

## **RESOLUTION NO. 2013-159**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING CONSULTANT SERVICE AGREEMENT WITH MINTIER HARNISH, LP FOR THE PREPARATION OF THE ROHNERT PARK HOUSING ELEMENT UPDATE**

**WHEREAS**, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the City's purchasing functions shall be governed by the City's Purchasing Policy; and

**WHEREAS**, the City desires to secure professional planning services to prepare the Housing Element Update; and

**WHEREAS**, a Request for Proposal (RFP) for professional planning services was issued in August 12, 2013, and a selection process conducted, including proposal evaluations, panel interviews and reference checks to result in the selection of Mintier Harnish as the preferred consultant to provide said services; and

**WHEREAS**, Mintier Harnish is qualified to provide desired services and has demonstrated significant experience and expertise related to the completion of Housing Elements throughout the California.

**NOW, THEREFORE** the City Council of the City of Rohnert Park does hereby resolve, determine, find and order as follows:

**Section 1: Agreement.** The City Council approves an Agreement by and between Mintier Harnish, LP, a California limited partnership, and the City of Rohnert Park, a municipal corporation, for the professional planning services to prepare a Housing Element Update / Environmental Analysis as described more specifically in the agreement shown in Exhibit A, for a not-to-exceed amount of \$55,000.00.

**Section 2. City Manager Authorization.** City Manager is hereby authorized and directed to take all actions to effectuate this agreement for and on behalf of the City of Rohnert Park, including execution, if necessary, in substantially similar form to the agreement attached hereto as Exhibit A.

**Section 3. Authorized Signatures.** The Mayor, or presiding officer, is hereby authorized to affix his signature to this Resolution signifying its adoption and the City Clerk, or her duly appointed deputy, is directed to attest thereto.

DULY AND REGULARLY ADOPTED this 26<sup>th</sup> day of November, 2013.

**CITY OF ROHNERT PARK**

Pam Stafford  
Pam Stafford, Mayor

**ATTEST:**

JoAnne Buerger  
JoAnne Buerger, City Clerk



Attachment (Exhibit "A") – Agreement

AHANOTU: AYE BELFORTE: AYE MACKENZIE: AYE CALLINAN: AYE STAFFORD: AYE  
AYES: ( 5 ) NOES: ( 0 ) ABSENT: ( 0 ) ABSTAIN: ( 0 )

City of Rohnert Park  
130 Avram Ave.  
Rohnert Park, CA 94928

## MASTER AGREEMENT FOR CONSULTANT SERVICES

This MASTER AGREEMENT is entered into as of the 26 day of November 2013, by and between the CITY OF ROHNERT PARK ("City"), a California municipal corporation, and Mintier Harnish, LP ("Consultant"), a California Limited Partnership.

### Recitals

WHEREAS, City desires to obtain city planning services to assist in the completion of a Housing Element update;

WHEREAS, Consultant hereby warrants to City that Consultant is skilled and able to provide such services described in Section 3 of this Agreement; and

WHEREAS, City desires to retain Consultant pursuant to this Agreement to provide the services described in Section 3 of this Agreement.

### Agreement

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

2. Project Coordination.

A. City. The City Manager or his/her designee shall represent City for all purposes under this Agreement. The Development Services Manager is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

B. Consultant. The Consultant shall assign Ted Holzem to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. Scope and Performance of Services

A. Scope of Services. Subject to such policy direction and approvals as City may determine from time to time, Consultant shall perform the services set out in the "Scope of Work" attached hereto as Exhibit A and incorporated herein by reference. Work may commence on all Tasks listed under the Scope of Work except that the following Tasks require prior written approval from the Development Service Manager prior to initiation:

- (1) Task 3.4 General Plan Amendment;
- (2) Task 3.5 Recent General Plan Laws; and
- (3) Task 3.6 Disadvantaged Unincorporated Communities.

B. Time of Performance. The services of Consultant are to commence upon receipt of a written notice to proceed from City, but in no event prior to receiving a fully executed agreement from City and obtaining and delivering the required insurance coverage, and satisfactory evidence thereof, to City. Consultant shall perform its services in accordance with the schedule attached hereto as Exhibit A, and incorporated herein by reference. Any changes to these dates in either this Section 3 or Exhibit A must be approved in writing by the Project Manager.

C. Standard of Quality. City relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

#### 4. Compensation and Method of Payment.

A. Compensation. The compensation to be paid to Consultant, including both payment for professional services and reimbursable expenses, shall be at the rate and schedules attached hereto as Exhibit B, and incorporated herein by reference. However, in no event shall the amount City pays Consultant exceed Fifty-five Thousand Dollars (\$55,000). Payment by City under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to the City at the time of payment. City shall pay Consultant as compensation in full for such services and expenses for the different elements of the scope of work as follows:

- (1) For work pertaining to planning consulting service the hourly rates for said service is at Consultant's Billing Rates as set forth in Exhibit B (contained within Housing Element Update Cost Proposal table).
- (2) Any changes to the hourly rates must be provided to and approved by the City thirty (30) days prior to such rates taking effect. In no event shall such proposed rate adjustments exceed a year-one-year increase of five percent (5%).

B. Timing of Payment.

- (1) Progress payments will be tied to the percentage of each task that is complete so that all payments are proportional to the progress payment schedule set forth in Exhibit B. .

- (2) Consultant shall prepare and submit monthly invoices to the City based on standard charge rates as specified in Exhibit B with costs allocated to the respective tasks and staff. Each properly submitted invoice shall be paid within thirty (30) days. The invoice shall contain the following information:
  - (a) Services performed by the Consultant by task.
  - (b) Labor cost (number of hours) attributed to each task.
  - (c) Cumulative cost for all tasks completed and date with the cumulative percentage of work completed for each related task.
  - (d) Progress report summarizing work performed, meetings attended, and products delivered.
  - (e) The percentage of each task complete (see Exhibit B).
- (3) Payments due and payable to Consultant for current services must be within the current budget and within an available, unexhausted and unencumbered appropriation of the City. In the event the City has not appropriated sufficient funds for payment of Consultant services beyond the current fiscal year, this Agreement shall cover only those costs incurred up to the conclusion of the current fiscal year; payment for additional work is conditional upon future City appropriation.

C. Changes in Compensation. Consultant will not undertake any work that will incur costs in excess of the amount set forth in Section 4(A) without prior written amendment to this Agreement.

D. Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the services to be performed by Consultant.

E. No Overtime or Premium Pay. Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends. Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not

worked, whether it be in the form of sick leave, administrative leave, or for any other form of absence.

F. Litigation Support. Consultant agrees to testify at City's request if litigation is brought against City in connection with Consultant's work product. Unless the action is brought by Consultant or is based upon Consultant's negligence, City will compensate Consultant for the preparation and the testimony at Consultant's standard hourly rates, if requested by City and not part of the litigation brought by City against Consultant.

5. Amendment to Scope of Work. City shall have the right to amend the Scope of Work within the Agreement by written notification to the Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party to the Agreement. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from the City. Failure of the Consultant to secure City's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time due, whether by way of compensation, restitution, quantum meruit, etc. for work done without the appropriate City authorization.

6. Term. The term of this Agreement shall commence on the date of its execution by both parties and shall continue in full force and effect until June 30, 2015 unless earlier terminated in accordance with Section 18. Notwithstanding the foregoing, this Agreement may be extended for successive one-year term(s) upon mutual, written approval by the City Manager or his/her designee and Consultant. Work authorized by a separate Task Order as contemplated by this Agreement shall be performed in accordance with the schedule set forth in the Task Order.

7. Inspection. Consultant shall furnish City with every reasonable opportunity for City to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

8. Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by the Consultant under the Agreement shall be vested in City, none of which shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of the City. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to City without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of City during the term of this Agreement, unless required by law.

9. Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists or experts for services in connection with this Agreement without the prior written approval of the City.

10. Conflict of Interest.

A. Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of City, hinder Consultant's performance of services under this Agreement, or be affected in any manner or degree by performance of Consultant's services hereunder. Consultant further covenants that in the performance of the Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City. Consultant agrees at all times to avoid conflicts of interest, or the appearance of any conflicts of interest, with the interests of the City in the performance of the Agreement.

B. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- (1) will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the City or of any City official, other than normal contract monitoring; and
- (2) possesses no authority with respect to any City decision beyond the rendition of information, advice, recommendation, or counsel.  
(2 Cal. Code Regs. § 18700(a)(2).)

11. Liability of Members and Employees of City. No member of the City and no other officer, elected official, employee or agent of the City shall be personally liable to Consultant or otherwise in the event of any default or breach of the City, or for any amount which may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

12. Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the City), indemnify, and hold harmless the City, its officers, elected officials, employees, agents, and volunteers from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any acts errors, omissions, negligence, or misconduct of Consultant, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement excepting liabilities due to the sole negligence or willful misconduct of City. The City has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under Worker's Compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement. This indemnification shall be regardless of and not in

any way limited by the insurance requirements of this contract. This indemnification is for the full period of time allowed by law and shall survive the termination of this agreement.

13. Independent Contractor. It is expressly agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent contractor and not an agent or employee of City; and as an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights. Consultant, its officers, employees and agents shall not have any power to bind or commit the City to any decision.

14. Compliance with Laws.

A. General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and warrants to City that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a City business license. City is not responsible or liable for Consultant's failure to comply with any or all of the requirements contained in this paragraph.

B. Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code which require every employee to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

C. Prevailing Wage. Consultant and Consultant's subconsultants (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at the City's office of the City Clerk.

D. Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

E. City Not Responsible. City is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this section and Agreement.

F. Business Licenses. Except as otherwise allowed by City in its sole discretion, Consultant and all subconsultants shall have acquired, at their expense, a business license from the City in accordance with Chapter 5.04 of the Rohnert Park Municipal Code, prior



to City's issuance of an authorization to proceed with the Services. Such license(s) must be kept valid throughout the term of this Agreement.

G. Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against City, its officers, elected officials, employees, agents and volunteers for losses paid under Consultant's workers' compensation insurance policy which arise from the work performed by Consultant for City.

15. Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by City, or as required by law.

16. Assignment; Subcontractors; Employees

A. Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without the City's prior written consent. Any assignment without such approval shall be void and, at the City's option, shall immediately cause this Agreement to terminate.

B. Subcontractors; Employees. Consultant shall be responsible for employing or engaging all persons necessary to perform the services of Consultant hereunder. No subcontractor of Consultant shall be recognized by the City as such; rather, all subcontractors are deemed to be employees of the Consultant, and Consultant agrees to be responsible for their performance. Consultant shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Consultant fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

17. Insurance. Without limiting Consultant's indemnification provided herein, Consultant shall comply with the requirements set forth in Exhibit C to this Agreement.

18. Termination of Agreement; Default.

A. This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by the City upon 5 days' written notice to Consultant.

B. If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner herein provided or otherwise violates any of the terms of this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice. In such event, Consultant shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the services satisfactorily rendered hereunder by Consultant bear to the total services otherwise required to be

performed for such total fee; provided, however, that the City shall deduct from such amount the amount of damages, if any, sustained by City by virtue of the breach of the Agreement by consultant.

C. In the event this Agreement is terminated by City without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered prior to the time of payment.

D. Upon termination of this Agreement with or without cause, Consultant shall turn over to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, if any, or given to Consultant or its subcontractors, if any, in connection with this Agreement. Such materials shall become the permanent property of the City. Consultant, however, shall not be liable for the City's use of incomplete materials nor for the City's use of complete documents if used for other than the project contemplated by this Agreement.

19. Suspension. The City shall have the authority to suspend this Agreement and the services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement. Consultant will be paid for satisfactory services performed through the date of temporary suspension.

20. Merger; Amendment. This Agreement constitutes the complete and exclusive statement of the agreement between City and Consultant and shall supersede all prior negotiations, representations, or agreements, either written or oral. This document may be amended only by written instrument, signed by both the City and Consultant. All provisions of this Agreement are expressly made conditions.

21. Interpretation. This Agreement shall be interpreted as though it was a product of a joint drafting effort and no provisions shall be interpreted against a party on the ground that said party was solely or primarily responsible for drafting the language to be interpreted.

22. Litigation Costs. If either party becomes involved in litigation arising out of this Agreement or the performance thereof, the court in such litigation shall award reasonable costs and expenses, including attorneys' fees, to the prevailing party. In awarding attorneys' fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of costs, expenses, and attorneys' fees paid or incurred in good faith.

23. Time of the Essence. Time is of the essence of this Agreement.

24. Written Notification. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other party shall be in writing and either served personally or sent by prepaid, first class mail. Any such notice, demand, etc. shall be addressed to the other party at the address set forth below. Either party

may change its address by notifying the other party of the change of address. Notice shall be deemed communicated within 72 hours from the time of mailing if mailed as provided in this section.

If to City: City Manager  
City of Rohnert Park - City Hall  
130 Avram Avenue  
Rohnert Park, CA 94928

If to Consultant: Larry Mintier  
Mintier Harnish  
1415 20<sup>th</sup> Street  
Sacramento, CA 95811

25. Consultant's Books and Records.

A. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to City and all documents and records which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

B. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to City for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

C. The City may, by written request by any of the above-named officers, require that custody of the records be given to the City and that the records and documents be maintained in the City Manager's office.

26. Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

27. Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, religion, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, religion, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited

to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

28. City Not Obligated to Third Parties. The City shall not be obligated or liable for payment hereunder to any party other than Consultant.

29. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that such party may have hereunder.

30. Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

31. Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- A. Exhibit A: Scope of Work
- B. Exhibit B: Compensation
- C. Exhibit C: Insurance Requirements

32. Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

33. News Releases/Interviews. All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by City.

34. Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit shall be brought by either party hereunder, the parties agree that a trial of such action shall be held exclusively in a state court in the County of Sonoma, California.

35. Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

36. STATEMENT OF ECONOMIC INTEREST. If City determines Consultant comes within the definition of Consultant under the Political Reform Act (Government Code §87100), Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with the Clerk of the City of Rohnert Park disclosing Consultant and/or such other person's financial interests.

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

CITY OF ROHNERT PARK

CONSULTANT

By: \_\_\_\_\_

City Manager

Date:

Per Resolution No. 2013-\_\_ adopted by the Rohnert Park  
City Council at its meeting of November 26, 2013.

By: J. Laurence Mintier

Title: Principal

Date: November 8, 2013



J. Laurence Mintier

APPROVED AS TO FORM:

By: \_\_\_\_\_

City Attorney

ATTEST:

By: \_\_\_\_\_

City Clerk

## EXHIBIT A

### Scope of Work

## Scope of Work

### Phase 1: Project Initiation

#### Task 1.1: Kick-Off Meeting

The Consultants will attend a Kick-Off Meeting with City staff to gain a complete understanding of the Housing Element Update. The meeting will include:

- reviewing the scope of work and schedule;
- discussing information sources;
- identifying the city's critical housing issues based on City staff's perspective;
- reviewing recent and proposed land use changes;
- discussing the desired style and format of the Housing Element;
- reviewing housing element legal requirements;
- reviewing HCD's Implementation Review Checklist and discussing the Streamlined Review process;
- discussing lessons learned from the 2007-2014 Housing Element.

#### Task 1.2: Stakeholder Workshop

Prior to the stakeholder workshop, the Consultants will work with City staff to develop a contact list of potential housing stakeholders and key community members. The Consultants will start with the 16 stakeholders interviewed for the previous Housing Element and will recommend agencies, organizations, and individuals to add to the contact list for the public outreach effort, including providers of emergency and transitional housing, senior services, youth services, disability rights advocates, affordable housing advocates, assisted living providers, non-profit and for-profit developers, and building industry representatives.

The Consultants will conduct the stakeholder workshop. The workshop will be open to the public. The focus of the workshop will be to gather input on the major housing issues facing Rohnert Park residents. The Consultants will notify the stakeholders about the workshop via e-mail and conduct follow-up calls. The Consultants will also prepare a meeting flyer for posting on the City website. The Consultants will prepare all meeting materials, including a presentation giving a brief overview of the Housing Element Update process, and prepare a summary of the comments and feedback.

#### Task 1.3: Streamline Review Process Evaluation

Exhibit A

The Consultants will work with City staff to review existing programs and ordinances to determine whether the City qualifies for HCD's streamlined review process and to identify necessary updates to qualify. Based on findings from the review, the Consultants will assist (e.g., providing example ordinances) in carrying out the necessary to qualify for streamlined review.

#### **Phase 1 Meetings:**

- Kick-Off Meeting
- Stakeholder Workshop

#### **Phase 1 Work Products:**

- Kick-Off Meeting notes
- Stakeholder Contact List
- Stakeholder Workshop materials (i.e., PowerPoint presentation and workshop handouts)
- Stakeholder Workshop Summary
- Streamline Review Process Evaluation Memo (Digital copies (PDF and Word))

### **Phase 2: Update the Housing Element**

The Consultants will undertake the following tasks to update the existing Housing Element.

#### **Task 2.1: Administrative Review Background Report**

##### *Introduction*

The Consultants will update the Introduction to reflect the 2014-2022 Housing Element timeframe, new data sources, and the public participation program for the Housing Element Update

##### *Population and Demographics*

This section establishes "baseline" population and employment characteristics for the city, including population growth trends, age characteristics, race and ethnicity, income, and employment trends, as well as population and employment projections, household income, housing cost burdens, and the ability of households of different income levels to pay for housing. The Consultants will update the demographic and employment profile for Rohnert Park using the 2010 U.S. Census, American Community Survey (ACS), Department of Finance (DOF) estimates, Employment Development Department (EDD) reports, and other available local sources.

##### *Housing Characteristics and Need*

The Consultants will use recent data sources to update the description of the existing housing stock in terms of housing stock growth and composition, vacancy rates, housing age and conditions, and overcrowding. The Consultants will describe current housing market trends, home sales prices, rental rates, and the impacts of foreclosures using recent data sources (e.g., DataQuick, Zillow, CalREALTORS records) and based on conversations with local realtors.

The Consultants will update the analysis of housing needs for special needs populations, including senior households, persons with disabilities, large families, single female-headed

Exhibit A

households, farm workers, extremely low-income households, and persons in need of emergency shelter. The Consultants will address the new requirements of SB 812 (2010), which require Housing Elements to include an analysis of persons with developmental disabilities.

The Consultants will update the list of subsidized affordable housing developments in Rohnert Park. The list will include information regarding the number of units, target income groups, funding sources, year built, expiration of affordability covenants, and waiting list information. As required by State law, the Consultants will identify any publicly-assisted affordable housing units that are at risk of converting to market rate within 10 years from the Housing Element due date (i.e., through 2025). Based on our preliminary review, it appears that one development (Altamont Apartments) may be at risk of conversion. If at-risk units are identified, the Consultants will analyze the potential risk of conversion and estimate and analyze the costs of replacing versus preserving the units. The Consultants will also identify qualified entities and potential Federal, State, and local funding sources to preserve at-risk units.

### *Projected Housing Needs*

The Consultants will update this section to include a description of the City's 2014-2022 Regional Housing Needs Allocation (RHNA) from ABAG. The Final RHNA allocates 899 units to Rohnert Park, including 288 affordable units (i.e., very low- and low-income units). Since the RHNA period will begin on January 1, 2014, the City will be able to count units that are approved or under construction as of that date, or completed after that date, but before Housing Element adoption. The Consultants will count any of these units against the RHNA and calculate the remaining housing need.

### *Housing Opportunities and Resources*

This section analyzes the resources and opportunities available for the development, rehabilitation, and preservation of housing. Included is an inventory and analysis of the land resources (i.e., vacant and underutilized sites), as well as the financial and administrative resources available to support housing activities. The vacant sites inventory will be the bulk of the work in this section.

The Consultants will review and update the vacant and underutilized sites inventory from the existing Housing Element to reflect the capacity on vacant and underutilized sites in the city as of January 1, 2014. The vacant sites inventory will be a parcel-specific land inventory as required by AB 2348. The City's RHNA for this Housing Element Update includes significantly fewer units than the previous round, and the City had a large surplus of units in the previous Housing Element. While some of this surplus capacity is associated with specific plans that have not yet been approved or annexed (e.g., Northeast and Northwest Specific Plans), there should be more than adequate capacity to meet the RHNA. Therefore, the Consultants do not anticipate the need for rezoning.

The Consultants will prepare an assessment of the adequacy of water and wastewater infrastructure to meet existing and future housing needs, based on information from local water and wastewater master plans, specific plans, and City staff input. The Consultants will describe local, State, and Federal financial and administrative resources available to help the City

### **Exhibit A**



implement its housing programs. Based on information provided by City staff, the Consultants will describe projected funds, including possible CDBG and HOME funds. This section will also include a description of the City's current (2013) housing programs. The Consultants will describe opportunities for energy conservation, including the City's existing General Plan and Climate Action policies that promote energy conservation, and alternative energy and green building measures. The Consultants will also describe local energy conservation programs, such as weatherization and rebate programs provided by local utility companies.

#### *Housing Development Constraints*

The Consultants will review and update the analysis of both governmental and non-governmental constraints, such as land and development costs, site constraints, existing or planned infrastructure, land use controls, building code regulations, fees, and permit and processing procedures. The Consultants will also analyze constraints on housing for persons with disabilities as required by SB 520 (2002), as well as the City's current permitting procedures for emergency shelters, transitional and supportive housing, and single-room occupancy units. The Consultants will update this section to address the current economic climate and housing market. The housing constraints analysis will document local efforts to remove governmental constraints to improve the City's ability to meet its share of the regional housing needs.

#### *Evaluation of Housing Goals, Policies, and Programs*

The Consultants will review and evaluate the implementation of the 2007-2014 Housing Element policies and programs based on information provided by City staff. The evaluation will identify which programs have been accomplished, which programs have been the most successful, and why some housing programs have not been implemented or have been proven unsuccessful. The Consultants will rely on annual Housing Element reports submitted to HCD, if available. The Consultants will use this information to formulate new housing policies and programs and modify existing policies and programs.

#### **Task 2.2: Administrative Review Draft Policy Document**

The Consultants will update the existing Housing Element goals, policies, programs, and quantified objectives based on the evaluation of the existing Housing Element, the housing needs and constraints identified in the Background Report, recent changes to State Housing Element Law, public input from the community meetings, and feedback from City staff. Housing policies and programs will build upon the most successful policies and programs from the 2007-2014 Housing Element.

Working closely with City staff, the Consultants will formulate a comprehensive eight-year plan of action to implement policies and achieve the goals and objectives defined in the Housing Element. Policies to be included cover land use and development controls, provision of regulatory concessions and incentives to encourage the development of affordable housing, use of appropriate Federal and State financing to subsidize low-income housing, and discussion of local housing programs and activities.

#### **Task 2.3: Revised Administrative Review Draft Policy Document**

Exhibit A

The Consultants will revise the Administrative Review Draft Housing Element based on edits and feedback from City staff.

#### **Task 2.4: Public Review Draft Housing Element**

The Consultants will prepare a Public Review Draft Housing Element based on comments received from City staff on the Revised Administrative Draft Housing Element. The Consultants will provide City staff with a digital copy of the Public Review Draft Background Report to post on the City's website, and will print hard copies for distribution to the Planning Commission and City Council during Phase 3.

#### **Phase 2 Meetings:**

- None

#### **Phase 2 Work Products:**

- Administrative Review Draft Housing Element (20 hard copies and digital copies (PDF and Word))
- Revised Administrative Review Draft Housing Element (20 hard copies and digital copies (PDF and Word))
- Public Review Draft Housing Element (20 hard copies and digital copies (PDF and Word))

### **Phase 3: Public Review of Draft Housing Element**

#### **Task 3.1 Community Meeting**

The Consultants will conduct a community meeting to present the Public Review Draft Housing Element and solicit input from the public. The Consultants will prepare a meeting flyer and will contact stakeholders to get help spreading the word about the community meeting. The Consultants will translate the meeting flyer into Spanish. The Consultants will prepare and present all the meeting materials and prepare a summary of the meeting comments. The Consultants will provide Spanish translator at the meeting.

#### **Task 3.2: Planning Commission Study Session**

The Consultants will attend a study session with the Planning Commission to solicit input on the Public Review Draft Housing Element and formulate a recommendation for the City Council to authorize City staff to submit the Housing Element to HCD for the mandated 60-day review period. The Consultants will describe all input received from the stakeholder workshop, community meeting, and any revisions to the Public Review Draft Housing Element proposed in response to this input. The Consultants will prepare and present a PowerPoint presentation, and will assist City staff with public noticing of the study session and preparing the staff report.

#### **Task 3.3: City Council Study Session**

The Consultants will attend a study session with the City Council to solicit input on the Public Review Draft Housing Element and request authorization to submit the Housing Element to HCD for the mandated 60-day review period. The Consultants will describe all input received from the stakeholder workshop, community meeting, Planning Commission study session, and any

Exhibit A

revisions to the Public Review Draft Housing Element proposed in response to this input. The Consultants will prepare and present a PowerPoint presentation, and will assist City staff with public noticing of the study session and preparing the staff report.

#### **Task 3.4: General Plan Amendment Consultation and Referrals**

The Consultants will assist City staff in meeting Federal, State, regional, and local agency consultation and referral requirements that are required when the City amends its general plan (e.g., Native American Tribes, Military Branches). The Consultants will provide to the City a checklist of agency consultation requirements that identifies appropriate agencies and scheduled time frames for consultation and referrals.

#### **Task 3.5: Recent General Plan Laws**

The Consultants will prepare a memo outlining recent State planning laws that have changed since the City last updated its General Plan (i.e., 2000), such as complete streets (AB 1358), disadvantaged unincorporated communities (SB 244), and flood risk (SB 5). The Consultants will identify which laws are triggered by adoption of the Housing Element, and offer preliminary recommendations necessary to bring the General Plan into compliance.

#### **Task 3.6: Disadvantaged Unincorporated Communities Analysis**

The Consultants will conduct an analysis to determine the presence of disadvantaged unincorporated communities (DUCs). SB 244 requires cities and counties to update the Land Use Element of the General Plan to identify and address the infrastructure and service needs of disadvantaged unincorporated communities. For cities, SB 244 defines two types of DUCs: island communities (i.e., unincorporated islands within the city limits) or fringe communities (i.e., unincorporated communities adjacent to a city, within its SOI). SB 244 also defines a third category, legacy communities, which are unincorporated communities outside a city's SOI. Legacy communities must only be identified and analyzed by counties. For all community types to be considered disadvantaged and evaluated under SB 244, they must have 10 or more dwelling units within close proximity to one another and a median household income that is 80 percent or lower than the statewide median income.

The Consultants will use demographic, economic, and GIS mapping data to identify DUCs within Rohnert Park's SOI. The Consultants will review the Department of Water Resources Disadvantaged Communities mapping tool, U.S. Census block group data, parcel maps, aerial imagery, and other sources (e.g., Department of Finance and local records) to identify disadvantaged unincorporated communities within the City's SOI. The Consultants will define and map the DUCs. The Consultants will prepare a memorandum that summarizes the methodology and findings of the DUC analysis.

SB 244 requires that for any identified DUC, the City conduct an analysis to determine any water, wastewater, stormwater, drainage infrastructure and services and structural fire protection services deficiencies or needs. SB 244 also requires that for any identified DUC, the City conduct an analysis to identify financing alternatives and possible funding sources to extend needed infrastructure and services. This task is limited to identifying whether any DUCs exist within the SOI, and does not include an assessment of whether any identified DUCs have any infrastructure and

Exhibit A

Following submission of the HCD Review Draft Housing Element and prior to the end of the 60-day review period, the Consultants and City staff will meet with HCD staff to discuss the Draft Housing Element and preliminary HCD comments. If necessary, the Consultants will meet with HCD again after submitting the response to comments to facilitate the review process.

#### **Task 4.3: Response to HCD Comments**

Following the City's receipt of the HCD comment letter on the HCD Review Draft Housing Element, the Consultants will prepare a preliminary response to HCD comments and provide this to City staff for their review. Based on comments received from City staff, the Consultants will then prepare a formal written response to HCD comments and submit them to HCD. The Consultants will work closely with HCD to seek a timely conditional approval letter prior to Planning Commission and City Council hearings. Through the streamlined update process in several other jurisdictions, we have been able to secure HCD approval after one round of internal comments, without the need for an official comment letter from HCD. We will strive to accomplish the same for Rohnert Park.

#### **Phase 4 Meetings:**

- Meetings with HCD

#### **Phase 4 Work Products:**

- HCD Review Draft Housing Element (1 hard copy and digital copies (PDF and Word))
- Implementation Review Checklist (digital copy (PDF))
- Completeness Checklist (digital copy (PDF))
- Streamlined Update Checklist (digital copy (PDF))
- Response to HCD Comments (digital copies (PDF and Word))

### **Phase 5 Environmental Review Process**

#### **Task 5.1 Administrative Draft Initial Study/CEQA Documentation**

The Consultants will prepare an administrative review draft Initial Study to determine the appropriate project environmental document and review process. While we cannot predict in advance what level of environmental review will be required and the extent of needed mitigation until the draft Housing Element has been prepared, for the purpose of providing a cost estimate, we have budgeted for a Negative Declaration.

The Consultants will prepare an Initial Study/Negative Declaration (IS/ND) using the most current State CEQA Guidelines checklist, including the analysis of greenhouse gas emissions. Our basis for proposing an IS/ND is that the Housing Element implements the General Plan. Assuming that no significant land use changes are proposed in the Housing Element, environmental impacts associated with residential development should already have been evaluated in the corresponding environmental documentation.

Exhibit A

In the event that a more robust environmental analysis is required, the Consultants will prepare a scope of work for additional environmental review.

#### **Task 5.2 Public Review Draft Initial Study/CEQA Documentation**

The Consultants will revise the initial study and environmental document based on City staff comments. The Consultants will assist the City with distribution of this document to various public agencies and other interested parties, as required by CEQA.

#### **Phase 5 Meetings:**

- None

#### **Phase 5 Work Products:**

- Administrative Draft Initial Study and CEQA Documentation (5 hard copies and digital copies (PDF and Word))
- Public Review Draft Initial Study and CEQA Documentation (20 hard copies and digital copies (PDF and Word))

### **Phase 6: Public Review and Adoption**

#### **Task 6.1: Public Hearing Draft Housing Element**

The Consultants will prepare a Public Hearing Draft Housing Element that incorporates all of the responses to HCD comments. The Consultants will send out an e-mail to stakeholders and the community, provide a digital copy of the Public Hearing Draft Housing Element to post on the City website, and print hard copies for the Planning Commission and City Council.

#### **Task 6.2: Public Hearings and Adoption (2)**

The Consultants will attend two public hearings – one before the Planning Commission and one before the City Council – to present the Draft Housing Element, respond to questions, and record the recommendations of the Planning Commission and the action of the City Council. The Consultants will assist City staff with noticing the public hearings and preparing the staff reports and adopting resolution.

#### **Task 6.3: Final Housing Element and Transmittal to HCD**

The Consultants will prepare the Final Housing Element that incorporates any changes made by the City Council in adopting the Housing Element. The Consultants will print hard copies and provide a digital copy of the Final Housing Element.

The Consultants will prepare a cover memorandum to accompany submission of the Final Housing Element to HCD for the final 90-day review period.

#### **Phase 6 Meetings:**

- Planning Commission Public Hearing
- City Council Public Hearing

#### **Phase 6 Work Products:**

Exhibit A

- Public Hearing Draft Housing Element (5 hard copies and digital copies (PDF and Word))
- Planning Commission and City Council Public Hearing PowerPoint presentations
- Final Housing Element and transmittal memorandum to HCD (40 hard copies and digital copies (PDF and Word))
- CD-Rom of all draft and final documents and GIS maps

Exhibit A

# EXHIBIT B - Compensation

CITY OF ROHNERT PARK HOUSING ELEMENT UPDATE COST PROPOSAL Mimtier Harnish							
PHASE/TASKS	HOLZEN Project Director	NORTON Project Manager	AMOS Associate	KADIN Planner	ADMIN	TOTAL HOURS	TOTAL COST
<b>PHASE 1: PROJECT INITIATION</b>							
Task 1.1 Kick-Off Meeting	6	8				14	\$2,120
Task 1.2 Stakeholder Workshop	4	8		8		20	\$2,600
Task 1.3 Streamlined Review Process Evaluation		8				8	\$1,160
<b>Phase 1 Subtotal</b>	10	24	0	8	0	42	\$5,880
<b>PHASE 2: UPDATE THE HOUSING ELEMENT</b>							
Task 2.1 Administrative Review Draft Background Report	4	24	24	20		72	\$9,240
Task 2.2 Administrative Review Draft Policy Document	4	24	8			36	\$5,160
Task 2.3 Revised Administrative Review Draft Policy Document			8	4		12	\$1,440
Task 2.4 Public Review Draft Housing Element		4	8			12	\$1,620
<b>Phase 2 Subtotal</b>	8	52	48	24		132	\$17,460
<b>PHASE 3: PUBLIC REVIEW OF DRAFT HOUSING ELEMENT</b>							
Task 3.1 Community Meeting	4	8		8		20	\$2,600
Task 3.2 Planning Commission Study Session	4	4	4			12	\$1,740
Task 3.3 City Council Study Session	4	4	4			12	\$1,740
Task 3.4 General Plan Amendment Consultation Referrals	2					2	\$320
Task 3.5 Recent General Plan Laws	2			4		6	\$720
Task 3.6 Disadvantaged/Unincorporated Communities	4			12		16	\$1,840
<b>Phase 3 Subtotal</b>	20	16	8	24	0	68	\$8,960
<b>PHASE 4: HCD REVIEW AND HOUSING ELEMENT REVISION</b>							
Task 4.1 HCD Review Draft Housing Element, HCD Checklists, and Transmittal to HCD		4	8			12	\$1,620
Task 4.2 Meeting with HCD	2	4				6	\$900
Task 4.3 Response to HCD Comments	2	12	8			22	\$3,100
<b>Phase 4 Subtotal</b>	4	20	16	0		40	\$5,620
<b>PHASE 5: ENVIRONMENTAL REVIEW</b>							
Task 5.1 Administrative Draft Initial Study/CEQA Deocumentation	4	6		24		34	\$3,910
Task 5.2 Public Review Draft Initial Study/CEQA Deocumentation		2		8		10	\$1,090
<b>Phase 5 Subtotal</b>	4	8	0	32		34	\$5,000
<b>PHASE 6: PUBLIC REVIEW AND ADOPTION</b>							
Task 6.1 Public Hearing Draft Housing Element		4	4			8	\$1,100
Task 6.2 Public Hearings and Adoption (2)	6	12				18	\$2,700
Task 6.3 Final Housing Element and Transmittal to HCD		2	4			6	\$810
<b>Phase 6 Subtotal</b>	6	18	8	0		32	\$4,610
<b>PROJECT MANAGEMENT</b>							
Project Management	4	8				12	\$1,620
<b>TOTAL</b>	56	146	80	88	8	370	\$49,930
2013 Billing Rates	\$1,600	\$1,450	\$1,300	\$1,000	\$75	-	\$49,930
Labor Subtotals	\$8,960	\$21,170	\$10,400	\$8,800	\$600	-	\$3,500
Direct Expenses (Printing, written translation, and travel costs)							\$800
Verbal Translation at Community Meeting/Written Translation of Flyer/Notice							
<b>TOTAL COST</b>							<b>\$54,230</b>

Exhibit B

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## EXHIBIT C

### INSURANCE REQUIREMENTS for Consultant Services Agreement

*Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.*

*Consultant shall provide the following types and amounts of insurance:*

General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$2,000,000 (Two Million Dollars) per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 0001 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$2,000,000 (Two Million Dollars) per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 (One Million Dollars) per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$2,000,000 (Two Million Dollars) per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$2,000,000 (Two Million Dollars) per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the

Exhibit C



insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

*Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Best's rating of A- or better and a minimum financial size VII.*

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant.

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City, its officers, elected officials, employees, agents, and volunteers using standard ISO endorsement No. CG 20 10 or an approved equivalent. If completed operations coverage is excluded, the policy must be endorsed to include such coverage. Consultant also agrees to require all contractors, and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. The worker's compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, elected officials, employees, agents, and volunteers for losses paid under the terms of this policy which arise from the work performed by the named insured for the City.
4. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
5. 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.
6. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
7. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. **elimination of contractual liability** or reduction of discovery period) that may affect City's protection without City's prior written consent.
8. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty,

Exhibit C

to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.

9. Certificate(s) are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
10. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to City.
11. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. 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. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
12. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
13. 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 change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
14. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
15. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
16. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.

#### Exhibit C

17. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
18. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its officers, elected officials, employees, agents, and volunteers.
19. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. 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 limiting or all-inclusive.
20. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
21. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
22. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
23. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

Exhibit C

**CERTIFICATE OF CONSULTANT** {NOTE: Consultant must fill this out and sign.}


I HEREBY CERTIFY that I am the Principal, and a duly authorized representative of the firm of Mintier Harnish LP, whose address is ~~440~~ 1415 20th, Sacramento, CA 95814, and that neither I nor the above firm I here represent has:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit to secure this Agreement.
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

Except as here expressly stated (if any);

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

11/7/13  
Date

  
Signature