City of Davis

Request for Proposals

Old Davis Landfill Environmental Services

Date Released: March 17, 2025
Date and Time Due: April 15, 2025 at 4:00 P.M.

Contact Person:

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REQUEST FOR PROPOSALS – OLD DAVIS LANDFILL ENVIRONMENTAL SERVICES

INTRODUCTION

Overview and Background

The City is requesting environmental/engineering service proposals for tasks requested from the Central Valley Regional Water Quality Control Board (Board) in relation to the Old Davis Landfill (T10000021241, Open – Site Assessment) at 24998 County Road 102, Davis, Ca (site map in Appendix B). The landfill was officially closed in 1975. The unlined landfill is suspected of discharging contaminants of concern that include metals, volatile organic compounds (VOCs), nitrates, and total dissolved solids (TDS) to groundwater. The groundwater monitoring conducted in February and September 2024 has indicated that the landfill is discharging per- and polyfluoroalkyl substances (PFAS) to groundwater. Additional investigation and groundwater monitoring has been requested to assess potential risks posed by discharges from the landfill as well as to delineate and assess the migration of landfill discharges.

The City is requesting proposals from qualified Engineering/Environmental firms to provide technical expertise in groundwater monitoring and creating work plans for additional groundwater investigation for contamination sites in California. Specifically, but not limited to, previous experience providing the Board, on the behalf of a municipality, groundwater monitoring, groundwater monitoring reports, characterization of contaminates discharged from a current contamination site, reporting to GeoTracker (in the correct format), and working with both the municipality and the Board on next steps and/or continued monitoring.

Purpose of Project

The purpose of this project is to meet all regulatory obligations and to determine which requests from the Board in regard to the Old Davis Landfill site (Site) are required and/or needed for mitigation discharges from the landfill and the eventually closure of the site. Currently, the Board requires the below activities:

- Conduct monitoring and reporting for two sample events annually at the Site
    - Seven groundwater monitoring wells (three on-site and four off-site) sampled
    - Sampling must occur during the months of February and September
    - Accredited lab must run analysis
    - Groundwater Monitoring Report and correct data format must be uploaded to Geotracker
- Review water quality monitoring data and previous monitoring reports from 2019 to present to determine next actions with meeting the Board's requests
- Evaluate and implement if additional monitoring of 12 private wells within 4,000 feet of the Site are feasible and required based on regional water quality and groundwater gradients and directional flow

- Create and submit to the Board an initial work plan to characterize the extent of groundwater contamination originating from the Site with a focus on conducting a groundwater survey consisting of grabbing groundwater sample collection in the area
- Evaluate, determine, and construct additional monitoring wells at varying distances and depths below grade which would aid in characterizing any spread of contamination from the Site
- Conduct monitoring and reporting of the newly constructed 3-4 monitoring wells during the two sample events annually at the Site
- Create and submit to the Board 2 future updated work plans for additional groundwater investigations parameters on/off Site that determines the contaminant plume migration and evaluation of any future impact to local water sources (groundwater and surface water)
- Meet all regulatory timelines for submittal of reports, plans, and communication with the Board and prior review with City staff before submittal to Geotracker

Term of Contract

Any contract awarded pursuant to this RFP solicitation shall be for a contract period up 3 years, with the possibility of 2 extensions for an additional 2 years for each extension, for a total of 7 years.

Additional Regulations

All groundwater samples must be collected, sampled, labeled, and stored for delivery to an ELAP approved laboratory for analysis. The project requires at least one member of the team possess an active Professional Geologist and/or a Certified Hydrogeologist licensed in the state of California.

SCOPE OF SERVICES

The City anticipates, at a minimum, requiring the following services:

Groundwater Monitoring (Sampling and Reporting)

In general, the firm shall provide the technician(s) and equipment necessary to perform groundwater monitoring and sampling of seven (7) monitoring wells. (A list of these monitoring wells and their location are included in this RFP as Appendix B). Any additional groundwater monitoring due to future installation of groundwater monitoring wells and/or private wells will be incorporated into the same sampling event and follow the below procedures.

1. The firm shall follow all safety standards and will use only tubing that does not have any PFAS substances associated with the creation/finished product to undertake the following tasks:
    a. Remove well cap and gauge then purge and sample using a pump that follows low-flow purging techniques.
    b. All groundwater elevation reading must be taken and recorded during every sample event.
    c. All groundwater parameters will be collected during the purge at each well.
    d. Groundwater samples may only be taken once stabilization of groundwater parameters occur. Listed below are groundwater parameters.
        i. Temperature

ii. PH
iii. Electrical conductivity
iv. Dissolved oxygen concentration
v. Oxidation reduction potential
vi. Turbidity measurements

e. All groundwater samples must be collected, labeled, and stored for delivery to an ELAP approved laboratory for analysis using the approved ELAP methods for sampling, labeling, storage, and shipment.
f. Purged groundwater and decontamination water will be placed in a labeled and sealed DOT-approved 55-gallon drum. Following the completion of the groundwater monitoring event, the drum will be stored at the City of Davis Public Works U&O yard pending disposal.

2. The groundwater from each well will be analyzed for the following laboratory analysis but is not limited to this list if City staff or the Board request additional contaminants be sampled:
    - General Chemistry by US EPA Method 300.0 including (Chloride, Fluoride, Nitrate as N, Nitrite as N, Sulfate as SO4)
    - Title 22 Metals by US EPA 200 series methods
    - Total Dissolved Solids (TDS) by SM2540C
    - Volatile Organic Compounds (Landfill List) by US EPA 8260B
    - Semi-Volatile Organic Compounds (Standard List) by EPA 8270C
    - Perfluorinated Compounds by DOD QSM

    The results of the groundwater monitoring and sampling will be reported in the Groundwater Monitoring Report (GMR) which will include summary tables of the analytical results, monitoring parameters, groundwater contour map, and a summary describing field activities of the sampling event. City staff will be provided the draft GMR for review/comment prior to submittal and upload to GeoTracker. The GMR along with the GEO_Well and analytical data will be uploaded to GeoTracker in the formats requested by the Board. There will be two (2) sampling events annually in the first and third quarter. The deadline for report submittals are based on the Board's timeline.

Data Review (Prior Studies and Monitoring Data)

The City of Davis has done several studies and many years of groundwater monitoring at the Site. The firm selected shall review and evaluate the following documents to understand the characteristics of the Site and to determine how the City shall move forward with a work plan and monitoring at the Site in agreement with the Board.

- Site Assessment Report (SWAT, 1993)
- Evaluation Monitoring Report and Proposed Corrective Action Plan (CAP/RAP, 1998)
- Site Characterization Report (2020)
- City of Davis elevation & analytical data from monitoring and production wells (spreadsheets)
- City of Davis analytical data from groundwater monitoring at Site (spreadsheets)
- Previous GMRs (1995, 1999, 2011, 2019, 2020, 2024, 2025)

- Any and all documentation listed under the Old Davis Landfill (T10000021241) on GeoTracker (including correspondence)

The evaluation and analysis of the data will ensure a complete understanding of the past uses of the Site, the previous groundwater contaminants of concern, and the current status of the elevation and water quality at the Site and in the surrounding area of Davis with the Board's requests and timelines.

Offsite Monitoring (Private Wells)

Previous correspondence with the Board included a request for groundwater monitoring of private wells within 4,000 feet of the Site to determine if the constituents detected at the Site are present in the surrounding area. The City requires the selected firm to compile a list of the private property owners of each well site, the current status of use of the property and the well, communication with the property owner/tenant is expected to determine if the property owner would allow monitoring and sampling of the private groundwater well on the same month as the annual sampling events and a conclusion of the feasibility of private well monitoring based on the communication from the private well owner, the amount of wells allowed to be monitored, and if the results of such monitoring provide characterization of migration of contaminants from the Site to private property or if the use of the private property has any bearing on the source of contamination. Anticipated delivery of an Offsite Monitoring options and alternatives are to be included for City review and possible inclusion in the future work plans.

Work Plans (Initial and Future)

All work plans need to characterize the extent of contaminants discharged from the Site through a detailed analysis of groundwater samples from the existing monitoring wells and historic/seasonal trends, if any. A determination should be included if additional sampling and/or monitoring wells at different depths and distances from the Site will benefit in assessing and delineating any contaminant(s) plume(s) and migration(s), if any. To delineate any contaminant plumes from the Site, historical and current groundwater gradient and flow direction need to be evaluated with local topography, geology, hydrogeology, and surface water hydrology surrounding the Site. Furthermore, all work plans need to take into consideration the Board's requests and communications about the Site.

An initial workplan will be submitted with the following considerations:

1. Summary/Conclusions from the Data Review of the Site (prior task)
2. Determination and evaluation of feasibility of sampling private groundwater wells within 4,000 feet of the Site and assess the potential risks posed to the private wells
3. Sampling constituents of concern (list) and tentative schedule
4. Analysis of future next steps based on additional groundwater investigation
5. Review of draft work plan with City staff
6. Submittal of final work plan via upload to GeoTracker

Prior to submitting an initial workplan, consultant with City staff may want to meet with the current case manger assigned to the Site to understand and clarify the Boards requirement of the initial work plan for the site.

Any and all future workplans need to include all recent groundwater monitoring data and future monitoring of additional monitoring wells, the reasoning of the location, depths, and distance from the Site and which if any private wells are available for monitoring. Future workplans should eventually, delineate (depth/distance) any contaminant plumes, any changes in concentration of contaminants and further characterization if migration occurred or if there are any impermeable layers/features present that were not captured from previous studies. All future workplans require review of City staff prior to submittal of workplan to the Board (upload to GeoTracker).

Groundwater Monitoring Wells (Evaluate, Install, Monitor)

The selected firm shall complete a review of the historical and current groundwater monitoring results (quality and elevation) of both the Site and the City of Davis' wells (active and inactive). Determination if any private wells (within 4,000 feet of the Site) can be monitored without the need for additional groundwater monitoring wells. Research historical and current groundwater gradient and flow direction, local topography, geology, hydrogeology, and surface water hydrology surrounding the Site and determine depths and distances that would delineate the Site's contaminant(s), the size of the plume, and any migration. Evaluate the City owned properties in the area for potential groundwater monitoring well sites. Provide the City of Davis a report determining the optimal sites (including alternate sites) for construction of groundwater monitoring wells. The report should include the potential diameter of the boreholes, depths, well casings, and screened intervals with estimated timeline and cost for design and construction of the monitoring wells. Based on the conclusion of the report and the approval of City staff the firm would commence the work to install and monitor the new groundwater wells including furnishing the plans, details, and specifications to be provided to both the City and Board for approval prior to construction.

The Work includes, but is not limited to, the drilling, construction, and development of multiple-completion groundwater monitoring wells approximate depth dependent on evaluation, each with two (2) to three (3) depth-specific screened intervals. The drilling includes, but is not limited to, potholing, pilot borehole drilling, drilling fluid, geophysical survey, borehole reaming, and caliper survey. The construction includes, but is not limited to, monitoring well casing and screens, borehole seals, filter pack, and sanitary seal. The monitoring well development includes, but is not limited to, swabbing, airlifting, pump development, and well appurtenances. All Work shall be performed in accordance with any and all permitting requirements, water well construction standards, certifications and license requirements for drilling, water well construction with the proper equipment, tools, and trades within Yolo County, Davis, CA. Preparation of the well completion report, per the California Water Code Section 13751, will be submitted to the City, the California Department of Water Resources, and Yolo County Environmental Health. Once completed and prior to first official monitoring during a sampling event, submittal of the new groundwater monitoring wells must be surveyed and the data must be uploaded to GeoTracker in the correct format (GEO_XY), (GEO_Z), and (GEO_WELL). The firm will provide the technician(s) and equipment necessary to monitor the additional three (3) groundwater monitoring wells.

Anticipated Timeline

All project deliverables and anticipated completion dates are based on the Board's established dates of submittal and any future request and deadlines required by the Board.

Existing Documents

The existing documents that may provide useful background information that is relevant to the project are listed in Appendix B and are available on the GeoTracker website. Link below.
https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000021241

Notwithstanding the inclusion of services in this RFP, the final scope of services negotiated between the City and the successful Proposer shall be set forth in the Professional Service Agreement ("Agreement") executed by and between the City and the successful Proposer. A copy of the Agreement is attached hereto as Appendix A and incorporated herein by this reference.

PROPOSAL REQUIREMENTS

Consultant firms interested in submitting a proposal for this project should respond to this RFP with an email proposal providing all the information requested. The proposal will be considered complete only if all of the items listed under the Proposal Requirements are included.

The contents of the proposal must be limited to ten (10) pages, not including fee estimate, resumes, certificates, and Gantt chart. The proposal shall use a minimum 12-point font size.

The proposal shall contain the following sections:

Section	Contents	Restrictions
Cover letter	Transmittal identification and declaration of conflict(s) of interest	1 page maximum
1	Project Team Description and Qualifications	3 pages maximum (not including resumes and certifications)
2	Scope of Services	3 pages maximum (not including Gantt Chart of timeline)
3	Subcontractors	1 page maximum
4	Client References	2 pages maximum
Exempt from Page Number Restrictions		
5	Pricing, Resumes, Certificates, Gantt Charts	

Cover Letter of Interest

Please submit a Cover Letter of Interest signed by a duly authorized officer or representative of the Respondent, not to exceed one page in length. The Letter of Interest must also include the following information:

- The principal place of business and the contact person, title, telephone numbers and email address.

- A brief summary of the qualifications of the Respondent and team.
- Description of organization (i.e. Corporation, Limited Liability Company, or Joint Venture).
- Teams/firms submitting proposals in response to this RFP must disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, management, or employees of the firm or other persons relative to the services to be awarded pursuant to this RFP. If a team/firm has no conflicts of interest, a statement to that effect shall be included in the cover letter.

Proposal Content

1. **Scope of Work.** Please include a description of the firm and its qualifications for providing services to meet the needs outlined in this RFP. This should convey the respondent's understanding of the work, and demonstrate specialty experience, management, and other features that lead to successful achievement of the City's goals. This section shall include the respondent's specific tasks for performing the work.

   Include a list of deliverables. Deliverables should match milestones/deadlines based on meeting the Board's requests and/or action dates.

2. **Key Personnel.** Provide an organization chart, and for each key team member, provide the following:
   - Qualifications and their experience on similar projects
   - Role and responsibilities for this project
   - Home office location
   - Estimate of time allocation to the study (averaged over the duration of the project).

   If sub-consultants will be used, provide names, qualifications, certifications, experience, location, and role of each sub-consultant.

3. **Project List.** Provide references for projects that demonstrate proposer's qualifications and experience for performing the requested services. The reference projects should be linked to the staff listed in Key Personnel.

4. **References.** Please include names, emails and telephone numbers of at least three (3) of your firm's previous clients whom the City staff may contact for references regarding the past performance of your firm, project managers, team members and sub-consultants proposed for this project.

5. **Fee Schedule.** Compensation will be on a time and expense basis. If the proposer finds that additional budget would be necessary and/or appropriate to achieve the project objectives, please propose a list of optional tasks with additional costs that the City might consider, subject to approval by City Council.

   Provide:
   - Estimated fee by task (tasks should match scope of services section)
   - Hourly billing rate schedule for all proposed staff (including future rate increases)

- Types and estimated amount of expenses to be billed to the project
- Fees by sub-consultant, by task

6. **Evidence of Insurance.** The Proposer shall provide a summary of the firm's current insurance coverage for comprehensive, general liability, professional liability, automotive liability and worker's compensation insurance. Indicate the limits of coverage on each policy. City required endorsements and minimum coverage limits must be provided at time of agreement execution.

Type of Insurance	Description	Amount
Commercial General Liability (CGL)		
Automobile Liability		
Workers' Compensation		
If applicable		
Professional Liability (Errors and Omissions)		
Other Insurance Provisions		

7. **Acceptability of Terms and Conditions for the City Standard Agreement.** Please refer to our standard agreement included as Appendix A. Any proposed deviations and modifications to the agreement should be noted, with reasons given. Proposed agreement changes will require City Attorney approval. The City will not consider changes to the agreement once the selection process has been completed.

PROPOSAL SUBMISSION REQUIREMENTS

Please email a PDF copy of your proposal at your earliest convenience, but no later than Tuesday, April 15, 2025 at 4:00 P.M. to:

Sherry Kimura
skimura@cityofdavis.org
Subject Line: **Old Davis Landfill Environmental Services**

Please note, the City will not accept incomplete proposals, proposals emailed after the due date and time, or proposals submitted via mail or facsimile, unless otherwise noted.

EVALUATION CRITERIA AND SCORING

The City will evaluate proposers based on the following criteria:

Criteria	Points Possible

Expertise and experience of the team assigned to the project	25
Related and recent experience completing similar projects in California	25
Demonstrated experience communicating with the Board	15
Demonstration of ability to work cooperatively with and be responsive to staff and stakeholders	10
Availability and staffing to complete the project within the timeline	25
Total Points	100

SELECTION PROCESS AND ESTIMATED SCHEDULE

Proposals will be reviewed to determine if the applicant meets the minimum qualifications necessary to complete the Scope of Services required for the Project. Proposals not meeting minimum qualifications will be disqualified from further consideration at the sole discretion of the City. The City may seek written clarification from any or all Proposers in order to better understand and evaluate the proposed solutions. This process may not be used as an opportunity to submit missing documentation or to make substantive revisions to the original proposal.

The City of Davis will appoint an evaluation team that will review and evaluate the proposals and will make a final recommendation based on the provided materials and references contacted.

PROPOSAL SCHEDULE

The tentative schedule is as follows:

Anticipated Dates	**Steps**
3/17/2025	RFP released to the public
3/25/2025	Deadline for questions sent via email to **skimura@cityofdavis.org**
3/28/2025	Responses to questions (if applicable)
4/15/2025	Proposal submission deadline at 4:00 P.M. (mailed copies and facsimiles not accepted)
May 2025	City Council meeting to approve company selection and budget, authorize City Manager to execute a contract.

The above scheduled dates are tentative and City retains the sole discretion to adjust the above schedule or cancel all or any part of the same.

COMPANIES BEING SENT THIS RFP

While any qualifying company can respond to this request for proposals, the City sent this RFP to the following consulting firms for their consideration:

- Larry Walker Associates
- Doulos Environmental Inc.
- West Yost Associates
- Montrose Environmental
- Kennedy Jenks

NO OBLIGATION

The City reserves the right to modify this RFP package at any time prior to the proposal due date, or to extend the proposal due date, or to cancel this RFP package at any time. The City further reserves the right to reject any and all proposals for any reason or to accept any qualifying proposal received which the City, in its sole unrestricted discretion deemed most advantageous to itself. The lowest or any proposal may not necessarily be accepted. The respondent acknowledges the City's rights and this clause and absolutely waives any right of action against the City for the City's failure to accept its proposal whether such right of action arises in contract, negligence, bad faith or any other cause of action. The acceptance of any proposal is subject to funds being legally available to complete this transaction and/or approval by the City Council or the officer or employee of the City having authority to accept the proposal.

The City of Davis is not responsible for any loss, damage or expense incurred by a respondent as a result of any inaccuracy or incompleteness in the RFP, or as a result of any misunderstanding or misinterpretation of the terms of this RFP on the part of the Respondent. Further, the City of Davis is not liable for any costs incurred in the preparation of the proposal submittals.

MISCELLANEOUS

Confidentiality of Proposal

Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, proposals submitted in response to this RFP shall be held confidential by City and shall not be subject to disclosure under the California Public Records Act (Cal. Government Code section 6250 *et seq*.) until after either City and the successful proposer have completed negotiations and entered into an Agreement or City has rejected all proposals. All correspondence with the City including responses to this RFP will become the exclusive property of the City and will become public records under the California Public Records Act. Furthermore, the City will have no liability to the Proposer or other party as a result of any public disclosure of any proposal or the Agreement. If a Proposer desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Proposer must mark it as such and state the specific provision in the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if a Proposer submits trade secret information, the Proposer must plainly mark the information as "Trade Secret" and refer to the appropriate section of the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. Although the California Public Records Act recognizes that certain confidential trade secret information may be

protected from disclosure, the City is not in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked "Confidential", "Trade Secret" or "Proprietary", the City will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

Exceptions Certification
In submitting a proposal in response to this RFP, Proposer is certifying that it takes no exceptions to this RFP including, but not limited to, the Agreement. If any exceptions are taken, such exceptions must be clearly noted in the proposal and may be reason for rejection of the proposal. As such, Proposer is directed to carefully review the attached Agreement and, in particular, the insurance and indemnification provisions therein. Failure to include any exceptions to the RFP, including the Agreement, shall be deemed an acceptance of all terms therein by Proposer and Proposer shall not have any further opportunity to request revisions to the same following submission of its proposal.

Amendments to Proposals
No amendment, addendum or modification will be accepted after a proposal has been submitted to City. If a change to a proposal that has been submitted is desired, the submitted proposal must be withdrawn and the replacement proposal submitted to City prior to the proposal due date and time.

Cancellation of RFP
City reserves the right to cancel this RFP at any time prior to contract award without obligation in any manner for proposal preparation, interview, fee negotiation or other marketing costs associated with this RFP.

Price Validity
Prices provided by Proposers in response to this RFP are valid for _90_ days from the proposal due date. The City intends to award the contract within this time but may request an extension from the Proposers to hold pricing, until negotiations are complete and the contract is awarded.

No Commitment to Award
Issuance of this RFP and receipt of proposals does not commit the City to award a contract. City expressly reserves the right to postpone the RFP process for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one Proposer concurrently, or to cancel all or any part of this RFP.

Right to Negotiate and/or Reject Proposals
City reserves the right to negotiate any price or provision, task order or service, accept any part or all of any proposals, waive any irregularities, and to reject any and all, or parts of any and all proposals, whenever, in the sole opinion of City, such action shall serve its best interests and those of the tax-paying public. The Proposers are encouraged to submit their best prices in their proposals, and City intends to negotiate only with the Proposer(s) whose proposal most closely meets City's requirements at the lowest estimated cost.

Prevailing Wage

Proposers shall take cognizance of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public work" and "maintenance" projects. The Proposer must agree to fully comply with and to require its subcontractors/subconsultants to fully comply with such Prevailing Wage Laws to the extent applicable.

QUESTIONS

Questions about this RFP should be made in writing and emailed to **skimura@cityofdavis.org**. All requests for information or questions must be submitted by 4:00 P.M. on Wednesday, March 25, 2025. Questions submitted after the due date or via phone will not be accepted. All questions and answers will be published.

APPENDIX A: CITY STANDARD AGREEMENT SAMPLE

CITY OF DAVIS
PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 20____ by and between the City of Davis, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 23 Russell Boulevard, Davis, CA 95616 ("City"), and [***INSERT NAME***], a [***INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***] with its principal place of business at [***INSERT ADDRESS***] (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is in need of professional [***INSERT SERVICE TYPE***] services, as more fully set forth and described in this Agreement.

B. Consultant is duly licensed and has the necessary qualifications, to provide such services. City enters this Agreement in substantial reliance on such experience and qualifications.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Services.

Consultant shall provide the City with the services generally described in (i) the Scope of Services attached hereto as Exhibit "A"; (ii) as otherwise required by this Agreement, all to City's satisfaction (collectively, "Services" herein.) In the event of any conflict between Exhibit "A" and the provisions of this Agreement, the provisions of this Agreement shall take precedence.

2. Compensation.

a. Subject to Section 2.b, below, the City shall pay for the Services satisfactorily performed, in accordance with the Schedule of Rates/Payments set forth in Exhibit "B", attached hereto.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of $_____ [***INSERT MAXIMUM AMOUNT OF COMPENSATION***]. This amount covers and is inclusive of all labor, materials, printing, and any and all other costs incurred by Consultant in performing the Services, unless otherwise agreed upon in writing. Consultant shall be deemed to have made all necessary inquiries and site inspections prior to agreeing to perform any service hereunder. Accordingly, Consultant shall make no demand for extra compensation based on unforeseen site conditions. Periodic payments for undisputed work shall be made within thirty (30) days of receipt of an invoice which includes a detailed description of the work performed. Unless otherwise specified in Exhibit "B", payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

The Parties may agree on additional work to be provided as part of the Services. An amendment to this Agreement shall be prepared by the City and executed by both Parties authorizing such additional work and compensation therefor, prior to such work being performed.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available for review by the City at all reasonable times during the term of this Agreement and for four (4) years from the date of final payment by City.

5. Term; Time of Performance.

The term of this Agreement shall commence on the date first set forth above and expire on [***INSERT END DATE***], unless earlier terminated as provided herein. Consultant shall complete the Services within the term of this Agreement, and shall meet any other established and agreed upon schedules and deadlines agreed upon in writing. **Consultant shall be required to commence work within [***INSERT NUMBER OF DAYS, E.G., three (3)***] business days of receiving City's verbal or written notice to proceed.** Consultant represents that it has the professional and technical personnel required to satisfactorily perform the Services as required by this Agreement. All indemnification provisions of this Agreement shall survive and remain in effect following the termination of this Agreement. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Services.

6. Delays in Performance.

a. Force Majeure. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by force majeure events. Force majeure events mean and refer to circumstances beyond the reasonable control of the non-performing party including, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint. Consultant's lack of financial capability, in the absence of any of the foregoing events, shall not constitute a force majeure event. Consultant's lack of financial capability, in the absence of any of the foregoing events, shall not constitute a force majeure event.

b. Should a force majeure event occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including but not limited to Cal/OSHA requirements.

b. City may, but is not required, to assist Consultant in obtaining and maintaining all permits required of Consultant by federal, state and/or local regulatory agencies.

c. If applicable, and unless otherwise provided in the Services, Consultant is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care.

Consultant's Services will be performed in accordance with the generally accepted professional standard(s) of practice and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Consultant shall, at all times herein, possess any and all professional licenses and certifications required to lawfully perform the Services. A California Contractor's license **[is] [is not]** required to perform the work hereunder.

9. Assignment and Subcontracting.

Consultant shall not assign, subcontract or transfer this Agreement or any rights or obligations under, or any interest in this Agreement, or subcontract any required performance hereunder, without the prior written consent of the City, which may be withheld for any reason. The Services required to be performed by the Consultant are personal to the Consultant. Any attempt to so assign, transfer, or subcontract without such consent shall be void and without legal effect and shall constitute grounds for termination. In addition to the foregoing, authorized subcontracts, if any, shall contain a provision making the subcontractor subject to all requirements of this Agreement.

10. Independent Contractor.

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant is or shall become an employee of City. The work to be performed shall be in accordance with the Scope of Services described in this Agreement, subject to such directions and amendments from City as herein provided.

a. All work and other Services provided pursuant to this Agreement shall be performed by Consultant or by Consultant's employees or other personnel under Consultant's supervision, and Consultant and all of Consultant's personnel shall possess the qualifications, permits, and licenses required by State and local law to perform the Services, including, without limitation, a City of Davis business license as required by the Davis Municipal Code. Consultant will determine the means, methods, and details by which Consultant's personnel will perform the Services. Consultant shall be solely responsible for the satisfactory work performance of all personnel engaged in performing the Services and compliance with the customary professional standards.

b. All of Consultant's employees and other personnel performing any of the Services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant and Consultant's personnel shall not supervise any of City's employees; and City's employees shall

not supervise Consultant's personnel. Consultant's personnel shall not wear or display any City uniform, badge, identification number, or other information identifying such individual as an employee of City; and Consultant's personnel shall not use any City e-mail address or City telephone number in the performance of any of the Services under this Agreement. Consultant shall acquire and maintain at its sole cost and expense such vehicles, equipment and supplies as Consultant's personnel require to perform any of the Services required by this Agreement. Consultant shall perform all Services off of City premises at locations of Consultant's choice, except as otherwise may from time to time be necessary in order for Consultant's personnel to receive projects from City, review plans on file at City, pick up or deliver any work product related to Consultant's performance of any Services under this Agreement, or as may be necessary to inspect or visit City locations and/or private property to perform such Services. City may make a computer available to Consultant from time to time for Consultant's personnel to obtain information about or to check on the status of projects pertaining to the Services under this Agreement.

c. Consultant shall be responsible for and pay all wages, salaries, benefits and other amounts due to Consultant's personnel in connection with their performance of any Services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: Social Security taxes, other retirement or pension benefits, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance. Notwithstanding any other agency, State, or federal policy, rule, regulation, statute or ordinance to the contrary, Consultant and its officers, employees, agents, and subcontractors providing any of the Services under this Agreement shall not become entitled to, and hereby waive any claims to, any wages, salaries, compensation, benefit or any incident of employment by City, including but not limited to, eligibility to enroll in, or reinstate to membership in, the California Public Employees Retirement System ("PERS") or any other retirement program, as an employee of City, and entitlement to any contribution to be paid by City for employer contributions or employee contributions for PERS benefits or any other retirement benefits.

d. To the maximum extent permitted by laws, Consultant shall indemnify, defend and hold harmless the City and other Indemnitees (as defined in Section 13.a herein), from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from, caused by, or relating to Consultant's violation of any provision of this Section 10, or any of Consultant's personnel practices. In addition to all other remedies at law, City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section. The duty of indemnification set forth in this Section is in addition to all other indemnification provisions of this Agreement. Consultant's covenants under this Section 10 shall survive the expiration or termination of this Agreement.

11. PERS Compliance.

The Parties acknowledge that City is a local agency member of PERS, and as such has certain pension reporting and contribution obligations to PERS on behalf of qualifying employees.

Consultant agrees that, in providing its employees and any other personnel to City to perform any work or other Services under this Agreement, Consultant shall assure compliance with the Public Employees' Retirement Law, commencing at Government Code Section 20000, the regulations of PERS, and the Public Employees' Pension Reform Act of 2013, as amended. Without limitation to the foregoing, Consultant shall assure compliance with regard to personnel who have active or inactive membership in PERS and to those who are retired annuitants and in performing this Agreement shall not assign or utilize any of its personnel in a manner that will cause City to be in violation of the applicable retirement laws and regulations.

12. Insurance. Consultant shall not commence work for the City until it has secured all insurance required under this Section and provided evidence thereof that is acceptable to the City. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this Section.

a. Commercial General Liability

(i) Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

(1) Bodily Injury and Property Damage
(2) Personal Injury/Advertising Injury
(3) Premises/Operations Liability
(4) Products/Completed Operations Liability
(5) Aggregate Limits that Apply per Project
(6) Explosion, Collapse and Underground (UCX) (exclusion deleted)
(7) Contractual Liability with respect to this Agreement
(8) Broad Form Property Damage
(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall be endorsed to name the City, its elected and appointed officials, officers, employees, agents, servants, volunteers and agents serving as

independent contractors in the role of City officials, as additional insureds using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability coverage may utilize deductibles or provide coverage excess of a self-insured retention, subject to City's advance written approval, and further provided that such deductibles shall apply to City only and shall not apply to coverage of the Additional Insureds.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall be endorsed to name the City, its officials, officers, employees, agents and volunteers as additional insureds.

(iv) The automobile liability coverage may utilize deductibles or provide coverage excess of a self-insured retention, subject to City's advance written approval, and further provided that such deductibles shall apply to City only and shall not apply to coverage of the Additional Insureds.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that Consultant is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she/it will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the Workers' Compensation and Insurance Act, Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subcontractors to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this Section.

d. Professional Liability (Errors and Omissions) (unless waived in writing by the City's risk manager)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and with the limits required herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy coverage form specifically designed to protect against acts, errors or omissions of the Consultant in the performance of professional services. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. **[Optional: __ yes__/ no__Cyber Liability Insurance**. If the services provided by the Consultant include or require Consultant to electronically store, process, or otherwise handle any City data, including information required for City to pay Consultant electronically, then Consultant shall provide cyber liability insurance as provided in (f), below.

[***INSERT***] Liability Insurance [CITY WILL CHECK WITH RISK MANAGER AND JPIA TO DETERMINE IF ADDITIONAL LIABILITY INSURANCE SHOULD BE REQUIRED FOR A PARTICULAR PROFESSIONAL SERVICES AGREEMENT WHERE THERE ARE UNIQUE RISKS INVOLVED.]

At all times during the performance of the work under this Agreement the Consultant shall maintain _____[***INSERT AS APPROPRIATE***].

f. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	Combined Single Limit
Commercial General Liability	$2,000,000 per occurrence/ $4,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	$1,000,000 per occurrence (any auto) for bodily injury and property damage
Workers' Compensation	In the amount required by California law.
Employer's Liability	$1,000,000 per occurrence
Professional Liability	$1,000,000 per claim and aggregate (errors and omissions) {unless waived by risk manager)
Cyber Liability	[***IF APPLICABLE***] $2,000,000 per occurrence providing protection against claims and liabilities arising from: (i) errors and omissions in connection

with maintaining security of City Data; (ii) data breach including theft, destruction, and/or unauthorized use of City Data; (iii) identity theft including bank charges assessed; and (iv) violation of privacy rights due to a breach of City Data. "City Data" means any and all electronic data provided or made accessible to the Consultant in connection with this Agreement.

[***INSERT OTHER LIABILITY***] $_____ [***IF APPLICABLE***]

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this Section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

g. Evidence Required

Prior to execution of the Agreement, Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

h. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, Consultant shall deliver renewal certificate(s) including the required Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Liability Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any additional insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. If a "claims-made" professional liability policy is provided, it shall include an extended reporting period of not less than three (3) years.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its elected and appointed officials, officers, employees, agents, servants, volunteers and agents serving as independent contractors in the role of City officials, or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

i. Qualifying Insurers

(i) Each policy of insurance required herein shall be from a company or companies having a current A.M. Best's rating of no less than A:VII and admitted and authorized to transact the business of insurance in the State of California.

j. <u>Additional Insurance Provisions</u>

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may terminate this Agreement for cause.

(iii) City may require Consultant to provide for inspection by City, complete copies of all insurance policies in effect for the duration of this Agreement.

(iv) No City elected or appointed official, officer, employee, agent or volunteer shall be personally responsible for any liability arising under or by virtue of this Agreement.

(v) The insurance obligations under this Agreement shall be: (1) all the insurance coverage and/or limits carried by or available to Consultant; or (2) the minimum insurance coverage requirements and/or limits shown in this Agreement; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and/or

minimum required limits, which are applicable to a given loss, shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Consultant under this Agreement.

k. Subcontractor Insurance Requirements

Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that it has secured all insurance required under this Section. Policies of commercial general liability insurance provided by each such subcontractor shall be endorsed to name the City, its elected and appointed officials, officers, employees, agents, servants, volunteers and agents serving as independent contractors in the role of City officials as additional insureds, using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors.

13. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel reasonably approved by City), indemnify and hold the City, its elected and appointed officials, officers, attorneys, agents, employees, servants, volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees" in this Section 13) free and harmless with respect to any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages, stop notices and/or injury of any kind, in law or equity, to property or persons, including bodily injury, death, personal injury and property damage, in any manner arising out of, pertaining to, or incidental to any breach of this Agreement and/or any acts, errors, or omissions of Consultant, its owners, officials, officers, directors, employees, servants, subcontractors, consultants or agents in connection with the performance of the Consultant's Services, and/or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, or by the City or any of the other Indemnitees.

b. **For Design Professional Services:** If Consultant's Services hereunder include the performance of professional services by a "design professional" (as the term is defined below), then to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, indemnify and hold harmless City and the other Indemnitees, and each of them, from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants and other professionals, and all costs associated therewith, and reimbursement of attorneys' fees and costs of defense, whether actual, alleged or threatened, to the extent arising out of, pertaining to, or relating to, in whole or in part, the negligence, recklessness or willful misconduct of the Consultant, and/or its officers, agents, servants, employees, subcontractors, contractors or their officers, agents, servants, or employees (or any entity or individual for whom the Consultant shall bear legal liability) in the performance of design professional services under this Agreement. Notwithstanding the foregoing and as required by Civil Code Section 2782.8(a), in no event shall the cost to defend the Indemnitees that is charged to Consultant, exceed Consultant's proportionate percentage of fault.

For purposes of this Section 13.b, and in accordance with Civil Code Section 2782.8(c), "design professional" means only the following and only while performing professional design services: (i) an individual licensed as an architect pursuant to Business and Professions Code Section 5500, et seq., and a business entity offering architectural services in accordance with that Code section; (ii) an individual licensed as a landscape architect pursuant to Business and Professions Code Section 5615, et seq., and a business entity offering landscape architectural services in accordance with that Code section; (iii) an individual registered as a professional engineer pursuant to Business and Professions Code Section 6700, et seq., and a business entity offering professional engineering services in accordance with that Code section; and (iv) an individual licensed as a professional land surveyor pursuant to Business and Professions Code Section 8700, et seq., and a business entity offering professional land surveying services in accordance with that Code section.

c. The provisions of this Section 13 shall survive the expiration or termination of this Agreement.

14. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720, et seq. and 1770, et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with the Prevailing Wage Laws. These rates are on file with the City Clerk or may be obtained at: http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm.

(i) Copies of the prevailing wage rates may be obtained at cost at the City Clerk's office. Consultant shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Consultant shall comply with the provisions of Sections 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Consultant shall forfeit to the City, as a penalty, not more than $200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this Agreement, by him or by any subcontractor under him, in violation of the provisions of this Agreement.

(ii) Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor

Code Section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the Services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of this Agreement and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of the Services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

15. Living Wage Ordinance.

a. Consultant agrees to comply with Davis Municipal Code Chapter 15.20, the City of Davis Living Wage Ordinance. If Consultant employs six (6) or more employees, and receives $25,000 or more from the City pursuant to this Agreement and any other contracts with the City during a twelve month period, Consultant shall be required to provide all employees eligible under Chapter 15.20 with the minimum compensation set forth in Davis Municipal Code Section 15.20.060 during the term of this Agreement.

b. Prior to commencement of any work under this Agreement, Consultant and all subcontractors that are subject to the requirements of Chapter 15.20 will provide certification in a form satisfactory to the City that Consultant and subcontractors are providing all eligible employees the minimum compensation required pursuant to Davis Municipal Code Section 15.20.060. Additionally, prior to commencement of any work, Consultant shall notify in writing all employees that are eligible for minimum compensation of their rights under Chapter 15.20.

c. Consultant shall maintain all records and documents necessary to establish whether Consultant is subject to Chapter 15.20. If Consultant is subject to the requirements of Chapter 15.20, Consultant shall further be required to maintain monthly records of Consultant's employees, including records showing the hourly rate paid to each employee, the amount paid by Consultant for health benefits, if any, and the amount of days off provided per year for sick leave, vacation, or personal necessity. The records described in this subsection shall be made available

to the City upon request. The failure to produce these records within three (3) business days following request by the City shall be a default under this Agreement.

d. Consultant shall include the requirements of Chapter 15.20 in any and all agreements with subcontractors hired to provide the Services pursuant to this Agreement. Any and all subcontractors retained by Consultant to provide the Services pursuant to this Agreement that employ six or more employees and receive $25,000 or more for the Services provided to the City pursuant to this and any other City contracts during a 12-month period shall be required to comply with the terms of Chapter 15.20. Failure by a subcontractor subject to the requirements of Chapter 15.20 to comply with the terms of Chapter 15.20 shall constitute a default of the Consultant under this Agreement.

16. Use of Recycled Paper. Consultant shall comply with the City's policy on the use of recycled paper, as set forth in Exhibit "C" of this Agreement.

17. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California without regard for change of venue laws. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Yolo, State of California. Consultant must comply with the claim procedures set forth in Government Code Section 900, et seq. prior to filing any lawsuit against the City.

18. Termination.

a. City has the right to terminate any portion or all of the Services under this Agreement with or without cause, by giving ten (10) calendar days' prior, written notice to Consultant. In such event, City shall be immediately given title to and possession of all Work Product and original field notes, drawings and specifications, written reports and all other documents produced or developed pursuant to this Agreement for that portion of the work completed prior to termination. Provided Consultant is not then in breach, City shall pay Consultant the reasonable value of services rendered for any portion of the Services completed prior to termination. If said termination occurs prior to completion of any specific task for which a payment request has not been received, the charge for Services performed shall be the reasonable value of such Services, based on an amount agreed to by City and Consultant. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services or services within the Services performed prior to the effective date of this Agreement, and shall not be entitled to damages or compensation resulting from such termination of the Services.

b. Consultant may terminate its obligation to provide further Services under this Agreement by serving written notice of termination to the City, provided Consultant has first served the City with a written notice of default and demand to cure, and City has failed to cure such default within thirty (30) days of receipt of such notice.

19. Ownership of Work Product.

a. Except as otherwise provided in Section 18, "Termination", above, and unless otherwise agreed upon in writing, all draft and final reports, documents, and other written material, and any and all images, ideas, concepts, designs including website designs, source code, object code, electronic data and files, and/or other media whatsoever created or developed by Consultant in the performance of this Agreement (collectively, "Work Product") shall be considered to be "works made for hire" for the benefit of City. All Work Product and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of City without restriction or limitation upon their use, duplication or dissemination by City upon final payment being made provided that any such use shall be at City's sole risk. Consultant shall not obtain or attempt to obtain copyright protection as to any of the Work Product.

b. Consultant hereby assigns to City all rights of ownership to the Work Product, including any and all related intellectual property and proprietary rights that are not otherwise vested in the City pursuant to subsection (a), above.

c. Consultant warrants and represents that it has secured all necessary licenses, consents or approvals necessary to the production of the Work Product, and that upon final payment or Consultant's default, City shall have full legal title to the Work Product, and full legal authority and the right to use and reproduce the Work Product for any purpose. Consultant shall defend, indemnify and hold City, and the other Indemnitees (as defined in Section 13.a, above) harmless from any and all loss, claim or liability in any way related to a claim that City's use of any of the Work Product violates federal, state or local laws, or any contractual provisions, or any rights or laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in products, ideas or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the Work Product produced under this Agreement. In the event the use of any of the Work Product or other deliverables hereunder by City is held to constitute an infringement and the use of any of the same is enjoined, Consultant, at its expense, shall: (a) secure for City the right to continue using the Work Product and other deliverables by suspension of any injunction, or by procuring a license or licenses for City; or (b) modify the Work Product and other deliverables so that they become non-infringing while remaining in compliance with the requirements of this Agreement. This covenant shall survive the termination of this Agreement.

20. Party Representatives.

Consultant hereby designates _____, or his or her designee, as Consultant's Representative for this Agreement, unless and until written notice of a new representative acceptable to City is provided to City. City hereby designates _____, or his or her designee, as City's Representative for this Agreement. The foregoing Representatives shall be authorized to approve non-monetary revisions to this Agreement, provide consent where required herein, and to make other administrative decisions that will be binding on their respective Party, except as otherwise specifically required herein.

21. Notices.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:	CONSULTANT:
City of Davis	[***INSERT NAME, ADDRESS & CONTACT PERSON***]
23 Russell Boulevard	
Davis, CA 95616	
Attn: [***INSERT NAME & DEPARTMENT***]	

and shall be effective upon receipt thereof.

22. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement.

This Agreement, with its exhibits, all of which are incorporated by reference herein, and all documents incorporated by reference, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement. In the event of any conflict or inconsistency between the provisions of this Agreement and any exhibit hereto or document incorporated by reference herein, the provisions of this Agreement shall govern.

25. Severability.

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

26. Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver.

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specified in writing, and any such waiver shall be limited to that set of circumstances and not to any future circumstances unless another written waiver is executed.

28. Time of Essence.

Time is of the essence in each and every provision of this Agreement.

29. City's Right to Retain Other Consultants.

City reserves its right to retain other consultants to provide the Services or similar services to the City.

30. Interest of Consultant.

Consultant covenants that it presently has no interest, and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services under this Agreement. Consultant certifies that no one who has or will have any financial interest under this Agreement is an officer or employee of the City.

31. Interest of Subcontractors.

Consultant further covenants that, in the performance of this Agreement, no subcontractor or person having any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services under this Agreement shall be employed. Consultant has provided City with a list of all subcontractors and the key personnel for such subcontractors that are retained or to be retained by Consultant in connection with the performance of the Services, to assist the City in affirming compliance with this Section.

32. Prohibited Interests.

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. If required, Consultant further agrees to file, or shall cause its employees or subcontractors to file, a Statement of Economic Interest with the City's

Filing Officer as required under state law in the performance of the Services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

33. Attorney's Fees.

The prevailing party in any action brought for breach or to enforce any provision of this Agreement shall be entitled to recover their reasonable attorney's fees, expert costs, and other costs of suit.

34. Corporate Authority.

The person executing this Agreement on behalf of Consultant warrants that he or she is duly authorized to execute this Agreement on behalf of said party and that by his or her execution, the Consultant is formally bound to the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF DAVIS AND [*INSERT NAME***]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

CITY OF DAVIS

By: _____
Michael Webb
City Manager

[INSERT NAME OF CONSULTANT]

By: _____

Its: _____

Printed Name: _____

By: _____

Its: _____

Printed Name: _____

(Two signatures required for corporations pursuant to California Corporations Code Section 313, unless corporate documents authorize only one person to sign this Agreement on behalf of the corporation.)

ATTEST:

By: _____
Zoe S. Mirabele, CMC
City Clerk

APPROVED AS TO FORM:

By: _____
Inder Khalsa
City Attorney

EXHIBIT A

Scope of Services

EXHIBIT B

Schedule of Rates/Payments

Consultant will invoice City on a monthly cycle, or otherwise as expressly provided in this Agreement. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task, as applicable. Consultant will inform City regarding any out-of-scope work being performed by Consultant. Any other terms and conditions relating to the amount of compensation to be paid to Consultant are as follows:

EXHIBIT C

USE OF RECYCLED PAPER

All paper used for any reports that are required to be submitted under this Agreement shall be produced on recycled paper conforming to the minimum content standards as specified herein. All such reports shall have the front cover labeled in such a way as to clearly identify that the report was produced on recycled paper. Where practicable, the pages of all such reports shall be produced double-sided.

Definitions.

Postconsumer Material means only those paper products generated by a business or consumer which have served their intended end uses, and which have been separated or diverted from solid wastes for the purpose of collection, recycling, and disposition.

Recovered Paper Material means paper waste generated after the completion of a papermaking process, such as postconsumer materials, envelope cuttings, bindery trimmings, printing wastes, cutting and other converting wastes, butt rolls and mill wrappers, obsolete inventories, and rejected unused stock. Recovered paper material, however, shall not include fibrous wastes generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), or fibrous byproducts of harvesting, extractive or woodcutting processes, or forest residues such as bark.

Minimum Content Standard. The following categories of paper must contain the minimum percentages of material listed under both "Recovered Material" and "Postconsumer Material" included within the total "Recovered Material" percentage. When utilizing a category of paper not listed below, the paper shall contain the highest percentage of recycled paper available.

Article I. Paper Category	**Article II. Minimum Percentage of "Recovered Material"**	**Article III. Minimum Percentage of "Postconsumer Material"**
Article IV. High-speed Xerographic	Article V. 50	Article VI. 30
Article VII. Bond Paper	Article VIII. 50	Article IX. 30
Article X. Cover Stock	Article XI. 50	Article XII. 30
Article XIII. Envelopes	Article XIV. 50	Article XV. 30

APPENDIX B: GEOTRACKER LINK TO REPORTS AND SITE MAP

Below is the link to the GeoTracker website for the Old Davis Landfill site:
https://geotracker.waterboards.ca.gov/profile_report?global_id=T10000021241

The Site Maps/Documents tab on the GeoTracker website includes the relevant monitoring reports and site documents. Review of the below documents are encouraged.

Site Documents

TITLE	TYPE	SUBMITTED BY	DOCUMENT DATE	SIZE
EMAIL CORRESPONDENCE	EMAIL CORRESPONDENCE	MITCH MESSMER (REGULATOR)	12/4/2024	
REQUEST FOR GROUNDWATER INVESTIGATION WORK PLAN AND SEMIANNUAL GROUNDWATER MONITORING	STAFF LETTER	MICHAEL DESMET (REGULATOR)	5/21/2024	
OPENING OF CLEANUP PROGRAM SITE CASE AND REQUEST FOR SAMPLING	STAFF LETTER	MICHAEL DESMET (REGULATOR)	7/26/2023	
SITE CHARACTERIZATION REPORT	OTHER REPORT / DOCUMENT	MICHAEL DESMET (REGULATOR)	6/30/2020	

Monitoring Reports

TITLE	TYPE	SUBMITTED BY	DOCUMENT DATE	SIZE
THIRD QUARTER 2024 GROUNDWATER MONITORING REPORT	MONITORING REPORT - QUARTERLY	ES ENGINEERING SERVICES, LLC (AUTH_RP)	11/27/2024	6,933 KB
2024 GROUNDWATER MONITORING REPORT	MONITORING REPORT - OTHER	SHERRY KIMURA (RP)	4/19/2024	67,696 KB

Monitoring Wells	Depth (Feet)
DM-MW-1	42.77
DM-MW-2	40.56
DM-MW-3	41.95
DM-MW-4	65.02
DM-MW-5	63.04
HLA-MW-1	37.53
HLA-MW-2	33.13