirements.** Contractor agrees to comply with all City recycling requirements, and as set forth in the Oakley Municipal Code, including, but not limited to:
- a. **Construction and Demolition.** Contractor must contact a customer service representative (CSR) at Oakley Disposal Service, Inc. to arrange for service for any and all construction and demolition work to be performed as part of this project unless Contractor has been approved by the City as a "self-hauler" as defined in Oakley Municipal Code §4.20.308. The CSR will ask if the drop box contains recycle material and will direct the Contractor to drop the construction and demolition debris, including dirt and cement, to a permitted processing facility. The Contractor must indicate on their order form, by checking the applicable box that they need documentation to comply with the Oakley Municipal Code. This documentation must be provided to the City within ten (10) days of receipt of said documentation by Contractor.
  - b. **Commercial Self-Haul.** Business self-haul materials are accepted at various Oakley Disposal Service, Inc. local facilities for recycling and include, but are not limited to, wood, inerts, metals, tires, green waste, plastics, cardboard, mattresses, foam padding, propane tanks, e-waste and appliances. Contractor agrees to drop any and all business self-haul materials at a site designated on the website [www.cccounty.us/dep/cd/recycle/](http://www.cccounty.us/dep/cd/recycle/).
  - c. **Road Maintenance and Construction Projects.** Contractor agrees to recycle green waste, asphalt, concrete and metal from any and all road maintenance and construction projects at Oakley Disposal Service, Inc. designated locations.

d. Office Recyclables. If Contractor has an office, temporary office, or trailer within the City of Oakley, Contractor agrees to recycle all paper, cardboard, bottles, cans, and toner cartridges at Oakley Disposal Service, Inc. designated locations.

e. Special Waste Materials. Contractor shall dispose of inert materials, including, but not limited to, concrete, asphalt and rubber, at Oakley Disposal Service, Inc. designated locations. Shingles and wood waste shall be diverted to the Recycling Center and Transfer Station (RCTS) located at 3700 Loveridge Road, Pittsburg, CA 94565. Scrap metal shall be dropped off at a large-scale scrap metal recycle facility operating within Contra Costa County which may be found at [www.cccrecycle.org](http://www.cccrecycle.org).

f. Universal Waste. Contractor shall dispose of batteries, mercury containing devices and lamps, and certain consumer electronics at a recycling center designated by Oakley Disposal Service, Inc.

**Section 4. INSURANCE REQUIREMENTS**. Before beginning any work under this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance as set forth in Exhibit C against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section; as set forth in Exhibit C and under forms of insurance satisfactory in all respects to the City. Contractor shall maintain the insurance policies required by this section and as set forth in Exhibit C throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence thereof to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Verification of the required insurance is attached and incorporated herein as Exhibit D.

**4.1 Notice of Reduction of Coverage**. In the event that any coverage required by this section is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five (5) days after Contractor is notified of the change in coverage.

**4.2 Variation**. The City may approve a variation in the insurance requirements, upon a determination that the coverage, scope, limits, and form of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

**4.3 Remedies**. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.** Contractor shall to the fullest extent allowed by law, with respect to all Services performed in connection with the Agreement, defend with Counsel acceptable to the City, and indemnify and hold the City and its officials, officers, employees, agents, and volunteers harmless from and against any and all losses that arise out of, pertain to, or relate to negligence, recklessness, or willful misconduct of the Contractor ("Claims"). Contractor will bear all losses, costs, damages, expense and liability of every kind, nature and description that arise out of, pertain to, or relate to such Claims, whether directly or indirectly ("Liability"). Such obligations to defend, hold harmless and indemnify the City shall not apply to the extent that such Liability is caused by the sole negligence, active negligence, or willful misconduct of the City.

With respect to third party claims against the Contractor, the Contractor waives any and all rights of any type of express or implied indemnity against the indemnitees.

However, notwithstanding the foregoing, in accordance with California Civil Code Section 1668, nothing in this Agreement shall be construed to exempt the City from its own fraud, willful injury to the person or property of another, or violation of law. In addition, and notwithstanding the foregoing, in accordance with California Civil Code Section 1668, nothing in this Agreement shall be construed to exempt the City from its own fraud, willful injury to the person or property of another, or violation of law. In addition, and notwithstanding the foregoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code section 2783, as may be amended from time to time, such duties on Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

**Section 6. STATUS OF CONTRACTOR.**

**6.1 Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

**6.2 Contractor No Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7. LEGAL REQUIREMENTS.**

**7.1 Governing Law.** The laws of the State of California shall govern this Agreement.

**7.2 Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.

- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Contractor.

Contractor may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement.

- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall included, but not be limited to, the following:
- Immediately terminate the Agreement;
  - Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
  - Retain a different Contractor to complete the work not finished by Contractor; or
  - Charge Contractor the difference between the cost to complete the work that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

## **Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties.
- 9.2 **Contractor's Books and Records.** Contractor and its subcontractors shall establish and maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement. Accounting systems shall conform to generally accepted



accounting principles and all records shall provide a breakdown of total costs charged under this Contract, including properly executed payrolls, time cards, invoices, receipts, vouchers, and other documents.

- 9.3 Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

## **Section 10 MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.1.1 Dispute Resolution.** The Contract Administrator is empowered to issue orders and instructions to Contractor to effectuate the performance of the work and to ensure that the work complies with this Agreement. If Contractor receives a written direction or order from the Contract Administrator that the Contractor believes is inappropriate or not within the scope of work under this Agreement, the Contractor may appeal the Contract Administrator's order to the City Manager. Any such appeal must be filed within ten (10) business days after receipt of the contested order. The Contractor shall continue performing the work under the Agreement until the appeal is determined. In the event of any dispute between Contractor and the City, before either party may commence litigation to resolve such dispute, the matter shall be referred to nonbinding mediation. Each party shall bear its own costs and expenses for participation in the mediation, and each pay an equal share of the mediator's fees. In the event that the parties are unable among themselves to appoint a mutually satisfactory mediator, the matter shall be submitted to the Walnut Creek office of JAMS\*ENDISPUTE and a panelist shall be assigned by the administrator of that office.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Contra Costa or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Contractor shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous twelve months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by the City Engineer/Public Works Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 **Notices.**

Any written notice to Contractor shall be sent to:

Contact Person, Title  
Contractor Name  
Street Address  
City, State, Zip Code

Any written notice to City shall be sent to:

City of Oakley  
Attn: Public Works Director/City Engineer  
3231 Main Street  
Oakley, CA 94561

- 10.11 **Integration.** This Agreement, including the Scope of Work, Compensation Schedule, Insurance requirements, and Verification of Required Insurance attached hereto and incorporated herein as Exhibits A, B, C, and D, represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.
- 10.12 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 10.13 **Authorized Signature.** Each person and party signing this Agreement warrants that he/she has the authority to execute this Agreement on behalf of the principal and the party will be bound by such signature.

The Parties have executed this Agreement as of the Effective Date.

CITY OF OAKLEY

CONTRACTOR

\_\_\_\_\_  
Bryan H. Montgomery, City Manager

\_\_\_\_\_  
Name, Title

Attest:

Approved as to Form:

\_\_\_\_\_  
Libby Vreonis, City Clerk

\_\_\_\_\_  
Derek Cole, City Attorney

## EXHIBIT A

### **PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 ET SEQ.**

#### **HOURS OF WORK:**

- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the services shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for All hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Contractor and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day, or more than forty (40) hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### **WAGES:**

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services are to be performed for each craft or type of work needed to be published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Contractor and subcontractors engaged in the performance of the services shall pay no less than these rates to all persons engaged in performance of the services.
- B. In accordance with Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the services shall comply with Labor Code Section 1775, which establishes a penalty of up to \$50 per day for each worker engaged in the performance of the services that the Contractor or any subcontractor pays less than the specified prevailing wage or such other amount as may be designated in that section from time to time. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of their obligations under the California Labor Code. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the services shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services.
  4. Prior to making final payment to the subcontractor, the Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the services shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the services shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- E. In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the services to employ for the services any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

**EXHIBIT B**

**SCOPE OF SERVICES AND COMPENSATION SCHEDULE**

## EXHIBIT C

### SPECIFIC INSURANCE REQUIREMENTS

#### MAINTENANCE CONTRACTS

Contractor shall procure and maintain for the duration of the contract, and for two years thereafter, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, employees or subcontractors.

#### MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit (i.e., \$4,000,000)
2. **Automobile Liability:** Insurance Services Office Form Number CA 00 01 covering Code 1 (any auto), with limits no less than **\$5,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employers' Liability insurance with a limit of no less than \$1,000,000 per accident for bodily injury or disease.
4. **Builder's Risk (Course of Construction)** insurance utilizing an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions.
5. **Professional Liability** (if Design/Build), with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
6. **Contractors' Pollution Legal Liability** and/or Asbestos Legal Liability and/or Errors and Omissions (if project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

#### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the contractor shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

#### ***Other Insurance Provisions***

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **The City, its officers, officials, employees, and volunteers are to be covered as additional insureds** on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. General liability coverage can be provided in the form of an endorsement to the

Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 10 01 and CG 20 37 10 01 forms if later revisions used).

2. For any claims related to this project, the **Contractor's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be in excess of the Contractor's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall provide that notice will be provided to City in the event that policy is terminated. Contractor shall immediately notify City of any insurance cancellation or termination and shall provide replacement insurance policy documentation to the City.

### ***Builder's Risk (Course of Construction) Insurance***

Contractor may submit evidence of Builder's Risk insurance in the form of Course of Construction coverage. Such coverage shall **name the City as a loss payee** as their interest may appear.

If the project does not involve new or major reconstruction, at the option of the City, an Installation Floater may be acceptable. For such projects, a Property Installation Floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken, or destroyed during the performance of the Work, including during transit, installation, and testing at the City's site.

### ***Claims Made Policies***

If any coverage required is written on a claims-made coverage form:

1. The retroactive date must be shown, and this date must be before the execution date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of contract work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective, or start of work date, the Contractor must purchase extended reporting period coverage for a minimum of five (5) years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City for review.
5. If the services involve lead-based paint or asbestos identification/remediation, the Contractors Pollution Liability policy shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification/remediation, the Contractors Pollution Liability policy shall not contain a mold exclusion, and the definition of Pollution shall include microbial matter, including mold.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best rating of no less than A:VII, unless otherwise acceptable to the City.

### ***Waiver of Subrogation***

**Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire** from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Worker's Compensation policy shall be endorsed with a waiver of subrogation** in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

### ***Verification of Coverage***

Contractor shall furnish the City with original certificates and amendatory endorsements, or copies of the applicable insurance language, effecting coverage required by this contract. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation



to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements, required by these specifications, at any time.

***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors. For CGL coverage subcontractors shall provide coverage with a format least as broad as CG20 10 10 01 and CG 20 37 10 01..

***Special Risks or Circumstances***

City reserves right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other circumstances.

**EXHIBIT D**

**VERIFICATION OF REQUIRED INSURANCE**

**ATTACHMENT D  
 BID PRICE SHEET**

For all services described below, unless excluded by the City in the description of services below, the City shall consider unit prices below to include all labor, equipment, transportation, fees of any kind, overhead, insurance, fuel, materials, surcharges, disposal fees, and any other costs associated with and necessary for the Bidder to perform such service. No qualifications, exemptions, or alterations of services described below will be allowed. Failure to comply will result in disqualification of the bid.

**A. Preventive Maintenance**

| Building  | Quarterly Cost \$ |
|---|-------------------|
| Civic Center – 3231 Main Street                               |                   |
| Recreation Center - 1250 O’Hara Avenue                        |                   |
| Public Works Operations Building - 310 4 <sup>th</sup> Street |                   |
| Entrepreneur Center – 3330 Main Street                        |                   |
| Restaurant – 3070 Main Street                                 |                   |
| Restaurant – 3080 Main Street                                 |                   |
| <b>GRAND TOTAL</b>  |                   |

**B. Labor Rates for Extra Work, as Required**

Labor costs must reflect prevailing wages.

| Labor Category | Straight Time (\$ per hour) | Overtime (\$ per hour) |
|----------------|-----------------------------|------------------------|
|                |                             |                        |
|                |                             |                        |
|                |                             |                        |
|                |                             |                        |

**C. Equipment and Vehicle Charges for Extra Work Only, as Required**

| Equipment Category | \$ per hour |
|--------------------|-------------|
|                    |             |
|                    |             |
|                    |             |

**D. Call Out Minimums**

| Description | Mark-up |
|-------------|---------|
|             |         |
|             |         |
|             |         |
|             |         |

**E. Company Information**

1. Company Name \_\_\_\_\_

2. Address from which service will be provided:

\_\_\_\_\_  
\_\_\_\_\_

3. Location of Shop and Storage Facility:

\_\_\_\_\_  
\_\_\_\_\_

4. Number of years providing the specified service: \_\_\_\_\_

5. Business Organization (Check One):

Individual Proprietorship \_\_\_\_

Partnership \_\_\_\_

Corporation \_\_\_\_

Other \_\_\_\_\_

If incorporated, provide the following information:

Date of incorporation: \_\_\_\_\_ State of incorporation: \_\_\_\_\_

Names and titles of all officers and directors:

\_\_\_\_\_

If an individual or partnership, provide the following information:

Formation date of company: \_\_\_\_\_

Name and address of all partners, indicating whether they are general or limited partners:

\_\_\_\_\_

\_\_\_\_\_

6. List the names, titles, and qualifications of the key personnel who will perform work under this contract as well as their roles in relation to the contract. Identify the primary technician to be designated for the City. Include their certifications, experience, and training.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. Indicate whether proposer has ever failed to complete any contract awarded to it. If so, note when, where, and why. Attach additional sheets, if necessary.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. Indicate whether proposer has been or is the subject of a bankruptcy or insolvency proceeding or subject to assignment for the benefit of creditors.

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9. List subcontractors, if any, who will perform work under this contract. Attach additional sheets, if necessary.

Company \_\_\_\_\_

Location \_\_\_\_\_

Describe work to be contracted \_\_\_\_\_

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Company \_\_\_\_\_

Location \_\_\_\_\_

Describe work to be contracted: \_\_\_\_\_

---

Company \_\_\_\_\_

Location \_\_\_\_\_

---

Describe work to be contracted: \_\_\_\_\_

---

10. List three organizations for whom proposer performed similar services of a similar scope in the last three years.

Organization \_\_\_\_\_

Location \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone \_\_\_\_\_

Describe work performed by proposer \_\_\_\_\_

---

Date work performed \_\_\_\_\_

Organization \_\_\_\_\_

Location \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone \_\_\_\_\_

Describe work performed by proposer \_\_\_\_\_

\_\_\_\_\_

Date work performed \_\_\_\_\_

Organization \_\_\_\_\_

Location \_\_\_\_\_

Contact Person \_\_\_\_\_ Phone \_\_\_\_\_

Describe work performed by proposer \_\_\_\_\_

\_\_\_\_\_

Date work performed \_\_\_\_\_

**ADDENDA**

Proposer acknowledges receipt of the following Addenda:

Number \_\_\_\_\_ Date \_\_\_\_\_

Number \_\_\_\_\_ Date \_\_\_\_\_

Number \_\_\_\_\_ Date \_\_\_\_\_

**SIGNATURE**

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Signature

---

Title

---

Name (printed or typed)

---

Date

---

Telephone

---

Fax

---

Tax ID Number