

Purchase Order
Standard Terms and Conditions for the Purchase of Consultant Services

California as interpreted by the California courts, and any litigation arising out of the Purchase Order shall be conducted in the courts of the State of California. California law requires that the contents of the Purchase Order be open to inspection and copying by the public.

19. Force Majeure: Neither party to the Purchase Order shall be held responsible for delay or default caused by fire, riot, acts of God, and/or war which is beyond that party's reasonable control. City may terminate the Purchase Order upon written notice after determining such delay or default will reasonably prevent successful performance of the Purchase Order.

20 Exceptions to City's Terms and Conditions: If Consultant objects to any term or condition set forth in the Purchase Order, this objection must be in writing and received by City's Purchasing Division as identified below prior to Consultant's commencement of the work. Notwithstanding such notice, waiver or modification of any term or condition shall occur only if agreed in writing by City.

22. Additional or Inconsistent Terms: Any term or condition set forth in any acknowledgment form provided to City by Consultant which is in any way different from, inconsistent with, or in addition to the terms and conditions of the Purchase Order will not become a part of the Purchase Order nor be binding on City. If Consultant objects to any term or condition set forth therein, this objection must be in writing and received by City's Purchasing Division as identified in this document prior to Consultant's delivery of product(s) or service(s). Notwithstanding such notice, waiver or modification of any term or condition shall occur only if agreed in writing by City.

23. All notifications provided by Consultant as a result of or relating to this Purchase Order must be sent to: City of Madera, Purchasing Division, 1030 South Gateway Drive, Madera, CA 93637

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ATTACHMENT "A"

INSURANCE REQUIREMENTS FOR CONSULTANTS

Without limiting Consultant's indemnification of City, and prior to commencement of Work, Consultant shall obtain, provide, and continuously maintain at its own expense during the term of the Agreement, and shall require any and all Subcontractors and Subconsultants of every Tier to obtain and maintain, policies of insurance of the type and amounts described below and in form satisfactory to the City.

Minimum Scope and Limits of Insurance

Consultant shall maintain limits no less than:

- **\$2,000,000 General Liability** (including operations, products and completed operations) per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. Coverage shall be at least as broad as Insurance Services Office (ISO) Commercial General Liability coverage form CG 00 01. General liability policies shall be endorsed using ISO form CG 20 10 that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **\$2,000,000 Automobile Liability** combined single limit per accident for bodily injury or property damage at least as broad as ISO Form CA 00 01 for all activities of Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles. Automobile Liability policies shall be endorsed to provide that the City and its officers, officials, employees and agents shall be additional insureds under such policies.
- **Worker's Compensation** as required by the State of California and **\$1,000,000 Employer's Liability** per accident for bodily injury or disease. Consultant shall submit to the City, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of the City, its officers, agents, employees, and volunteers.
- **\$1,000,000 Professional Liability (Errors & Omissions)** per claim and in the aggregate. Consultant shall maintain professional liability insurance that insures against professional errors and omission that may be made in performing the Services to be rendered in connection with this Agreement. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Consultant agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Agreement. The cost of such insurance shall be included in Consultant's bid.

Maintenance of Coverage

Consultant shall procure and maintain, for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, its agents, representatives, employees, subcontractors or subconsultants as specified in this Agreement.

Proof of Insurance

Consultant shall provide to the City certificates of insurance and endorsements, as required, as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by the City prior to commencement of performance. Current evidence of insurance shall be kept on file with the City at all times during the term of this Agreement. Agency reserves the right to require complete, certified copies

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of all required insurance policies, at any time.

Acceptable Insurers

All insurance policies shall be issued by an insurance company currently authorized by the Insurance commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and a Financial Size Category Class VII (or larger), in accordance with the latest edition of Best's Key Rating Guide.

Waiver of Subrogation

All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against the City, its elected or appointed officers, agents, officials, employees, and volunteers, 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 the City and shall require similar written express waivers and insurance clauses from each of its subconsultants or subcontractors.

Enforcement of Contract Provisions (non estoppel)

Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City, nor does it waive any rights hereunder.

Specifications not Limiting

Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If Consultant maintains higher limits than the minimums required above, the entity shall be entitled to coverage at the higher limits maintained by Consultant.

Notice of Cancellation

Consultant agrees to oblige its insurance agent or broker and insurers to provide to the City with thirty (30) calendar days' notice of cancellation (except for nonpayment for which ten (10) calendar days' notice is required) or nonrenewal of coverage for each required coverage.

Self-insured Retentions

Any self-insured retentions must be declared to and approved by the City. The City reserves the right to require that self-insured retentions be eliminated, lowered or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by the City's Risk Manager.

Timely Notice of Claims

Consultant shall give the City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

Additional Insurance

Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgement may be necessary for its proper protection and prosecution of

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the Work.

Indemnity for Professional Liability:

When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend, and hold harmless City and any and all of its officials, employees and agents from and against any and all losses, liabilities, damages, costs, and expenses, including legal counsel's fees and costs but only to the extent the Consultant (and its Subconsultants), are responsible for such damages, liabilities and costs on a comparative basis of fault between the Consultant (and its Subconsultants) and the City in the performance of professional services under this agreement.

Indemnity for Other Than Professional Liability:

Other than in the performance of professional services and to the full extent permitted by law, Consultant shall indemnify, defend, and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including legal counsel's fees and costs, court costs, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or City for which Consultant is legally liable, including, but not limited to officers, agents, employees, or subcontractors of Consultant, except when caused by the active negligence or willful misconduct of the City.