

RESOLUTION NO. 21-21

Resolution Of The City Council Of The City Of Emeryville Authorizing The City Manager To Execute A Professional Services Contract With PlaceWorks To Prepare The 2023-2031 Housing Element Of The Emeryville General Plan In An Amount Not To Exceed \$171,837 And Appropriating \$106,837 From The General Plan Maintenance Fund Balance (Fund 225) To Account 80050, Professional Services, In the Fund 225 General Plan Maintenance Budget

WHEREAS, State law requires local agencies to adopt a Housing Element as part of the General Plan; and

WHEREAS, State law also requires a local agency to revise and update its Housing Element on a periodic basis and send those updates to the State Housing and Community Development Department (HCD) for review and certification; and

WHEREAS, the next update to Emeryville's Housing Element is due to HCD by January 2023; and

WHEREAS, complying with this requirement will require preparation of an updated Housing Element as well as a series of meetings and reviews that will take over a year; and

WHEREAS, in order to carry out this process and produce the updated Housing Element document in a timely fashion, the City requires professional services; and

WHEREAS, on November 2, 2020, the City issued a Request for Proposals ("RFP") for professional services to prepare the Housing Element, and PlaceWorks submitted a proposal in response to the RFP on or before the required submittal deadline of December 3, 2020; and

WHEREAS, staff of the Planning and Economic Development and Housing divisions reviewed the proposal and determined that PlaceWorks is exceptionally well-qualified to prepare the City's Housing Element; and

WHEREAS, PlaceWorks has submitted a proposal to prepare the Housing Element for a fee not to exceed \$171,837; and

WHEREAS, the City has received a \$65,000 Local Early Action Planning (LEAP) grant from HCD for preparation of the Housing Element; and

WHEREAS, the City has applied for a non-competitive Regional Early Action Planning (REAP) grant and a competitive REAP grant from ABAG/MTC to cover the remaining \$106,837 cost of the Housing Element; and

WHEREAS, the public interest will be served by this agreement; now, therefore, be it

RESOLVED, that the City Council of the City of Emeryville hereby authorizes the City Manager to execute a Professional Services Contract between the City of Emeryville and PlaceWorks, in substantial form as attached as Exhibit A to this Resolution, with a term from March 16, 2021 to June 30, 2024 in an amount not to exceed \$171,837; and be it further

RESOLVED, that the City Council hereby appropriates \$106,837 from the General Plan Maintenance Fund balance (Fund 225) to Account 80050, Professional Services, in the Fund 225 General Plan Maintenance budget; and be it further

RESOLVED, that, should the City receive either or both of the two REAP grants that the City has applied for to cover the cost of the Housing Element, the City Council authorizes the City Manager to transfer the grant(s) received up to \$106,837 from the Grant Fund Housing Element (Fund 254, project 21254006) to the use of fund balance in the General Plan Maintenance Fund (225) by the grant(s) received; and be it further

RESOLVED, that the City Council hereby authorizes the City Manager to execute amendments to the Professional Services Contract with PlaceWorks not involving additional compensation, as may be necessary to ensure completion of the Housing Element for the City.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held on Tuesday, March 16, 2021 by the following vote:

AYES:	<u>5</u>	Mayor Martinez, Vice Mayor Donahue, and Council Members Bauters, Medina, and Patz
NOES:	<u>0</u>	
ABSTAIN:	<u>0</u>	
ABSENT:	<u>0</u>	

DocuSigned by:

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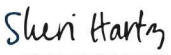
MAYOR

APPROVED AS TO FORM:



CITY ATTORNEY

ATTEST:

DocuSigned by:

FB785D8EAB6A48E

CITY CLERK



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT ("Contract") is effective as of _____ (the "Effective Date"), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **PLACEWORKS, INC.** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH THAT

WHEREAS, the City desires to engage Contractor for Housing Element 2023-2031; and

WHEREAS, the City finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Contract; and

WHEREAS, the City has determined that the Contractor is qualified by training and experience to render such services; and

WHEREAS, the Contractor desires to provide such services; and,

WHEREAS, the public interest will be served by this Contract; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. SCOPE OF SERVICES AND TERMINATION DATE

1.1 Project Description

A complete project description is set forth in the Scope of Work, attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2 Services

The services to be completed under this Contract ("Services") are described in the Scope of Work set forth in **Exhibit A**. The Services shall be performed in accordance with terms, conditions, and specifications set forth herein. To the extent there is a conflict between the Scope of Work, and the terms, conditions, and specifications set forth herein, the terms, conditions, and specifications set forth herein shall govern.

1.3 Schedule and Completion Date

The Services to be provided by Contractor under this Contract shall commence on the Effective Date and terminate on **JUNE 30, 2024**. The Parties may, by mutual, written consent, extend the term of this Contract.

FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

REV 06/2020

Exhibit A

2. WORK CHANGES

2.1 *City Rights to Change*

The City reserves the right to order changes in the Services to be performed under this Contract by altering, adding to or deducting from the Scope of Work. All such changes shall be incorporated in amendments executed by the Contractor and the City. Such amendments shall specify the changes ordered and any necessary adjustment of compensation and completion time.

2.2 *Additional Work Changes*

Any work added to the Scope of Work by an amendment shall be executed under all the applicable conditions of this Contract. No claim for additional compensation or extension of time shall be recognized unless contained in an amendment duly executed on behalf of the City and the Contractor.

2.3 *City Manager Execution*

The City Manager has authority to execute without further action of the Emeryville City Council, any number of amendments so long as their total effect does not materially alter the terms of this Contract or increase the total amount to be paid under this Contract, as set forth in Section 3.2 below.

3. COMPENSATION AND METHOD OF PAYMENT

3.1 *Compensation for Services Performed*

City agrees to pay the Contractor for the Services performed and costs incurred by Contractor upon certification by the City that the Services were actually performed and costs actually incurred in accordance with the Contract. Compensation for Services performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the City of invoices setting forth in detail the Services performed and costs incurred. The City shall pay the Contractor within forty-five (45) days after approval of the invoice by City staff.

3.2 *Total Compensation Amount*

The total amount paid under this Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **ONE HUNDRED SEVENTY ONE THOUSAND EIGHT HUNDRED THIRTY SEVEN DOLLARS AND NO CENTS (\$171,837.00)**, except as outlined in Section 2.3 above. The compensation for Services performed shall be as set forth in **Exhibit A**. Reimbursement for costs incurred shall be limited as follows. Long distance telephone and telecommunications, facsimile transmission, normal postage and express mail charges, photocopying and microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

4. COVENANTS OF CONTRACTOR

4.1 *Assignment of Contract*

The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Contract, without the prior express written consent of the City. As to any approved subcontractors, the Contractor shall be solely responsible for reimbursing them and the City shall have no obligation to them.

4.2 *Responsibility of Contractor and Indemnification of City*

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless City, State of California and Department of Housing and Community Development ("Department") and their respective members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the City, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend the City, its members, officers, agents, employees and volunteers shall survive termination of this Contract.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor'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, Contractor'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 Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

4.3 *Independent Contractor*

The Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Services as an independent contractor and not as the agent or employee of the City. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Services;

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hiring of contractors, agents or employees to complete the Services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

4.4 Insurance

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the City that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the City that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the City to terminate this Contract for cause.

4.5 Records, Reports and Audits

4.5.1 Records

- A. Records shall be established and maintained by the Contractor in accordance with requirements prescribed by the City with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract. Furthermore, records that are the subject of audit findings or litigation relevant to this Contract shall be retained for five years or until such audit findings or litigation have been resolved, whichever is later.
- B. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

4.5.2 Reports and Information

Upon request, the Contractor shall furnish to the City any and all statements, records, reports, data and information related to matters covered by this Contract in the form requested by the City.

4.5.3 Audits and Inspections

At any time during normal business hours and as often as the City or State of California may deem necessary, there shall be made available to the City or State of California for examination all records with respect to all matters covered by this Contract. The Contractor will permit the City or State of California to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all

matters covered by this Contract. The City and the State of California shall have the right to interview Contractor's employees.

4.6 Conflicts of Interest

The Contractor covenants and declares that, other than this Contract, it has no holdings or interests within the City of Emeryville, nor business holdings, contracts or agreements with any official, employee or other representative of the City. For the duration of this Contract, in the event the Contractor or its principals, agents or employees acquire such a holding, interest, contract, or agreement within the City of Emeryville or with any official, employee or representative of the City in the future, the Contractor will immediately notify the City of such holding, interest, contract, or agreement in writing.

4.7 Confidentiality

The Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the City. The Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of City information whether deemed confidential or not.

4.8 Discrimination Prohibited

The Contractor covenants and agrees that in performing the Services required under this Contract, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

4.9 Licenses, Certifications and Permits

The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Services contracted for under this Contract. All work performed by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

4.10 Key Personnel

All of the individuals listed in Exhibit A are necessary for the successful prosecution of the Services due to their unique expertise and depth and breadth of experience. There shall be no change in Contractor's Project Manager or members of the project team without the City's approval. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section

shall constitute a material breach of Contractor's obligations under this Contract and shall be grounds for termination.

4.11 Authority to Contract

The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Contract, if applicable.

4.12 Ownership of Work

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the Services to be performed by the Contractor ("Materials") shall be and are the property of the City and the City shall be entitled to full access and copies of all such Materials. Any such Materials remaining in the hands of the Contractor or subcontractor upon completion or termination of the work shall be delivered immediately to the City. The Contractor assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged or destroyed before final delivery to the City, the Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the City and the Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

4.13 City Labor Requirements

4.13.1 Compliance

At the Effective Date, compliance with the City's living wage ordinance is ☒ **required** / ☐ **not required** for this Contract. If this Contract provides for compensation to Contractor of \$25,000 or more within a single fiscal year for providing Services to the City, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.

4.13.2 Applicability

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to [Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the City documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the City.

4.13.3 Non-Compliance

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the City may terminate the Contract and pursue any other remedies available to the City, including debarment, for violations of the Living Wage Ordinance.

4.13.4 Living Wage

Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$16.69 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the City the hourly value of such benefits in order to receive credit for such payments to covered employees.

4.13.5 Minimum Wage and Paid Sick Leave

In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

4.14 California Labor Requirements

4.14.1 Prevailing Wage Requirements

Contractor 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, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor 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 Contractor and all subcontractors 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.

4.14.2 Registration

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 Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. 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.

4.14.3 Labor Compliance Oversight

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the City. Contractor 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 Contractor or any subcontractor.

4.14.4 Workers’ Compensation

Pursuant to the requirements of section 1860 of the [California Labor Code](#), Contractor will be required to secure the payment of workers’ compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

“I am aware of the provisions of section 3700 of the California 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.”

4.14.5 Event of Default

Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

5. TERMINATION

- A. The City shall have the right to terminate this Contract for any reason whatsoever by providing written notice thereof at least five (5) calendar days in advance of the termination date.
- B. All termination notice periods triggered pursuant to written notice shall begin to run from the date of the United States Postal Service postmark.
- C. Upon termination, City shall provide for payment to the Contractor for Services rendered and expenses incurred prior to the termination date.
- D. Upon receipt of a termination notice the Contractor shall: (1) promptly discontinue all Services affected, unless the notice directs otherwise; and (2) promptly deliver to the City all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Contractor in performing this Contract, whether completed or in process, in the form specified by the City.
- E. Notwithstanding anything to the contrary, this Contract is subject to immediate termination in the event the City Council does not appropriate sufficient funds for this Contract.
- F. The rights and remedies of the City and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Contract or at law or in equity.

6. NO PERSONAL LIABILITY

No member, official or employee of the City shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the City or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

7. ENTIRE AGREEMENT

This Contract constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Contract not contained in this Contract shall be valid or binding. This Contract may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

8. SUCCESSORS AND ASSIGNS

Subject to the provisions of this Contract regarding assignment, this Contract shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

9. APPLICABLE LAW AND ATTORNEY'S FEES; VENUE

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

10. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

11. BUSINESS TAX CERTIFICATE

Prior to commencement of the Services to be provided hereunder, Contractor shall apply to the City of Emeryville Finance Department for a business tax certificate, pay the applicable business tax and maintain said business tax certificate during the term of this Contract, as provided in Article 1 of Chapter 1 of Title 3 of the Emeryville Municipal Code.

12. NOTICES

12.1 *Communications Relating to Daily Activities*

All communications relating to the day-to-day activities of the work and invoices shall be exchanged between **Navarre Oaks** for the City and **Nicole West** for the Contractor:

CITY	CONTRACTOR
Navarre Oaks, Associate Planner Phone No: 510-596-4335 E-Mail : noaks@emeryville.org	Nicole West, Senior Associate Phone No: 510-833-0112 E-Mail : nwest@placeworks.com

12.2 Official Notices

All other notices, writings or correspondence as required by this Contract shall be directed to the City and the Contractor, respectively, as follows:

CITY	CONTRACTOR
Charles S. Bryant, Community Development Director 1333 Park Avenue Emeryville, California 94608 Phone No: 510-596-4361 E-Mail : cbryant@emeryville.org <i>with a copy to:</i> Navarre Oaks, Associate Planner 1333 Park Avenue Emeryville, California 94608 Phone No: 510-596-4362 E-Mail : noaks@emeryville.org	Randal W. Jackson, President and Principal 3 MacArthur Place, Suite 1100 Santa Ana, Ca 92707 Phone No: 714.966.9220 Ext 2312 E-Mail : rjackson@placeworks.com

13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

15. NON-EXCLUSIVITY

City reserves right to employ other contractors in connection with the Services covered under this Contract.

16. ASSIGNMENT OR TRANSFER

Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Contract or any interest herein without the prior written consent of the City. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

17. WAIVER

The City's failure to enforce any provision of this Contract or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

18. OTHER REQUIREMENTS, INCLUDING FEDERAL OR STATE REQUIREMENTS, IF APPLICABLE

If any of the boxes are checked below, this Contract is subject to the requirements as set forth in **Exhibit C**:

- ☒ Compliance with terms and conditions set forth in **Exhibit C** is required for this Contract. Contractor shall also fully and adequately comply with the provisions included in **Exhibit C ("Other Requirements")** when attached hereto and incorporated by reference. With respect to any conflict between such Other Requirements, and the terms of this Contract and/or provisions of state law, **Exhibit C** shall control.
- ☐ FEMA financial assistance will be used to fund all or a portion of this contract. If FEMA financial assistance will be used to fund any portion of this Contract, the Contractor shall comply with all federal requirements including, but not limited to, the following: 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which is expressly incorporated herein by reference, and Federal Contract Provisions attached hereto as **Exhibit C** and incorporated herein by reference. Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in the contract, including but not limited to, 2 C.F.R. Part 200 and the Federal Contract Provisions. With respect to any conflict between such federal requirements and the terms of this contract and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

SIGNATURES ON FOLLOWING PAGE

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19. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT

IN WITNESS WHEREOF the City and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

DocuSigned by:

Andra Visureshwara

AD9DE6E6283E4B7...

City Attorney

Dated:

CITY OF EMERYVILLE

Christine S. Daniel, City Manager

Dated:

PLACEWORKS. INC.

DocuSigned by:

Randal W. Jackson

99C2A6417EBA458...

Randal W. Jackson President and Principal

(Signature)

3/1/2021

Exhibit A

SCOPE OF WORK

TASK 1. MANAGEMENT

Task 1.1 *Project Initiation and Project Management*

PlaceWorks will communicate with City staff via phone, email, and on-site meetings as needed throughout the project. We will also prepare for and attend a virtual kick-off meeting to exchange information and initiate work. At the meeting we will:

- Determine staff contact protocol.
- Review and finalize the scope of work and schedule.
- Review Housing Element legal requirements and HCD practices.
- Identify stakeholders.
- Provide a list of data needs.

Task 1.1 Deliverables:

- Kickoff meeting agenda, data needs list and minutes, list of stakeholders (electronic copies)
- Agenda and notes for subsequent calls with staff (electronic copies)

Task 1.2 *Document Review*

PlaceWorks will review documents relevant to the Housing Element update to gain an understanding of local conditions and needs. Documents will include, but are not limited to:

- 2015–2023 Housing Element
- All past communication with HCD, including any findings letters
- General Plan
- Housing Element annual progress reports
- Zoning code
- Any other applicable programs and ordinances

Task 1.2 Deliverable:

- No deliverables are associated with this subtask.

TASK 2. REVIEW OF 2015–2023 HOUSING ELEMENT

Task 2.1 *Review 2015–2023 Housing Element*

PlaceWorks will work closely with the City to determine the status, effectiveness, and appropriateness of the 2015–2023 housing programs. We will gather and document all available information regarding specific accomplishments. We will identify content to drop, change, or add. Findings from the evaluation will be detailed in a matrix to be included in the draft Housing Element and used as a basis for program revisions for the remainder of the planning period. PlaceWorks will send the review matrix to the City to provide input before including it in the Administrative Draft Housing Element.

PlaceWorks will also provide recommendations on format and organization of the 2023–2031 Housing Element document based on the existing 2015–2023 Housing Element, input from the City at the kickoff meeting in Task 1.1, and best practices taken from other housing elements.

Task 2.1 Deliverable:

- Preliminary administrative draft Review of Previous Housing Programs chapter.

TASK 3. HOUSING ELEMENT PREPARATION

Task 3.1 Needs Analysis

PlaceWorks will update the needs analysis pursuant to Government Code Section 65583 with data from the HCD pre-approved data packet, 2010 (or 2020 if available) U.S. Census data, American Community Survey, and other relevant sources. PlaceWorks will coordinate with staff to develop a current housing inventory and evaluate housing conditions using state-approved criteria. The updated needs analysis will include the following.

- **Population and Demographics:** Population trends and projections, race and ethnicity, and population age.
- **Household Characteristics:** Number, size, and type of existing households (such as nonfamily, married couple with/without children, female-headed, with/without children), and characteristics of lower-income households (including extremely low, as compared with the Alameda County AMI and households below the federal poverty line).
- **Employment and Income:** Employment by industry, occupation of employed residents, and income trends.
- **Housing Stock Characteristics*:** Housing types and conditions, overcrowded households, and vacancy rates.
- **Housing Costs and Affordability:** Home sale price trends, rental costs, affordability for households at all income levels, and overpayment.
- **Special Housing Needs:** Special housing needs of persons with disabilities (including persons with developmental disabilities), seniors, large households, female-headed households.
- **Fair Housing Assessment (new requirement):** An analysis of impediments to fair housing, pursuant to Assembly Bill (AB) 686. *This is now required for all Housing Elements adopted after 2021.*
- **At-Risk Housing:** Inventory and analysis of existing affordable units at risk of converting to market rate during the planning period.
- **Opportunities for Energy Conservation:** Pursuant to Senate Bill (SB) 375 and Assembly Bill (AB) 32, an inventory and analysis of opportunities to encourage the incorporation of energy-saving features, energy-saving materials, and energy-efficient systems and design for residential development.

Task 3.1 Deliverable:

- Preliminary administrative draft Needs Analysis chapter.

*This scope does not include a windshield housing conditions survey. We anticipate that we can fulfil the requirement to identify the number of houses that need rehabilitation or replacement with building permit and code enforcement data that the City already has.

Task 3.2 Housing Resources and Opportunities

Sites Inventory and Regional Housing Needs Assessment (RHNA) Analysis. PlaceWorks will use the current sites inventory as a starting point and will work with the City to determine viable sites based on new state law requirements, requiring additional analysis for sites smaller than one-half acre, larger than 10 acres, and for underutilized, non-vacant sites. We will also identify

sites included in the past two housing element site inventories that per AB 1397 are now required to allow affordable housing by-right (20 percent) in order to continue to count these sites in the inventory.

We will prepare an analysis that clearly illustrates the City's capacity to accommodate the new RHNA. The sites inventory will identify appropriately zoned sites with necessary infrastructure and services. In keeping with state law, we will document the realistic capacity of each parcel and prepare a map showing all identified sites. PlaceWorks will compare the inventory of available land to the RHNA and draft the adequate sites analysis to clearly describe how the City will accommodate the needs of households at all income levels.

If needed, we will work with City staff to determine sites that would be appropriate to rezone to meet any RHNA shortfall or to provide a larger surplus to ensure the City does not fall into a no-net-loss situation. If the City would like to incorporate the Association of Bay Area Governments (ABAG)/ Metropolitan Transportation Commission (MTC) Housing Element Site Selection (HESS) Tool in the development of the sites inventory, we can do so. This tool would serve as a way to cross-check our traditional GIS analysis, but would not replace it.

Financial and Programmatic Resources. PlaceWorks will update financial, physical, and programmatic resources available for affordable housing programs, including local, state funding programs, and private-sector resources. We will assess current and potential housing programs to recommend future programs that will support the City's housing objectives.

Task 3.2 Deliverable:

- Preliminary admin draft Housing Resources and Opportunities chapter.
-

Task 3.3 *Electronic Housing Element Site Inventory Form*

Pursuant to SB 6 (Chapter 667, Statutes of 2019), for a Housing Element adopted on or after January 1, 2021, such as Emeryville's, an electronic copy of the final inventory of the land inventory parcels using HCD-approved Excel spreadsheets must be prepared and submitted to HCD with the Housing Element.

Task 3.3 Deliverable:

- Site inventory on HCD's Electronic Inventory Form.

Task 3.4 *Fair Housing Assessment*

AB 686 requires each city or county to take actions to overcome patterns of segregation, address disparities in housing needs and access to opportunity, and foster inclusive communities. Emeryville will need to include an assessment of fair housing practices, examine the relationship of available sites to areas of high opportunity, and include actions to affirmatively advance fair housing. The California Tax Credit Allocation Committee/HCD Opportunity Maps will be included and are intended to display the areas, according to research, that offer low-income children and adults the best chance at economic advancement, high educational attainment, and good physical and mental health. The goal of AB 686 is to ensure available sites for low-income housing are in high resource areas rather than concentrated in areas of high segregation and poverty. It will be important to demonstrate adequate sites throughout the county and meaningful actions to overcome geographic disparities.

Task 3.4 Deliverable:

- Preliminary admin draft Fair Housing Assessment chapter.

Task 3.5 *Housing Constraints*

PlaceWorks will update the analysis of potential and actual governmental and nongovernmental constraints to meeting housing needs, including constraints to maintenance, improvement, and development of housing (pursuant to Government Code Section 65583(a)(4,5)). Potential constraints to be reviewed include any land use controls, fees and exactions, permit processing procedures, building codes and code enforcement, land and construction costs, and the availability of financing. We will identify potential programs and strategies to reduce or remove identified constraints. This task will include all the analysis needed to comply with recent updates to state housing law.

Task 3.3 Deliverable:

- Preliminary admin draft Constraints chapter.

Task 3.6 *Housing Goals, Policies, and Quantified Objectives*

PlaceWorks will work with City staff to update goals, policies, programs, and quantified objectives (pursuant to Government Code Sections 65583 et seq.) to address identified housing needs and constraints based on the effectiveness and continued appropriateness of existing programs, information received through public outreach, the analysis of constraints, and findings from the needs assessment. Programs will describe specific steps for implementation and will identify a time frame and responsible department. Programs will address:

- All new state requirements since adoption of the existing Housing Element
- Consistency and compliance with the rest of the City General Plan elements and community goals
- Development controls and regulatory incentives
- Housing opportunities for all City residents, including the elderly, those with disabilities, the homeless, and other special needs groups
- Fair housing programs
- Sources of affordable housing funding
- Preserving and improving existing affordable housing
- Facilitating development of adequate housing and infrastructure to meet the needs of low- and moderate-income households in keeping with the regional fair-share allocation
- Mitigating any governmental constraints to providing and improving housing

Task 3.4 Deliverable:

- Preliminary admin draft Goals, Policies, and Quantified Objectives chapter.

TASK 4. COMMUNITY OUTREACH

Focused and meaningful community engagement is an important part of the Housing Element update process. Government Code Section 65583(c)(7) requires: “The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.” PlaceWorks recommends a community outreach program consistent with state and federal laws to solicit input from all segments of the community, including housing development professionals, residents, businesses, service groups, youth, seniors, and various stakeholders. Translation (print and verbal) is not included in this scope. If the need for translation arises during the project, PlaceWorks will use the contingency budget to assist the City in identifying and selecting an approach to meet the need.

Task 4.1 Stakeholder Consultations

Due to the current Shelter-in-Place Initiative, PlaceWorks will conduct stakeholder consultations with organizations representing different socio-economic members of the community to identify housing needs. We will work with City staff to develop a list of 10 to 12 organizations and we will conduct a phone or email survey to discuss the issues and housing-related needs of their clients.

Task 4.1 Deliverables:

- Five to six completed consultations to include in the draft Housing Element.

Task 4.2 Community Outreach

PlaceWorks will work with City staff to develop and implement an approach to engaging with the community (in addition to the Housing Committee, Planning Commission, and City Council Meetings and Hearings in Task 4.3). We will focus on opportunities for engagement at key milestones, including:

- Early in the process to introduce the Housing Element update to the community and to gather input on housing issues and potential policy solutions.
- To discuss the land inventory, especially should the City need to include a program to rezone sites in the next three years to meet the RHNA, the outreach would occur before the public draft is submitted to HCD for review.

As of this writing, traditional in-person meetings are not advised due to the COVID-19 virus and the need to keep social distance. Until this is resolved, PlaceWorks will organize and host virtual workshops, and prepare online materials, such as narrated PowerPoints, designed to inform and ask questions for residents and stakeholders to respond electronically. The materials can be viewed in private, and comments provided to the City through email, polling tools, and other electronic methods of gauging public opinion. If the City would like to incorporate the ABAG/MTC HESS Tool in the outreach process, we can do so. PlaceWorks anticipates using Zoom, Mentimeter and ArcGIS Online for community outreach and manages subscriptions for access to these tools. PlaceWorks proposes using the City's existing subscription to MailChimp to create surveys. Respondents do not need to be subscribed to an email notification list or provide their email address to complete the survey.

Task 4.2 Deliverables:

- Materials and services for two virtual workshops:
 - Promotional flyers and announcements
 - PowerPoint presentations
 - Surveys and/or live polling exercises
 - Virtual attendance
 - Summary notes incorporated into the Housing Element
- *It is anticipated that PlaceWorks will attend the community workshops virtually so no travel time or expenses are included in the budget.*
- \$1,000 is included in the expenses in the budget for two years of subscription fees for Zoom, Mentimeter and ArcGIS Online tools.

Task 4.3 Housing Committee Meetings

PlaceWorks understands the important role the Housing Committee will play in the development of the Housing Element. We propose having 10 regular check-ins with the Housing Committee every other month or scheduled as directed by City staff. We will send any materials for their consideration or questions ahead of time and use phone or videoconference to join the meeting.

Task 4.3 Deliverables:

- Materials for and virtual attendance at 10 Housing Committee meetings.

It is anticipated that PlaceWorks will attend the housing committee meetings virtually so no travel time or expenses are included in the budget. Task 4.4 Planning Commission and City Council Study Session and Hearings

We propose:

- A Planning Commission Study Session and a City Council Study Session to discuss the new state laws and solicit input on site selection and other approaches to meeting the RHNA.
- Four public hearings. One hearing each with the Planning Commission and the City Council to present the Housing Element prior to submitting the Housing Element to HCD and then one public hearing to the Planning Commission to recommend adoption and one public hearing to the City Council for adoption of the Housing Element and the environmental document.

We understand the required one-month lead time for information for staff reports and accounted for it in the schedule in Table 2.

Task 4.4 Deliverables:

- Information for staff reports, PowerPoint presentations, and attendance at one Planning Commission study session, one City Council study session and four public hearings
- *It is anticipated that PlaceWorks will attend the two study sessions virtually so no travel time or expenses are included in the budget. It is anticipated that the Principal in Charge or Project Manager will attend the four hearings in person. Hours for travel time and \$1,000 total for travel expenses are included in the budget. PlaceWorks will not bill the City for travel time or expenses if meetings are held virtually.*

Task 4.5 Flyers and Social Media

It is assumed that the City will publish notices on social media through its regular channels and buy ads separately, if desired. PlaceWorks will ensure graphics are social media-ready (properly sized) and assist in drafting announcements. To reach people with limited internet access, PlaceWorks will create and print a physical flyer promoting the project webpage and email notification list. PlaceWorks will distribute these in person and/or provide them to service providers to distribute at places such as the Golden Gate Library Branch and in the ECAP line. These flyers will be provided at 3 key milestones: prior to each community workshop and in conjunction with the release of the Public Review Draft.

Task 4.5 Deliverables:

- Notifications (graphics and text) for City publication on social media
- Physical announcements printed and distributed
- \$200 is included in the expenses in the budget for printing color announcements.

TASK 5. PREPARE AND FINALIZE HOUSING ELEMENT

Task 5.1 *Administrative Draft*

PlaceWorks will incorporate the feedback received during the City's review of the preliminary draft chapters described in Tasks 2 and 3 and the community and stakeholder feedback received in Task 4 into a comprehensive, formatted Administrative Draft Housing Element. PlaceWorks will submit the Administrative Draft Housing Element to City staff for review as an electronic copy in Microsoft Word format. Any outstanding data still needed from the City will be flagged in the Administrative Draft Housing Element so it can be addressed during City staff's review. We request that we receive one consolidated set of City comments on the administrative draft.

Task 5.1 Deliverables:

- One electronic copy (in MS Word) of the Administrative Draft Housing Element.

Task 5.2 *Public Review Draft*

PlaceWorks will address staff comments on the administrative draft and reply to any questions. We will incorporate comments and revisions from staff's review of the administrative draft, as directed. PlaceWorks will then prepare and submit a Public Review Draft Housing Element to HCD and the general public for review and comment.

Task 5.2 Deliverables:

- One electronic copy (in MS Word and PDF) of the Public Review Draft Housing Element to the City and to HCD with a cover letter for their 60-day review.
- If required by HCD, one hard copy will be submitted to HCD.

Task 5.3 *Adopted Final Housing Element*

PlaceWorks will prepare a final Housing Element that incorporates any changes to the public draft from City staff, HCD, or public comments received.

Task 5.3 Deliverables:

- Electronic copies (in MS Word and PDF) of the final draft to the City and to HCD with a cover letter for their 90-day review. One clean version and one showing all changes made will be included.
- If required by HCD, hard copies (one clean version and one showing all changes made) will be submitted to HCD.

TASK 6. STATE CERTIFICATION

PlaceWorks staff maintains strong working relationships with HCD reviewers. Our staff is very familiar with HCD's processes, staff, and what steps need to be taken to ensure Housing Element certification.

PlaceWorks will serve as the City's liaison to HCD. This service will include:

- Submittal of the draft Housing Element to HCD (60-day review).
- Calls and emails with HCD staff to discuss comments.
- Incorporating HCD's requested revisions.

- Submission of the final draft to HCD for review and approval (90-day review).

Task 6 Deliverables:

- Two electronic submittals to HCD, including cover letters of the Housing Element with highlighted changes and additions (and printed copies, if required by HCD).
- Emails and memorandums to address HCD questions and comments, as needed.
- Memos with proposed revisions to the Housing Element resulting from HCD comments incorporated into the Housing Element in a tracked-changes format for review and approval by City staff.

TASK 7. ENVIRONMENTAL REVIEW

Task 7.1 Prepare Addendum

The focus of the project will be to update the General Plan to meet RHNA and ensure compliance with new regulations. As no change to the land use pattern is anticipated, an Addendum to the General Plan Environmental Impact Report (EIR) (State Clearinghouse [SCH] No. 2006022008) pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15164 will be prepared. Because land uses evaluated in the General Plan EIR will not change, we do not believe that the update of policies would trigger new significant impacts. The use of an Addendum builds on the investment in the General Plan made by the City, and significantly shortens the time period for consideration of the project. Finally, provided that the City's decision to use an Addendum for this project is supported with substantial evidence on the record, the decision enjoys the same protection as the General Plan EIR if challenged.

PlaceWorks will provide an Administrative Draft Addendum following a format discussed during the kickoff meeting. Our default format for an Addendum follows the findings in CEQA Guidelines Section 15162 rather than using an initial study. If a formal initial study is requested, we will need to increase the budget and scope accordingly. All impacts identified in the General Plan EIR will be reviewed in the context of the proposed changes. One administrative draft will be provided for review. The final draft of the Addendum will be used to support the CEQA determination during the hearing(s) for the proposed project.

Task 7.2 Senate Bill 18 Consultation

All General Plan Amendments must comply with SB 18. PlaceWorks will complete the Native American Heritage Commission (NAHC) online form requesting a tribal contact list. Using the addresses on the list from NAHC, PlaceWorks will draft letters (on City letterhead) to each of the tribes on the NAHC list inquiring whether they want consultation. Following the consultation meeting (or more typically a conference call), PlaceWorks will provide the written outcome of the process and a record for the project. Completion of the SB 18 process is needed prior to acting on the project. An Addendum does not trigger the AB 52 requirements for tribal consultation; however, any CEQA event other than an Addendum or exemption does trigger the AB 52 requirement. The SB 18 and AB 52 requirements are nearly identical. The main difference is that SB 18 must be concluded prior to taking action, while AB 52 must be concluded prior to circulating the environmental document. Therefore, in case an environmental document other than an Addendum is needed, we will draft materials to address SB 18 and AB 52.

Task 7 Deliverables:

- Administrative Draft, Public Draft and Final Draft Addendum.
- SB 18 (and AB 52) Tribal Consultation Materials, participation in consultations.

Time to complete: 30 days following HCD-reviewed draft Housing Element.

TABLE 1 WORK PROGRAM SUMMARY	
Task 1: Management	
1.1 Project Initiation and Project Management	1.2 Document Review
Task 2: Review of 2015–2023 Housing Element	
2.1 Review 2015–2023 Housing Element	
Task 3: Housing Element Preparation	
3.1 Needs Analysis	3.4 Fair Housing Assessment
3.2 Housing Resources and Opportunities	3.5 Housing Constraints
3.3 Electronic Inventory Form	3.6 Housing Goals, Policies, and Quantified Objectives
Task 4: Community Outreach	
4.1 Stakeholder Consultations	4.4 Planning Commission and City Council Study Sessions and Hearings
4.2 Community Outreach	4.5 Flyers and Social Media
4.3 Housing Committee Meetings	
Task 5: Prepare and Finalize Housing Element	
5.1 Administrative Draft	5.3 Adopted Final Housing Element
5.2 Public Review Draft	
Task 6: State Certification	
Task 7: Environmental Review	
7.1 Prepare Addendum	7.2 SB 18 Consultation

SCHEDULE

As of November 22, 2020, the City’s Housing Element estimated due date is January 31, 2023. Per SB 375, the City has 120 days after the due date to adopt the Housing Element (May 31, 2023) to stay on the eight-year update cycle. PlaceWorks recommends starting the Housing Element efforts as soon as possible to meet the final due date.

The schedule in **Table 2** accounts for up to a month for City review of deliverables. We understand the Housing Committee meets the first Wednesday of each month; the Planning Commission meets the fourth Thursday each month (except that it does not meet in November and meets on the second Thursday of December) and the City Council meets the first and third Tuesdays of each month. We understand the required one-month lead time for information for staff reports.

The following schedule outlines the milestones associated with the Housing Element update.

TABLE 2 SCHEDULE

Task	Proposed Timeline
Project Kick-off Meeting	March 2021
Housing Element Preparation	March 2021 – February 2022
Evaluation of the 2015–2023 Housing Element	March – May 2021
Launch Website	April 2021
Housing Committee Check-In #1	April 7, 2021
Community Workshop #1	May - June 2021
Complete Stakeholder Consultations Initiate SB 18 Tribal Consultation contacts	May – August 2021
Housing Committee Check-In #2	May, 5 2021
Preliminary admin draft Review of Previous Housing Programs chapter– City Review (1 month)	May – June 2021
Housing Committee Check-In #3	July 7, 2021
Preliminary admin draft Housing Needs chapter – City Review (1 month)	July – August 2021
Preliminary admin draft Housing Resources and Opportunities and Assessment of Fair Housing chapters – City Review (1 month)	August – September 2021
Housing Committee Check-In #4	September 8, 2021
Prepare Staff Report for Planning Commission Study Session	September 2021
Planning Commission Study Session	October 28, 2021
Prepare Staff Report for City Council Study Session	October 2021
City Council Study Session	November 16, 2021
Housing Committee Check-In #5	November 3, 2021
Preliminary admin draft Constraints chapter – City Review (1 month)	January – February 2022

Housing Committee Check-In #6	January 5, 2022
Community Workshop #2	January 2022
Preliminary admin draft Goals, Policies, and Quantified Objectives chapter – City Review (1 month)	February – March 2022
Administrative Draft Housing Element – City Review (1 month)	March – April 2022
Housing Committee Check-In #7	March 2, 2022
Prepare Public Draft Housing Element	March - April 2022
Prepare Staff Reports for Planning Commission and City Council Hearings to Present the Public Review Draft	March - April 2022
Release Public Review Draft Housing Element (2 weeks prior to hearings)	~April 14, 2022
Housing Committee Check-In #8	May 4, 2022
Planning Commission and City Council Hearings to present the Public Review Draft	Planning Commission: April 28, 2022 City Council: May 5, 2022
Housing Committee Check-In #9	July 6, 2022
Submit Draft to HCD (60-Day Review) *	May 2022
Prepare General Plan EIR Addendum/SB 18 Consultation	May – July 2022
Conference Call with HCD to address any questions or Issues; City Receives a "Conditional Compliance" Letter from HCD	August – September 2022
Housing Committee Check-In #10	September 2022
Prepare Staff Reports for Planning Commission and City Council Adoption Hearings	Planning Commission: September 2022 City Council: October 2022
Planning Commission and City Council Adoption Hearings	Planning Commission: October 27, 2022 City Council: December 1, 2022

Submit Final Adopted Housing Element to HCD
Review and Certification(Up to 90 Days)

December 2022 – March 2023

CHAPTER 2:

PROPOSAL BUDGET

As shown in *updated* **Table 3**, the estimated cost to complete the scope of work described in this proposal is \$171,837.

It includes a 10-percent contingency fund to cover any unforeseen out-of-scope work that might be necessary for the project, including translation services.

We are flexible regarding project costs and hope that you will not eliminate us from consideration based on cost alone.

The billing rates for each team member are included in **Table 3**.

PlaceWorks bills for its work on a time-and-materials basis with monthly invoices.

PLACEWORKS																
	Jennifer Gastelum	Cynthia Walsh	Amy Sinsheimer	Nicole West	Julia Schnell	Allison Holmstedt	Mark Teague	Miles Barker	GRAPHICS	TECH. EDITOR	WP/ CLERICAL	Cliff Lau	PlaceWorks Hours	PlaceWorks 2% Office Expenses	Total	
	PIC	Advisor	Advisor	PM	Project Planner	Project Planner	CEQA Principal	Project Planner				Web Designer				
Hourly Rate:	\$215	\$165	\$180	\$165	\$125	\$125	\$215	\$115	\$125	\$115	\$115	\$135				
Block 1. Subtotal	8			26	12	6	6				2		60	\$196		
				2	4	6		2					14	\$36		
Block 1. Subtotal	8	0	0	28	16	12	6	2	0	0	2	0	74	\$232		
HOUSING ELEMENT																
Block 2. Subtotal	1	1	1	8	8	6				3	4		32	\$89		
Block 2. Subtotal	1	1	1	8	8	6	0	0	0	3	4	0	32	\$89		
PARATION																
Block 3. Subtotal																
Block 3. Subtotal																
Block 4. Subtotal	4	7	7	87	106	98	0	0	8	18	9	0	344	\$946		
H																
				2	10	26							38	\$97		
	4	1	1	12	12	12			12	4	2		60	\$168		
	4	1	1	40	24	16			4	4	2		96	\$280		
	16	1	1	32	20	14	4	4	4	4	2		102	\$317		
				2	16				5	5			28	\$71		
Block 4. Subtotal	24	3	3	88	82	68	4	4	25	17	6	0	324	\$933		
HOUSING ELEMENT																
	2	2	2	24	24	24			2	16	8		104	\$282		
	2	1	1	12	12	12				8	4		52	\$143		
	2			6	6	4				2	2		22	\$63		
Block 5. Subtotal	6	3	3	42	42	40	0	0	2	26	14	0	178	\$488		
W																
Block 6. Subtotal	2	1	1	12	10	6				4	8		44	\$123		
Block 6. Subtotal	2	1	1	12	10	6	0	0	0	4	8	0	44	\$123		
W																
				8			8	45		3	1		65	\$174		
				4			2	6		1	1		14	\$40		
Block 7. Subtotal	0	0	0	12	0	0	10	51	0	4	2	0	79	\$214		
Block 7. Subtotal	45	15	15	277	264	230	20	57	35	72	45	0	1075			
Dollars Total	\$9,675	\$2,475	\$2,700	\$45,705	\$33,000	\$28,750	\$4,300	\$6,555	\$4,375	\$8,280	\$5,175	\$0		\$3,025		
Grand Total Labor	4%	1%	1%	26%	25%	21%	2%	5%	3%	7%	4%	0%				



City of Emeryville

CALIFORNIA

EXHIBIT B

Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **PLACEWORKS, INC.**.

1. MINIMUM REQUIREMENTS

Contractor shall, at its expense, 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 or Services required by the Contract hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage, as checked below:

1.1 *Minimum Scope of Insurance*

Coverage shall be at least as broad as the latest version of the following:

- ☒ **General Liability**
Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- ☒ **Automobile Liability**
Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto) or if Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the General Liability Policy.
- ☒ **Professional Liability / Errors and Omissions**
Written on a policy form specifically designed to protect against acts, errors or omissions of the Contractor wherein "Covered Professional Services" as designated in the policy must specifically include Services performed under this Contract.
- ☒ **Workers' Compensation and Employer's Liability**
Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.
- ☐ **Pollution Liability Insurance**
Pollution Liability insurance for claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater. This shall

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020

include on and off-site clean up and emergency response costs and claims arising from above ground and below ground storage tanks.

1.2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

☒ **General Liability**

☒ **All Contract Types**

\$1,000,000.00 per occurrence and **\$2,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability.

OR

☐ **Construction Specific**

\$2,000,000.00 per occurrence and **\$4,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability, and coverage for explosion, collapse and underground property damage hazards.

☒ **Automobile Liability**

\$1,000,000 per accident for bodily injury and property damage.

☒ **Professional Liability / Errors and Omissions**

\$2,000,000.00 per claim and aggregate.

☒ **Workers' Compensation and Employer's Liability**

Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\$1,000,000.00** each accident, policy limit bodily injury or disease, and each employee bodily injury or disease.

☐ **Pollution Liability Insurance**

\$2,000,000.00 per occurrence and **\$2,000,000.00** aggregate.

Except for the professional liability / errors and omissions policy, defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the Parties required to be named as additional insureds pursuant to this Contract.

2. INSURANCE ENDORSEMENTS

The insurance policies shall contain the following provisions, if checked, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions, if checked, to the insurance policies:

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020☒ **General Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 or CG20 37, or endorsements providing the exact same coverage, with respect to the work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it; and (4) the insurance coverage shall contain standard separation of insureds provisions.

☒ **Automobile Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

☒ **Professional Liability Coverage**

Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and Contractor agrees to maintain continuous coverage through a period no less than three years after termination of the Contract.

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020☒ **Workers' Compensation and Employer's Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

☐ **Pollution Liability Coverage**

(1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

ALL COVERAGES

Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3. NO SPECIAL LIMITATIONS

The required insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

4. DEDUCTIBLES AND SELF-INSURANCE RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

5. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

6. VERIFICATION OF COVERAGE

Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing any work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

8. REPORTING OF CLAIMS

Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the work performed under this Contract.

EXHIBIT C.**California State Contract Requirements**

PLACEWORKS, INC. (referred to herein as “contractor”) acknowledges that the services performed under the Contract are paid in part or in whole from funds received under a Local Early Action Planning (LEAP) grants program pursuant to a Standard Agreement entered into between the Department of Housing and Community Development (referred to herein as the “Department”) and the City (referred to herein as “the Grantee”, Agreement Number 20-LEAP-15033 (referred to herein as “LEAP Agreement”), and agrees to comply with the terms and conditions of the LEAP Agreement as may be required to facilitate City’s compliance with the LEAP Agreement. In addition, the subcontractor agrees to comply with all regulations and guidelines of the LEAP grants program.

1. BUDGET DETAIL AND PAYMENT PROVISIONS [LEAP Agreement Exhibit B]

A. Invoices shall include itemized costs in accordance with the Project Timeline and Budget, including identification of each contractor or subcontractor who provided services during the period of the invoice, the number of hours and hourly rates for each of contractor’s and subcontractor’s staff members, authorized expense with receipts, and subcontractor invoices, and any other documents, certifications, or evidence deemed necessary by the City or Department prior to disbursement of grant funds. [Section 6 Fiscal Administration, Paragraph F]

2. STATE GENERAL TERMS AND CONDITIONS – Fiscal Administration [LEAP Agreement Exhibit C]**A. Non-Discrimination Clause [Section 10]**

During the performance of this Agreement, the Contractor, and its subcontractors shall not deny the contract’s benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code Section 12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, Section 11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code Sections 11135-11139.5), and the regulations or standards adopted by the awarding California state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding California state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours’ notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or City shall require

to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, section 11105.)

3. LEAP TERMS AND CONDITIONS [LEAP Agreement Exhibit D]

A. Accounting Records [Section 2]

- 1) The Contractor and its subcontractors shall establish and maintain an accounting system and reports that properly accumulate incurred project costs by line. The accounting system shall conform to Generally Accepted Accounting Principles (GAAP), enable the determination of incurred costs at interim points of completion, and provide support for reimbursement payment vouchers or invoices.
- 2) The Contractor must establish a separate ledger account for receipts and expenditures of grant funds and maintain expenditure details in accordance with the scope of work, project timeline and budget. Separate bank accounts are not required.
- 3) The Contractor shall maintain documentation of its normal procurement policy and competitive bid process (including the use of sole source purchasing), and financial records of expenditures incurred during the course of the project in accordance with GAAP.
- 4) The Contractor agrees that the state or designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Contract.
- 5) Subcontractors employed by the Contractor and paid with moneys under the terms of this Agreement shall be responsible for maintaining accounting records as specified above.

B. Compliance with State and Federal Laws, Rules, Guidelines and Regulations [Section 9]

- 1). The Contractor agrees to comply with all state and federal laws, rules and regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, and all other matters applicable to the grant, the Contractor, its contractors or subcontractors, and any other grant activity.
- 2) During the performance of this Contract, the Contractor assures that no otherwise qualified person shall be excluded from participation or employment, denied benefits, or be subjected to discrimination based on race, color, ancestry, national origin, sex, gender, gender identity, gender expression, genetic information, age, disability, handicap, familial status, religion, or belief, under any program or activity funded by this contract, as required by Title VI of the Civil Rights Act of 1964, the Fair Housing Act (42 USC 3601-20) and all implementing regulations, and the Age Discrimination Act of 1975 and all implementing regulations.
- 3) The Contractor shall include the nondiscrimination and compliance provisions of this clause in all agreements with its contractors and subcontractors, and shall include a requirement in all agreements with all of same that each of them in turn include the nondiscrimination and compliance provisions of this clause in all contracts and subcontracts they enter into to perform work under the Agreement.

4) The Contractor shall, in the course of performing project work, fully comply with the applicable provisions of the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

5. The Contractor shall adopt and implement affirmative processes and procedures that provide information, outreach and promotion of opportunities in the LEAP project to encourage participation of all persons regardless of race, color, national origin, sex, religion, familial status, or disability. This includes, but is not limited to, a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, as required by 24 CFR 92.351.

C. State-Owned Data – Ownership of Work Product and Rights [Section 12, Subsection B]

1) All Work Product derived by the Work performed by the Contractor and its contractors and subcontractors under this agreement shall be owned by the Department and shall be considered to be works made for hire by the Contractor and/or subcontractor for the Department. The Department shall own all copyrights in the work product.

2) The Contractor and its subcontractors' employees agree to perpetually assign, and upon creation of each Work Product automatically assigns, to the Department, ownership of all United States and international copyrights in each and every Work Product, insofar as any such Work Product, by operation of law, may not be considered work made for hire by the Contractor or subcontractor from the Department. From time to time upon the Department's request, the Contractor and/or subcontractor shall confirm such assignments by execution and delivery of such assignment, confirmations or other written instruments as the Department may request. The Department shall have the right to obtain and hold in its name all copyright registrations and other evidence of rights that may be available for Work Product under this Agreement. The Contractor hereby waives all rights relating to identification of authorship restriction or limitation on use or subsequent modification of the Work.

3) The Contractor and all its subcontractors hereby agree to assign to the Department all Inventions, together with the right to seek protection by obtaining patent rights therefore and to claim all rights or priority thereunder and the same shall become and remain the Department's property regardless of whether such protection is sought. The Contractor and its contractor and/or subcontractor shall promptly make a complete written disclosure to the Department of each Invention not otherwise clearly disclosed to the Department in the pertinent Work Product, specifically noting features or concepts that he Contractor and/or subcontractor believes to be new or different.

4) Upon completion of all work under this Agreement, all intellectual property rights, ownership and title to all reports, documents, plans, specifications and estimates, produced as part of this Agreement will automatically be vested in the Department and no further agreement will be necessary to transfer ownership to the Department.