



# City of Foster City Request for Proposals

## **HOME REHABILITATION PROGRAM**

### **For Low and Very Low-Income Homeowners**

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**Release Date:** Tuesday, September 16, 2025

**Proposals Due:** Wednesday, October 15, 2025

Please submit an electronic version of your proposal via email to:

[njabba@fostercity.org](mailto:njabba@fostercity.org) (Nori Jabba, Housing and Sustainability Manager)

Subject Line: *(your business name)* – Foster City Home Rehabilitation Program Proposal

**Deadline for questions or comments regarding this Request for Proposals:**

Tuesday, September 30, 2025

Questions/Comments Submitted to:

**Nori Jabba**

<mailto:njabba@fostercity.org>

(650) 286-3230

# City of Foster City Request for Proposals (RFP)

## HOME REHABILITATION PROGRAM

### 1. SUMMARY

The City of Foster City is implementing a home rehabilitation program for low and very low-income Foster City homeowners. The City of Foster City ("City") invites qualified firms and nonprofit organizations that meet the requirements to provide a proposal in compliance with the City of Foster City's Housing Element, Policy H-A, Affirmatively Furthering Fair Housing, and Program H-B-2-a, Lower Income Homeowner Rehabilitation Loans.

- **TASK 1:** Issue and manage loans to low and very low-income Foster City homeowners for rehabilitation projects
- **TASK 2:** Manage construction of rehabilitation projects for which loans are issued

A single qualified firm or a team of qualified firms may propose solutions for the tasks. City staff will provide general oversight of the program, while the City's communications team will assist with outreach and promotion of the program.

**Outreach Strategy:** Outreach and engagement are critical to the deployment of the Program. Outreach for the program includes:

- **Outreach to Foster City Homeowners:** The City will post information about the program on the City's website, through social media platforms, through the City's electronic newsletter, and through flyers posted at public locations.
- **Community meeting:** After selecting the vendor and once the program is ready to launch, the City will hold a community informational meeting to inform interested homeowners about the program. It is expected that the selected vendor will attend and make a presentation at this meeting.

This RFP provides an overview of the requested professional services for implementation and outlines the City's goals, purposes, and objectives for the program. It is not intended to represent all possible services. Therefore, qualified firms should include any additional items they consider relevant and important to further the project in their work plans or proposals.

### 2. ATTACHMENTS

The attachments below are included with this Request for Proposals (RFP) for the Proposer's review and submittal (see asterisk):

- Attachment 1 – Scope of Work
- Attachment 2 - Program Guidelines

- Attachment 3– Sample Agreement for Professional Services

### 3. BACKGROUND

Incorporated in 1971, the City of Foster City is a planned community in San Mateo County, California. Foster City is a General Law City with a Council-Manager form of government. It is approximately four square miles, located about 25 miles south of San Francisco and 30 miles north of Silicon Valley, with easy access from Highway 101 and Highway 92.

Foster City is a culturally diverse community of roughly 33,000 residents. It has limited space for growth in both residential and commercial areas. The developed portion of Foster City is protected from flooding by an approximately 43,000-linear-foot (8-mile) levee system that surrounds Foster City along the bayfront and an interior lagoon that serves as a drainage detention basin.

There are over 12,000 housing units, with just over half being owner-occupied.

### 4. INSTRUCTIONS FOR SUBMITTING YOUR PROPOSAL

Should discrepancies or omissions be found in this RFP or should there be a need to clarify it, questions or comments regarding this RFP must be received by the City no later than Tuesday, September 30, 2025, at 5:00 pm and should be sent to Nori Jabba, Housing and Sustainability Manager ([njabba@fostercity.org](mailto:njabba@fostercity.org)). **Proposals are due Wednesday, October 15, 2025, at 5:00 pm.**

### 5. RFP TIMELINE

The tentative RFP timeline is provided for the convenience of the Proposers, but may be subject to change at any time by the City. Any such changes will be stated in an addendum to this RFP. The tentative RFP timeline is as follows:

RFP ACTION	DATE
RFP Issued	September 16, 2025
Pre-Proposal Meeting	None
Deadline for questions and clarifications	September 30, 2025 @ 5:00 PM
Proposals Due	October 15, 2025 @ 5:00 PM
Finalist Identified	October 31, 2025
CONSULTANT Interviews	TBD
CONSULTANT selection & contract preparation	TBD
Contract awarded	By December 31, 2025
Program Implementation	By January 31, 2026

## 6. RELATED DOCUMENTS/LINKS

Foster City's Housing Element can be found here: [Housing Element](#).

## 7. PROPOSAL REQUIREMENTS

CONSULTANTS interested in submitting a proposal should respond to this RFP with a written proposal providing all the requested information. The proposal will be considered complete only if it includes all the items listed under the Proposal Requirements:

1. A cover letter that includes:
  - a) Subject: "Proposal for Foster City Home Rehabilitation Program"
  - b) Information about your firm and the team proposed to manage the project, including relevant experience
  - c) A description of the organization(s) (e.g., Corporation, Limited Liability Company, or Joint Venture).
  - d) Fees: your proposed Loan Management Fees and Your Construction Management Fees
  - e) A statement of no conflict of interest or a statement of disclosure of any conflicts of interest, including any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, its management, employees, or other persons relative to the services to be awarded pursuant to this RFP.
  - f) Acknowledgement that City's Finance Division will maintain a business license annually during the term of the contract.
2. Draft Scope of Work – please submit a list of any exceptions or recommended changes to the Scope of Work (Attachment 1, which will be included as part of Exhibit A of executed Agreement)
3. Draft Program Guidelines – please submit a list of exceptions to the Program Guideline, any recommended changes, and include recommended loan terms (Attachment 2, will be included as part of Exhibit A of executed Agreement).
4. Professional Services Agreement - please submit a list of any exceptions you have to the City's Professional Services Agreement, including insurance requirements, if any (Attachment 3).
5. Loan management process – please submit a description you prepare summarizing key tasks, activities, and fees (fees should be either flat rate for each project/loan or percentage of project/loan amount; assume loan amount of \$75,000 each and three (3) loans per year) for this purpose.
6. Project Construction Management Fees and Team – please submit a list of key personnel, rates, and fees (fees should be either a flat rate per project/loan or a

percentage of the project/loan amount; assume project/loan amount of \$75,000 each and three (3) loans per year) for this purpose. Please also include your team's general contractor name and license number. (This information will be included in Exhibit B of the Executed Agreement.)

7. Typical Project Costs – please submit typical ranges of costs (low to high) for rehabilitation work, including hard and soft costs for the following types of projects. Assume house size of 1,000 square feet for this purpose. This is not intended to be a complete list of projects provided by your firm nor is it meant to be actual quotes for work. The City will use this information to gauge affordability of the program for homeowners and to help define a reasonable maximum loan amount. Please feel free to include other types of work.

- a) kitchen remodel
- b) bathroom remodel
- c) roof replacement
- d) window replacement (full house)
- e) interior painting
- f) exterior painting
- g) flooring replacement (full house)
- h) Purchase and installation of solar photovoltaic panels (prior to any rebates or other incentives)

8. References: Provide an overview of the proposer's experience and history in performing this type of work in California. Provide at least two references from local government clients for whom the consultant has rendered similar services in the recent past.

9. Additional Information - any additional information you would like to submit (optional).

## **8. CONSULTANT SELECTION CRITERIA AND PROCEDURE**

Responding consultant firms and/or teams will be evaluated based on the following criteria:

- a) Quality and completeness of proposal
- b) Ability to provide services outlined in the scope of work
- c) Related and recent experience of similar scope and complexity
- d) Expertise and experience of the proposed project team members to fully address all items noted in the scope of work
- e) Cost to the City of fees for loan management and construction services
- f) Proposed process for issuing and managing loans
- g) Affordability for homeowners for typical rehabilitation projects
- h) Acceptance of the City's Standard Agreement for Professional Services and insurance requirements
- i) Value of references provided

The top proposals may be invited to an interview. The interview will help clarify each proposal's approach and qualifications for the project. Based on the interviews and evaluation of the proposals, the top-ranked consultant will be recommended to the City Council.

## **9. GENERAL PROVISIONS AND CONDITIONS**

The City reserves the right to:

1. Reject any and all responses.
2. Negotiate with more than one consultant.
3. Waive minor irregularities in a response.
4. Cancel, revise, or extend this solicitation, including all attachments.
5. Request additional information on any response beyond that required by this RFP.
6. Modify the selection process set forth in this RFP upon written notification to all respondents who have not been rejected at the time of modification.
7. Request substitution of sub-consultants.

By submitting a proposal, each Proposer represents and warrants that its proposal is genuine and not a sham or collusive or 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.

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**SCOPE OF WORK**  
**FOSTER CITY HOME REHABILITATION PROGRAM**  
**(Will be included in Exhibit A of Agreement)**

**1.0 Basic Services**

CONSULTANT will provide services of program administration, distribution of loan funding, and performance of construction work. The Home Rehabilitation Program is described below.

- a) Program Summary: Foster City's Home Rehabilitation Program uses a CONSULTANT to aid in the preservation of homes owned by low and very low-income households in Foster City. The City provides funding for the Program and CONSULTANT manages the loan Program, serves as the lender, and manages and provides construction services for each project.
- b) Program Goal: The Program goal is to finance and construct 18 low-income Homeowner rehabilitation projects by 2031 to support housing preservation. The City of Foster City's 2023-2031 Housing Element Program H-B-2-a calls for 18 new loans by 2031, or three (3) per year, including a total of nine (9) very low-income loans and nine (9) low-income loans.
- c) Program Funding: Funding for this Agreement shall be \$500,000 for loans, excluding CONSULTANT FEES. The objective will be to issue three (3) or more loans per year for the term of the Agreement with the CONSULTANT.
- d) CONSULTANT Fees: City shall pay CONSULTANT fees for program management, including loan administration and construction management, as described in Exhibit B of this executed Agreement.
- e) Program Participants: participants in the program include the City of Foster City ("City"): provides funding for loans and helps promote the Program; the CONSULTANT: administers and manages the program, lends loans, serves as general contractor for rehabilitation projects; and, Low and very low-income Foster City homeowners ("Homeowner" or "Applicant"): commit to repayment of the loan upon expiration of the loan or another repayment event, as defined in the Program Guidelines.
- f) Program Period: the Home Rehabilitation Program will start by January 1, 2026 and continue until December 31, 2031 to coincide with the 2023-2031 Housing Element cycle. The City may elect to extend the Program through the next Housing Element Cycle. The City will re-evaluate program needs and funding for years 2029-2031. The term of the Agreement with the CONSULTANT shall be for a period of time as determined by the City within the Program Period.
- g) Term of Agreement: the term of the Agreement for Professional Services between the City and CONSULTANT will be for two years with a one-year optional renewal.

**2.0 Program Provisions**

- 2.1 Program Applicants: Foster City Homeowners will be invited to apply to the Program. The City of Foster City will promote the Program using a variety of methods including methods



## Attachment 1

such as advertising in the Islander and the City's newsletter, social media, and the City's website, and direct mail to targeted census tracts.

2.2 Application Processing: CONSULTANT will process applications, loan and project approvals, issue and administer loans pursuant to CONSULTANT'S application processing procedures, which shall be submitted to and approved by the City.

2.3 Application Selection: CONSULTANT will hold a lottery, or other method approved by the City, to select Applicants to apply for the Program and create a waitlist or interest list.

a) Preference: There is a preference for Applicants with property located in a census tract with geographic targeting for disabilities (6080.25 or 6083) or renter cost burden (6080.13 or 6080.23) and/or if the Applicant falls into is in one or more of the following demographic categories: a veteran of the US Armed Forces; someone with a disability; a senior, aged 62 or over, and/or if the Applicant is a participant in HIP Housing's Home Sharing Program commits to participation in the Program upon completion of the rehabilitation project.

b) Income Eligibility: homeowners with household incomes of less than 80% of Area Median Income (AMI) using income limits issued by the STATE OF CALIFORNIA HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT (HCD) will be eligible for low-income loans, and homeowners with incomes of less than 50% of AMI using income limits from HCD will be eligible for very low-income loans.

### 2.4 Loan Terms

a) CONSULTANT will underwrite and issue loans according to approved Program Guidelines.

b) CONSULTANT will monitor and implement repayment events. A repayment event, including the expiration of the loan, breach of the Program rules, sale of the property, and other factors as specified in the Program Guidelines, require repayment of the loan in full.

c) CONSULTANT will process Loan repayments that occur prior to termination of this Agreement with the CONSULTANT will be transferred to the Loan Fund for re-use in the Program. Issuing of new loans will end at the termination of the Agreement with the CONSULTANT unless a renewal is executed. After Agreement termination, CONSULTANT agrees to reimburse the City of all loan funds.

### 2.5 Construction Provisions

a) CONSULTANT will manage and perform construction using a limited selection of materials, finishes, and fixtures.

b) CONSULTANT's construction team includes their employees and contractors, and, at their discretion, volunteers, if applicable.

c) CONSULTANT will maintain a valid business license with the City of Foster City during the term of the Agreement.

d) CONSULTANT will comply with prevailing wage laws, if applicable.

## 3.0 Payments

a) The City will pay the CONSULTANT per Exhibit B for this Agreement within 30 days of receipt of invoices, provided the City has sufficient funding to continue the program.

## Attachment 1

- b) CONSULTANT will issue loans to eligible applicants by the expiration of this Agreement. CONSULTANT will refund any unused award or administration funds to the City of Foster City within 30 days of the termination of this Agreement.
- c) CONSULTANT is responsible for payment of awards to homeowners and obtaining proper documentation and receipts, or, if work is performed by CONSULTANT, keeping appropriate accounting records.

### **4.0 Reporting**

CONSULTANT shall submit annual reports to the City of Foster City per the Program Guidelines.

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**PROGRAM GUIDELINES  
FOSTER CITY HOME REHABILITATION PROGRAM  
(Will be included in Exhibit A of Agreement)**

**PART ONE: APPLICANT AND PROPERTY REQUIREMENTS**

**1.1 Applicant Qualifications**

- The Applicant is the Owner of the Property
- The Property is the primary residence of the Owner.
- The Applicant does not have any other loans issued through or by the City of Foster City.
- The Applicant's household income at time of application does not exceed the MTSP HERA Special Income limits for the household size at 50% AMI for very low-income households or 80% AMI (HUD) for low-income households.
- Applicant agrees to allow CONSULTANT to certify their income using CONSULTANT's standard income certification process.

**1.2 Eligible Properties**

- The property is a single dwelling unit, attached or detached, or duplex located in Foster City.
- There is no other active loan through the City of Foster City for the property.
- The property has two or fewer other loans, including a mortgage, and the loan-to-value of the loans is no higher than 90% for all loans.

**PART TWO: PROJECT ELIGIBILITY**

**2.1 Project Requirements**

- Projects will be managed and constructed by CONSULTANT.
- The project meets accessibility requirements, if applicable.
- The project complies with local and state building codes and permit requirements.
- CONSULTANT agrees to comply with Federal and State prevailing wage laws.

**2.2 Eligible Uses of Loan Funds**

- Loan funds may be used for construction materials and labor for rehabilitation of an existing unit. Typical items include, but are not limited to, window replacement, roof repair or replacement, kitchen remodeling, bathroom remodeling, flooring replacement, and installation of solar photovoltaic panels.
- Rehabilitation is defined as any construction work or replacement requiring a city-issued permit that does not add square footage to the Property, or work that does not require a city permit that results in an upgrade to the home such as painting, replacing appliances, installation of new hardware, new flooring, or safety-related equipment in bathrooms, etc. Please note that installation must be performed according to the manufacturer's instructions.
- Demolition work necessary for the rehabilitation.
- Site work, such as water/sewer/septic repair or replacement, or utility improvements.
- Permit costs beyond those that are waived through participation in this Program.
- Other hard or soft costs approved at the discretion of the City

### **2.3 Ineligible Projects/Uses of Funds**

- Building additions resulting in additional square footage to the building.
- Unreasonable costs. CONSULTANT will determine, in its sole discretion, costs deemed excessive or unreasonable or uses deemed ineligible. Ineligible uses of funding include, but are not limited to, costs associated with construction items or materials of a luxury nature or furnishings.

## **PART THREE: LOAN TERMS**

### **3.1 Basic Terms**

Loan terms, including term of loan, interest rate, deferred payment schedule or balloon payment, downpayment and other loan terms shall be determined by the City prior to execution of the Agreement with the CONSULTANT. Loan terms are as follows:

- a) Maximum loan amount: \$\_\_\_\_\_, including hard and soft costs.
- b) Loan term: \_\_\_\_\_ years
- c) Interest rate for low-income loans: \_\_\_\_\_%
- d) Interest rate for very low-income loans: \_\_\_\_\_%
- e) Downpayment amount, if any: \$\_\_\_\_\_
- f) \_\_\_ Monthly or \_\_\_ annual payment amount, if any: \_\_\_\_\_
- g) \_\_\_ Payments deferred for \_\_\_\_\_ years or \_\_\_ balloon payment due upon loan expiration or repayment event as described below.

### **3.2 Additional Loan Provisions**

- Subordination is permitted to primary mortgage and home equity loan/line of credit (other situations subject to written approval by the City).
- The City retains the right to sell the loan.
- Loan signatories: spouses and registered domestic partners shall sign the Loan Documents unless title is clearly held as the owner's sole and separate Property.
- Non-occupant parents, ex-spouses, siblings, and/or children who are listed on title to the real Property or as registered owners of the unit will be required to co-sign the Loan Documents and shall be equally liable to repay the Rehabilitation Loan.
- The construction of the Project must be completed within 12 months of loan approval. Completion is defined as the date of issuance of the Temporary Occupancy Certificate.

### **3.3 Repayment events**

The loan shall be payable in full to the City of Foster City, with any accrued interest, within 30 days of any of the following events:

- 1) The loan expires without execution of an extension.
- 2) There is a change in Property ownership: the unit or any interest therein is sold, conveyed, or transferred.
- 3) The Homeowner dies and the Loan is not assumed by another eligible borrower.
- 4) The Property is no longer owner-occupied, or the Homeowner no longer occupies the unit as their principal residence for reasons with limited exceptions.
- 5) The lot is split.
- 6) The Homeowner breaches one or more provisions of the Loan Documents that remains uncured for 30 or more days.
- 7) Property taxes or mortgage on the Property become delinquent.
- 8) The Homeowner fails to maintain hazard insurance for the Property.

## **PART FOUR: SELECTION PROCESS**

#### **4.1 Selection Process**

- CONSULTANT will manage the application and lottery process to create a waitlist, or other process approved by the City.
- Application deadlines shall be set annually by CONSULTANT.
- Applications meeting the following criteria will receive a preference:
  - First Priority: The Property is located in census tract with geographic targeting for disabilities (6080.25 or 6083) and/or the Applicant falls into is in one or more of the following demographic categories: a veteran of the US Armed Forces; someone with a disability; a senior, aged 62 or over, and/or Applicant is a participant in HIP Housing's Home Sharing Program or will participate in the Program upon completion of the rehabilitation project.
  - Second Priority: All other income-qualified Applicants.

#### **4.2 Steps in Processing Applications:**

- a) Applicant submits a Program application and application fee, if applicable, to CONSULTANT by the application deadline. The application shall include Homeowner information, property information, income data, and a project summary.
- b) CONSULTANT sorts applications by preference category, runs a digital lottery to create a waitlist, or other method approved by the City, and notifies applicants of their place on the waitlist. Applicants who are not selected for eligibility review will remain on the waitlist. Applicants are responsible for providing current contact information.
- c) CONSULTANT notifies Applicants in preference waitlist order to initiate the application eligibility review process.
- d) Upon CONSULTANT's approval of the application, CONSULTANT will provide pre-approval authorization and reserve available Loan funds for the individual project for a period of 90 days.
- e) CONSULTANT will refund the application fee, if applicable, if the application is ineligible for the Program.
- f) CONSULTANT will conduct project feasibility, schedule, and cost estimate report.
- g) If the project is approved for eligibility, the Applicant and CONSULTANT will execute Loan and Project Agreements.
- h) Homeowners will also have access to no-cost "office hours" with a Technical Assistance advisor to answer any questions about their project.
- i) CONSULTANT will obtain all required permits and City approvals and manage construction of the project.
- j) CONSULTANT has 12 months to construct the project.

### **PART FIVE: ONGOING OBLIGATIONS**

#### **5.1 Ongoing Homeowner Obligations**

Homeowners have the following ongoing obligations during the Application Period and, if approved, during the term of the loan:

- Provide all relevant documentation for eligibility, including property ownership and financing documentation, income certification and preference verification.
- Submit a complete application and application fee if applicable. Incomplete applications will be rejected. The application fee will be refunded if the application is deemed ineligible for the Program, and for approved applications within 30 days of the initiation of construction. If the Homeowner is approved but declines to proceed, the application fee, if applicable, is non-refundable to offset administrative costs.

## Attachment 2

- Execute and comply with all terms of the Loan Agreement and the Project Agreement.
- Notify CONSULTANT of any of the repayment events as outlined in Table 1 below and submit an annual affidavit that no loan repayment events have occurred in the last year and indicate if any repayment events are anticipated in the next year.
- Pay the loan principal and interest in full, to the City of Foster City upon an eligible Repayment Event.

**Table 1. Repayment Events**

#	Repayment Event	Homeowner must notify CONSULTANT and the City of event	Repayment Deadline
1	There is a change in Property ownership: the unit or any interest therein is sold, conveyed, or transferred	30 days prior to event	Upon date of close of escrow, conveyance, or transfer
2	The Homeowner dies and the Loan is not assumed by another eligible borrower	Within 30 days after event	Within 60 days after event
3	The Property is no longer owner-occupied, or the Homeowner no longer occupies the unit as their principal residence for reasons with limited exceptions	30 days prior to event	Within 30 days of event
4	The loan expires without execution of an extension; the Loan Term may be extended for five (5)-year increments up to a maximum of 30 years	n/a – CONSULTANT will notify Homeowner	Upon expiration date
5	The lot is split	30 days prior to event	Within 30 days of event
6	The Homeowner breaches one or more provisions of the Loan or Project Agreement that remains uncured for 30 or more days	Within 30 days of breach	Within 30 days of event
7	Property taxes or mortgage on the Property become delinquent	Within 30 days after event	Within 60 days of event
8	The Homeowner fails to maintain hazard insurance for the Property	Within 30 days after event	Within 60 days of event

### 5.2 Ongoing Obligations of CONSULTANT

CONSULTANT has the following ongoing obligations during the Program Period:

- Determine lottery dates annually and coordinate with the City to ensure promotion of the Program prior to the deadlines.
- Manage the application, lottery, and approval process.
- Underwrite and administer loans.
- Submit annual reports to the City on loan and construction activities, including property addresses, loan amounts and terms, construction documents, loan fund balance, and other information as requested by the City.
- Maintain application, loan, and project files for a time period according to the City of Foster City's Records Retention Policy.
- Permit the City to inspect or audit files upon request and with reasonable notice.
- Inform the City of any loan repayment events that occur prior to or on date of termination of this Agreement and deposit any loan repayments into the loan fund.
- Remit to the City within 30 days any remaining unused loan funds after termination of this Agreement, unless the City agrees to extend the Program to the next housing Element Cycle.
- Submit invoices to the City of Foster City for CONSULTANT fees within 30 days of loan approval.
- Provide a warranty for construction work for a minimum of one year.
- Coordinate with the City regarding required documentation and support materials for additional opportunities to expand funding for the Program.
- Comply with reporting and records requirements as stated in Sections 5.4 and 5.5 below.

### **5.3 Ongoing Obligations of City of Foster City**

The City has the following ongoing obligations during the Program Period:

- Promote the Program on the City's website, social media platforms, electronic billboard, electronic newsletter, etc., as long as funding remains available.
- Payment to CONSULTANT within 30 days of receipt of invoices.
- Continue to seek additional funding opportunities for the Program.
- Conduct annual monitoring of loans and administer any repayment events.
- The City will put a lien on any property in which the Homeowner fails to meet the loan repayment deadline.

### **5.4 Submit Reporting to City of Foster City on Program Funding**

- a) CONSULTANT shall submit a spreadsheet to the City of Foster City annually with data for each award, including homeowner name, Foster City property address, loan amount, project description, project timeline, and permit data. The report shall be due by January 31 each year.
- b) CONSULTANT shall provide a final report upon the completion of all homeowner loans. The report shall include the number of homeowners served, names and addresses, project descriptions, dates of loan, loan interest rate, loan term, payments, outstanding payments, and amount of loans for each homeowner.

### **5.5 Maintain Records and Documentation**

- a) For each approved loan, CONSULTANT shall maintain a copy of the application, eligibility determination documentation, project description, project documentation, a form that shows the total project cost and date of completion of the project and the name of the



## Attachment 2

CONSULTANT representative who approved the loan, the loan funding amount awarded, receipts or invoices and copies of checks for payments related to the project.

- b) CONSULTANT agrees to keep electronic and/or hardcopy of documentation for a period of years as directed by the City to comply with the City's Records Retention Policy.

### **5.6 Program Marketing**

- a) CONSULTANT shall market the program on its website and through the distribution flyers provided to CONSULTANT by the City to interested parties, tabling, if applicable, and other means as appropriate.
- b) CONSULTANT will coordinate with the City to promote the program on the City's website, electronic billboard, electronic newsletter, and, if budget permits, through advertising in the Islander and/or direct mail to homeowners in low-income census tracts.

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PROFESSIONAL SERVICES AGREEMENT  
FOR  
CONSULTANT SERVICES

This Agreement is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the City of Foster City hereinafter called "CITY" and \_\_\_\_\_ hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

WHEREAS, CITY desires to engage CONSULTANT to provide professional services in the CITY;

WHEREAS, CONSULTANT is qualified to provide such services to the CITY and;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire **in two years with an option for a one-year renewal.** (b) Notwithstanding the provisions of (a) above, CITY may with or without cause, direct CONSULTANT to suspend, delay or interrupt Services, in whole or in part, for such periods of time as CITY may determine in its sole discretion. (c) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should CONSULTANT commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of CITY's written notice to CONSULTANT demanding such cure, in which case CONSULTANT shall be liable to CITY for all loss, cost, expense, damage and liability resulting from such breach and termination. (d) CITY may terminate performance of the Services under this

### Attachment 3

Agreement in whole, or from time to time in part, for convenience, whenever CITY determines that such termination is in CITY's best interests, in which case CONSULTANT shall be entitled to recover its costs expended up to the termination date plus reasonable profit thereon to the termination date as this Agreement would otherwise provide, but may recover no other cost, damage or expense. CONSULTANT shall continue its work throughout the course of any dispute, and CONSULTANT's failure to continue work during a dispute shall be a material breach of this Agreement.

3. Compensation; Expenses; Payment. CITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule marked Exhibit "B" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum of \$500,000 for loan awards and \$\_\_\_\_\_ for CONSULTANT fees (\$\_\_\_\_\_). Invoices for amounts in excess of (\$\_\_\_\_\_) shall not be paid unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) evidenced by motion duly made and carried and a written contract amendment having been executed.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to CITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of CITY including, without limitation, CONSULTANT's transmittal of all deliverables to CITY required by EXHIBIT A.

CITY shall not incur any charges under this Agreement, nor shall any payments become due to CONSULTANT for any payment period on the Project, until CITY receives all deliverables required under Exhibit A, SCOPE OF WORK AND SCHEDULE, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where CONSULTANT has partially completed one or more deliverables due during a payment period, and if CONSULTANT demonstrates diligent progress thereon, then CITY may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon CITY. CITY shall not be liable for, and CONSULTANT shall not be entitled to, any payment for Services performed before this Agreement's execution.

4. Additional Services. In the event CITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be

### Attachment 3

authorized in advance of the performance thereof by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.

5. Records. CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to CITY for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONSULTANT. CONSULTANT represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

CONSULTANT represents that it has reviewed Exhibit A and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Exhibit A and within the times specified for each individual Project.

CONSULTANT represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.

The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of CONSULTANT for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.

9. Relationship of Parties. CONSULTANT is an independent Contractor and does not act as City's agent in any capacity, whatsoever. CONSULTANT is not entitled to any benefits that CITY provides to CITY employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the CONSULTANT's provision of Services, not the means, methods, or scheduling of the CONSULTANT's work. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Agreement. CONSULTANT shall pay all payroll taxes imposed by any governmental entity and shall pay all other taxes not specifically identified in this Agreement as CITY's responsibility.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to CITY of CITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless CITY, its Council, boards, commissions, officers, employees, directors, volunteers and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, injury (including, without limitation, economic harm, injury to or death of any person, including an employee of CONSULTANT or its Subconsultants), cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, at law or equity, which may be brought against, or suffered or sustained by, City of Foster City, its Council, boards, commissions, officers, employees, directors, volunteers or agents that arise out of, pertain to, or relate to any negligence, recklessness, or willful misconduct of CONSULTANT, any Subconsultant, anyone directly or indirectly employed or retained by them, or anyone that they control. In the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the CONSULTANT shall meet and confer with other parties regarding unpaid defense costs.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONSULTANT to indemnify City of Foster City, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

If CONSULTANT is a "design professional," as defined in California Civil Code Section 2782.8(c), CONSULTANT shall indemnify, defend, and hold the Indemnitees harmless against Liability only to the extent such Liability arises out of, pertains to, or relates to CONSULTANT's negligence, recklessness, or willful misconduct. In such an event, the cost to defend charged to CONSULTANT shall not exceed CONSULTANT's proportionate percentage of fault.

12. Insurance. Prior to execution of this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in EXHIBIT C, Insurance, which are attached and made a part of this Agreement. CONSULTANT shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in EXHIBIT C. In the event CONSULTANT fails to maintain any required insurance, and notwithstanding Paragraph 3 above, CITY may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONSULTANT under this Agreement (or CONSULTANT shall promptly reimburse CITY for such expense).

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONSULTANT certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be

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in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

15. Notice. All notices required by this Agreement shall be given to the CITY and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City  
610 Foster City Boulevard  
Foster City, CA 94404-2299  
Attention: [REDACTED]

CONSULTANT: [REDACTED]  
(Fill in CONSULTANT Name, Address, Phone Number, Project Manager and Email Address for CONSULTANT)

16. Non-Assignment. This Agreement is not assignable either in whole or in part.
17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
18. Validity. 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.
19. Governing Law. This Agreement shall be deemed to have been executed in the County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Any suit or action initiated by either party shall be brought in the County of San Mateo, California unless the parties agree otherwise in a written amendment to this Agreement. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.
21. Conflict of Interest. CONSULTANT represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any



manner with the performance of work and services required under this Agreement. Without limitation, CONSULTANT represents to and agrees with CITY that CONSULTANT has disclosed any potential conflict of interest, and will have no future conflict of interest, in providing CITY services hereunder, including but not limited to, any interest (financial, share ownership, shared management, shared directors, or reporting responsibilities) CONSULTANT may presently have, or will have in the future, with respect to any other person or entity (including but not limited to potential suppliers, vendors, consultants, contractors, or regulatory agency) which may have an interest in the subject matter of the Services.

22. Liability of CITY.

Except as provided in Exhibit A, Services to be Provided by CONSULTANT and Exhibit C, Insurance, CITY's obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 1, 3, and 4 of this Agreement,

Notwithstanding any other provision of this Agreement, in no event shall CITY be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

CITY shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented or loaned to CONSULTANT by CITY. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and shall exonerate, indemnify, defend and save harmless CITY from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, CITY employees or third parties, or to property belonging to any of the above.

Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY or CONSULTANT may have under this Agreement or any applicable law. All rights and remedies of CITY or CONSULTANT, whether under this Agreement or other applicable law, shall be cumulative.

23. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

24. Force Majeure. Except for defaults of subconsultants at any tier, CONSULTANT shall not be liable for any excess costs if the failure to perform the Agreement arises from causes beyond the control and without the fault or negligence of CONSULTANT, including without limitation failure to reasonably mitigate any adverse impacts (Force Majeure). Force Majeure events include the following:

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Acts of God, fires, floods, earthquake, other natural disasters, epidemics and pandemics (other than COVID-19 or variants), abnormal weather conditions beyond the parameters otherwise set forth in this Article, nuclear accidents, strikes, lockouts, freight embargos, interruptions in service by a regulated utility, or governmental statutes or regulations enacted or imposed after the fact (together, “force majeure events”).

Any Force Majeure event with a duration in excess of [30] days entitles either party to terminate this Agreement with written notice to the other party, without further penalty or compensation.

25. Entire Agreement. This Agreement, including Exhibits A, B, and C comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

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

\_\_\_\_\_  
Mayor

ATTEST:

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

\_\_\_\_\_  
Priscilla Schaus, City Clerk

APPROVED AS TO FORM

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

\_\_\_\_\_  
Benjamin Stock, City Attorney

CONSULTANT

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

\_\_\_\_\_  
Type Name & Title of CONSULTANT Authorized  
to Sign

EXHIBIT A

**SERVICES TO BE PROVIDED, PAYMENTS, PROJECTS AND SCHEDULE, AND  
DELIVERABLES FOR  
[ENTER PROJECT TITLE]**

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**[To be inserted]**

END OF EXHIBIT A

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EXHIBIT B  
FEE SCHEDULE

To be inserted

{To be inserted – includes awards for loans/projects, construction management fees,  
administrative fees to consultant}

EXHIBIT C

**INSURANCE FORMS**

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in herein on the attached form. No substitute form will be accepted.

This is an Exhibit to, and made a part of and incorporated by reference to the Agreement dated Date of Agreement, by and between CONSULTANT NAME, hereinafter referred to as "CONSULTANT", and the City of Foster City, hereinafter referred to as "City", providing for professional services.

1. **CONSULTANT's Duty to Show Proof of Insurance.** CONSULTANT, in order to protect City and its Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of CONSULTANT's acts, errors, or omissions in connection with the performance of CONSULTANT's obligations, as required in this Agreement, shall secure and maintain insurance as described below. CONSULTANT shall not perform any work under this Agreement until CONSULTANT has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, CONSULTANT shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, CONSULTANT shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. CONSULTANT shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by CONSULTANT or City as an additional insured.

1.1 Insurance Requirements

☒ Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City ), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of CONSULTANT's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent

### Attachment 3

contractors working on the behalf of the named insured. CONSULTANT shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

\*Please note, the City will require a separate additional insured endorsement for the Commercial General Liability policy, listing the "City of Foster City, its Council members, officials, agents, officers, and employees".

☒ Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

☒ Workers' Compensation Insurance

CONSULTANT shall submit written proof that CONSULTANT is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. CONSULTANT shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by CONSULTANT. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, CONSULTANT shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. CONSULTANT shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

☒ Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate.

☒ Installation Floater

Installation Floater, covering the work performed under this Contract, against all risks of direct physical loss. The policy shall cover the Contractor's labor, materials and equipment, including materials and equipment in transit or away from the project site, to be installed in the existing structure(s). The coverage shall be written for an amount equal to the initial contract amount plus the value of any subsequent change orders, subject to a

deductible of not more than [\$10,000] payable by Contractor.

☒ Cyber Liability Insurance

Cyber Liability Insurance, covering network risk and cyber liability (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

1.2 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

1.3 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, CONSULTANT, at CONSULTANT's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. **City as Additional Insured**

On CONSULTANT's Commercial General Liability and Automobile policies, the City, its Council members, officers, directors, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

3. **Insurance terms and conditions:**

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by CONSULTANT shall be maintained until the completion of all of CONSULTANT's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by CONSULTANT shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by CONSULTANT in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice

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requirement does not waive the insurance requirements stated herein. CONSULTANT shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If CONSULTANT is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, CONSULTANT shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by CONSULTANT is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the CONSULTANT's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 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 excess of the CONSULTANT's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve CONSULTANT for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by CONSULTANT to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by CONSULTANT. City, at its sole option, may terminate this Agreement and obtain damages from CONSULTANT resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to CONSULTANT, City shall deduct from sums due to CONSULTANT any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to CONSULTANT pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, CONSULTANT agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve CONSULTANT of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general



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aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner-controlled insurance program ("OCIP"), in which case CONSULTANT and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. CONSULTANT's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by CONSULTANT and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of CONSULTANT's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

### **ATTACHED**

1. Insurance Coverage Form

**EXHIBIT C**

**This INSURANCE COVERAGE FORM modifies or documents insurance provided under the following:**

Named Insured: \_\_\_\_\_  
 \_\_\_\_\_

Effective Work Date(s):

Description of Work/Locations/Vehicles:  
 \_\_\_\_\_

**ADDITIONAL INSURED:** **City of Foster City (CITY)**  
**610 Foster City Boulevard, Foster City, CA 94404**  
**Attention:** \_\_\_\_\_  
**Contract Administrator**

<b>Endorsement and Certificates of Insurance Required</b> The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)		<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b><u>General Liability:</u></b> (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}			
<input type="checkbox"/> <b><u>Auto Liability:</u></b> the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.			
<input type="checkbox"/> <b><u>Other:</u></b> [Cyber Liability, Installation Floater, etc.]			
<b>Certificates of Insurance Required (no endorsement needed)</b> (Check all that apply)		<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/> <b><u>Workers Compensation:</u></b> work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.			
<input type="checkbox"/> <b><u>Professional Liability:</u></b>			

**PRIMARY/NON-CONTRIBUTORY:** This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

**SEVERABILITY OF INTEREST:** The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

**PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS:** Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

**CANCELLATION NOTICE.** The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

**WAIVER OF SUBROGATION:** The insurer(s) named above agree(s) to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

**Nothing herein contained shall vary, alter or extend any provision or condition of the  
Policy other than as above stated.**

**SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE  
INSURER**

I, \_\_\_\_\_ (print/type  
name), warrant that I have authority to bind the above-named insurance company and by my  
signature hereon do so bind this company.

**SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)**

\_\_\_\_\_  
**ORGANIZATION:**

**TITLE:**

**ADDRESS:**

**TELEPHONE:**

**DATE ISSUED:**