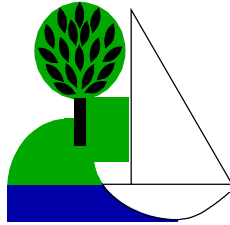


**CITY OF FOSTER CITY**



**REQUEST FOR PROPOSAL  
FOR LAGOON MANAGEMENT PLAN SERVICES**

**PROPOSAL SUBMITTAL DEADLINE: TUESDAY, JANUARY 11, 2022 at 2:00 PM**

**RETURN PROPOSAL TO:**

City of Foster City  
Public Works Department  
Attn: Allen Smith  
Public Works Maintenance Manager  
610 Foster City Blvd.  
Foster City, CA 94404

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# **REQUEST FOR PROPOSAL**

## **FOR LAGOON MANAGEMENT PLAN SERVICES**

### **SECTION I. INTRODUCTION**

The City of Foster City (CITY) is seeking a qualified consulting firm to provide Lagoon Management Plan services. To that end, the CITY invites qualified consulting firms to submit proposals.

Consultants shall examine all information in this Request for Proposal (RFP), including the attachments.

The deadline for submitting questions about the proposal is **Tuesday, January 4, 2022 at 5:00 pm**. The CITY will consider proposals received on or before the proposal submittal deadline of **Tuesday, January 11, 2022 at 2:00 pm**.

### **SECTION II. GENERAL INFORMATION**

Consultant shall provide a proposal for Lagoon Management Plan as described below.

The Foster City Lagoon system is designed as a drainage detention basin to successfully withstand a storm of such severity that it is likely to occur only once each century. The water in the lagoon consists of a mixture of water from the San Francisco Bay and stormwater collected throughout the City through curb inlets, catch basins, and drains. The lagoon is also a treasured recreational amenity where residents engage in swimming, windsurfing, paddle boarding, kayaking, and electric boating.

On September 20, 2021 City Council meeting, staff provided lagoon monitoring (March – August 2021) report on study for evaluation of sources of bacteria on the beach at Erckenbrack Park. Based on the finding of the bacteria study, staff also recommended contracting a lagoon water management company by Requesting for Proposal (RFP) for Lagoon Management Plan to help understand the best methods to reduce the bacteria levels in the lagoon. Staff anticipates requesting approval for the award of the agreement for Lagoon Management Plan services to the City Council in February 2022.

Consultants shall bear all costs and assume all liability associated with developing and/or submitting proposals. CITY shall bear no costs and/or assume no liability for developing and/or submitting proposals.

### SECTION III. PROPOSAL REQUIREMENTS

To demonstrate the qualifications and experience necessary to perform the professional property interest acquisition services for the project, as described in the [Attachment A, Draft Scope of Services](#), Consultant shall submit a proposal that includes the information described in this section.

If Consultants have questions regarding the proposal, submit questions to the Public Works Maintenance Manager, Mr. Allen Smith at [asmith@fostercity.org](mailto:asmith@fostercity.org) on or before **January 4, 2022 at 5:00 pm**.

The proposal shall be comprised of two (2) parts:

- Part 1 is comprised of four (4) copies of a bound and tabbed document containing sections A, B, C, D, E, F, G and H described below.
- Part 2 is one (1) copy of section I submitted in a sealed envelope.

The proposal shall be concise and address qualifications and experience. Consultant shall not include superfluous information or analytical work that would otherwise be performed during the course of work in the proposal. The body of the proposal, excluding appendices, should not exceed 15 pages. As an appendix, provide resumes for the proposed team members. Proposals should be bound with tabs identifying each section herein specified.

#### **PART 1**

##### **A. Cover Letter**

Consultant shall provide a cover letter. The person, who signs the cover letter, shall be authorized to contractually bind the Consultant. The cover letter shall include the following:

- 1) A statement that all the information in the Request for Proposal was examined.
- 2) A statement that the proposal is binding for a 90-calendar day period.
- 3) The name, title, address, email, and telephone number of the individual to whom correspondence and other communications should be directed during the consultant selection process.
- 4) The name, title, address, email, and telephone number of the individual who will negotiate the consulting agreement with CITY, if selected, and is authorized to contractually bind the firm.

##### **B. Executive Summary**

Consultant shall provide an executive summary. The executive summary shall include a statement that Consultant reviewed the draft scope of services and is able to provide the required professional services. The summary shall briefly summarize those Consultant qualifications and experience, contained in the proposal, which best highlights its ability to successfully deliver the work.

### C. Project Approach

A summary presentation of the proposed approach for performing the services, describing how the firm would be organized and an approach structured to ensure:

- 1) Clearly specifying the scope of work; not to exceed amount; and schedule for the work that will be included in the contract for professional engineering services.
- 2) Monitoring and controlling the scope of work, communicating potential scope of work changes prior to performing that work, and managing the change in scope of work.
- 3) Monitoring and controlling costs of professional property interest acquisition services to ensure the services are performed within the negotiated not-to-exceed amount.
- 4) Monitoring the schedule and ensuring deliverables are completed on or before schedule milestones.
- 5) Monitoring the progress of the work to ensure that each submittal is complete and has been adequately reviewed prior to submitting deliverables.
- 6) Monitoring the quality of consultant's deliverables to reduce the amount of City resources required to review the submittal.
- 7) Responsiveness to CITY Staff.
- 8) Facilitating communications.
- 9) No substituting of staff listed in the proposal and adding staff not listed in the proposal.

### D. Proposal Schedule

The purpose of the proposal schedule is to ensure Consultant completes work in a timely manner and to ensure that labor projections are consistent with the proposal schedule.

Consultant shall prepare a schedule for the work described in **Attachment A**, Draft Scope of Services and shall show the key activities, their start dates, and end dates. The schedule should include a milestone for each Authorization to Proceed and each submittal identified in **Attachment A**, Draft Scope of Service. The durations required to reach milestones shown in the schedule will be incorporated into Tasks 1 and 2 of Scope of Services for the Professional Services Agreement.

The proposal schedule shall have the sufficient details to achieve the above goals. CITY will request additional detail from the highest ranked consultant which will be incorporated into the Professional Services Agreement.

Consultant shall use **February 2022** as the start date for the schedule.

E. Labor Projections

Consultant shall provide a schedule of hourly rates and an estimate of the number of hours by staff type to complete the work described in **Attachment A**, Draft Scope of Service that is consistent with the schedule created as part of Section D above. Provide descriptions of assumptions made in developing the labor hours.

F. Consultant Information

Consultant shall provide the following information for it and each of its sub-consultants, if any:

- 1) Legal name of firm.
- 2) Type of organization (partnership, corporation, etc.) and where incorporated, if applicable.
- 3) Firm's Officers.
- 4) Date firm was established.
- 5) Address of firm's headquarters.
- 6) Current number of people employed by the firm.
- 7) Name of consultant's parent company, if any.
- 8) Name of consultant's subsidiaries, wholly owned or fractionally owned, if any.
- 9) List of companies associated with the consultant whose work on the design or construction of the projects may potentially give rise to a conflict of interest, if any.
- 10) List of contracts terminated for convenience or default within the past three (3) years, if any. Include contract value, description of work, client's name and telephone number.

G. Consultant Experience and References

Consultant shall provide for it and each of its sub-consultants, if any, details of its experience working on similar projects over the last five (5) years.

Consultant shall provide for it and each of its sub-consultants, if any, details of not less than three (3) similar projects and the details shall include the following:

- 1) Project name.
- 2) Project Owner and contact information.
- 3) Project description including total project cost and location.
- 4) Description of the consultant's role (Prime Consultant or sub-consultant to Prime Consultant's Name).
- 5) Description of professional property interest acquisition service provided.
- 6) Cost Control for professional property interest acquisition services: Describe the original and final contract amount and reasons for differences, if any.
- 7) Schedule Control for professional property interest acquisition services  
Contract: Original start date, actual start date, original end date, actual end date, description of reasons for differences. For dates, provide month

- and year.
- 8) Project Manager and other key personnel involved.
  - 9) Sub-consultants on the proposed team that worked on the project, if any.
  - 10) Contact information for the project owner.

If Consultant has a standard resume for projects, Consultant may provide the standard resumes with supplemental project information on a separate sheet. Providing supplemental project information on a separate sheet will have no effect on the evaluation process.

CITY will contact Project Owners to discuss the Consultant's current and/or past performance. For Project Owner's contact information, provide Project Owner's name and address, the name of a contact with knowledge of Consultant's performance, as well as contact's phone number and email.

#### H. Project Team Experience and References

The consulting team is key to delivering a successful project.

For purposes of the proposal and the selection process, the following terms are used to identify consulting team members: Project Manager, Other Key Personnel, and Other Team Members. The Project Manager is responsible for Consultant's work and is CITY's principal contact after the professional services contract is awarded, (2) Other Key Personnel are the keys to Consultant successfully executing the work; and (3) Other Team Members who will play a significant role in successfully executing the work.

Consultant shall provide the following information regarding the consulting team and its team members:

- 1) Consultant shall provide an organization chart showing the proposed relationships and the various roles and/or disciplines required to deliver the work. Within the organization chart, Consultant shall identify the project manager, other key personnel, and other team members. If a team member works for a sub-consultant, identify the sub-consultant. Consultant shall identify at least one person for each role and/or discipline.
- 2) Provide a list of office(s) in which the proposed team members will work. Provide its address, its general phone number, and the name of the principal(s) overseeing proposed staff at the office. Identify the proposed team members working at the office and their roles.
- 3) **Project Manager.** Provide the qualifications and experience of the Project Manager, his/her current commitments to other projects to confirm Consultant's ability to commit resources to the work, and not less than three (3) references for the Project Manager.
- 4) **Other Key Personnel.** Provide the qualifications and experience of the Other Key Personnel; their current commitments to other projects to confirm Consultant's ability to commit resources to the work; and not less than three (3) reference for each person who is identified as Other Key Personnel.

- 5) ***Other Team Members.*** Provide the qualifications and experience of the Other Team Members.

CITY will contact project owners who have worked with the project manager and other key personnel to discuss their current and/or past performance. For each reference, list the proposed team member, project name, project owner, project owner's address, the name of contact with knowledge of performance, contact's phone number, and contact's email address. Provide references from different owners, if possible.

## **PART 2**

### **I. Consultant Fee Schedule and Reimbursable Expenses**

Provide one (1) copy in a sealed envelope, including the level of effort with reimbursable expenses and hourly rate schedule. The level of effort and reimbursable expenses shall be broken down with a summary table for the entire proposal. CITY and the selected Consultant will endeavor to negotiate a consulting agreement which contains a not-to-exceed amount for professional services, reimbursable expenses, additional services, supplies, materials, and equipment.

To that end, Consultant shall provide for it and its sub-consultants, if any, a Consultant Fee Schedule and list of other costs for other reimbursable items, such as supplies, materials, equipment, other services, and/or other expenses.

## **SECTION V. PROPOSAL SUBMITTAL REQUIREMENTS**

Consultant shall submit its proposal in accordance with the following requirements:

- A. CITY will only consider proposals received by City at or before the proposal submittal deadline of **Tuesday, January 11, 2022 at 2 pm.**
- B. Consultant shall submit proposals to the following address:
- City of Foster City  
Public Works Department  
Attn: Allen Smith  
Public Works Maintenance Manager  
610 Foster City Blvd.  
Foster City, CA 94404
- C. For mailed proposals, CITY encourages each Consultant to confirm that its proposal was received by CITY at or before the proposal submittal deadline. Contact the Public Works Maintenance Manager, Mr. Allen Smith at [asmith@fostercity.org](mailto:asmith@fostercity.org) or (650) 286-3546 to confirm City's receipt of the proposal.
- D. For hand-delivered proposals, Consultant shall deliver the proposal to the



information desk in the building lobby. Consultant shall ensure the proposal is time and date stamped by the attendant prior to leaving the building.

## SECTION VI. CONSULTANT SELECTION PROCESS

CITY will review proposals and perform reference checks to evaluate consultants.

CITY may or may not conduct consultant interviews to evaluate Consultants. If CITY chooses to hold interviews as part of the selection process, CITY will notify Consultants approximately three (3) weeks after the proposal submittal deadline.

Principle criteria used to evaluate Consultants will include the following:

- 1) Experience/Qualifications: Firm's experience on similar projects in the last five years.
  - a. Consultant's and sub-consultant's, if any, experience successfully providing lagoon management plan services on similar projects in the last five (5) years.
- 2) Personnel Assigned: Experience of key personnel assigned to the project, and experience of key team members who will be assigned to the project for its full duration.
  - a. Project Manager's experience successfully providing professional property interest acquisition services and/or other related work on similar projects and their availability to perform work required by his/her role.
  - b. Other Key Personnel's experience successfully providing professional property interest acquisition services and/or other related work on similar projects and their availability to perform the work required by his/her role.
  - c. Other Team Members' experience providing professional property interest acquisition services and/or other related work on similar projects.
- 3) Quality and Completeness of Proposal:
  - a. Clarity and relevance of information contained in the proposal.
  - b. Consultant's understanding of work.
  - c. Consultant's approach to the work.
- 4) References

CITY may waive irregularities in any proposal, accept or reject all or any part of any proposal, or waive any requirements of the request for proposals, as may be deemed to be in the best interest of CITY.

After final evaluation, CITY will identify the highest ranked consultant, which appears to best meet the qualification criteria. CITY will attempt to negotiate a contract with the selected consultant. If the highest ranked consultant and CITY cannot reach agreement, CITY will terminate negotiations and, at its option, negotiate with the next ranked

consultant.

Consultants shall bear all costs and assume all liability associated with negotiating a consultant agreement. CITY shall bear no costs and/or assume no liability for developing and/or submitting proposals.

## SECTION VI. SCOPE OF SERVICES

### A. Scope of Services:

A general draft scope of services is given in **Attachment A**. A detailed Scope of Services will be developed during negotiations. The scope of services presented herein is intended to cover the Lagoon Management Plan services necessary and/or other related work identified. In addition, Consultant shall agree to perform the management and project controls specified in the Draft Scope of Services.

Consultant is encouraged to include in the proposal any additional tasks beyond the Draft Scope of Services that the Consultant may find necessary or beneficial in order to deliver a successful project.

CITY reserves the right to enter into agreements for none, a portion, modified portions, or all of the work listed in this Request for Proposal. CITY reserves the right to issue notice(s) to proceed for some or all the work up to 90 days after the City Council approves the agreement.

## SECTION VII. STANDARD PROFESSIONAL SERVICES AGREEMENT AND INSURANCE REQUIREMENTS

The standard professional services agreement is attached as **Attachment B**.

The insurance requirements are described in Section 12 Insurance of CITY's Standard Professional Services Agreement. All policies, endorsements, certificates, and/or binders shall be subject to approval by CITY as to form and content. The selected consultant shall agree to provide CITY with a copy of said policies, certificates, and/or endorsements.

**ATTACHMENT A  
DRAFT SCOPE OF SERVICES  
FOR  
LAGOON MANAGEMENT PLAN SERVICES**

**1. Document and Goal Review.**

Review drawing, site information, and client goals for lagoon visitor expectation.

- ◆ Reduce bacteria levels at beaches.
- ◆ Samples site locations

**2. Water Quality Review.**

Review water supply and water chemistry. Analyze sediment loading and contribution to bacterial growth in lagoon. Review water quality monitoring program and recommend changes to reduce bacterial growth in lagoon

**3. Water Quality Equipment Design.**

Design circulation and aeration systems including control systems with the express Goal to provide maximum water quality benefits with low electrical power consumption and minimize chemical argumentation

**4. Discharge Permits and Regulatory Compliance.**

Review and update the National Pollutant Discharge Elimination System (NPDES) permits as necessary.

**5. Lagoon Management Plan.**

Evaluate the process of the four mentioned task above and revise Lagoon Management Plan to incorporate the recommended changes

## ATTACHMENT B

### PROFESSIONAL SERVICES AGREEMENT FOR LAGOON MANAGEMENT PLAN SERVICES

This Agreement is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021 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:

- A. That CITY desires to engage CONSULTANT to provide professional services in the CITY;
- B. That CONSULTANT is qualified to provide such services to the CITY and;
- C. That the CITY has elected to engage the services of CONSULTANT upon the terms and conditions as hereinafter set forth.

- 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 upon completion of performance of services hereunder by CONSULTANT. (b) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, CITY shall compensate CONSULTANT for services rendered, and reimburse CONSULTANT for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination, consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be

deemed a limitation upon the right of CITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to CITY hereunder.

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 \_\_\_\_\_ (\$\_\_\_\_\_). 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.

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 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.
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. It is understood that the relationship of CONSULTANT to the CITY is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not agents or employees of the CITY.
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 and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, City of Foster City or Estero Municipal Improvement District, its Council, boards, commissions, officers, employees or agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONSULTANT, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

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 and Estero Municipal Improvement District, 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.

12. Insurance. CONSULTANT shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to CONSULTANT's services to be performed hereunder covering CITY's risks in form subject to the approval of the City Attorney and/or CITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONSULTANT's vehicle usage in performing services hereunder)
1Professional Liability	\$1,000,000 per claim and aggregate

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1 Note: Professional liability insurance coverage is not required if the CONSULTANT is not providing a service regulated by the state. (Examples of service providers regulated by the state are insurance agents, professional engineers, doctors, certified public accountants, lawyers, etc.) Please check and initial the

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the CITY as an Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

CONSULTANT agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by CONSULTANT shall agree to be bound to CONSULTANT and CITY in the same manner and to the same extent as CONSULTANT is bound to CITY under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. CONSULTANT shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the subcontract agreement and will provide proof of compliance to the CITY prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, CONSULTANT shall furnish CITY, on the form included as Exhibit D or similar form, with certificates and copies of information or declaration pages of the insurance required hereunder to be included as Exhibit C hereto. With respect to evidence of commercial general liability and automobile liability insurance coverage, CONSULTANT must also include in Exhibit C the following original endorsements:

- (a) Precluding cancellation or reduction in per occurrence limits before the expiration of thirty (30) days (10 days for nonpayment) after CITY shall have received written notification of cancellation in coverage or reduction in per occurrence limits by first class mail;
- (b) Naming the City of Foster City and Estero Municipal Improvement District, its Council, officers, boards, commissions, employees, and agents, as additional insureds; and
- (c) Providing that CONSULTANT's insurance coverage shall be primary insurance with respect to City of Foster City and Estero Municipal

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following if professional liability is **NOT** required for this agreement. ☐ Recommended \_\_\_\_\_ [Project Manager] ☐ Approved \_\_\_\_\_ [Risk Manager]



Improvement District, its Council, officers, boards, commissions, employees, and agents, and any insurance or self-insurance maintained by CITY for itself, its Council, officers, boards, commissions, employees, or agents shall be in excess of CONSULTANT's insurance and not contributory with it. CONSULTANT and its insurer may not seek contribution from CITY's insurance or self-insurance.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of CITY, to the extent required by this Agreement, before the CITY's insurance or self-insurance may be called upon to protect CITY as a named Insured.

All self-insured retentions (SIR) must be disclosed to CITY for approval and shall not reduce the limits of liability coverage. Policies containing and SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named CONSULTANT/Named Insured or CITY.

CITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to CONSULTANT and CITY in the same manner and to the same extent as CONSULTANT is bound to CITY under this Agreement. Subcontractors shall further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

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 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: Allen Smith  
  
CONSULTANT: \_\_\_\_\_  
(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 governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. 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 may serve other clients, but none who are active within the City of Foster City or who conduct business that would place CONSULTANT in a "conflict of interest" as that term is defined in State law.
22. Entire Agreement. This Agreement, including Exhibits A, B C, and D, 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: \_\_\_\_\_

\_\_\_\_\_  
Richa Awasthi, Mayor

ATTEST:

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

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

APPROVED AS TO FORM

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

\_\_\_\_\_  
Ben Stock, City Attorney

CONSULTANT

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

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



EXHIBIT A

**SCOPE OF WORK AND SCHEDULE**  
FOR  
FOR LAGOON MANAGEMENT PLAN SERVICES

EXHIBIT B

CONSULTANT'S FEE SCHEDULE

## EXHIBIT C

### INSURANCE FORMS

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in Section 12 - INSURANCE of the Agreement on the attached form. No substitute form will be accepted.

#### **ATTACHED**

1. Insurance Coverage Form

**EXHIBIT D**

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/Estero Municipal Improvement District (CITY)**  
**610 Foster City Boulevard, Foster City, CA 94404**  
**Attention:** \_\_\_\_\_

**Contract Administrator**

<b>Endorsement and Certificates of Insurance Required</b>		<b>Insurer</b>	<b>Policy No.</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)			
<input type="checkbox"/>	<b>General Liability:</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>Auto Liability:</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.		
<b>Other:</b>			
<b>Certificates of Insurance Required (no endorsement needed) (Check all that apply)</b>		<b>Insurer</b>	<b>Policy No.</b>
<input type="checkbox"/>	<b>Workers Compensation:</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.		
<b>Professional Liability:</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 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:** \_\_\_\_\_