

CITY of CARPINTERIA, CALIFORNIA



NOTICE OF REQUEST FOR PROPOSALS Regarding Environmental Consultant Services to Prepare an Environmental Impact Report for the 5885 Carpinteria Avenue Project, Project #25-2356-DP/CDP/TTM/ARB

The City of Carpinteria Community Development Department (CDD) is seeking proposals from qualified environmental consulting firms (Environmental Consultants) to prepare an environmental impact report (EIR) to evaluate the potential impacts of the 5885 Carpinteria Avenue Project on the Carpinteria Bluffs. The Project would require a Development Plan (DP), Coastal Development Permit (CDP), Tentative Tract Map (TTM), and Architectural Review Board (ARB) approval. Based upon a preliminary review of the submitted application materials, CDD determined that an EIR should be prepared for the Project. Accordingly, the City, as the Lead Agency, is requiring the preparation of an EIR pursuant to the California Environmental Quality Act (CEQA) Statutes and Guidelines (see Guidelines Sections 15060-15064 and 15081). The information below provides Project information and an outline of the proposal submittal requirements, selection process, budgets, and scope of work.

This Request for Proposals (RFP) is being distributed on **January 26, 2026** and the deadline to submit a proposal is **February 27, 2026 by 5:00 pm PDT**.

Project Description Summary

The Project would involve the construction of approximately 490,402 square feet of residential floor space consisting of 97 two-story single-family dwellings (including 78 market rate and 19 affordable housing dwellings) and 94 two-story townhomes (including 74 market rate and 20 affordable housing units). It would include 463 parking spaces (382 garage spaces, 9 ADA-accessible visitor spaces, 36 uncovered visitor spaces, 62 uncovered parallel visitor spaces). The Project would occur within a footprint of approximately 605,148 square feet, or approximately 13.9 acres within the 27.53-acre Project site.

All development is proposed for APN 001-170-013, north of the Southern Pacific Railroad. Beach access from the Project site is proposed using an existing trail. APN 001-170-010 would remain undeveloped.

The Project consists of the following primary components:

- 97 two-story single-family dwellings
- 94 two-story townhomes
- 489 parking spaces
- New landscaping
- Tentative Tract Map
- "Tier 4" Stormwater Control Plan
- Total grading of approximately 40,000 cubic yards of cut and 40,000 cubic yards of fill.
- Water service would be provided by the Carpinteria Valley Water District. Sewer service would be provided by the Carpinteria Sanitary District after annexation.
- Fire protection would be provided by Carpinteria Summerland Fire Protection District.

This project description is a provisional working draft provided for RFP and EIR scoping purposes only, and is subject to material revision that may necessitate adjustments to the consultant's proposed scope and cost estimate.

Please be aware, the applicant has indicated that the project may rely on the "Builder's Remedy" provisions of Government Code section 65589.5. Throughout the process, the City will continue to evaluate the project for consistency with applicable Government Code requirements.

Additional Project information, including the City's letters to the applicant identifying project issues, is available on our website at <https://carpinteriaca.gov/city-hall/community-development/housing/5885carpinteriaave/>. To date, the applicant has provided the following technical studies and reports:

- Biological Resources Assessment Report
- Noise Technical Report*
- Preliminary Drainage Analysis*
- Geotechnical Investigation*
- Stormwater Control Plan
- Transportation Impact Analysis

Asterisk (*) in the above list indicates that peer review will be needed. A visual study is currently being prepared. The City has also identified the following studies that will be needed during the CEQA process: Agricultural Resources, Air Quality, Greenhouse Gas Emissions, Cultural Resources, Energy Consumption, and Coastal Hazards related to Wave Runup / Bluff Erosion / Sea Level Rise.

The project plan sets are available in **Dropbox Here** (*link removed for website posting – contact Mindy Fogg if you are an EIR consultant*) and should not be reproduced without the consent of the applicant.

Issue Areas for Analysis

The Environmental Consultants selected for this Project will be required to prepare an Environmental Impact Report that evaluates the potential impacts on the environment that would result from Project implementation. The EIR must evaluate potential environmental impacts related to: Aesthetics, Agriculture / Forestry Resources, Air Quality, Biological Resources, Cultural Resources, Energy, Geology / Soils, Greenhouse Gas Emissions, Hazards & Hazardous Materials, Hydrology / Water Quality, Land Use / Planning, Mineral Resources, Noise, Population and Housing, Public Services, Recreation, Transportation, Tribal Cultural Resources, Utilities/Service Systems, Wildfire, and any other issue areas that may arise during the CEQA review. The EIR must be prepared in accordance with the State CEQA Guidelines and the Environmental Thresholds Manual set forth in the City of Carpinteria Environmental Review Guidelines https://carpinteriaca.gov/wp-content/uploads/2020/03/cd_Environmental-Review-Guidelines.pdf.

The City anticipates beginning the EIR process in spring or summer 2026, though the exact start date is currently uncertain. Proposers should prepare a proposed schedule, and describe their availability, anticipated workload during the projected timeframe and their ability to meet deadlines.

Responding consultants must submit technical qualifications and separate cost proposals no later than **February 27, 2026 by 5:00pm PDT** to:

Mindy Fogg, Principal Planner
mindyf@carpinteriaca.gov

Based on a preliminary evaluation of qualifications by CDD, your firm has been selected to receive this Request for Proposal. It is anticipated that one firm will be selected to prepare the required EIR. Environmental consultant selection will be based on qualifications, understanding of the Project and issues, proposed scope, responsiveness, cost, and proof of required insurance.

If you have any questions concerning this Project, please contact me at mindyf@carpinteriaca.gov or 805-755-4408. I look forward to receiving your proposal.

Sincerely,



Mindy Fogg, Principal Planner

Enc. Request for Proposal - Instructions
Sample Standard Services Contract

REQUEST FOR PROPOSALS

Regarding
Environmental Consultant Services to Prepare an Environmental Impact
Report (EIR) for the 5885 Carpinteria Avenue Housing Project
Project #25-2356-DP/CDP/TTM/ARB

DEADLINE FOR SUBMISSION: February 27, 2026 no later than 5:00 pm PDT.

Mindy Fogg, Principal Planner
mindyf@carpinteriaca.gov

City of Carpinteria
5775 Carpinteria Avenue
Carpinteria, CA 93013

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I. PROPOSED PROJECT DESCRIPTION

The Applicant is requesting approval of a Development Plan, Coastal Development Permit and Tentative Tract Map to construct 97 two-story single-family dwellings and 94 two-story townhomes, on approximately 13.9 acres within the 27.53-acre Project site. The Project site is located at 5669 & 5885 Carpinteria Avenue; comprised of a 4.13-acre parcel (APN 001-170-010) and a 23.40-acre parcel (APN 001-170-013). All development is proposed for APN 001-170-013, north of the Southern Pacific Railroad. Beach access from the Project site is proposed using an existing trail.

Housing

The Project includes a 191-dwelling-unit residential housing development comprised of 94 townhomes and 97 single-family dwelling (SFDs). The Project would provide a mix of market-rate and affordable units. Of the 191 total units, 20 percent (20 SFDs and 19 townhomes; 39 units total) would be designated for low-income households. The remaining 152 units (77 SFDs and 75 townhomes) would be market-rate residences. In total, the Project would involve approximately 497,032 square feet of residential floor area and would result in an overall density of 6.97 dwelling units per acre. The subject property consists of two parcels totaling approximately 27.53 acres located on the south side of Carpinteria Avenue, between Carpinteria Avenue and the coastal bluff edge. The two parcels are bisected by an active rail line. The northern parcel (APN 001-170-013), which is approximately 23.4 acres in size, currently supports a golf driving range and active agricultural uses. The southern parcel (APN 001-170-010) is approximately 4.13 acres, is currently undeveloped, and supports a mix of native vegetation, dirt paths, and unvegetated coastal bluffs that descend to low-lying beach areas.

The 94 townhomes would be clustered on the northern portion of the subject property and would be accessed via proposed alleyways. Each townhome would include three bedrooms, a private courtyard, and a two-car garage. Townhome sizes would be distributed across three floor plans:

- Plan 1: 27 units at 1,747 square feet
- Plan 2: 29 units at 1,828 square feet
- Plan 3: 38 units at 1,822 square feet

The 97 single-family dwellings (SFDs) would be distributed throughout the remainder of the northern parcel and would be accessed by proposed private roads. Each SFD would also include a two-car garage and would be developed under one of three layout plans:

- Plan 1: 27 five-bedroom units at 3,146 square feet
- Plan 2: 33 five-bedroom units at 3,425 square feet
- Plan 3: 37 five-bedroom units at 3,504 square feet

All buildings would be two stories in height and would range from approximately 26 to 30 feet tall.

Parking

The circulation plan for the proposed Project would include seven alleyways and five private roads. Proposed parking would include 489 vehicular spaces and 40 bicycle spaces, consisting of:

- 382 garage spaces (two per unit)
- 9 ADA-accessible visitor spaces
- 36 uncovered visitor spaces
- 62 uncovered parallel visitor spaces
- 40 bicycle spaces

Landscaping

The Project would include three private pocket parks with landscaping and recreational amenities for residents. There are currently approximately 180 existing trees located within or adjacent to the subject property, including 24 native trees and 156 non-native trees. Proposed landscaping would include a mix of street trees along the private roads and native planting within proposed open space areas. Where feasible, existing sycamore trees would be preserved or relocated. The existing windrow of trees along the Property's western edge would be largely preserved, with limited removal of non-native tamarisk trees in poor health. Development would include the planting of 253 new trees, including cherry, oak, elderberry, and other native species.

All residential development would be limited to the northern parcel and would be set back approximately 200 feet north of the existing railroad line. The southern parcel would remain undeveloped and would be dedicated as open space. Dedicated trails and coastal access improvements have not yet been designed.

Storm Water

The proposed Project includes a "Tier 4" storm water plan (projects with 22,500 square feet or more of impervious surfaces) which incorporates Low Impact Development (LID) measures including the use of permeable surfaces for portions of the new and reconfigured parking areas and the installation of underground retention chambers in each parking lot to treat and limit storm water discharge from the site.

IMPERVIOUS AREA = 501,515 SF (49.3%)

PERVIOUS AREA = 516,080 SF (50.7%)

TOTAL PROJECT AREA = 1,017,595 SF

Grading

Total grading for the Project would include total grading of approximately 40,000 cubic yards of cut and 40,000 cubic yards of fill.

Additional Information

Additional Project information, including the City's letters to the applicant identifying project issues, is available on our website at <https://carpinteriaca.gov/city-hall/community-development/housing/5885carpinteriaave/>. To date, the applicant has provided the following

technical studies and reports:

- Biological Resources Assessment Report
- Noise Technical Report*
- Preliminary Drainage Analysis*
- Geotechnical Investigation*
- Stormwater Control Plan
- Transportation Impact Analysis

Asterisk (*) in the above list indicates that peer review will be needed. A visual study is currently being prepared. The City has also identified the following studies that will be needed during the CEQA process: Agricultural Resources, Air Quality, Greenhouse Gas Emissions, Cultural Resources, Energy Consumption, and Coastal Hazards related to Wave Runup / Bluff Erosion / Sea Level Rise.

The project plan sets are available in **Dropbox Here** (*link removed for website posting – contact Mindy Fogg if you are an EIR consultant*) and should not be reproduced without the consent of the applicant.

II. EIR SCOPE OF WORK & SERVICES REQUESTED

The CDD is requesting proposals for environmental consultant services to prepare an EIR pursuant to the requirements of CEQA for the 5885 Carpinteria Avenue Project. CDD's initial preliminary review identified that the Project may have a significant adverse effect on the environment, and an EIR must be prepared. The selected environmental consultant will be assigned to complete the following tasks:

- A. Attendance at (1) a "kick off" meeting with CDD staff and the applicant prior to beginning work on the EIR; and (2) additional meetings with CDD staff and staff of responsible Districts/Agencies as needed throughout the preparation of the EIR to ensure that the EIR is prepared in compliance with City, County, and State standards.
- B. Preparation of the EIR Notice of Preparation (NOP). This task would include the drafting and finalization of the NOP document in collaboration with CDD staff, preparation of the Notice of Completion (NOC), formal distribution to the State Clearinghouse through CEQA Submit, preparation of a Scoping Meeting presentation, and facilitation of the City's Scoping Meeting. At the close of the NOP period, compile all NOP comments for inclusion and response within the EIR.
- C. Preparation of an Administrative Draft EIR, Draft EIR, Administrative Final EIR, and Final EIR, pursuant to the requirements of CEQA and the City of Carpinteria Environmental Review Guidelines. The EIR must include an analysis of issues listed in Appendix G of the CEQA Guidelines with consideration given to and the Environmental Thresholds Manual set forth in the City of Carpinteria Environmental Review Guidelines https://carpinteriaca.gov/wp-content/uploads/2020/03/cd_Environmental-Review-Guidelines.pdf. The EIR must identify and describe potential alternatives and feasible mitigation measures to lessen or avoid the significant impacts of the proposed Project. The EIR must also include, as needed, color illustrations, tables, charts, graphs, photographs, and any typographical elements to effectively communicate the analysis and conclusions of the EIR.

- D. Conduct any surveys and/or technical studies, and preparation of supporting documentation required to complete the EIR. Note that several technical studies and reports were prepared by the Project applicant and submitted with the application; those documents should receive peer review by the environmental consultant for potential use and inclusion in the EIR analysis, with additional/supplemental analysis performed if deemed necessary by the EIR consultant.
- E. Preparation of all required CEQA noticing documents for the draft and final EIRs (e.g., Notice of Availability, updated Notice of Completion, etc.), and distribution/uploading through CEQA Submit.
- F. Preparation of written responses to all substantive public and agency comments received on the Draft EIR to be included in the Administrative Final EIR and Final EIR at the conclusion of the noticing period for the Draft EIR.
- G. Preparation of all required Notice of Determination documents for recordation with the Santa Barbara County Clerk and Recorder's Office, and distribution/uploading through CEQA Submit.
- H. Assisting CDD staff with the preparation of a mitigation monitoring and reporting program, findings of fact pursuant to CEQA Guidelines 15091, and if necessary, a statement of overriding considerations.
- I. Attendance/participation at one Environmental Review Committee meeting (during Draft EIR public comment period), one Architectural Review Board Meeting, one Planning Commission meeting, and one City Council meeting at which the proposed Project and EIR will be considered. Additional decision-maker meetings might be required depending on the level of public interest and issues that might arise during the decision-maker meetings. Therefore, the Consultant must be available to attend additional decision-maker meetings regarding the EIR.

III. PROPOSAL CONTENT

Responding environmental consultants must prepare and submit by **February 27, 2026 no later than 5:00 pm PDT**, a technical qualifications proposal and a cost proposal for the work specified in the Environmental Consultant Performance Criteria (below). The contents of each proposal should be as follows:

- A. Technical Qualifications Proposal: The technical qualifications proposal must include the following:
 - 1. A detailed description of the degrees, certifications, qualifications, and experience of all individuals, including those of any subconsultants, who will be performing the work and activities that are required to prepare the EIR;
 - 2. A detailed description of the environmental consultant's related work experience, familiarity with the proposed Project, and experience evaluating projects with similar impacts as those that must be evaluated in this EIR;

3. A list of references; and
4. A detailed discussion of the proposed methodological approach to analyzing the Project's impacts and preparing the mitigation monitoring and reporting program; and a Project timeline that provides the projected number of hours that will be required to complete the EIR, and any additional follow-up required to produce a final certified copy of the EIR.

The environmental consultant must submit a digital copy of the technical proposal via email to mindyf@carpinteriaca.gov.

B. Cost proposal: Materials, travel costs, and any/all other costs/associated fees must be detailed in the cost proposal including required insurances. The cost proposal must also include a breakdown of the tasks and projected hours by staffing levels, and the hourly billing rate(s) for the various levels of staff to be assigned to the Project.

Please submit the cost proposal as a digital copy in a separate email than the technical proposal to mindyf@carpinteriaca.gov.

C. Insurance: The City of Carpinteria requires that contract service providers be able to verify that they maintain the appropriate insurances. For professional contracting services, vendors must maintain the minimum General Liability, Automobile, and Worker's Compensation coverage. Professional Liability coverage is also required per the amounts listed.

IV. SUBMITTAL PROCEDURES

The technical qualifications proposal and cost proposal may be submitted digitally to:

Mindy Fogg, Principal Planner
mindyf@carpinteriaca.gov

V. SCHEDULE

Consultant selection will proceed according to the following schedule:

| | |
|---------------------------|-------------------|
| RFP Released | January 26, 2026 |
| RFP Submittal Deadline | February 27, 2026 |
| Selection Interviews* | Early March |
| Notification of Selection | By March 24, 2026 |

*Interviews will only be held if deemed necessary by the City in evaluating multiple firm submissions. The City may elect to conduct informational phone calls or virtual meetings to each firm as part of the proposal review and evaluation.

VI. PROPOSAL EVALUATION AND SELECTION PROCEDURES

The technical qualification proposals will be evaluated by a panel on the basis of the following criteria:

- A. The environmental consultant's demonstrated understanding of the scope of work and consultant performance criteria;
- B. The environmental consultant's demonstrated professional skills, and the credentials (e.g., degrees and certifications) of all staff responsible for preparing the EIR;
- C. The environmental consultant's experience and references related to preparing EIRs for projects similar to the Project that is the subject of the EIR;
- D. The general quality of the proposal (e.g., organization, use of charts and graphs; legibility); and,
- E. The proposed methodological approach to analyzing the Project's impacts and preparing the mitigation monitoring and reporting program.

The consultants will be ranked according to CDD's evaluation criteria provided above. The cost proposals will not be opened by CDD until the technical qualifications have been ranked.

The selection of a candidate firm will be based on a combination of the evaluation criteria, references, and costs. The candidate firm with the best qualifications coupled with a competitive cost estimate will be invited to negotiate an EIR Services Agreement. If an agreement is not reached, negotiations with the candidate may be terminated, and CDD will commence with negotiations with the next most qualified consultant.

The CDD reserves the right to reject any and/or all proposals. The CDD also reserves the right to invite any of the candidates to attend an oral interview, and/or request additional clarifying information from any of the candidates if necessary.

VII. BILLING AND PAYMENT PROCEDURES

- A. Billing and payment for the services rendered by the environmental consultant shall be as outlined in the contract.
- B. The environmental consultant's fees and costs will be paid by the City with money deposited by Central Coast CA Ventures, LLC (hereinafter "the applicant"). The environmental consultant must agree that the contract fees include all fees and costs to be incurred by the environmental consultant for: the preparation of the Administrative Draft EIR, Draft EIR, Administrative Final EIR, and Final EIR; attendance at meetings and hearings; time spent coordinating activities; all salaries, travel, production of materials, and fees paid to other firms for related special services; and all field surveys and investigations of the Project site.

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## **SAMPLE CONTRACT**

# SAMPLE

## AGREEMENT FOR CONSULTANT SERVICES

**THIS AGREEMENT FOR CONSULTANT SERVICES** (“**Agreement**”) is made and effective as of the **Day of Month, Year** by and between the City of Carpinteria, a municipal corporation (“**City**”), and the **NAME (“Consultant”)** (collectively, the “**Parties**”) at Carpinteria, California, with reference to the following facts:

- A. City has determined that it is necessary and appropriate to engage a non-design professional to carry out the services described herein; and
- B. Consultant has represented itself as being fully qualified and available to perform the consultant services required or necessary under this Agreement in a fully competent, professional and timely manner; and
- C. City desires to contract with Consultant and Consultant is willing to perform the consultant services, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

### 1. SERVICES.

1.1 **Basic Services.** City hereby retains Consultant to perform the services described and set forth in the attached **Exhibit A** (“**Basic Services**”), which is incorporated by this reference as though set forth in full. Consultant hereby agrees to perform said services within the designated time frames and accepts this retention. Consultant shall complete the Basic Services according to a schedule of performance which is also set forth in **Exhibit A**. The Parties agree and acknowledge that time is of the essence in performance of this Agreement.

1.2 **Additional Services.** In addition to the Basic Services, City may elect to have Consultant perform additional services that are beyond the current scope of the Basic Services, but within the expertise of Consultant (“**Additional Services**”). Such Additional Services shall be mutually agreed to in advance and specified in a writing, which shall also specify the basis for the Consultant’s fee for such additional services. Basic Services and Additional Services are referenced collectively as “**Services**.”

### 2. PERFORMANCE.

2.1 **Standard of Performance.** Consultant shall faithfully, competently and diligently perform the obligations and responsibilities required by this Agreement, applying best management practices and the same standards of care utilized by persons commonly

engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement. Consultant shall not engage the assistance of subcontractors for performance of the Services unless previously agreed to in writing by the City.

2.2 **Labor and Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the successful completion of the Services. Consultant shall give its attention and supervision to the fulfillment of the provisions of this Agreement by its employees and subcontractors and shall be responsible for the timely performance of the Services required by this Agreement. Consultant is an independent contractor of City. Any and all employees of the Consultant engaged by the Consultant in the performance of any work or services required of the Consultant under this Agreement, shall be considered employees or agents of the Consultant only and not of the City, and any and all claims that may or might arise under any workers compensation or other law or contract on behalf of said employees while so engaged shall be the sole obligation and responsibility of the Consultant. Consultant is solely responsible for the professional quality, accuracy and timely completion and/or submission of all work related to the Basic Services.

2.3 **Review of Service.** Consultant shall furnish City with reasonable opportunities from time to time to ascertain whether the Services of Consultant are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by City; Consultant is not providing final approval or review, which is solely City's function and role. City review and approval of such work and Services shall not, however, relieve Consultant of any of its obligations under this Agreement.

2.4 **Contract Administration.** The City Manager or his/her designee shall represent the City in all matters relating to the administration of this Agreement. The City Manager or his/her designee shall have the authority to act on the City's behalf to review and approve all products submitted by Consultant and may execute all necessary documents to authorize Consultant to perform Additional Services as provided for herein. The City Manager or his/her designee shall have the authority to render decisions within guidelines established by the City Council and shall be available during working hours as often as may be reasonably required to render decisions and to furnish information. The following individual(s) will serve as the primary contact(s) for Consultant in the administration of this Agreement:

Mindy Fogg, Principal Planner, Community Development Department

2.5 **Representations and Warranties.** Consultant represents and warrants to City that: (i) its fulfillment of its obligations and, as applicable, performance the Services under this Agreement, will not violate any applicable or breach any contracts with third parties and (ii) it has the right, power and authority to fulfill its obligations, and, as applicable perform the Services, and enter into this Agreement; (iii) the Services contemplated hereunder will be performed by adequately trained, competent personnel, in a professional manner, with such personnel having the requisite skill and expertise necessary to perform and complete the Services in accordance with industry standards and in accordance with the terms and

conditions of this Agreement; and (iv) the Services and all deliverables provided hereunder will conform to the specifications agreed-to by the parties.

3. **TERM.** This Agreement shall be effective as of the date first above written and shall continue until all Services to be provided by Consultant are completed to the satisfaction of the City, unless terminated earlier as provided for herein.

4. **COMPENSATION.**

4.1 **Basic Services.** For Basic Services, City shall pay Consultant on a time and materials basis, not to exceed amount of \$AMOUNT as full compensation for all labor, materials, equipment, tools, transportation, and Services. This compensation shall be paid in accordance with the payment rates and schedule as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, based on the actual time spent on the tasks and the actual price of the necessary materials. In the event a term or condition in any document or attachment conflicts with a term or condition of this Agreement the term or condition in this Agreement shall control. Should such conflict arise the priority of documents shall be as follows: This Agreement, the City's Request For Proposal together with attachments, Consultant's proposal together with attachments.

4.2 **Additional Services.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to the Basic Services, unless such services are authorized Additional Services agreed to in advance and in writing in the method provided for herein. Consultant will submit fee estimates for such Additional Services upon request of City.

4.3 **Invoices.** Should City reasonably determine that Consultant has not fulfilled any services or met the timelines established in Exhibit A, City shall notify Consultant of the failure in writing of deficiencies believed to be substantially inadequate within thirty (30) days after receipt of product or performance of Services. The City, at its discretion may provide the Consultant five (5) days to cure the breach. City may withhold the accompanying payment without penalty until such time as Consultant cures the breach. In the alternative, upon Consultant's failure to meet any deadlines the City may modify the Services schedule. Should Consultant or its representatives fail to cure the breach within five (5) days, or fail to reasonably agree to such modified schedule, City may immediately terminate this Agreement in writing, without penalty or incurring further obligation to Consultant.

4.4 **Withholding.** City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work or performance of Services is found to be substantially inadequate. City shall notify Consultant in writing of deficiencies believed to be substantially inadequate within thirty (30) days after receipt of product or performance of Services.

4.5 **Taxes/Insurance/Licenses.** Consultant shall be solely responsible for the payment of any federal, state, or local income tax, social security tax, workers' compensation insurance, state disability insurance, and any other taxes or insurance which Consultant is responsible for paying as an independent contractor under federal, state or local law. At all times during

the term of this Agreement, Consultant and any approved subcontractors performing Services under this Agreement shall have in full force and effect all licenses necessary for the performance of Services hereunder, including without limitation, business licensing from City, all at the sole cost of Consultant.

## 5. RECORDS.

- 5.1 **Financial Records.** Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of Services under this Agreement. Consultant shall also maintain adequate records of Services provided in sufficient detail to permit an evaluation of Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.
- 5.2 **Access to Records.** Consultant shall (i) provide free access to the representatives of City or its designees at reasonable times to books and records as set forth in section 5.1; (ii) shall give City the right to examine and audit said books and records; (iii) shall permit City to make transcripts therefrom as necessary; and (iv) shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of four (4) years after receipt of final payment.
- 5.3 **Original Records.** All original agreements, data, documents, designs, drawings, exhibits, maps, models, computer files, reports, studies, surveys, notes, and other work, materials or documents prepared or used to prepare Consultant's work product in the course of providing the Services pursuant to this Agreement shall be referred to as "**Consultant Work Product**". Upon completion of, or in the event of termination or suspension of this Agreement, all completed and incomplete Consultant Work Product shall become the sole property of City once the Consultant has received payment. City may duplicate, disclose, disseminate, use, reuse or otherwise dispose of Consultant Work Product in whole or in part in any manner it deems appropriate, without the permission of Consultant. With respect to computer files, Consultant shall make available to the City, at Consultant's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. Consultant may retain copies of such Consultant Work Product as a part of its record of professional activity, except for Consultant Work Product marked as "DRAFT" or "CONFIDENTIAL".

## 6. TERMINATION.

- 6.1 **Termination Without Cause.** This Agreement may be terminated by either party for any reason upon ten (10) days prior written notice by the terminating party to the other party. In the event of a termination, the date of termination shall be deemed to be the first business day occurring after the expiration of the notice period. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise.

6.2 **Termination With Cause.** Either party may terminate this Agreement with cause, effective immediately upon written notice of such termination to the other party and failure of the breaching party to correct within five (5) days of receiving such notice, based upon the occurrence of any of the following events:

- Material breach of this Agreement;
- Cessation of Consultant to be licensed, as required by applicable law;
- Failure to substantially comply with any applicable federal, state or local law or regulation;
- Filing by or against Consultant of any petition under any law for the relief of debtors; and,
- Filing of a criminal complaint against Consultant for any crime, other than minor traffic offenses.

6.3 **Performance Upon Termination.** In the event this Agreement is terminated pursuant to this Section, City shall pay Consultant for the outstanding balance owed for work performed up to the time of termination. Upon termination of the Agreement, Consultant shall submit an invoice to City as provided for herein and shall submit to the City all of its files for any billable or non-billable matters in which the Consultant is involved under the scope of this Agreement.

6.4 **Termination Upon Mutual Consent.** This agreement may also be terminated by mutual consent of the parties and in accordance with the terms and conditions of any plan of termination established by the parties. In the event of a termination by mutual consent, the date of termination shall be such date as is agreed upon by the parties. The parties may agree to suspend or terminate a portion of this Agreement and such suspension or termination shall not make void or invalidate the remainder of this Agreement.

7. **DISPUTE RESOLUTION.** If any dispute, claim or disagreement shall arise relative to the interpretation or enforcement of this Agreement, the parties shall use commercially reasonable efforts to settle the dispute, claim or disagreement. To this end, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such a solution within a period of thirty (30) days, then, upon notice by either party to the other, the dispute, claim or disagreement shall be submitted to final, binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. The arbitrator shall have the authority to assess arbitration costs and expenses against either or both parties. The decision in the arbitration shall be binding on all parties, and judgment on any arbitration award may be entered in any court of competent jurisdiction.

8. **INSURANCE.** Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in the attached **Exhibit C**, which is incorporated by this reference as though set forth in full.

9. **INDEMNIFICATION.** To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless City and any of its officials, directors, employees and agents (“**Indemnified Parties**”) from and against any and all losses, liabilities, damages, costs, charges,

payments, claims, and expenses, including attorney's fees and costs of defense, which arise out of, are a consequence of, or are in any way attributable to, in whole or in part, this Agreement, including but not limited to any activities associated with carrying out the agreed to Services by Consultant, its agents, employees, subcontractors, consultants, assigns or by any individual or entity for whom Consultant is legally liable.

## 10. RELEASE OF INFORMATION.

10.1 **Confidentiality.** All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released except to the City, directly or indirectly, by Consultant without City's prior written authorization. Consultant, its officers, employees, subcontractors or sub-consultants shall not voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the Services performed under this Agreement unless requested by the City Attorney or authorized in writing by the City Manager. Response to a subpoena or court order shall not be considered "voluntary" provided that Consultant shall give City prompt written notice of any such court order or subpoena. The provisions of this Paragraph shall survive the termination of this Agreement.

10.2 **Notice and Cooperation.** Consultant shall promptly notify the City Manager and City Attorney in writing if Consultant, its officers, employees, agents, subcontractors or subconsultants are served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any person or party related to this Agreement and/or Consultant's related Services. City has no obligation to, but may exercise discretion to represent Consultant and/or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide the City an opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not grant or imply a right of City to control, direct, dictate or rewrite said response.

## 11. RELATIONSHIP TO CITY.

11.1 **Independent Contractor.** Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

11.2 **No Employee Privileges.** No City employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages or other compensation to Consultant for performing Services hereunder for City. City shall not be liable for

compensation or indemnification to Consultant for injury or sickness arising out of performing Services hereunder.

- 11.3 **Consultant Duty to City.** Consultant understands and agrees that its responsibility to provide complete and accurate Services is owed solely to City and that its accountability under this contract shall likewise be solely to City and not to any City applicants or any other third person or entity.
- 11.4 **Interest of Consultant.** Consultant represents and warrants to City that it presently has no interests, and covenants that it shall not acquire any interests, direct or indirect, financial or otherwise, which would conflict with the performance of the services to be provided by Consultant under this Agreement. Consultant further covenants that, in the performance of this Agreement, no subcontractor or employee having such an interest shall be employed by Consultant. Consultant certifies that no one who has or will have any financial interest under this Agreement is: (a) an officer or employee of City, or (b) an officer or employee of the applicant and any of its consultants. Consultant agrees to comply with any applicable conflict of interest code.
- 11.5 **Undue Influence.** Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Consultant or any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.
- 11.6 **Third Party Beneficiaries.** This Agreement is entered into solely for the benefit of the City and the Consultant and will not confer any rights upon any person not expressly a party to this Agreement.

## 12. GENERAL PROVISIONS.

- 12.1 **Assignment of Rights.** Contractor agrees to assign City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act or under the Cartwright Act arising from purchases of goods, services, or materials pursuant to this Agreement.
- 12.2 **Further Assurances.** City and Consultant each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.
- 12.3 **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

**To City:**

Michael Ramirez, City Manager  
City of Carpinteria  
5775 Carpinteria Avenue  
Carpinteria, CA 93013-2698  
P: (805) 684-5405

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**To Consultant:**

Any party may change their address for the purpose of this paragraph by giving the other party written notice of the new address in the above manner.

12.4 **Legal Responsibilities.** Consultant shall keep itself informed of state, federal and laws and regulations which in any manner affect those employed by it or in any way affect the performance of its Service pursuant to this Agreement. The Consultant shall reasonably observe and comply with such laws and regulations. The City and its officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

12.5 **Licenses.** At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses, certifications, or related credentials required by law for the performance of Services described in this Agreement. Consultant represents that it and/or its employees, agents and subcontractors engaged in such activities possess such licenses, certifications, or credentials and that such licenses certifications, or credentials are current, active, and not in a state of suspension or revocation.

12.6 **Labor Conditions.** City is a public entity in the state of California, and therefore, City and Consultant are subject to the provisions of the Government Code and the Labor Code of the state of California. All provisions of law applicable to public contracts and/or this Agreement are incorporated herein by this reference and are made a part of this Agreement to the same extent as if they were fully stated in the Agreement and shall be complied with by Consultant.

12.7 **Labor Requirements.** Consultant shall abide by all federal and California laws and regulations regarding wages, including, without limitation, the Fair Labor Standards Act and the California Labor Code, which, in part, mandate that 8 hours' labor constitutes a legal day's work, and require Consultant to pay the general prevailing wage rates. The California statutory provisions for penalties for failure to pay prevailing wages will be enforced and the statutory provisions for penalties for failure to comply with California's wage and hour laws will be enforced. In addition, Consultant is required to comply with the statutory requirements relating to employment of apprentices. Consultant also must secure the payment of workers' compensation to its employees as provided by California law. Consultant acknowledges its obligation to secure payment of Workers' Compensation before beginning work as set forth in the attached Exhibit D (together, "Acknowledgement of Workers' Compensation Obligation" and "Declaration of Exemption from Workers' Compensation") which is incorporated by this reference as though set forth in full. Additionally, Consultant is required to comply with all statutory requirements relating to certified payroll records, including the maintenance of the records, their certification, and their availability for inspection.

12.8 **Discrimination.** No person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, sexual orientation or place of national origin. Consultant shall comply with all local, state, and federal laws relating to equal employment opportunity rights.

12.9 **Assignment.** Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City, which shall have the sole discretion to consent to any proposed assignment. Because of the personal nature of the Services to be rendered pursuant to this Agreement, only Consultant shall perform the services described in this Agreement.

12.10 **Waiver.** No waiver of a provision of this Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

12.11 **Force Majeure.** Neither Consultant nor City shall be liable for any delays resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

12.12 **Construction of Terms.** All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of any provision shall be adjudged invalid, void or unenforceable, the parties hereto agree to enter into a supplemental agreement to effectuate the intent of the parties and the purposes of this Agreement.

12.13 **Controlling Law.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement, with venue proper only in the County of Santa Barbara, State of California.

12.14 **Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.

12.15 **Entire Agreement.** This Agreement, along with its attached exhibits, which are incorporated herein by this reference, constitutes the entire Agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. This Agreement may be altered, amended or modified only by a supplemental writing executed by the parties to this Agreement and by no other means. Each party waives any future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreement, course of conduct, waiver or estoppel.

12.16 **Counterparts.** This Agreement may be executed in counterparts, each of which shall remain in full force and effect as to each party.

12.17 **Severability.** In the event that any term or provision of this Agreement shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

**IN WITNESS WHEREOF**, the parties have executed this Agreement at the place and as of the date first written above.

**"CITY"**  
City of Carpinteria

**"CONSULTANT"**  
**NAME**

By: \_\_\_\_\_  
Michael Ramirez, City Manager

By: \_\_\_\_\_  
[ ]

APPROVED AS TO FORM:  
City of Carpinteria

ATTEST:  
City of Carpinteria

By: \_\_\_\_\_  
Jena Shoaf Acos, on behalf of  
Brownstein Hyatt Farber Schreck, LLP  
Acting as City Attorney of the City of Carpinteria

By: \_\_\_\_\_  
Brian C. Barrett, CMC, CPMC  
City Clerk

**EXHIBIT A**  
**BASIC SERVICES TO BE PERFORMED**

**EXHIBIT B**  
**PAYMENT RATES AND SCHEDULE**

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

*Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.*

*Consultant shall provide the following types and amounts of insurance:*

Commercial General Liability Insurance using Insurance Services Office “Commercial General Liability” policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross-liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant’s employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

When applicable, Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer’s liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a “pay on behalf” basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured’s liability is determined, not requiring actual payment by the insured first. There shall be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and “Covered Professional Services” as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must “pay on behalf of” the insured and must include a provision establishing the insurer’s duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

*Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.*

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, volunteers and agents, using standard ISO endorsement No. CG 2010-0413. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g., elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
8. Certificate(s) are to reflect that the insurer will provide 30 (thirty) days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
11. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this Agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be limiting or all-inclusive.
19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. The City's failure to comply with reporting requirements should not affect coverage required under the Agreement.
23. The consultant's insurance is primary to that of any insurance claimed by the City.

Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

## **EXHIBIT D**

### **WORKERS' COMPENSATION REQUIREMENTS**

*The Consultant is required to sign and file either a statement acknowledging its obligation to secure payment of Workers' Compensation before beginning work, or a declaration confirming that as a sole proprietor consultant is exempt from Workers' Compensation Requirements.*

### **ACKNOWLEDGEMENT OF WORKERS' COMPENSATION OBLIGATION**

I, **Name**, hereby acknowledge my obligation to secure payment of Workers' Compensation before beginning work.

**Consultant**

By: \_\_\_\_\_  
**Name, Title of Signator**

Dated: \_\_\_\_\_