



ADMINISTRATIVE SERVICES DEPARTMENT

Request for Proposal (RFP)

Occupational Health Services

Issue Date: Thursday, December 23, 2021

Proposal Due Date: Friday, January 7, 2022 at 5:00pm

City of Rocklin

Attention: Amanda Tonks, Risk and Benefit Analyst

916-625-5025

3970 Rocklin Rd. Rocklin, CA 95677

Amanda.Tonks@rocklin.ca.us

Table of Contents

1. OVERVIEW OF THE PROCESS 3

1.1 Introduction 3

1.2 Background 3

1.3 Instructions 3

2. SUBMITTAL 3

2.1 RFP Requirements 3

2.2 Questions 5

2.3 Key Dates 5

3. SCOPE OF SERVICES..... 5

3.1 Scope of Work 5

4. SELECTION PROCESS..... 12

4.1 Distribution and Outreach 12

4.2 Selection Criteria 12

ATTACHMENT A – Sample Contract for Services 14

1. Scope of Services..... 14

2. Compensation..... 14

3. Facilities and Equipment 15

4. Term of Contract..... 15

5. Suspension/Termination: 16

6. Independent Contractor 16

7. Amendments, Changes or Modifications 16

8. Extensions of Time 17

9. Property of City..... 17

10. Compliance with All Laws:..... 17

11. Warranties and Responsibilities - Contractor 17

12. Subcontracting 18

13. Assignability..... 19

14. Interest in Contract 19

15. Materials Confidential 19

16. Liability of Contractor-Negligence..... 19

17. Indemnity and Litigation Costs 20

18. Contractor to Provide Insurance..... 20

19. General/Miscellaneous Provisions:..... 22

1. OVERVIEW OF THE PROCESS

1.1 Introduction

City of Rocklin Administrative Services Department (City) request proposals from interested, qualified, and experienced medical facilities/groups to perform City-wide occupational health services, specifically in the areas of pre-employment (post-offer) physical examinations, reviews and develop medical job profiles, perform non-DOT reasonable suspicion drug/alcohol testing, and fitness for duty evaluations and examinations upon request. The contract(s) for these services may be awarded to one or more contracting agencies for a duration of three (3) years.

1.2 Background

The City of Rocklin is located in Placer County and serves an area of approximately 20 square miles with a population of approximately 72,000. The City was incorporated in 1893, and operates under the Council Manager form of government. The City has 9 departments (which include police, fire, and public services) and approximately 226 full-time employees and 49 part-time employees.

A list of job classifications can be found on the City's website at <https://www.rocklin.ca.us/class-specifications>

1.3 Instructions

This RFP includes a description of the scope of services, proposal requirements, and instructions for submitting your proposal. Failure to follow these instructions may result in rejection of your proposal.

No oral representations or interpretations will be made to any proposer as to the meaning of this RFP.

In the event that it becomes necessary to revise any part of this RFP, written addenda will be issued. Any amendment to this RFP is valid only if it is in writing and issued by the City department issuing the RFP. No oral interpretations or answers shall bind the City unless confirmed by the City in writing.

2. SUBMITTAL

2.1 RFP Requirements

In order to be considered, your submittal package shall include the following:

- One (1) original proposal with a wet signature.
- One (1) electronic copy of your signed proposal in PDF format

Proposals shall be submitted not later than the time and date indicated on the cover page of this RFP.

Proposal responses must adhere to the requirements set forth in this section, both for content and sequence as follows:

- **Cover letter:** Provide a “Cover Letter” and introduction, including the name and address of the organization or individual submitting the proposal, together with the name, address, telephone and fax numbers, and e-mail address of the contact person who will be authorized to make representations for the organization, and an expression of the Proposer’s ability and desire to meet the requirements of this Request for Proposal, including acceptance of the standard contract terms in Exhibit “A”. **The letter must be signed by an individual authorized to bind the firm contractually.**
- **Table of Contents:** This section shall include a detailed “Table of Contents” and an outline of the submittal, identified by sequential page number and by section reference number and section title as described herein.
- **Background and Experience:** Describe the firm’s background, its organizational structure, length of time in business, and experience in providing the type of services solicited herein.
- **Detailed Discussion and Work Plan:** Provide a narrative of the Proposer’s assessment of the work to be performed. This section should clearly demonstrate the Proposer’s ability to perform the scope of services.
- **Scope of Services** and describe how your firm will accomplish the desired scope of work. Include the names and resumes of key staff and explain how the firm’s team intends to approach this project.
- **Insurance Requirements:** A written statement of your firm’s ability to comply with the insurance requirements set forth in Exhibit “A”.
- **References:** Proposers must provide a minimum of three (3) client references, preferably of city governments, or service districts in California, of organizations with whom you currently have contracts with and/or have previously had contracts with for the provision of services of equal type and scope within the last five (5) years. Each reference shall include company or organization name, contact person, title, telephone number, length of business relationship, and summary of services performed.

It is the sole responsibility of the consultant to see that the submittal is received by the City before the stated deadline. Failure to provide the information requested herein prior to the time and date specified above will preclude participation in the selection process.

The electronic copy of your signed proposal shall be emailed to Amanda.Tonks@rocklin.ca.us

The original proposal shall be submitted to:

City of Rocklin
Attention: Amanda Tonks, Risk and Benefit Analyst
3970 Rocklin Rd. 2nd Floor
Rocklin, CA 95677

Proposals shall remain valid for 120 days from the due date. The City reserves the right to negotiate with the successful Proposer any additional terms or conditions not contained in their proposal which are in the best interest of the City or to otherwise revise the scope of this RFP.

2.2 Questions

All questions and inquiries must be submitted via email to Amanda.Tonks@rocklin.ca.us the deadline to submit questions no later than **5:00 PM on December 30, 2021**.

All emails must be clearly labeled in the subject line "**RFP Rocklin-Occupational Health RPF –Questions**" for convenience purposes. The City reserves the right to decline a response to any question if, in the City's assessment, the information cannot be obtained and shared with all potential organizations in a timely manner. A summary of the questions submitted, including responses deemed relevant and appropriate by the City, will be shared with all vendors that submit questions on or about **January 3, 2022**.

2.3 Key Dates

Below is a general timeline outlining the process steps with estimated dates for each step of the RFP process. By participating in the RFP process, consultants agree that they can adhere to the following general timeline and the meeting times they reserve through this process.

Task	Completion Date
City Issued RFPs	December 23, 2021
Deadline for written questions	December 30, 2021
City Response to Written Questions	January 3, 2022
Proposal Due Date	January 7, 2022
Interviews as needed	The week of January 10, 2022
Contract Negotiations	The week of January 20, 2022

3. SCOPE OF SERVICES

3.1 Scope of Work

At its discretion, the City of Rocklin intends to select one or more firms with whom the City of Rocklin will contract for services. Successful proposals will demonstrate the service

provider is able to provide a broad range pre-employment and occupational health services (excluded worker's compensation claims/matters) as requested by the City of Rocklin.

The successful Proposer will be requested to enter into an agreement for services for up to three (3) years with the City substantially similar in form to that attached hereto as Exhibit "A," marked "Sample Agreement for Services." The Services to be provided shall include, but not be limited to, the following:

Based on health screenings/physical examinations of a job applicant/employee, Contractor will advise City of the following:

1. The applicant/employee's physical limitations, if any, and the specific job tasks that cannot be performed and/or environmental conditions, if any, that are related to any risk to health and safety, and
2. Changes that may be made to permit the job tasks to be performed and/or eliminate/reduce the risk. Contractor will make no determination of whether job tasks are essential to the position in question. Any changes that are recommended are advisory only, based on the physician's general understanding of the job and environment in question, and are not intended to supplant the right of the City to determine what modifications are available and reasonable.

A. To the extent that other conditions are identified, Contractor will also:

- Notify the employee/applicant of any medical condition, identified during the limited medical evaluation requested by the City, that Contractor believes requires further attention, and recommend that the employee/applicant seek care from his or her personal provider, thereby encouraging health and wellness, leading to a more productive workforce.
 - Upon authorization of the employee/applicant, Contractor will inform his or her medical provider by transmitting copies of the medical records created during the visit.
 - For candidates' subject to National Fire Protection Association (NAPA), 29 CFR 1910.120, 134, and Peace Officer Standards & Trainings (POST) exams, Contractor will facilitate additional screenings as required by law.
- B. Contractor will maintain a medical record for each individual that will contain records of employer requested services, in addition to past, present, and future services requested by the employee/applicant.
 - C. Contractor shall maintain necessary equipment and trained personnel required to ensure prompt scheduling of medical examinations.
 - D. Contractor shall maintain capacity to perform up to 45 pre-employment medical exams per year.

- E. Any examination or medical conclusion will be based on the information furnished by City and the physician's general understanding of the requirements of jobs of similar nature. Contractor conducts such examinations with City's assurances that the examination and Contractor's medical inquiries are job-related and consistent with the business needs of the City, and otherwise comply with all applicable legal obligations.
- F. Contractor will inform the employee/applicant directly of all abnormal findings and recommendations for follow-up that are of a non-occupational nature. Notation of recommended follow-up will be documented in the clinical record. With the exception of fitness-for-duty evaluations and examinations, any recommendations for follow-up that are related to work performance will be reported to the City and to the employee within 3 business days of the evaluation. Any recommendations for follow-up that are work-related and forwarded to the City shall not include confidential medical information unless specifically allowed by law and upon a request by the City.

Examinations Performed

- A. Pre-employment (post-offer) medical evaluations/examinations
 1. Pre-employment (post-offer) medical evaluations/examinations of persons who are offered employment shall assess:
 - Physical findings and current functional capacity of the individual,
 - Significant past medical history relative to the person's abilities to perform the essential functions of the job.
 2. Pre-employment (post-offer) evaluations/examinations shall be in accordance with job classification groups.
 3. The City may revise permanently, or on a case-by-case basis, the examination components and requirements for an individual applicant/employee or classification. Revisions will be given expressly prior to examination and shall not exceed the scope of this Agreement.
 - Pre-employment (post-offer) Evaluations/Examinations classification shall be defined as follows: Public Safety- Police and Fire positions.
 - Heavy to moderate physical demand positions.
 - Light to moderate physical demand positions with
 - field work and driving responsibilities.
 - Sedentary- no physical demand positions.
 4. Respirator Use Classifications Medical Clearance

- Evaluate to determine the ability to safely use a respirator for applicants or employees in job classes requiring respirator use, as identified by the City.
- Issue a written recommendation regarding the applicant's or employee's ability to use a respirator consistent with Cal/OSHA standards.

B. Drug/Alcohol Screening

1. Drug/Alcohol testing (non-DOT) as requested by the City.
2. Medical Review Officer (MRO) interpretation and determination of any positive drug testing results for reasonable suspicion testing (non-DOT), as requested by the City.

C. Fitness-for-Duty Evaluations, Examinations, and Consultation for Job Fitness Determinations as Requested by the City

1. Exams shall be limited to determining an employee's ability to perform the essential duties of the position safely without endangering himself or herself or others due to his or her medical condition. This initial evaluation and finding are to be scheduled and completed within three weeks of request.
2. Report shall include the following:
 - Employee's current work restrictions and functional limitations. The anticipated duration of the Employee's limitations or restrictions.
 - If a re-evaluation is recommended, the report shall include information on when the re-evaluation should be conducted and when an employee can be expected to return to work.

D. Reporting

- Provide the City periodic reports on the number and types of exams processed and the outcome of each exam. Contractor shall provide the City, in response to a specific request, other periodic or status reports.
- Provide an annual report documenting the results of their work, if requested.

E. Assistance with Appeals as Requested

- Assist the City, when requested, in responding to appeals that may be filed as a result of medical disqualification of an applicant. This assistance may include a review of medical information submitted by the applicant,

telephone consultation with the City, research each and possible direct testimony.

F. Job and Medical Profiles

- Develop medical job class profiles to determine the relevancy and validate the current physical level required.
- For all new City job classes, conduct an assessment of the physical abilities needed to perform each job by development of a job profile and medical exam profile, identifying all physical and environmental job requirements, and potential job-related medical requirements.

Scheduling

- A. Providers will be available to provide medical examinations, at minimum, during business hours, Monday through Friday, 8:00 AM - 5:00 PM. Facilities and equipment will be accessible to persons with physical disabilities.
- B. Pre-employment (post-offer) evaluations requests will be provided by the City to Contractor. Contractor will contact employee/applicant within 1 business day and will schedule and complete examination appointment within 1 week, unless employee/applicant and City agree to delay exam. In addition, the contractor will advise the City when the exam has been scheduled.
- C. Each pre-employment (post-offer) evaluation and respective diagnostic, screening, and lab test(s), must be performed in a single time period on the same day. This time period must not exceed four hours, except where such performance is beyond reasonable control. Any change in such performance will require the prior authorization of the City.

Qualifications of Staff

- A. A physician who is trained in occupational medicine (preferably board certified in occupational medicine) will conduct all examinations and analysis, and will render a medical work clearance determination specific to the requirements of the job classification. A licensed physician certified in radiology shall interpret X-ray films.
- B. When administered, the maximal exercise cardiac stress EKG will conform to the Bruce Protocol and shall be performed and interpreted by a cardiologist or physician board certified in internal medicine. The interpretation report will include a copy of the baseline EKG.

- C. A certified pulmonary technician or a person who has completed a NIOSH approved course in pulmonary function testing will administer spirometry assessments.
- D. Upon request by the City, Contractor will provide a written proposal to provide expert witness services such as a physician or other specialist that may be required to testify or to assist the City in ADA and civil rights litigation, by recommending research testimony and experts to support work fitness decisions. City retains the discretion to identify the individuals who will provide assistance and testimony in legal proceedings.

Notification Needs

- A. The Medical Examination results will be provided to the City within 2 business days of the completed pre-employment (post-offer) evaluation. Consultant will also notify the City if an applicant declines to accept any immunizations recommended for the classification.
- B. Preparation of a descriptive summary which provides expansion and/or clarification of positive indicators on the health history questionnaire, specifically targeting applicants previous work injuries and occupational exposures, use of prescription & nonprescription medication, and potential that the applicant has falsified information on the questionnaire, e.g., no history of chronic back or joint pain, however on examination, a limited range of motion and a surgical scar is noted.
- C. Preparation of a descriptive summary outlining the medical qualification of the employee/applicant in the following categories:
 - Restrictions identified which conflict with the individual's ability to safely address the physical demands of the position being applied for or currently held.
 - Functional limitations and corresponding job duty restrictions in the event applicant or employee was found to have a medical condition which will interfere with ability to safely perform the duties of the position.
 - Notify the City if additional evaluation tests or consultation outcomes are required and/or subspecialty assessment is deemed appropriate.
 - Detailing other health-related information that is necessary for the City to determine employability of the individual.
- D. The Physician will render a determination as to the capacity of the prospective employee to perform the essential functions of the job classification at the time of

placement and show the probability of minimal risk of injury/harm to themselves or others. The examiner shall also render a determination as to those individuals who should be precluded from placement based on an inability to perform the job at the time of examination, or who could do so only at an unduly high risk of injury to themselves or others. The term injury is defined as an event or condition that:

- Is connected with, or occurs as a result of the performance of job-related duties; and
- Shows a substantial and imminent probability of aggravating or precipitating a physical condition, disease, or syndrome that is inconsistent with continued safe and efficient job performance; and
- Affect those physical abilities that are necessary and required for the safe and efficient performance of the essential duties of the job; and
- Is consistent with the examination and evaluation protocols, which are outlined by the most current edition of the California Commission on Peace Officers Standards and Training (POST) and National Fire Protection Association (NFPA) specific to all safety classifications and/or those jobs specified by the City.

For all pre-employment evaluations, the physician should translate pertinent medical findings into functional placement data, which will be transmitted (Medical Examination Report) to the City of Rocklin. The functional assessments would contain specific details regarding the restrictions that relate to the individual's capability of fulfilling employment requirements.

Pre-Employment Medical Examination Summary Reports are defined as follows:

- **Medically Qualified** – Indicates that no medical condition has been identified which conflicts with the individual's ability to safely perform the duties of the position being applied for or currently held.
- **Conditionally Qualified** – The applicant or employee was found to have a medical condition that could interfere with the individual's ability to safely perform the duties of the position. The physician will note any activity restrictions on the Report. The City will review these restrictions and functional limitations to determine if such limitations will impose an undue hardship upon the employing department's ability to provide service.

- **Recommendation Delay for Qualification** – Indicates that the physician is not willing to make a placement decision without further evaluation, tests, or consultation with the City.
- **Medically Disqualified** – Applicant has been deemed unsuitable for job position.

The scope of work is not intended to be exhaustive, but a representative requirement of the work.

4. SELECTION PROCESS

4.1 Distribution and Outreach

This RFP is being distributed to a list of consultants with related expertise and posted to the RFP section of the City website located at <https://www.rocklin.ca.us/bids-and-rfps>.

4.2 Selection Criteria

The City Staff will evaluate the proposals. Proposing Consultants may be contacted and asked for further information, if necessary, and may be expected to appear for oral interviews. Previous clients may be also contacted.

The evaluation will be based on the following criteria:

Each proposer ranked by the evaluation panel during the interview process: a) Communication Style, b) Experience/ Quality, c) Ability to meet the City's required services, d) cost.

One or more Firms may be selected. The City reserves the right to make a selection after review of the proposals without oral interviews; therefore, the proposal should be submitted initially on the most favorable terms that the Firm might propose.

Contracts will be negotiated with the Firm(s) considered best meeting the City's need for this project. In the event a mutually satisfactory contract cannot be negotiated with one of the City's choices, negotiations may be terminated.

The selected Firm(s) will be required to execute a City prepared contract as provided in Attachment A. The contract may further refine the scope of services and will provide for the terms and conditions of employment.

The award of any contract is expressly contingent upon City approval and the availability of funds.

The City reserves the right to reject any or all proposals, or to waive minor irregularities in said proposals, or to negotiate minor deviations with the successful Firm(s). In the case of differences between written words and figures in a proposal, the amount stated in

written words shall govern. In the case of a difference in unit price versus the extended figure, the unit price shall govern.

The City reserves the right to seek clarification on any or all proposal submittals to ensure the RFP specifications are met. Proposals may be rejected from any proposer who does not comply with the City's request for clarification.

Once a decision has been made to award the contract, then a formal notice of the intent to award to the recommended proposer(s) shall be made by the Department.

A business license as well as all applicable permits, licenses and certifications required by local, state or federal law are required before the award of contract.

All proposals and materials submitted shall become property of the City and will not be returned. All responses, including the accepted proposal and any subsequent contract, become public records per the requirements of the California Government Code, Sections 6250 - 6270, "California Public Records Act". Proprietary material must be clearly marked as such. Pricing and service elements of the successful proposal are not considered proprietary information. Proposers which indiscriminately identify all or most of their proposal as confidential or proprietary without justification may be deemed unresponsive.

The City will treat all information submitted in a proposal as available for public inspection once the City has selected a Contractor. If you believe that you have a legally justifiable basis under the California Public Records Act (Government Section 6250 et. seq.) for protecting the confidentiality of any information contained within your proposal, you must identify any such information, together with the legal basis of your claim in your proposal, and present such information **separately** as part of your response package.

The final determination as to whether the City will assert your claim of confidentiality on your behalf shall be at the sole discretion of the City. If the City makes a determination that your information does not meet the criteria for confidentiality, you will be notified as such. Any information deemed to be non-confidential shall be considered public record.

Upon receipt of a request for disclosure pursuant to the California Public Records Act for information that is set apart and marked as proprietary, City will notify you of the request for disclosure. You shall have sole responsibility for the defense of the proprietary designation of such information. Failure to respond to the notice and enter into an agreement with the City providing for the defense of and complete indemnification and reimbursement for all costs incurred by the City in any legal action to compel the disclosure of such information, shall constitute a complete waiver of any rights regarding the information designated proprietary and such information will be disclosed by City pursuant to applicable procedures under the California Public Records Act.

ATTACHMENT A – Sample Contract for Services

The following sample **Contract for Services** is provided for reference only and is subject to change without notice.

CONTRACT FOR SERVICES

THIS CONTRACT is made on _____, 20__ by and between the CITY OF ROCKLIN a municipal corporation (“City”), and [NAME OF CONTRACTOR], [INSERT ADDRESS, PHONE AND EMAIL] (“Contractor”) who mutually agree as follows:

1. Scope of Services

Subject to the terms and conditions set forth in this agreement, Contractor shall provide to the City the services described in the Scope of Work. Contractor shall provide the services at the time, place and in the manner specified in Exhibits A. Contractor shall not be compensated for services outside the scope of work unless prior to the commencement of the services: (a) Contractor notifies the City and City agrees the services are outside the scope; (b) Contractor estimates the additional compensation required for these additional services; and (c) City after notice, approves in writing a supplemental agreement specifying the additional services and the amount of compensation therefore. City shall have no obligation whatsoever under this agreement or any supplemental agreement, unless and until the agreement or supplemental agreement is approved by the City Manager, the City Manager’s authorized designee, or by the Rocklin City Council, as required by the Rocklin Municipal Code or other local law or policy.

2. Compensation

A. The City shall pay Contractor for the services rendered pursuant to this agreement at the times and in the manner set forth in the Scope of Services, the Schedule for Performance, Exhibit B, and in accordance with the Schedule of Fees in Exhibit C, but in no event shall the total compensation exceed the **total sum of \$** _____. The payments specified in Exhibits A and/or B shall be the only payments to be made to Contractor for the services rendered pursuant to this Agreement unless pursuant to Section 1, above, City approves additional compensation for additional services.

B. Contractor shall furnish City with invoices for all expenses as well as for all materials authorized by this Contract. The invoices shall be submitted with the final billings. Reimbursable expenses shall be limited to actual expenditures of Contractor for expenses that are necessary for the proper completion of the services and shall only be payable if specifically authorized in advance by City.

C. Contractor shall submit all billings/invoices for services to City in the manner specified in Exhibit. Contractor’s fees shall be as specified in the Scope of Work, Exhibit A or the Schedule of Fees as set forth in Exhibit C. All invoices submitted by Contractor shall contain the following information:

1. Job/project name or description;
2. City's current purchase order and/or work order number (if applicable);
3. Contractor's invoice number;
4. Date of invoice issuance;
5. Description of services billed under invoice, including the description of tasks performed and the corresponding rate charged for the completion of that task;
6. Amount of invoice, itemizing all authorized reimbursable expenses; and
7. Total billed to date under agreement.

D. City shall make payment to Contractor net 30 days from receipt of an acceptable invoice. If Contractor's performance is not in conformity with the Scope of Work, Exhibit A, or the Schedule of Performance, Exhibit B, or the provisions set forth above, payments may be delayed or denied, unless the Contractor's failure to perform is a documented result of the City's failure to conform with the Schedule of Performance, or if the Schedule of Performance is extended pursuant to Section 4. City shall not be responsible for delays in payment to Contractor resulting from Contractor's failure to comply with the invoice format described above, or as set forth in the Schedule of Performance.

E. During performance of the agreement and for a period of three (3) years after completing all services, Contractor shall maintain all accounting and financial records related to this Agreement, including but not limited to records of Contractor's costs for all services performed under this agreement and records of Contractor's reimbursable expenses, in accordance with generally accepted accounting practices, and shall keep and make the records available for inspection and audit by representatives of the City upon reasonable written notice.

F. Contractor shall pay when and as due, any and all taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide City with proof of payment upon request. Contractor hereby agrees to indemnify City for any claims, losses, costs, fees, liabilities, damages or injuries suffered by City arising out of Contractor's breach of this section.

3. Facilities and Equipment

Contractor shall at its sole cost and expense, furnish all facilities and equipment that may be required for Contractor to perform services pursuant to this agreement. City shall furnish to Contractor, only the facilities and equipment listed in Exhibit A (if any) according to any terms and conditions set forth in Exhibit A.

4. Term of Contract

A. This agreement shall become effective on the date that it is approved by both parties, set forth on the first page of the agreement and shall continue through _____, unless sooner terminated or extended as provided herein.

B. The services of Contractor are to commence upon execution of this Contract by the City, and shall be undertaken and completed in accordance with the Schedule of Performance attached hereto and incorporated herein by this reference as **Exhibit B**.

C. The City Manager or his or her designee may, by written instrument signed by the Parties, extend the duration of this Contract for a period of three weeks in the manner provided in Section 7.

5. Suspension/Termination:

A. City shall have the right at any time to temporarily suspend Contractor's performance hereunder, in whole or in part, by giving written notice of suspension to Contractor. If City gives such notice, Contractor shall immediately suspend its activities under this agreement.

B. This Contract may be terminated by either party, provided that the other party is given not less than thirty calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. If the agreement is terminated by the City:

- i. Contractor shall immediately cease rendering services pursuant to this agreement;
- ii. Contractor shall, not later than five days after such notice of termination, deliver to City copies of all information prepared pursuant to this agreement;
- iii. City shall pay Contractor the reasonable value of services rendered by Contractor prior to termination; provided however, City shall not in any manner be liable for lost profits that might have been made by Contractor had the agreement not been terminated or had Contractor completed the services required by this agreement. Contractor shall furnish to City such financial information as in the judgment of the City is necessary for City to determine the reasonable value of the services rendered by Contractor. The foregoing is cumulative and does not affect any right or remedy that city may have in law or equity.

C. Notwithstanding any provisions of this Contract, Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Contract by Contractor, and the City may withhold any payments due to Contractor until such time as the exact amount of damages, if any, due the City from Contractor is determined.

6. Independent Contractor

Contractor enters into this Contract as an independent contractor and not as an employee or agent of the City. Contractor shall have no power or authority by this Contract to act on behalf of City in any capacity whatsoever as an agent, or to bind the City in any respect or to any obligations whatsoever. Nothing in this Contract shall be construed to be inconsistent with this relationship or status. All employees, agents, contractors or subcontractors hired or retained by the Contractor are employees, agents, contractors or subcontractors of the Contractor and not of the City. The City shall not be obligated in any way to pay any wage claims or other claims made against Contractor by any such employees, agents, contractors or subcontractors, or any other person resulting from performance of this agreement.

7. Amendments, Changes or Modifications

Amendments, changes or modifications in the terms of this Contract may be made at any time by mutual written agreement between the parties hereto and shall be signed by the persons authorized to bind the

parties hereto.

8. Extensions of Time

Contractor may, for good cause, request extensions of time to perform the services required hereunder. Such extensions shall be authorized in advance by the City in writing and shall be incorporated in written amendments to this Contract or the attached Work Program in the manner provided in Section 7.

9. Property of City

It is mutually agreed that all materials prepared by the Contractor under this Contract shall become the property of the City, and the Contractor shall have no property right therein whatsoever. Immediately upon termination, the City shall be entitled to, and the Contractor shall deliver to the City, all data, drawings, specifications, reports, estimates, summaries and other such materials as may have been prepared or accumulated to date by the Contractor in performing this Contract which is not Contractor's privileged information, as defined by law, or Contractor's personnel information, along with all other property belonging exclusively to the City which is in the Contractor's possession.

10. Compliance with All Laws:

Contractor shall keep itself fully informed of, shall observe and comply with, and shall cause any and all persons, firms or corporations employed by it or under its control to observe and comply with, all applicable laws, ordinances, and codes of federal, State and local governments, which in any manner affect those engaged or employed on the work described by this Contract or the materials used or which in any way affect the conduct of the work, and shall commit no trespass on any public or private property in performing any of the work authorized by this Contract.

For all leases and purchases of materials, equipment, supplies or other tangible personal property used to perform the agreement and shipped from outside California, the Contractor and any subcontractors leasing or purchasing such materials, equipment, supplies or other tangible personal property shall obtain a Use Tax Direct Payment Permit or Seller's Permit from the California State Board of Equalization, in accordance with the applicable SBE criteria and requirements. This provision applies in all instances unless prohibited by the funding source for the agreement.

11. Warranties and Responsibilities - Contractor

A. Contractor agrees and represents that it is qualified to properly provide the services set forth in Exhibit "A" in a manner which is consistent with the generally accepted standards of Contractor's profession.

B. Contractor is duly licensed, qualified and experienced to perform the services set forth in the Scope of Services, Exhibit A. Contractor represents and warrants that Contractor has all licenses, permits, qualifications and approvals of whatsoever nature that are legally required for Contractor to practice its profession or provide any services under this agreement. Contractor represents and

warrants that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this agreement, any licenses, permits and approvals that are legally required for Contractor to practice its profession or provide such services. If Contractor is an out of state corporation, Contractor further warrants and represents that it possesses a valid certification of qualification to transact business in the State of California issued by the California Secretary of State.

C. Contractor shall perform all services required pursuant to this agreement in the manner and according to the standards currently observed by a competent practitioner of Contractor's profession in California. Contractor shall devote such time and effort to the performance of services pursuant to this agreement as is necessary for the satisfactory and timely performance of Contractor's obligations under this agreement. Neither party shall be considered in default of this agreement to the extent that party's performance is prevented or delayed by any cause that is beyond the reasonable control of that party.

D. All products of whatsoever nature that Contractor delivers to City pursuant to this Agreement shall be prepared in a professional manner and conform to the standards of quality normally observed by a person currently practicing in Contractor's profession, and shall be provided in accordance with any scope of services or schedule of performance specified in Exhibits A or B.

E. Contractor shall assign only competent personnel to perform services pursuant to this agreement. Contractor shall designate a project manager who at all times shall represent the Contractor before the City on all matters relating to this Contract. The project manager shall continue in such capacity unless and until he or she is removed at the request of the City, is no longer employed by Contractor, or is replaced with the written approval of the City, which approval shall not be unreasonably withheld. Contractor shall notify City in writing, of any other changes in Contractor's staff assigned to perform the services required under this agreement, prior to any such performance. In the event the City desires the removal of any person assigned by Contractor to perform services pursuant to this agreement, because the City in its sole discretion, determines that such person is not performing in accordance with the standards required herein, Contractor shall remove such person immediately upon receiving notice from the City of the desire for the removal of such person.

F. Contractor agrees and represents that the work performed under this Contract shall be in accordance with applicable federal, State and local law.

G. Contractor shall provide corrective services without charge to the City for services which fail to meet the above professional and legal standards and which are reported to Contractor in writing within sixty (60) days of discovery. Should Contractor fail or refuse to perform promptly its obligations, the City may render or undertake performance thereof and the Contractor agrees it has satisfied itself by its own investigation and research regarding the conditions affecting the work to be done and labor and materials needed, and that its decision to execute this agreement is based on such independent investigation and research. Contractor shall be liable for any expenses thereby incurred.

12. Subcontracting

None of the services covered by this Contract shall be subcontracted without the prior written consent of the City, which will not be unreasonably withheld. Contractor shall be as fully responsible to the City for the negligent acts and omissions of its contractors and subcontractors, and of persons either directly

or indirectly employed by them, as it is for the negligent acts and omissions of persons directly employed by Contractor.

13. Assignability

Contractor shall not assign or transfer any interest in this Contract whether by assignment or novation, without the prior written consent of the City. The City has a strong interest in the qualifications and capability of the persons and entities that will fulfill the obligations imposed on Contractor under this agreement. However, claims for money due or to become due Contractor from the City under this Contract may be assigned to a financial institution, or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the City.

14. Interest in Contract

Contractor covenants that neither it, nor any of its employees, agents, contractors, or subcontractors has any interest, nor shall they acquire any interest, direct or indirect, in the subject of the Contract, nor any other interest which would conflict in any manner or degree with the performance of its services hereunder. Contractor shall make all disclosures required by the City's conflict of interest code in accordance with the category designated by the City, unless the City Manager determines in writing that Contractor's duties are more limited in scope than is warranted by the category designated by the City code and that a narrower disclosure category should apply. Contractor also agrees to make disclosure in compliance with the City conflict of interest code if, at any time after the execution of this Contract, City determines and notifies Contractor in writing that Contractor's duties under this Contract warrant greater disclosure by Contractor than was originally contemplated. Contractor shall make disclosures in the time, place and manner set forth in the conflict of interest code and as directed by the City.

15. Materials Confidential

To the extent permitted by law, all of the materials prepared or assembled by Contractor pursuant to performance of this Contract are confidential and Contractor agrees that they shall not be made available to any individual or organization without the prior written approval of the City, except by court order.

16. Liability of Contractor-Negligence

Contractor shall be responsible for performing the work under this Contract in a manner which is consistent with the generally-accepted standards of the Contractor's profession and shall be liable for its own negligence and the negligent acts of its employees, agents, contractors and subcontractors. The City shall have no right of control over the manner in which the work is to be done but only as to its outcome, and shall not be charged with the responsibility of preventing risk to Contractor or its employees, agents, contractors or subcontractors.

17. Indemnity and Litigation Costs

Contractor shall indemnify, defend, and hold harmless the City, its officers, officials, agents, and employees against all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising from Contractor's negligent acts or negligent failure to act, errors, omissions or willful misconduct incident to the performance of this Contract except such loss or damage caused by the active negligence, sole negligence, or willful misconduct of the City. The provisions of this paragraph shall survive termination or suspension of this Contract.

18. Contractor to Provide Insurance

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. Minimum Scope and Limit of Insurance

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and 9 (non- owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

4. **Professional Liability (Errors and Omissions)** Insurance appropriate to the Contractor's profession, with limit no less than **\$2,000,000** per occurrence or claim, \$2,000,000 aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

B. Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured Status.** The City, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

2. **Primary Coverage.** For any claims related to this contract, the Contractor's insurance coverage shall be primary with coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, or volunteers, and shall be excess of the Contractor's insurance and shall not contribute to it.

3. **Notice of Cancellation.** Each insurance policy required above shall not be canceled, except with notice to the City.

4. **Waiver of Subrogation.** Contractor hereby grants to City a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

5. **Self-Insured Retentions.** Self-insured retentions must be declared to and approved by the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

6. **Acceptability of Insurers.** Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

7. **Claims Made Policies.** If any of the required policies provide coverage on a claims made basis:

- i. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
- ii. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- iii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

8. **Verification of Coverage.** Contractor shall furnish the City with original Certificate of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation

to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

9. **Subcontractors.** Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City is an additional insured on insurance required from subcontractors.

10. **Special Risks or Circumstances.** City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

19. General/Miscellaneous Provisions:

A. **Contract Documents.** This agreement and its exhibits shall be known as the "Contract Documents." Terms set forth in any Contract Document shall be deemed to be incorporated in all Contract Documents as if set forth in full therein. In the event of conflict between terms contained in these Contract Documents, the more specific term shall control. If any portion of the Contract Documents shall be in conflict with any other portion, provisions contained in the Contract shall govern over conflicting provisions contained in the exhibits to the Contract. In the event of any conflict between the terms or conditions of this written agreement and any terms or conditions of any document prepared or provided by Contractor and made a part of this agreement, including without limitation any document relating to the scope of services or payment therefor, the written terms of this document shall control over those terms or conditions.

B. **Non-Discrimination in Employment and Equal Employment Opportunity.** Contractor shall not engage in unlawful employment discrimination. Such unlawful employment discrimination includes, but is not limited to, employment discrimination based upon a person's race, color, ancestry, national origin, religious creed, sex (including pregnancy, childbirth breastfeeding or related medical condition), sexual orientation, gender, gender identity, gender expression and age (over 40), disability (mental and physical), medical condition, marital status, citizenship, and military and veteran status.

C. **Inspection of Records.** Contractor shall maintain and make available for inspection by the City and its auditors accurate records of all of its costs, disbursements and receipts with respect to any work under this Contract. Such inspections may be made during regular office hours at any time until six (6) months after the final payments under this Contract are made to the Contractor.

D. **Entire Agreement.** This Contract constitutes the entire agreement between the parties relative to the services specified herein and supersedes whatever oral or written understanding they may have had prior to the execution of this agreement. No alteration or modification of this agreement shall be valid or effective unless and until such modification is evidenced by a writing signed by both parties to this Contract, by persons authorized to act on behalf of the parties. There are no understandings, agreements, conditions, representations, warranties or promises, with respect to this Contract, except those contained in or referred to in the writing.

E. **Severability.** If any portion of this agreement or the application thereof to any person or circumstance shall be held invalid or unenforceable, the remainder of this agreement shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

F. **Waiver.** Neither City's acceptance of, or payment for, any service performed by Contractor, nor any waiver by either party of any default, breach, or condition precedent, shall be construed as a waiver of any provision of this agreement, nor as a waiver of any other default, breach or condition precedent or any other right hereunder.

G. **Notice.** All notices that are required to be given by one party to the other under this Contract shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited in a United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses:

City: Amanda Tonks
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677
Email: Amanda.Tonks@rocklin.ca.us

Copy to: City Attorney
City of Rocklin
3970 Rocklin Road
Rocklin, CA 95677
Email: LegalNotices@rocklin.ca.us

Contractor: Contact Name
Contracting Firm
Address
City State Zip
Email

H. **Enforcement of Agreement.** This Contract shall be interpreted, governed and enforced in accordance with the laws of the State of California. Venue of any action arising out of this Contract shall be brought and maintained in Placer County California, regardless of where else venue may lie. The parties consent to jurisdiction over their persons and over the subject matter of any such litigation in such court, and consent to service of process issued by such courts.

I. **Attorney's Fees.** In any action brought by either party to enforce the terms of this Contract, each party shall bear responsibility for its attorney's fees and all costs regardless of whether one party is determined to be the prevailing party.

J. **Power and Authority to Enter into Agreement.** All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles, and capacities herein stated and on behalf of any entities, persons, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any state and/or federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, Contractor hereby warrants that it shall not have breached the terms or conditions of any other contract or Agreement to which Contractor is obligated, which breach would have a material effect hereon.

K. **Exhibits.** All exhibits referred to herein and attached hereto, are by this reference incorporated as if set forth fully herein.

CITY OF ROCKLIN

By: _____
Aly Zimmermann, City Manager

APPROVED AS TO FORM:

By: _____
Sheri Chapman, City Attorney

ATTEST:

By: _____
Hope Ithurnburn, City Clerk

CONTRACTOR

By: _____
_____, President

By: _____
_____, CFO