

INCLUSIONARY HOUSING ORDINANCE ADOPTION

REQUEST FOR PROPOSAL (RFP)

PROFESSIONAL SERVICES FOR THE CREATION OF AN INCLUSIONARY
HOUSING ORDINANCE AND IN-LIEU FEE ESTABLISHMENT



Issued on: October 15, 2024

Proposal responses due: November 15, 2024 at 4:00 P.M.

City of Rocklin—City Hall

Attention: Elizabeth Sorg, Management Analyst

Office of the City Manager

elizabeth.sorg@rocklin.ca.us

3970 Rocklin Road, Rocklin, CA 95677

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REQUEST FOR PROPOSALS FOR THE CITY OF ROCKLIN
ADOPTION OF AN INCLUSIONARY HOUSING ORDINANCE AND IN-LIEU FEE

2 SECTION I – OVERVIEW OF PROCESS

2.1 BACKGROUND

The City of Rocklin invites qualified consulting firms to submit proposals for the development of an inclusionary housing ordinance and the implementation of an in-lieu fee for affordable housing. Per the City of Rocklin’s 2021-2029 Housing Element Goal 3, the City will continue to work with developers requesting General Plan Amendments converting nonresidential designation to residential uses or from a higher density residential category to a lower density residential category to incorporate affordable housing as a component of the overall development. As an objective, staff encourages developers to target up to ten percent of the units as affordable. In spite of this, developers have historically chosen not to pursue the inclusion of affordable housing in their market rate projects, and the City lacks the legal foundation to enforce the language of the Housing Element. As such, the City is interested in creating an inclusionary housing ordinance that would require developers to provide affordable housing in their residential projects or pay a set fee in lieu of building affordable units.

2.2 CITY OVERVIEW

The City of Rocklin is an incorporated city with a population of more than 73,000 residents, located in Placer County off of Interstate 80, approximately 22 miles northeast of Sacramento, California. The City of Rocklin is a General Law city operating under the City Council/City Manager form of government.

2.3 PURPOSE OF THE RFP

The City seeks a professional land use economist or planning firm to complete a housing analysis to inform the creation of an inclusionary housing ordinance to require housing developers to create a set percentage of affordable housing. The required percentage would be calculated taking into account the completed housing analysis, RHNA goals, and Housing Element. The selected firm would also need to complete a fee study to determine the amount of a fee to be collected in lieu of building affordable housing units. The selected firm would be responsible for presenting to the Planning Commission and City Council and advising staff on outreach efforts. After the housing analysis, fee study, and reports are approved by City Council, the firm would be responsible for drafting language to codify the changes in an ordinance.

2.4 INCLUSIONARY HOUSING ORDINANCE

The City is interested in exploring the feasibility of an inclusionary housing ordinance to encourage the construction of affordable housing in the City. The selected firm would be responsible for conducting the analysis to establish the required percentage of affordable units that each residential development shall be responsible to build or pay an in lieu fee for. More information can be found in the Scope of Services section 4.1.

2.5 IN-LIEU FEE

The City is also interested in establishing a fee for developers to pay in lieu of constructing affordable units. The selected firm will provide an analysis for the maximum allowable in-lieu fee following state and federal laws regarding the establishment of fees. More information can be found in the Scope of Services section 4.1.

2.6 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.

2.7 RFP SCHEDULE

RFP Released by the City.....	October 15, 2024
Deadline for Final Questions.....	October 28, 2024
City Responses to Written Questions.....	November 6, 2024
Proposal Submission Deadline.....	November 15, 2024
Interviews as needed.....	Week of December 2, 2024
Contract Negotiations.....	Week of December 9, 2024
City Council meeting to award contract.....	Early January, 2024

2.8 SELECTION CRITERIA

The ideal firm will have extensive experience working with California cities and have completed similar inclusionary housing ordinances and in-lieu fee studies.

2.9 COST PROPOSAL

The cost proposal (section 2.1.4) will not be a determining factor in the identification of a preferred proposer. A preferred proposer will be identified based on factors that are discussed in Section 3 of this RFP. A proposer's cost proposal will be used only during contract negotiations.

2.10 SCOPE OF SERVICES

There will be three parts to this project: 1) the inclusionary housing research; 2) the fee study for in-lieu fees; and 3) the drafting of an ordinance. The selected firm will attend up to three City Council meetings (inclusionary housing report, in-lieu fee study, and final report) plus a Planning Commission meeting to present their findings. They will be responsible for conducting a housing analysis to determine the number or percentage of affordable units and their levels of affordability that should be included. The firm will also conduct a fee study to determine the maximum fee allowable by state and federal law to collect a fee in lieu of affordable housing.

A full Scope of Services can be found in section 4.1 Scope of Services and section 4.2 Task List.

2.11 DELIVERABLES

For stages 1 and 2 a draft and final report shall be provided to staff. For stage 3, a draft ordinance shall be submitted to staff.

2.12 PROJECT SCHEDULE

The City desires a thorough but efficient project timeframe. Responses to this RFP should include a proposed comprehensive project schedule.

2.13 LETTER OF INTENT TO RESPOND

All interested firms are encouraged to submit a Letter of Intent to Respond. The deadline to submit the letter is October 28, 2024. Submitting a letter does not guarantee or replace the formal proposal process, nor does the failure to submit a letter prevent an interested firm in submitting a proposal.

All written questions received about the RFP will be distributed in writing to all firms that submitted a Letter of Intent to Respond. Letters can be sent via mail or email to: elizabeth.sorg@rocklin.ca.us.

2.14 QUESTIONS AND INQUIRIES

All questions and inquiries must be submitted via email to Elizabeth Sorg at elizabeth.sorg@rocklin.ca.us. The deadline to submit questions is August 30, 2024. One comprehensive response to all submitted questions will be distributed to all firms that submitted a Letter of Intent to Respond.

Do not contact other individuals or City departments in this regard. Information provided by anyone other than the above contact may be invalid and proposals which are submitted in accordance with such information may be declared non-responsive.

3 SECTION II – SUBMITTAL REQUIREMENTS

3.1 PROPOSAL FORMAT REQUIREMENTS

Each response to this RFP shall include the information described in this section. Provide the information in the specified order. Failure to include all of the information specified may be cause for rejection. Additional information may be provided, but should be succinct and relevant to the goals of this RFP. Any additional information that a proposing firm wishes to include that is not specifically requested should be included in an appendix to the proposal.

Firms are encouraged to keep the proposals brief and to the point, but sufficiently detailed to allow evaluation of the project approach. Unauthorized conditions, omissions, limitations, or provisions attached to a proposal will render the proposal non-responsive and may cause its rejection.

The proposal should be bound or contained in a loose-leaf binder. Document pages shall be 8-1/2 inches by 11 inches in size or folded to such a size. Use section dividers, tabbed in accordance with the section as specified below.

The following items are required in the Proposal:

3.1.1 Cover Letter

The Cover Letter must include the following information:

- Title of this RFP
- Name and Mailing Address of Firm (include physical location if mailing address is a PO Box)
- Contact Person, Telephone Number, and Email Address
- A statement that the submitting Firm will perform the services and adhere to the requirements described in this RFP, including any addenda (reference the addenda by date and/or number).

3.1.2 Proposer's Certification

The attached Proposer's Certification (section 4.5) shall be executed by an official(s) legally authorized to bind the Firm which states that the proposal is valid for ninety (90) days. Note: This is ninety (90) days following the closing date for the receipt of all proposals.

Proposals submitted on behalf of a Partnership shall be signed in the firm name by a partner or the Attorney-in-Fact. If signed by the Attorney-in-Fact, there shall be attached to the proposal a Power-of-Attorney evidencing authority to sign proposals, dated the same date as the proposal and executed by all partners of the firm.

Proposals submitted on behalf of a Corporation shall have the correct corporate name thereon and the actual signature of the authorized officer of the corporation written (not typed) below the corporate name. The title of the office held by the person signing for the corporation shall appear below the signature of the officer.

Proposals submitted on behalf of a Limited Liability Company ("LLC") shall be signed by the person or persons authorized to bind the LLC under the LLC's articles of organization.

Proposals submitted by an Individual Doing Business under a firm name ("dba") shall be signed in the name of the individual doing business under the proper firm name and style.

3.1.3 Proposal

SECTION A: Firm's Qualifications – Describe your experience and provide a statement of your firm's qualifications for performing the requested services. Provide a brief summary of the role, qualifications and experience of each team member and designated project manager/lead assigned to these services, including length of service with the firm and the qualifications/experience of any sub-contractor staff on your project team.

SECTION B: Experience and References – Provide a summary of your firm's experience in providing these or similar services. Provide a minimum of three (3) references for projects or services similar in nature and scope that your firm's team members have completed in the last five (5) years. Include brief descriptions of the projects, dates, client names and contact persons' names, addresses and telephone numbers. Include the contract amount, final cost, time to completion, and identify if the contract is active. Describe any other facets of the firm's experience that are relevant to this proposal that warrants consideration.

SECTION C: Services Understanding – Based on the available information, supplemental research, field observations, and experience with similar services, provide a narrative describing your understanding of the services requested in this RFP, your general approach and any major challenges to achieving the City's stated goals. Include any issues that you believe will require special consideration. Also identify any

unique approaches or strengths that your firm may have related to the services proposed. Discuss whether your firm would propose a nexus-based fee study for the In Lieu fee or not, and what law or precedent supports your decision. City staff will assess your understanding of all aspects of the services based on your narrative.

SECTION D: Project Timeline and Work Plan – Provide a timeline of project completion, including meetings, major milestones, and deliverable dates. Describe the firm’s process to provide the required reports and studies with particular attention to your firm’s approach in managing different stakeholders. Include a description of the firm’s ability to meet the services requested in the Scope of Services section 4.1 and Task List section 4.2. Provide a specific methodology that recommends and justifies the level of detail to be included in the proposal in response to the scope of services.

SECTION E: Required Statements/Documents – Include statements of assurance regarding the following requirements in the proposal:

- The absence of a conflict of interest. Consultants submitting a proposal must disclose any actual, apparent, direct or indirect, or potential conflicts of interest that may exist with respect to the firm, management, or employees of the firm relative to the services to be provided under the agreement. Consultant must disclose any real or apparent conflict of interest associated with this project or with working for the City of Rocklin. If a Consultant has no conflicts of interest, a statement to that effect shall be included in the proposal.
- Indicate your ability and agreement to fulfill the indemnification and insurance requirements contained in the sample contract. (Please note that actual certificates of insurance are not required as part of your submittal.)
- A statement that nothing contained in the submitted proposal will be proprietary.

SECTION F: Exceptions – Describe any and all proposed exceptions, alterations or amendments to the Scope of Services or other requirements of this RFP, including the Sample Contract, section 4.6. The nature and scope of your proposed exceptions may negatively affect the evaluation of your submittal and the City’s determination of whether it is possible to successfully negotiate a contract with your firm.

SECTION G: Competency of Proposers – The City wants to ensure that the successful firm has the necessary facilities, ability, experience, and financial resources to provide the services specified herein in a satisfactory and timely manner. Please list and explain any pending bankruptcies, liens, stop payment notices, judgments, lawsuits, arbitrations, mediations, foreclosures, and any similar actions filed or resolved in the past seven (7) years. Please indicate whether a client has ever terminated a contract with your firm for breach, and if so, please explain.

3.1.4 Cost Proposal

The cost proposal shall be submitted in a separate sealed envelope identified by the name of the firm and “Cost Proposal”.

Provide a comprehensive cost proposal and/or hourly rate schedule, including any applicable prevailing wage rates, for all proposed services to be provided to the City, set forth by the position/title of the person performing the services. Define any reimbursable expenses requested to be paid by the City.

Each of the three stages in this process (The inclusionary housing research; fee study for in-lieu fees; and the drafting of an ordinance) should have a separate cost so they City can select services a la cart if desired.

Only when a firm has been selected will that firm's cost proposal be opened. The cost proposal will be used as a basis of negotiation for a professional services agreement with the highest ranked firms. The cost proposal may be used by the City to adjust its project budget prior to executing a professional services agreement. If an agreement is not completed with a firm, the next highest ranked firm will be given the opportunity to negotiate an agreement.

3.2 SUBMITTAL INSTRUCTIONS

Your submittal package shall include the following:

- One (1) original and three (4) printed copies of your proposal not including the cost proposal; and
- One (1) electronic copy of your proposal, not including the cost proposal, in PDF format on flash drive or other electronic media
- One (1) cost proposal that shall be submitted in a separate sealed envelope identified by the name of the firm and "Cost Proposal"

Proposals shall be submitted no later than the time and date indicated on the cover page of this RFP. All submittals shall be submitted in a sealed envelope or container and clearly marked with the RFP title on the outside of the parcel.

Proposals shall be submitted ONLY to:

City of Rocklin—City Hall

Attention: Elizabeth Sorg, Management Analyst

Office of the City Manager

3970 Rocklin Road, Rocklin, CA 95677

Faxed and/or emailed proposals will not be accepted.

The City shall not be responsible for proposals delivered to a person or location other than that specified herein. Postmarks will not be accepted and proposals received after the deadline date and time will not be accepted or considered. No exceptions. The City reserves the right to waive minor defects and/or irregularities in proposals, and shall be the sole judge of the materiality of any such defect or irregularity. All costs associated with proposal preparation shall be borne by the proposer.

4 SECTION III – EVALUATION OF RESPONSES

4.1 SELECTION PROCESS

Award of the RFP shall be made to the responsible proposer(s) whose proposal is determined, through a formal evaluation panel process, to be the most advantageous to the City after the evaluation panel has taken into consideration the evaluation factors set forth in the RFP. Proposals shall be scored according to the criteria stated in the RFP section 3.2 Examination of Documents.

Proposals submitted will be reviewed by a selection committee. Firms that have submitted the best and most complete proposals may be invited to an interview. The number of firms that may be invited to an interview may vary depending upon the number of proposals submitted.

Should the City elect to conduct interviews with any proposers, the following criteria shall be considered and each proposer ranked by the evaluation panel during the interview process: a) Communication Style, b) Experience/ Quality, and c) Ability to meet the City's required services.

Contracts will be negotiated with the firm 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 will be required to execute a City prepared contract as provided in Section 4.6 Sample Contract. 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. City staff may not legally bind the City to a contract.

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. 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 City of Rocklin 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.

4.2 EXAMINATION OF PROPOSAL DOCUMENTS

The following evaluation criteria and rating schedule will be used to determine the most highly qualified firm(s):

Evaluation Criteria	Weight
Experience and qualifications of firm (per Section 2.1.3, A & B)	40%
Understanding of the Services Proposed – Proposed Services Plan (per Section 2.1.3, C & D)	40%
Completeness of proposal and any supporting documents	20%

Each candidate submitting a response to this Request for Proposals acknowledges and agrees that the preparation of all materials for submittal to the City and all presentations, related costs and travel expenses are at the candidate's sole expense. In addition, each firm acknowledges and agrees that all documentation and/or materials submitted in response to this request shall remain the property of the City.

The City also reserves the right to waive any informality in any proposal and to delete certain items listed in the proposal as set forth therein. The selection committee will make a recommendation to the approving authority.

5 SECTION IV – LIST OF ATTACHMENTS

5.1 SCOPE OF SERVICES

5.1.1 Project Initiation

The Consultants will meet initially with City staff to reaffirm the objectives of the project, review the scope, and collect relevant documents.

5.1.2 Residential Housing Characteristics

The Consultants will work with the City staff to identify residential housing characteristics within the city. Based on these characteristics, different prototypes will be selected for the fee calculations. The prototypes should be representative of the different residential developments anticipated in the city. Development cost assumptions will be developed for each of the prototypes.

5.1.3 Affordability Gap Analysis

The affordability gap refers to the difference between what a household can afford to pay for a housing unit and the cost to develop the housing unit. The affordability gap will be based on actual cost and incomes of residents in City. This is calculated using relevant data from the U.S. Census data, California Department of Housing and Community Development, Placer County Housing Authority, Roseville Housing Authority, and others. The firm will work with the City to ensure that the affordability gap analysis reflects City housing goals and RHNA obligations. The firm will determine the affordability gap for both rental and for-sale units.

5.1.4 In-Lieu Fee Structure and Calculations

The firm will calculate the maximum justifiable fee per for-sale and rental residential unit. The fee structure will be determined in consultation with the City. Please note that the calculated fee will be the maximum justifiable fee and not a recommended fee. The fee shall be calculated consistent with current case law and any other state or federal laws.

5.1.5 Regional Fee Comparison

Affordable housing fees of other jurisdictions in the region will be researched for comparison purposes.

5.1.6 Feasibility Analysis

Payment of an in-lieu fee adds to the total development costs of a project, potentially making the project financially infeasible for the developer. The firm will perform financial feasibility tests to determine the feasibility of market-rate units paying an affordable housing in-lieu fee. The tests will be performed for both rental and for-sale units.

5.1.7 Draft and Final Report

Consultant will draft a report summarizing its findings Tasks 4.1.1 – 4.1.6. Based on staff comments, Consultant will prepare a public review draft of the residential affordable housing fee study and submit it to Council. Following Council input, a final report will be prepared.

5.1.8 Ordinance Development (optional task)

Based on the Final Report, Consultant will work with staff to develop a draft ordinance for the inclusionary housing program and in-lieu fee structure. The draft ordinance will be presented to City Council for consideration.

5.2 PROPOSER'S CERTIFICATION

PROPOSER'S CERTIFICATION

I hereby propose to furnish the services specified in the Request for Proposals (RFP). I agree that my proposal will remain firm for a period of up to ninety (90) days in order to allow the City of Rocklin (City) adequate time to evaluate the qualifications submitted.

I have carefully examined the Request for Proposals and any other documents accompanying or made a part of this RFP. The information contained in this proposal is true and correct to the best of my knowledge and is signed under penalty of perjury under the laws of the State of California. I further certify that I am duly authorized to submit this proposal on behalf of the firm as its authorized agent and that the firm is ready, willing and able to perform if awarded the contract.

I further certify that this proposal is made without prior understanding, agreement, connection, discussion, or conspiracy with any other person, firm or corporation submitting a proposal for the same product or service; that this proposal is fair and made without outside control, collusion, fraud or illegal action; that no officer, employee or agent of the City or any other proposer is financially interested in said proposal; that no undue influence or pressure was used against or in concert with any officer, employee or agent of the City in connection with the award or terms of the contract that will be executed as a result of this RFP; and that the undersigned executed this Proposer's Certification with full knowledge and understanding of the matters therein contained and was duly authorized to do so.

NAME OF BUSINESS

SIGNATURE

NAME & TITLE, TYPED OR PRINTED

MAILING ADDRESS

TELEPHONE NUMBER

EMAIL

Type of Organization:

_____ Sole Proprietorship _____ Corporation _____ State of Incorporation

_____ Partnership _____ Limited Liability Company

5.3 SAMPLE CONTRACT

CONTRACT FOR SERVICES

THIS CONTRACT is made on _____, 20__, by and between the CITY OF ROCKLIN a municipal corporation ("City"), and [X] "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, Exhibit A. Contractor shall provide the services at the time, place and in the manner specified in Exhibits A and/or B. Contractor shall not be compensated for services outside the scope of Exhibit A unless prior to the commencement of the services: (a) Contractor notifies the City and City agrees the services are outside the scope of Exhibit A; (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, Exhibit A, 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 \$[X]**. 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 monthly 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 B. 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 in effect until [X] unless sooner terminated as provided herein.

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

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 **30** calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. If the agreement is terminated by the City:

Contractor shall immediately cease rendering services pursuant to this agreement;

Contractor shall, not later than five days after such notice of termination, deliver to City copies of all information prepared pursuant to this agreement;

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.

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.

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.

MINIMUM SCOPE AND LIMIT OF INSURANCE

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.

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.

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.

Professional Liability (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than **\$1,000,000** per occurrence or claim, \$3,000,000 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.

Other Insurance Provisions

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

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).

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.

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

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.

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.

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.

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

The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

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.

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.

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.

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: City of Rocklin Office of the City Manager
3970 Rocklin Road
Rocklin, CA 95677

Contractor:

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.

CONTRACTOR

By: _____

□

CITY OF ROCKLIN

By: _____

Aly Zimmermann
City Manager

ATTEST:

By: _____

Avinta Singh, City Clerk

APPROVED AS TO FORM:

By: _____

Matthew McOmber, City Attorney

EXHIBIT A

Contractor Proposal/Scope of Work

SAMPLE

EXHIBIT B

Schedule of Performance

SAMPLE

EXHIBIT C
Schedule of Fees

SAMPLE

EXHIBIT __

CERTIFICATE OF COMPLIANCE WITH LABOR CODE § 3700
[Labor Code § 1861]

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

CONTRACTORS

By: _____
[Title]

SAMPLE

END OF SAMPLE CONTRACT