



# Council Agenda Report

To: Mayor Riggins and the Honorable Members of the City Council

Prepared by: Cynthia Alba, Management Analyst

Reviewed by: Richard Rojas, Deputy City Manager

Approved by: Candace Bond, Interim City Manager

Date prepared: October 8, 2025 Meeting date: November 10, 2025

Subject: Professional Services Agreement with Frederick Fisher and Partners for a Masterplan/Concept Design for Heathercliff Recreation Center (Continued from October 27, 2025)

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**RECOMMENDED ACTION:** Authorize the Mayor to execute a Professional Services Agreement with Frederick Fisher and Partners for a Masterplan/Concept Design for a recreation center at Heathercliff Community Land.

**FISCAL IMPACT:** Funding for these services was included in the Adopted Budget for FY 2025-26. \$164,800 will be charged to Account No. 105-9088-5100 Vacant Properties Professional Services. City staff will continue to research and evaluate additional funds for future advancement of the project.

**STRATEGIC PRIORITY:**  
This item supports the Preservation of Malibu's Rural Character priority identified in the Adopted FY 2024-25 Strategic Priority Project List.

**DISCUSSION:** The Malibu Community Lands Project was established to determine the most appropriate use of 61 acres of city-owned vacant land. This community driven initiative has engaged residents through a variety of outreach methods to ensure the project aligns with Malibu's vision and mission statement.

On February 12, 2024, the City of Malibu entered into an agreement with Tripepi Smith & Associates, for Community Outreach and Engagement Consulting for City Owned Vacant Lots.

On October 28, 2024 the City Council received and filed the Community Lands Outreach and Engagement Report. Based on the input received throughout the program, the City Council authorized staff to begin a phased approach for developing the lands, prioritizing community needs. Per City Council recommendation, the approved next steps include:

- **Heathercliff and Ioki (Chili Cook-Off Lot) Lots:** The City will explore options for new soccer, baseball and softball fields as well as a multigenerational community center, including a pool, gymnasium, senior center and expanded library services.
- **Triangle and Trancas lots:** The Council has not set direction for these lands at this time.
- **La Paz Lot:** The Council tasked staff and the Malibu Arts Commission in preparing a draft design recommendation of the La Paz Performing Arts Center in partnership with Cross Creek Ranch Malibu, LLC not to exceed \$10,000 in planning services. This community outreach effort is underway.

In order to advance project planning and identify potential design options, staff received three proposals and recommends engaging Frederick Fisher and Partners to provide professional design services for a recreation center at Heathercliff Lot.

Frederick Fisher and Partners was selected based on their extensive experience designing similar community facilities, their familiarity with local conditions, and their ability to deliver high-quality conceptual and schematic design services. Under the proposed agreement, the consultant will deliver:

- **Project Planning and Management:** Consultant will organize the project team, manage the schedule, coordinate consultants, and facilitate collaboration with City staff to achieve project goals.
- **Site and Program Development:** Consultant will conduct site analyses, review planning and code requirements, and define the project program—including recreational amenities, sustainability, and community priorities.
- **Masterplan and Design Concepts:** Consultant will develop site layout and design concepts that address topography, environmental factors, and project phasing while maintaining Malibu’s character.

This agreement will allow the City to move forward with preliminary design and planning, which will inform future phases of the project, including funding opportunities and construction planning.

ATTACHMENTS:

1. Professional Services Amendment with Frederick Fisher and Partners

## AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into as of November 10, 2025 by and between the City of Malibu, a municipal corporation (hereinafter referred to as the "City"), and Frederick Fisher & Partners, Architects, a California Stock Corporation hereinafter referred to as "Consultant"). The City and Consultant are each a "Party" and collectively, the "Parties".

The City and the Consultant agree as follows:

### RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this Agreement.

B. The City desires to contract out for consulting services for certain projects relating to concept design and masterplan services for a recreation center at Heathercliff Community Land.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, the City and the Consultant agree as follows:

**1.0 SCOPE OF THE CONSULTANT'S SERVICES.** The Consultant agrees to provide the services and perform the tasks set forth in the Scope of Work, attached to and made part of this Agreement, except that, to the extent that any provision in Exhibit A conflicts with this Agreement, the provisions of this Agreement govern. The Scope of Work may be amended from time to time by way of a written directive from the City.

**2.0 TERM OF AGREEMENT.** This Agreement will become effective on November 11, 2025, and will remain in effect for a period of four months from said date unless otherwise expressly extended and agreed to by both parties or terminated by either party as provided herein.

**3.0 CITY AGENT.** The City Manager, or his or her designee, for the purposes of this Agreement, is the agent for the City; whenever approval or authorization is required, Consultant understands that the City Manager, or his or her designee, has the authority to provide that approval or authorization.

**4.0 COMPENSATION FOR SERVICES.** The City shall pay the Consultant for its professional services rendered and costs incurred pursuant to this Agreement in accordance with the Scope of Work's fee and cost schedule. The cost of services shall not to exceed \$164,800 for the term of the agreement. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager, or his or her designee.

4.1 The Consultant shall submit to the City, by no later than the 10<sup>th</sup> day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

**5.0 CONFLICT OF INTEREST.** The Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City which may be affected by the services to be performed by the Consultant under this Agreement. The Consultant further represents that in performance of this Agreement, no person having any such interest shall be employed by it.

5.1 The Consultant represents that no City employee or official has a material financial interest in the Consultant's business. During the term of this Agreement and/or as a result of being awarded this contract, the Consultant shall not offer, encourage or accept any financial interest in the Consultant's business by any City employee or official.

5.2 If a portion of the Consultant's services called for under this Agreement shall ultimately be paid for by reimbursement from and through an agreement with a developer of any land within the City or with a City franchisee, the Consultant warrants that it has not performed any work for such developer/franchisee within the last 12 months, and shall not negotiate, offer or accept any contract or request to perform services for that identified developer/franchisee during the term of this Agreement.

## **6.0 GENERAL TERMS AND CONDITIONS.**

**6.1 Termination.** Either the City Manager or the Consultant may terminate this Agreement, without cause, by giving the other party ten (10) days written notice of such termination and the effective date thereof.

6.1.1 In the event of such termination, all finished or unfinished documents, reports, photographs, films, charts, data, studies, surveys, drawings, models, maps, or other documentation prepared by or in the possession of the Consultant under this Agreement shall be returned to the City. If the City terminates this Agreement without cause, the Consultant shall prepare and shall be entitled to receive compensation pursuant to a close-out bill for services rendered and fees incurred pursuant to this Agreement through the notice of termination. If the Consultant terminates this Agreement without cause, the Consultant shall be paid only for those services completed in a manner satisfactory to the City.

6.1.2 If the Consultant or the City fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant or the City violate any of the covenants, agreements, or stipulations of this Agreement, the Consultant or the City shall have the right to terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date of such termination. The Consultant shall be entitled to receive compensation in accordance with the terms of this Agreement for any work satisfactorily completed hereunder. Notwithstanding the foregoing, the Consultants shall not be relieved of liability for damage sustained by virtue of any breach of this Agreement and any payments due under this Agreement may be withheld to off-set anticipated damages.

**6.2 Non-Assignability.** The Consultant shall not assign or transfer any interest in this Agreement without the express prior written consent of the City.

**6.3 Non-Discrimination.** The Consultant shall not discriminate as to race, creed, gender, color, national origin, or sexual orientation in the performance of its services and duties pursuant to this Agreement, and will comply with all applicable laws, ordinances and codes of the Federal, State, County and City governments.

**6.4 Insurance.** The Consultant shall submit to the City certificates indicating compliance with the following minimum insurance requirements no less than one (1) day prior to beginning of performance under this Agreement. Consultant further agrees to comply with all provisions in the attached Exhibit B which is incorporated herein.

**6.5 Indemnification.**  
To the fullest extent permitted by law, Consultant shall indemnify, defend, and hold harmless City and any and all of its officials, employees, agents, and volunteers (“Indemnified Parties”) from and against any and all claims, losses, liabilities, damages, costs, and expenses, including attorney’s fees and costs, to the extent they arise out of, pertain to or relate to the negligence, recklessness, or willful misconduct of the Consultant.

Consultant’s duty to defend shall consist of reimbursement of defense costs incurred by City in direct proportion to the Consultant’s proportionate percentage of fault.

Consultant’s percentage of fault, for both indemnity and defense, shall be determined, as applicable, by a court of law, jury, or arbitrator. In the event any loss, liability, or damage is incurred by way of settlement or resolution without a court, jury or arbitrator having made a determination of the Consultant’s percentage of fault, and the parties cannot mutually agree on Consultant’s percentage of fault, the parties agree to mediation with a neutral third-party to determine the Consultant’s proportionate percentage of fault for purposes of determining the amount of indemnity and defense cost reimbursement owed to the City.

**6.6 Compliance with Applicable Law.** The Consultant and the City shall comply with all applicable laws, ordinances, and codes of the federal, state, county, and city governments, including, without limitation, Malibu Municipal Code Chapter 5.36 Minimum Wage.

**6.7 Independent Contractor.** This Agreement is by and between the City and the Consultant and is not intended, and shall not be construed, to create the relationship of agency, servant, employee, partnership, joint venture, or association, as between the City and the Consultant.

6.7.1. The Consultant shall be an independent contractor and shall have no power to incur any debt or obligation for or on behalf of the City. Neither the City nor any of its officers or employees shall have any control over the conduct of the Consultant, or any of the Consultant’s employees, except as herein set forth, and the Consultant expressly warrants not to, at any time or in any manner, represent that it, or any of its agents, servants or employees are in any manner employees of the City, it being distinctly understood that the Consultant is and shall

at all times remain to the City a wholly independent contractor and the Consultant's obligations to the City are solely such as are prescribed by this Agreement.

**6.8 Copyright.** No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

**6.9 Legal Construction.**

(a) This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced, and governed under the laws of the State of California.

(b) This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

(c) The article and section, captions and headings herein have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

(d) Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

**6.10 Counterparts.** This Agreement may be executed in counterparts and as so executed shall constitute an agreement which shall be binding upon all parties hereto.

**6.11 Final Payment Acceptance Constitutes Release.** The acceptance by the Consultant of the final payment made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to the Consultant for anything done, furnished or relating to the Consultant's work or services. Acceptance of payment shall be any negotiation of the City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of the Consultant, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

**6.12 Corrections.** In addition to the above indemnification obligations, the Consultant shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the City, and the cost

thereof shall be charged to the Consultant.

**6.13 Files.** All files of the Consultant pertaining to the City shall be and remain the property of the City. The Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement.

**6.14 Waiver; Remedies Cumulative.** Failure by a party to insist upon the performance of any of the provisions of this Agreement by the other party, irrespective of the length of time for which such failure continues, shall not constitute a waiver of such party's right to demand compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

**6.15 Mitigation of Damages.** In all such situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

**6.16 Partial Invalidity.** If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

**6.17 Attorneys' Fees.** The parties hereto acknowledge and agree that each will bear his/her or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

**6.18 Entire Agreement.** This Agreement constitutes the whole agreement between the City and the Consultant, and neither party has made any representations to the other except as expressly contained herein. Neither party, in executing or performing this Agreement, is relying upon any statement or information not contained in this Agreement. Any changes or modifications to this Agreement must be made in writing appropriately executed by both the City and the Consultant.

**6.19 Notices.** Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

**CITY:** Candace Bond  
Interim City Manager  
City of Malibu  
23825 Stuart Ranch Road  
Malibu, CA 90265-4861  
TEL (310) 456-2489 x 226  
FAX (310) 456-2760

**CONSULTANT:** Frederick Fisher  
Founder  
Frederick Fisher and Partners  
12248 Santa Monica Blvd.  
Los Angeles CA 90025  
TEL (310) 820-6680

**6.20 Warranty of Authorized Signatories and Acceptance of Facsimile or Electronic Signatures.** Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign. The Parties agree that this Contract, agreements ancillary to this Contract, and related documents to be entered into in connection with this Contract will be considered signed when the signature of a party is delivered physically or by facsimile transmission or scanned and delivered via electronic mail. Such facsimile or electronic mail copies will be treated in all respects as having the same effect as an original signature.

**7.0 GENERAL TERMS AND CONDITIONS.**

**7.1 Disclosure Required.** By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a “consultant” for the purposes of the California Political Reform Act because Consultant’s duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18700.3(a) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City’s Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City’s Manager shall prepare and deliver to consultant a memorandum detailing the extent of Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials \_\_\_\_\_

Consultant Initials FF

**7.2 Disclosure not Required.** By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18700.3(a) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.

City Initials \_\_\_\_\_

Consultant Initials FF

This Agreement is executed on \_\_\_\_\_, at Malibu, California, and effective as of November 11, 2025.

CONSULTANT:



By: Frederick Fisher and Partners

Name: Frederick Fisher

Title: Founder

CITY OF MALIBU, a municipal corporation

\_\_\_\_\_  
MARIANNE RIGGINS, Mayor

ATTEST:

\_\_\_\_\_  
KELSEY PETTIJOHN, City Clerk  
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED  
BY THE CITY ATTORNEY'S OFFICE

\_\_\_\_\_  
TREVOR RUSIN, Interim City Attorney

**EXHIBIT A**  
**SCOPE OF WORK**

# Frederick Fisher and Partners

**Joseph Coriaty FAIA**  
Managing Partner

Candace Bond  
Malibu Interim City Manager  
23825 Stuart Ranch Drive  
Malibu CA 90265  
CBond@malibucity.org

October 17, 2025

Masterplan/Concept Design proposal for Heathercliff Recreation Center

Dear Candace

Frederick Fisher & Partners is thrilled to submit this proposal for master plan and concept design services for the Heathercliff Recreation Center. Fred and I are excited about the opportunity to work with you and the Malibu team on this project.

This phase of work will allow us to develop planning strategies for the overall site and concept ideas for the buildings. We will also consider the impact of project phasing. Once we have a better understanding of the project scope from the masterplan and concept design work we can move forward with full architectural services for whatever phase you believe is appropriate. This proposal will serve as our agreement for masterplan and concept design services.

We have included a basic schedule to give you an idea of timeline for this initial work. The following outlines the services with a Concept Design Phase to start:

## CONCEPT DESIGN + MASTERPLAN PHASE

During this phase, FF&P will work with you to create the long-term goals and concepts for the project. Our work will be as follows:

- **PROJECT MANAGEMENT:** We will develop a project specific workplan that will outline the working process. This will include organizing the project team, managing the schedule and retaining required consultants. We will essentially be orchestrating the interface with you and staff to achieve the desired outcome.
- **SITE UNDERSTANDING:** We will need to fully understand all aspects of the site. This will include a site analysis to look at environmental factors and infrastructure. We will need a survey, including topography of the site to do this work.

- **PLANNING PARAMETERS:** We will work with the Malibu planning department to complete a code and entitlement assessment. This assessment is to understand the parameters that impact planning on the site. It will be important for us to understand what other agencies might have approval authority on the site and what concerns they might have.
- **PROJECT PROGRAM:** We will work with you and your team to define the project program. The program defines the elements on the site, identifies desired functions and describes the relationships of the program elements to each other. Determining the underlying ethos of this important project will provide a “North Star” for planning. The unique and precious character of Malibu as a place and a community, environmental sustainability, and fire resilience will be paramount considerations.  
A clearly defined project program serves as a roadmap to the entire process. We understand that the project will include soccer fields, swimming pool, volleyball, pickleball, classrooms/meeting rooms, a gymnasium with climbing wall, 100 parking spaces and related functions to support this recreational use. We will review the community survey and define a specific program for you.
- **MASTERPLAN/SITE DESIGN:** We will be working with the project team to look at big picture concepts for the site. This will include the appropriate “zoning” of the site that addresses topography and environmental features. We will be working closely with the landscape architect and civil engineer in a way that respects the unique character of the site. Phasing of the project will also be considered during this effort.
- **CONCEPT DESIGN:** During this phase of the work, we will be looking at the placement of the program elements on the site. Our focus will be on the relationship of the outdoor recreational and the building elements to each other and the characteristics of the site. The design of the buildings will be done as massing studies that define the scale. We will not be developing specific architectural character for the buildings. We will start with planning ideas and get into conceptual solutions. This will no doubt have impact on the building structure and systems. The Concept Design will serve as a direction for Schematic Design in the next phase.
- **COST MODEL:** We will develop a rough order of magnitude cost model for the project. This will include site work, site infrastructure, landscaping and structures on the site.
- **PRESENTATION PACKAGE:** We be creating a package to be used for project approvals and fundraising. Our deliverables

will include program diagrams. Site plans, massing drawings and renderings that show the site character and building massing.

#### FEE

The fee for the scope of work outlined above will be \$162,800. We have estimate 850 hours to complete this work. If we exceed this number of hours we will invoice for extra hours on an hourly basis. We will not exceed this number of hours without written authorization. We anticipate the time frame will be approximately 12 weeks to complete the concept design.

These fees include architectural design services, civil engineer, landscape concept and cost modeling. Other consultants, as required during the work (i.e. Structural Engineer and MEP are not included in our fee at this time.

#### INVOICING

We are requesting a \$10,000 retainer at the signing of this agreement. Billing shall be invoiced as work is completed. Invoices are due and payable upon receipt of invoice including reimbursable expenses such as graphic reproduction, travel, mileage and delivery services. We prefer payment via ACH wire transfer.

Our hourly rates for the work are as follows:

Frederick Fisher	- \$375 per hour
Joseph Coriaty	- \$325 per hour
Project Manager/Architect	- \$180 per hour
Project Designer	- \$180 per hour
Project Assistant	- \$140 per hour

#### CONDITIONS

1. This agreement is based on the AIA Document B101 Standard Form of Agreement between Owner and Architect, 2017 Edition. All terms and conditions of Document B101 are incorporated into this agreement as though fully set forth.
2. The Owner shall provide all necessary information and documents in the form of survey, reports required for the services to proceed.

3. Coordination of additional local permitting processes such as architectural review boards, environmental or land use commissions, shall be considered outside the scope of work and will be billed hourly.

5. Billing shall be monthly, as work is completed. Fees are due and payable upon presentation of invoice. Invoices for projects will be emailed as a pdf file to the Owner's billing or accounts receivable manager, or to the Owner's representative. Original copies are available upon request. Payment to be made via ACH wire transfer.

6. This proposal does not include fees for consultant services.

7. Reimbursable expenses such as graphic reproduction and mileage/parking will be added to our invoice with a 10% markup. We invoice monthly for work performed.

8. All documents furnished by Frederick Fisher and Partners Architects under this proposal are instruments of Architect's services. They are not intended or represented to be suitable for reuse by Owner or others on extensions of the project or on any other project. Any reuse without specific written verification and adaptation by Frederick Fisher and Partners Architects for the specific purposes intended will be at the user's sole risk and without liability or legal exposure to Frederick Fisher and Partners Architects. FF&P will be deemed owners of all intellectual property under this agreement.

9. Frederick Fisher and Partners Architects (FF&P) is a licensed Architect in the State of California.

10. If consultants are under contract with FF&P, there will be an additional 10% fee added to consultants' invoices/fees for coordination and handling of consultants' fees.

We look forward to working with you on this wonderful project. If you have any questions regarding this proposal, please do not hesitate to contact me if you have questions regarding this proposal.

Sincerely,

Joseph Coriaty FAIA

Managing Partner

Accepted by \_\_\_\_\_

On this date of \_\_\_\_\_

## **EXHIBIT B INSURANCE LANGUAGE**

Without limiting Consultant's indemnification of City, and prior to commencement of work and/or services under this Agreement, Consultant shall obtain, provide, and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

**General Liability Insurance.** Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

**Automobile Liability Insurance.** Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the 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, in an amount not less than 1,000,000 combined single limit for each accident.

**Professional Liability (Errors & Omissions) Insurance.** Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. 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.

**Workers' Compensation Insurance.** Consultant shall maintain Workers' Compensation Insurance (statutory limits) and Employer's Liability insurance (with limits of at least \$1,000,000).

Consultant shall submit to Agency, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of City, its officers, agents, employees, and volunteers.

### **OTHER PROVISIONS OR REQUIREMENTS**

**Proof of Insurance.** Consultant shall provide certificates of insurance and required endorsements to City as evidence of the insurance coverage required herein. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City for the contract period and any additional length of time required thereafter. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

**Duration of Coverage.** Consultant shall procure and maintain for the contract period, and any additional length of time required thereafter, insurance against claims for injuries to persons or damages to property, or financial loss which may arise from or in connection with the

performance of the Work hereunder by Consultant, their agents, representatives, employees, or subconsultants.

**Primary/Noncontributing.** Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

**City's Rights of Enforcement.** In the event 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 cancel this Agreement.

**Acceptable Insurers.** All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

**Waiver of Subrogation.** All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against 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 City and shall require similar written express waivers and insurance clauses from each of its subconsultants.

**Enforcement of Contract Provisions (Non Estoppel).** Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

**Requirements 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 the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

**Notice of Cancellation.** Consultant agrees to oblige its insurance agent or broker and insurers to provide the City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage. If any of the Consultant's insurers are unwilling to provide such notice, then Consultant shall have the responsibility of notifying the City immediately in the event of Consultant's failure to renew any of the required insurance coverages, or insurer's cancellation or non-renewal.

**Additional Insured Status.** General liability, automobile liability, and umbrella/excess liability insurance policies shall provide or be endorsed to provide that City and its officers, officials, employees, agents, and volunteers shall be additional insureds under such policies.

**Prohibition Of Undisclosed Coverage Limitations.** None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

**Separation of Insureds.** A severability of interests' provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

**Pass Through Clause.** Consultant agrees to ensure that its subconsultants, subcontractors, and any other party who is brought onto or involved in the project/service by Consultant (hereinafter collectively "Subcontractor"), provide the same minimum insurance coverage and endorsements required of Consultant under this Agreement. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. However, in the event Consultant's Subcontractor cannot comply with this requirement, which proof must be submitted to the City, Consultant may still be able to utilize the Subcontractor provided Consultant shall be required to ensure that its Subcontractor provide and maintain insurance coverage and endorsements sufficient to the specific risk of exposure involved with Subcontractor's scope of work and services, with limits less than required of the Consultant, but in all other terms consistent with the Consultant's requirements under this Agreement. This provision does not relieve the Consultant of its contractual obligations under the Agreement and/or limit its liability to the amount of insurance coverage provided by its subcontractors. This provision is intended solely to provide Consultant with the ability to utilize a Subcontractor who may be otherwise qualified to perform the work or services but may not carry the same insurance limits as required of the Consultant under this Agreement given the limited scope of work or services provided by the subcontractor. Consultant agrees that upon request, all agreements with Subcontractors, and others engaged in the project and/or services, will be submitted to City for review.

**City's Right to Revise Specifications.** The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days' advance written notice of such change. If such a change results in substantial additional costs to the Consultant, the City and Consultant may renegotiate the Consultant's compensation.

**Self-Insured Retentions.** Any self-insured retentions must be declared to and approved by the City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible, or require proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention through confirmation from the underwriter.

**Timely Notice Of Claims.** Consultant shall give 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.** The consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

# Workplan

2025

