



**REQUEST FOR PROPOSAL (RFP) FOR COMPREHENSIVE DEVELOPMENT
IMPACT FEE NEXUS STUDY & FEE UPDATES**

City of Lafayette

Administrative Services Department

3675 Mount Diablo Boulevard, Suite 210

Lafayette, CA 94549

925-284-1968

RFP RELEASED: September 23, 2025

RESPONSES DUE: October 31, 2025 at 5:00 pm

Summary

The City of Lafayette (“City”) is soliciting proposals from qualified consultants to complete a Development Impact Fee (DIF) Nexus Study and propose DIF Updates for the City. The City assesses various development impact fees on new development and redevelopment to help the City pay for the infrastructure that the new development activity will require. The City’s impact fee program must comply with the Mitigation Fee Act (California Government Code Section 66000 et seq.; the “Act”), also known as Assembly Bill 1600, and the requirements of Assembly Bill 602, effective January 1, 2022.

This document outlines the scope of work and deliverables, proposal requirements, evaluation process, general terms and conditions related to proposal submissions, and the City’s template for professional services agreements. Proposals will be accepted until October 31, 2025 at 5:00 pm.

City Background

The City was incorporated in 1968. It is located in Contra Costa County along Highway 24, approximately 25 miles east of San Francisco. The City encompasses approximately 15 square miles and has a population of about 25,000. The City is primarily a residential community with commercial and light industrial enterprises. The commercial district lies in the center of the City and offers a wide variety of services for residents in addition to boutique shopping and fine dining. The City is noted for its high quality of life with top-rated schools, low crime rate, clean air, mild climate, and oak tree-studded hills. The City operates under the Council-Manager form of government and has approximately 50 employees.

Scope of Work and Deliverables

The City of Lafayette is soliciting proposals from qualified firms to prepare a DIF Nexus Study and recommend updates to the City’s DIF program. The City assesses development impact fees on new development and redevelopment to fund the infrastructure required to support growth. The consultant will work with City staff to identify infrastructure and facilities (e.g., roads, parks, equipment) that may be included in the updated fee program, ensuring that the DIF program aligns fees with the infrastructure and facilities costs generated by new development.

The City currently imposes four DIF categories:

1. Drainage Impact Fee
2. Walkways Impact Fee
3. Parkland Dedication Fee
4. Park Facilities Impact Fee

The following is a list of potential development impact fees the City would like to consider establishing or modifying: city facilities (e.g., city offices, city public works yard, community center), public safety, drainage, walkways, parks, and affordable housing. The City would also like to consider any other DIFs the consultant commonly develops for clients and any other DIF categories that other nearby and comparable cities impose.

The City envisions the Nexus Study will include the following components and activities:

1. Provide data, findings, and recommendations to implement new DIF categories and update the City’s existing DIF categories based on required nexus study findings and the proposed

infrastructure requirements to support the City's General Plan growth projections and the City's 5-Year Capital Improvement Program (CIP). The consultant will work with City staff to determine other supporting infrastructure (i.e., equipment, vehicles, etc.) and/or other public services that could rightfully be included in the DIF program to ensure the costs of such supporting infrastructure are paid by new development. The Consultant will also work with City staff to determine what, if any, items in should be removed from or added to the CIP.

2. Review and assess applicable City documents, including:
 - a. The City's existing impact fee nexus studies
 - i. 2009 Drainage Impact Fee Study
 - ii. 2009 Parkland Dedication Fee Update and Park Facilities Impact Fee Nexus Report
 - iii. 2009 Walkways Impact Fee Study
 - b. AB 1600 reports completed annually
 - c. 5-Year Capital Improvement Program
 - d. General Plan
 - e. FY 2023-2031 Housing Element
 - f. Master Plans, including but not limited to: Age Friendly Action Plan; Bikeways Master Plan, Downtown Creeks Restoration; Preservation, and Development Plan; Downtown Street Improvement Master Plan; Lafayette Community Park Master Plan; Open Space Plan, Parks & Recreation Facilities Master Plan; Public Art Master Plan; Trails Master Plan; Trails Implementation Plan; Trees for Lafayette (Master Tree Plan); and Walkways Master Plan
 - g. Other documents as appropriate
3. Perform a comprehensive update of the 2009 Parkland Dedication Fee Update and Park Facilities Impact Fee Nexus Report, including an appraisal of comparable properties that could be purchased for parkland, to make sure that fee levels are based on the market value for land in Lafayette.
4. Review and assess the Act and other applicable current/pending state laws (particularly with regard to housing near transit) and how they may impact the city's ability to collect fees. Consider possible impacts from case law such as U.S. Supreme Court *Sheetz v County of El Dorado*.
5. Attend staff and public meetings: The consultant shall include attendance at the following meetings, as a minimum, in their proposal. Should the consultant identify a meeting they believe is necessary to achieve the City's results and is beyond the meetings described below, they should describe such meeting(s) in their proposal. Meetings with staff can be virtual, as needed. Project meetings will consist of:
 - a. Kick-off meeting between consultant and City staff to review and discuss objectives of the Nexus Study, methodology, confirm project schedule and milestones, and discuss data needs, time frame, etc.
 - b. Data collection and clarification meetings with City staff to obtain relevant information or clarify the information required to complete the Nexus Study.
 - c. Review findings with City staff. Consultant to provide information supporting findings and proposed fees. Work with staff to determine what, if any, items in the CIP should be removed or added from the program.
 - d. Two meetings with relevant stakeholders/advisory boards, such as the local Chamber of Commerce.
 - e. Two meetings with relevant advisory commissions/committees, such as the Capital Projects Assessment Committee and Transportation and Circulation Committee.

- f. Meeting between consultant and City staff after submission of draft Nexus Study to discuss comments and questions prior to finalizing the report.
 - g. Review and respond to comments and requests related to the Nexus Study from the City's legal counsel.
 - h. Initial City Council meeting to present Draft Nexus Study and DIF updates. Discuss methodology and findings, provide a formal presentation, answer questions, and collect input to prepare the final draft of the Nexus Study.
 - i. If needed, additional City Council meetings to follow up on the first meeting and present the final draft.
6. Best Practices: Recommend best practices to help ensure effective reporting and accurate assumptions for the Nexus Study, accurate DIF collections, and efficient tracking and reporting on DIF activities as required by AB 1600 and AB 602.
- a. Fee Accounting: The consultant shall evaluate the City's current system of DIF accounting and administration and recommend an improved approach, if necessary, consistent with the Act and standard accounting principles.
 - b. Reporting: The consultant should evaluate the City's current reporting practices and recommend best practices for the annual and five-year continued findings reports to the City Council.
 - c. Annual inflation of DIF: DIF levels should increase each year to keep pace with inflation. The consultant should address whether the Consumer Price Index, California Construction Cost Index, Engineering News Record Construction Cost Index, or another index should be the preferred basis for annual increases, consistent with the Act and State law.
7. Report Deliverables:
- a. Prepare a Nexus Study in compliance with the Act, and specifically section 66016.5, and recommend DIF updates for the submittal of the final Nexus Study to the City Council containing background information, methodology, findings, and recommendations. More specifically, the Consultant shall prepare a Nexus Study containing, but not limited to, the following requirements, at a minimum:
 - i. Background information: The consultant will document all work assumptions, analysis procedures, findings, graphics, and impacts.
 - ii. Research DIFs in neighboring and comparable cities.
 - iii. Description of the overall methodology.
 - iv. Supporting justification.
 - v. Calculations that demonstrate the legal nexus between recommended fees and the impact created by new development.
 - vi. Relationship between the use of fees and the type of project on which it would be imposed.
 - vii. Purpose of the fee.
 - viii. Impacts of fees on future development (i.e., determine if proposed fees would discourage future development).
 - ix. Maintenance of fees (i.e., how the fee would be used and reported).
 - x. Description of the relationship between the need for any additional facilities and the type of development project on which the fee would be imposed.
 - xi. Parkland Dedication Fee Update and Park Facilities Impact Fee Nexus Report.
 - xii. Any additional matters that City staff should be made aware of, findings, and recommendations, with technical documentation in appendices.

- b. **Public Review Draft:** The consultant will develop and present a draft Nexus Study to stakeholders, advisory bodies, and the City Council at appropriate meetings. The purpose of these meetings is to solicit community and stakeholder input. The consultant shall develop summary information such as visual presentations and printable handouts for these meetings that summarize the findings and analysis from the draft Nexus Study which would support the successful implementation of fees. The consultant will revise the draft Nexus Study according to one set of consolidated comments from City staff following the City's legal counsel review.
- c. **Final Draft:** After incorporating input from the administrative and public review drafts, the consultant shall prepare a final draft of the Nexus Study. The consultant will present the final Nexus Study to the City Council during a public hearing and make any revisions requested by the City Council. The consultant will assist staff and participate in the presentation to the Council if any additional follow-up meetings are needed to complete the adoption of the Nexus Study and DIF updates.
- d. The consultant shall prepare a PowerPoint presentation, all required public notices, staff reports, draft resolutions and ordinances required for City Council public hearings related to adopting the new fees.

If the consultant feels that additional tasks are warranted, they must be clearly identified in the consultant's proposal along with itemized costs. The City reserves the right to modify the scope of services before the contract is awarded depending on cost and the City's confidence in the selected vendor.

Note: Transportation-related development impact fees do not fall under the scope of this RFP. In 1998, the Cities of Lafayette and Orinda and the Town of Moraga approved a Joint Powers Agreement to implement the Lamorinda Development Mitigation Fee Program under the direction of the Lamorinda Fee and Finance Authority (LFFA). The Lamorinda Development Mitigation Fee Program helps fund improvements to the Lamorinda roadway, transit, bicycle and pedestrian facilities needed to accommodate travel demand generated by new land development within the three Lamorinda jurisdictions. On August 11, 2025, the City of Lafayette, on behalf of the LFFA, issued an RFP soliciting proposals from qualified consultants to prepare an update to the 2015 Lamorinda Development Mitigation Fee Program Nexus Study.

Proposal Submittal Requirements

Responses to the RFP should be submitted according to the instructions outlined herein. Proposal content and completeness are most important. Although no page limitation will be imposed, clarity and conciseness are essential.

1. **Cover Letter:** Describe the Consultant's interest in the project and commitment of personnel to the project. Include a written statement that the contract form, conflicts of interest provisions, timeline, and insurance are understood and that the proposal is valid for at least 90 days. This item can include a description of the consultant's background, location, and experience providing similar services for public agencies.
2. **Project Understanding and Approach:** Provide a detailed narrative describing the proposed approach and methodology using general descriptions for the activities and demonstrating clear understanding of the work.
3. **Work Plan and Schedule:** Provide a timeline with key tasks, deliverables, and meetings.

4. Team Qualifications and Key Personnel: Describe the experience of the firm and subconsultant(s). Describe project team structure showing key project personnel, firm affiliation, position title, responsibilities, and reporting relationships. Include resumes (2-page limit each). The qualified firms shall have extensive experience executing fee studies and cost allocation plans for agencies of similar size and range of services as the City of Lafayette. The City must approve changes to key personnel committed to work on the project subsequent to award of contract.
5. References: Proposals shall include a summary of at least three recent reference projects that best demonstrate the consultant team's relevant experience. Project summary shall provide sufficient information for City to evaluate the specific contributions individual project team members had in completing deliverable items associated with a referenced project. A sample of a deliverable item shall be provided to the City upon request. Please keep the length of project summaries to one page.
6. Cost summary: Provide a fixed, not to exceed price with an itemized cost proposal based on the tasks outlined in the above scope of services included with the proposal. Work items to be performed by subcontract shall be noted and any proposed mark-up of sub consultant costs shall be identified. A schedule of hourly labor rates and material rates shall also be provided. Any known or anticipated adjustments to billing rates shall be disclosed to the City in the proposal.
7. Insurance Certification: Verification of compliance with insurance requirements.
8. City requirements: Consultant shall define information, services and expertise needs from the City for the implementation of this project.
9. Acceptance of terms and conditions: The proposal shall include a statement of the consultant's willingness to accept the terms and conditions of the City's standard Consultant Services Agreement, a copy of which is attached as Attachment A. Failure to sign this form will result in the disqualification of the Consultant's proposal.
10. Conflict of Interest: Throughout the term of any agreement resulting from the RFP, the consultant will not accept any employment or engage in any work which creates a conflict of interest with the City of Lafayette or in any way compromises the work to be performed under this RFP or any agreement resulting from this RFP.

Work Product and Ownership: Draft and final deliverable work products shall be provided to the City in electronic files containing all text, exhibits, data, calculations and referenced documents supporting conclusions. All text, exhibits and supporting data shall be submitted in a form that is editable by the City. A Microsoft Word format shall be included with all text submittals. All work products prepared by the consultant shall become the property of the City. There shall be no restrictions on City's use, distribution or modification of work products.

Communications

Questions regarding this RFP shall be submitted in writing to the Heather Ward, Management Analyst at HWard@lovelafayette.org by October 10, 2025. We request that consultants notify the City (via email) of their interest in submitting a proposal for this project. The City's responses to substantive questions will be shared with all consultants that notify the City.

Proposal Submittal Process

Submit three hardcopies of the proposal to the address below and one electronic copy in PDF format to Heather Ward, Management Analyst at HWard@lovelafayette.org:

City of Lafayette
Administrative Services Department
3675 Mount Diablo Boulevard, Suite 210
Lafayette, CA 94549
Attention: Heather Ward

Proposals must be received by the City by no later than 5:00p.m. on October 31, 2025. Late proposals will not be considered.

Tentative Project Schedule

September 23, 2025	RFP Issued
October 10, 2025	Questions due to Heather Ward, HWard@lovelafayette.org
October 17, 2025	Responses to questions provided
October 31, 2025	Proposals due by 5:00 p.m.
Week of November 10, 2025	Interviews, if conducted
Week December 1, 2025	Selected firm(s) notified
December 2025 (date TBD)	Award of Consulting Services Agreement (City Manager)
December 2025	Contract executed/work begins

Rejection Rights

The selection of a consultant for this project and any agreements for services resulting from this RFP is dependent upon the approval of the City Manager. The City reserves the right to reject any or all proposals or to re-solicit this RFP.

Cost of Response Preparation

The City will make no reimbursement for any cost incurred by a prospective consultant for the preparation of a response to this RFP.

Consultant Selection Process

All proposals submitted by the required deadline will be reviewed for adequacy, completeness, content, project approach, qualifications and other criteria developed during the review process. Consultants who have submitted proposals which pass the initial review may be invited for interviews.

The City expects to evaluate the proposals based on evaluation criteria including the following, which are not necessarily listed in order of importance:

- Responsiveness to RFP and proposal clarity.
- Experience on similar fiscal analyses and reports for local government agencies in California.
- Relevant qualifications of key personnel assigned to this project.
- Accessibility of key personnel to the City’s staff during the project.
- Understanding of the City’s objectives.
- Reasonableness of fees and cost proposal.

- Project management capability (i.e., ability to produce high quality analysis and work product within the City's desired timeline).

Contractual Issues

A sample of the City Consultant Services Agreement is provided in Exhibit A for the review of all proposing consultants. The successful consultant will be required to execute a Consultant Services Agreement with the City. Please carefully review all sections and pay special attention to the indemnity portions of the contract. The City does not ordinarily allow modifications to the standard agreement when contracting for services from outside firms.

EXHIBITS

- A. Sample City Consultant Services Agreement

CITY OF LAFAYETTE

PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of _____, 20____ by and between the City of Lafayette, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 3675 Mt Diablo Blvd #210, Lafayette, CA 94549 (“City”), and [***INSERT NAME***], a [***INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY***] with its principal place of business at [***INSERT ADDRESS***] (hereinafter referred to as “Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project:

(hereinafter referred to as “the Project”).

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Incorporation of Recitals.

The recitals above are true and correct and are hereby incorporated herein by this reference.

2. Services.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit “A.” **[Alternatively, Scope of Services can be included here and all subsequent exhibits renumbered accordingly.]**

3. Professional Practices.

All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel identified in their proposal. Consultant warrants that Consultant is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement. Consultant further represents that no City employee will provide any services under this Agreement.

4. Compensation.

a. Subject to paragraph 4(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B." **[Alternatively, Schedule of Charges may be included here and all subsequent exhibits renumbered accordingly.]**

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$ **[Insert amount of compensation]**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices. Payments to Consultant for work performed will be made on a monthly billing basis.

5. Additional Work.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

a. Adjustments. No retroactive price adjustments will be considered and no price increases will be permitted during the first year of this Agreement, unless agreed to by City and Consultant in writing.

6. Term.

This Agreement shall commence on the Effective Date and continue through **[***INSERT DATE***]**, unless the Agreement is previously terminated as provided for herein ("Term").

7. Maintenance of Records; Audits.

a. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City for inspection and/or audit at mutually convenient times for a period of four (4) years from the Effective Date.

b. Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

8. Time of Performance.

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within **Insert number of calendar days for performance of the services or language stating "Consultant shall complete the services required hereunder within Term." – if more detail is required attach "Activity Schedule" as Exhibit C, otherwise delete Exhibit C.** The Notice to Proceed shall set forth the date of commencement of work.

9. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include a Force Majeure Event. For purposes of this Agreement, a Force Majeure Event shall mean an event that materially affects the Consultant's performance and is one or more of the following: (1) Acts of God or other natural disasters occurring at the project site; (2) terrorism or other acts of a public enemy; (3) orders of governmental authorities (including, without limitation, unreasonable and unforeseeable delay in the issuance of permits or approvals by governmental authorities that are required for the services); and (4) pandemics, epidemics or quarantine restrictions. For purposes of this section, "orders of governmental authorities," includes ordinances, emergency proclamations and orders, rules to protect the public health, welfare and safety.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement. Delays shall not entitle Consultant to any additional compensation regardless of the Party responsible for the delay.

10. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

11. Standard of Care.

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

12. Conflicts of Interest.

During the term of this Agreement, Consultant shall at all times maintain a duty of loyalty and a fiduciary duty to the City and shall not accept payment from or employment with any person or entity which will constitute a conflict of interest with the City.

13. Assignment and Subconsultant.

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

14. Independent Contractor.

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided. Any personnel performing the work governed by this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

15. Insurance.

Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Agreement
- (8) Property Damage
- (9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

16. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers. Consultant's indemnification obligation shall survive the expiration or earlier termination of this Agreement.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

17. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees

to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. This Project may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant’s performance of services, including any delay, shall be Consultant’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

18. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

19. [Section not included]

20. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Contra Costa, State of California.

21. Termination or Abandonment.

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

22. Attorneys' Fees.

In the event that litigation is brought by any Party in connection with this Agreement, the prevailing Party shall be entitled to recover from the opposing Party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing Party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof. The costs, salary, and expenses of the City Attorney's Office in enforcing this Agreement on behalf of the City shall be considered as "attorneys' fees" for the purposes of this Agreement.

23. Responsibility for Errors.

Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant's professional services occurs, Consultant shall, at no cost to City, provide all other services necessary to rectify and correct the matter to the sole satisfaction of the City and to participate in any meeting required with regard to the correction.

24. Prohibited Employment.

Consultant shall not employ any current employee of City to perform the work under this Agreement while this Agreement is in effect.

25. Costs.

Each Party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

26. Documents.

Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

27. Organization.

Consultant shall assign [REDACTED] as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

28. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

29. Notice.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

CITY:

City of Lafayette

3675 Mt Diablo Blvd #210

Lafayette, CA 94549

Attn: [REDACTED]

CONSULTANT:

[REDACTED]

and shall be effective upon receipt thereof.

30. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

31. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

32. Entire Agreement.

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

33. Severability.

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

34. Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

35. Non-Waiver.

None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is specifically specified in writing.

36. Time of Essence.

Time is of the essence for each and every provision of this Agreement.

37. Headings.

Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain, or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

38. Amendments.

Only a writing executed by all of the Parties hereto or their respective successors and assigns may amend this Agreement.

39. City's Right to Employ Other Consultants.

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

40. Prohibited Interests.

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

41. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one single Agreement.

42. Authority.

The persons executing this Agreement on behalf of the Parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by doing so, the Parties hereto are formally bound to the provisions of this Agreement.

43. Electronic Signature.

Each Party acknowledges and agrees that this Agreement may be executed by electronic or digital signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT

BETWEEN THE CITY OF LAFAYETTE

AND [*INSERT NAME***]**

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

CITY OF LAFAYETTE

[INSERT NAME OF CONSULTANT]

By: _____

By: _____

[INSERT NAME]

[INSERT TITLE]

Its: _____

Printed Name: _____

ATTEST:

By: _____

Board Clerk

EXHIBIT A

Scope of Services

EXHIBIT B

Schedule of Charges/Payments

Consultant will invoice City on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform City regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.

EXHIBIT C

Activity Schedule