



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 **WEISS ASSOCIATES** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

### WITNESSETH THAT

**WHEREAS**, the City desires to engage Contractor for remedial design investigation of 1245 Powell Street; 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, 2026**. 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.	

## **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 **NINETY NINE THOUSAND SEVEN HUNDRED TWENTY SEVEN DOLLARS AND NO CENTS (\$99,727.00)**, 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 and City's 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; 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 shall be retained for three years or until such audit findings 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 may deem necessary, there shall be made available to the City for examination all records with respect to all matters covered by this Contract. The Contractor will permit the City 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.

#### **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 **\$19.08 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.

**City of Emeryville** | Professional Services Contract  
REV09/2022

#### 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.



**City of Emeryville** | Professional Services Contract  
REV09/2022

- 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 **Chadrick Smalley** for the City and **Tom Fojut** for the Contractor:

<b>CITY</b>	<b>CONTRACTOR</b>
Chadrick Smalley, Community Development Director Phone No: 510-596-4355 E-Mail : csmalley@emeryville.org	Tom Fojut, Principal Engineer Phone No: 510-809-6274 E-Mail : tfj@weiss.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
<p>Chadrick Smalley, Community Development Director 1333 Park St. Emeryville, California 94608 Phone No: 510-596-4355 E-Mail : csmalley@emeryville.org</p> <p><i>with a copy to:</i> LaTanya Bellow, City Manager 1333 Park Ave. Emeryville, California 94608 Phone No: 510-596-4371 E-Mail : latanya.bellow @emeryville.org</p>	<p>Tom Fojut, Principal Engineer 2560 Ninth St. Ste. 212 Berkeley, CA 94710 Phone No: 510-809-6274 E-Mail : tjf@weiss.com</p>

## 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

Compliance with terms and conditions set forth in **Exhibit C** is ☐ **required** / ☒ **not 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 herein by reference ("Other Requirements"). With respect to any conflict between such Other Requirements and the terms of this Contract and/or the provisions of state law, **Exhibit C** shall control.

*SIGNATURES ON FOLLOWING PAGE*

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:  
*John Kennedy*  
2C934D02DB55467...  
City Attorney

Dated: CITY OF EMERYVILLE

\_\_\_\_\_  
City Manager

Dated: WEISS ASSOCIATES  
DocuSigned by:  
*Tom Fojut*  
4342C036A70249F... (Signature)  
Tom Fojut, Principal Engineer

Attach: W-9 Form	Attach: Business License Certificate

**Weiss Associates**

Environmental Science, Engineering, and Management

2560 Ninth Street, Suite 212, Berkeley, CA 94710

Phone: 510-450-6000

March 6, 2025

Mr. Chadrick Smalley  
Community Development Director  
City of Emeryville  
1333 Park Avenue  
Emeryville, California 94608

RE: Proposal for Remedial Design Investigation  
1245 Powell Street  
Emeryville, California  
Weiss Proposal No. 099-NFedPub.48

Dear Mr. Smalley:

As requested, Weiss Associates (Weiss) presents this proposal to the City of Emeryville (City) for a remedial design investigation at the property referenced above. The objectives of the investigation are to investigate the extent of petroleum hydrocarbon-impacted soil around the former underground storage tank (UST) excavation and to develop a corrective action plan (CAP). Oil-range hydrocarbons were identified in the backfill of the tank pit during a sampling investigation in May 2024. Because that investigation also identified gasoline-range hydrocarbons in groundwater, this proposal presents an optional task to install and sample monitoring wells. Our scope of work, cost estimate, and schedule are presented below.

## BACKGROUND

Formerly occupied by Boyd's Auto Shop, the property was developed as a Phillips Petroleum Company service station in the 1950s. The service station included one 6,000-gallon and one 4,000-gallon fuel UST, four fuel dispensers, one 280-gallon waste oil UST, and an underground remote-fill line that connected an automobile repair garage with the waste oil UST. The fuel USTs presumably contained gasoline and/or diesel. According to City building permit files, it appears the property transitioned to an automobile body shop in 1978 when the USTs were removed. No documentation of the tank conditions, their disposal, or confirmation sampling concurrent with removing the USTs has been found. However, it was not common practice to document tank condition or collect samples during tank removals at that time.

In January 2003, John Carver Consulting (JCC) collected and analyzed soil samples beneath the former fuel USTs.<sup>1</sup> JCC collected a sample from between 11.5 and 12 feet below ground surface (bgs) in five borings advanced near the former fuel tank pit. No petroleum hydrocarbons were detected in any of the samples above established reporting limits except for 1.480 milligrams per kilogram (mg/kg) gasoline-range organics (GRO) in one sample. JCC concluded that the detection was below regulatory screening levels, and it represented "*an isolated situation and did not affect a significant portion of the site,*" and that "*no further environmental activities are warranted for this site at this time.*"

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<sup>1</sup> John Carver Consulting, January 22, 2003. *Phase II Report for 1245 Powell Street, Emeryville, California*, prepared for CNL Commercial Finance, Inc.



Mr. Chadrick Smalley  
March 6, 2025

2



In May 2024, Weiss conducted additional sampling near the former USTs to meet current-day requirements for assessing whether a discharge may have occurred from the removed tanks.<sup>2</sup> The sampling investigation was performed in general accordance with the recommended sampling following removal of gasoline, diesel, and waste oil tanks per the *Leaking Underground Fuel Tank Guidance Manual* (LUFT Manual).<sup>3</sup> An oil-like residue and hydrocarbon odors were observed in soil from borings B-06 through B-09, advanced in the fuel tank pit backfill (Figure 1). A sample of the backfill from boring B-09 contained 14,000 mg/kg total petroleum hydrocarbons as motor oil (TPH-MO), 7,200 mg/kg total petroleum hydrocarbons as diesel (TPH-D), and 750 mg/kg total petroleum hydrocarbons as gasoline (TPH-G). The chromatograms indicate the TPH-MO result was due to the presence of motor oil and the TPH-G result was due to the presence of gasoline, however the TPH-D result did not likely represent diesel. The TPH-G detection may indicate a release occurred from the USTs, but because motor oil is not associated with fuel, it may be from a different source. Given the oil-like residue was observed in all four borings, it is possible that impacted backfill was placed in the tank pit during the UST removals or that oil was released into the tank pit after the USTs were removed.

A groundwater sample collected from beneath the former fuel tank pit in boring B-09 contained 3,100 micrograms per liter ( $\mu\text{g/L}$ ) TPH-G and 540  $\mu\text{g/L}$  TPH-D; no TPH-MO detected above a reporting limit of 250  $\mu\text{g/L}$ . These results suggest that gasoline-range hydrocarbons, but no motor oil-range hydrocarbons, may have impacted shallow groundwater.

## SCOPE OF WORK

The scope of work includes preparing a workplan, advancing soil borings around the former tank pit, and preparing a CAP. An optional task to install and sample groundwater monitoring wells is also presented below.

### *Task 1 – Workplan Preparation*

Weiss will accompany the City in a meeting with the Alameda County Department of Environmental Health (ACDEH) to present the City's plans for site redevelopment, summarize investigations completed to date, recommend a sampling strategy for the remedial investigation, and outline a subsequent CAP. Weiss will prepare a workplan that presents the investigation objectives, sample locations, and sampling and analytical methods. A draft will be provided for review by the City before submittal to the ACDEH.

### *Task 2 – Investigation*

Task 2 is divided into three subtasks: (1) planning, (2) soil boring advancement, and (3) an optional well installation subtask. The planning subtask primarily consists of activities to prepare for the sampling. The soil boring subtask involves collecting soil samples to delineate a future remedial excavation of the hydrocarbon-impacted backfill in the former tank pit with eight borings proposed a

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<sup>2</sup> Weiss, 2024. *Investigation of Former Underground Storage Tanks*, 1245 Powell Street, Emeryville, California, June 28.

<sup>3</sup> California State Water Resources Control Board, 2012. *Leaking Underground Fuel Tank Guidance Manual*, September; revised December 2015

Mr. Chadrick Smalley  
March 6, 2025

3



few feet outside of the tank pit perimeter (Figure 1). The proximity of these borings to the tank pit is based on the assumption that the oil-range hydrocarbons are immobile and probably do not extend far into native soil surrounding the backfill. If the first borings exhibit evidence of hydrocarbons, Weiss will assess if the remaining borings should be located farther from the tank pit.

Well installation is presented as a separate optional subtask. Because hydrocarbons were detected above Environmental Screening Levels in the groundwater sample from boring B-09,<sup>4</sup> the ACDEH will likely require groundwater monitoring to assess whether the property meets the Low-Threat Closure Policy criteria. Although the wells could be installed after site remediation and redevelopment, installing the wells during the same mobilization would save costs and provide the opportunity to collect data before remediation of the tank pit.

## **2.1 Investigation Planning**

Once the workplan has been approved by the ACDEH, Weiss will submit a drilling permit application and fee to the Alameda County Public Works Agency (ACPWA). The ACPWA requires approximately 10 days to process the permit following the application.

Weiss will field-locate each drilling location and subcontract a line locating firm to clear the locations of underground utilities. As required, Weiss will also coordinate with USANorth811 to notify utility companies of the planned drilling.

## **2.2 Soil Boring Advancement**

Weiss will subcontract a licensed, drilling contractor to advance eight borings to determine the extent of petroleum hydrocarbons in native soil around the tank pit. A direct-push rig will advance the borings to 15 feet deep. The first 5 feet will be manually augered.

Our task budget includes coring of surface concrete at all locations and backfilling the borings under the observation of an ACPWA inspector. Soil from each boring will be logged in general accordance with the Uniform Soil Classification System, and a photoionization detector (PID) will be used to screen the soil for the presence of volatile hydrocarbons. Weiss will record the global positioning system (GPS) coordinates for each boring.

Weiss will collect an average of two soil samples per boring for laboratory analysis. A certified laboratory will analyze the samples for TPH-G, TPH-D, and TPH-MO using U.S. Environmental Protection Agency (EPA) Method 8015; and volatile organic compounds (VOCs), including fuel oxygenates and lead scavengers, by EPA Method 8260B. The sample results will be reported in dry-weight units. The task budget assumes the samples will be analyzed on a normal, 10-business-day turnaround. A Weiss chemist will validate the laboratory data, which will be uploaded into an Environmental Quality Information System (EQIS) database.

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<sup>4</sup> Regional Water Quality Control Board, San Francisco Bay, 2019. *Environmental Screening Levels*, "Tier 1 Environmental Screening Levels." January, Rev 2.

Mr. Chadrick Smalley  
March 6, 2025

4



Excess soil from the borings will be temporarily stored in a 55-gallon drum. The drums will be labeled and staged on the property until the waste is chemically characterized and approved for disposal at a permitted landfill. The task budget, which includes chemical characterization, transport of investigation derived waste (IDW) to a landfill, and the landfill acceptance fee, assumes the IDW will be classified as non-hazardous waste.

### **2.3 Monitoring Well Installation (Optional Task)**

An optional task is to install three groundwater monitoring wells during the same mobilization. If the City chooses this option, the soil boring in Task 2.2 closest to previous boring B-09 would be completed as a well, and two other wells would be installed at the locations shown on Figure 1.

The wells would be constructed using 2-inch diameter polyvinyl chloride casing and screened to approximately 20 feet bgs. The sanitary seals would be installed by backfilling cement grout per the requirements of the well installation permits. Wells would be completed beneath flush-mounted traffic-rated well boxes, and the top of each well casing would be capped with a locked, expandable plug.

After installation, the wells would be surveyed by a licensed land surveyor, developed, and sampled. The surveyor would determine the horizontal and vertical coordinates for the top-of-casing of each well per GeoTracker standards. The subtask budget includes generating well construction logs in digital format. Well development would consist of alternating episodes of surging and purging until the water in each well appears clear, or 10 well-casing volumes are removed, whichever occurs first. Well sampling would consist of micro-purging each well followed by collection of groundwater into laboratory-prepared containers. The laboratory would analyze each sample for TPH-G, TPH-D, and TPH-MO by EPA Method 8015, and VOCs, including fuel oxygenates and lead scavengers, by EPA Method 8260B.

Soil cuttings from the well installations and purge water from the well development and sampling would be stored in 55-gallon drums and chemically characterized for disposal. Weiss would arrange for pick-up and disposal of the drums along with the waste generated from the soil borings. The task budget is based on the assumption that all drums would be classified as non-hazardous waste.

### *Task 3 –Corrective Action Plan Preparation*

Weiss will prepare a CAP to address actions the City will take to remediate the petroleum hydrocarbon-impacted soil. The CAP will include the following elements:

- A summary of the property history, previous environmental investigation results, and a description of the site redevelopment plans;
- The results of the sampling described in Task 2 and conclusions about the extent of petroleum hydrocarbons in unsaturated soil surrounding the former tank pit;
- An evaluation of remedial alternatives; and
- A detailed description of the recommended alternative.

Mr. Chadrick Smalley  
March 6, 2025

5



Weiss will provide an electronic draft version of the CAP for review and comment by the City. After incorporating input from the City, Weiss will prepare a final report in Adobe Acrobat Reader (pdf) format for submittal to the ACDEH for review. Weiss will arrange for the laboratory to prepare an electronic data deliverable (EDD) to facilitate future uploading, if needed, to the State Water Resources Control Board GeoTracker site.

## COST ESTIMATE

The estimated cost is summarized by task below and detailed in Attachment A. Weiss will perform the work as an amendment to the Professional Services Agreement between the City and Weiss, dated December 8, 2023.

Task	Labor	Other Direct Costs	Total
1. Workplan Preparation	\$10,612	\$0	\$10,612
2. Investigation			
2.1 Investigation Planning	\$5,139	\$93	\$5,232
2.2 Soil Boring Advancement	\$5,098	\$31,603	\$36,701
2.3 Monitoring Well Installation (Optional)	\$9,326	\$24,893	\$34,219
3. Corrective Action Plan Preparation	\$12,963	\$0	\$12,963
<b>Total with Subtask 2.3</b>	<b>\$43,138</b>	<b>\$56,589</b>	<b>\$99,727</b>
<b>Total without Subtask 2.3</b>	<b>\$33,812</b>	<b>\$31,695</b>	<b>\$65,507</b>

Weiss appreciate the opportunity to provide this proposal to the City of Emeryville. If you have any questions, please contact us at [vab@weiss.com](mailto:vab@weiss.com) or [tjf@weiss.com](mailto:tjf@weiss.com).

Sincerely,  
Weiss Associates

Viviana Acevedo-Bolton, EIT, PhD  
Project Engineer

Thomas Fojut, PE, PG, CHG  
Principal Engineer

Figure 1 – Proposed Locations of Borings and Optional Monitoring Wells  
Attachment A – Detailed Cost Estimate

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*Information in this proposal is considered business confidential and shall not be released to any third party without the written approval of Weiss Associates and shall be used only for purpose of evaluation of the proposal by the City of Emeryville.*



**FIGURE**





Figure 1. Proposed Locations of Borings and Optional Monitoring Wells, 1245 Powell Street, Emeryville, California





## **ATTACHMENT A**

### **DETAILED COST ESTIMATE**



## Project Name: Remedial Design Investigation

### Task 1 – Workplan Preparation

Subtasks			Workplan Preparation	
WEISS LABOR			TOTAL	
Category	Unit Rate	Unit	Quantity	Cost
Principal I	\$ 303.00	hour	8	\$2,424.00
Project Engineer I	\$ 217.00	hour	26	\$5,642.00
Staff Geo/Scientist/Hydro I	\$ 151.00	hour	10	\$1,510.00
GIS/Autocad Designer	\$ 138.00	hour	4	\$552.00
Technical Assistant	\$ 121.00	hour	4	\$484.00
<b>Total Weiss Labor</b>			<b>52</b>	<b>\$10,612.00</b>
Subtasks				
TASK SUMMARY			TOTAL	
			Quantity	Cost
			52	\$10,612.00
<b>TOTAL TASK COST</b>				<b>\$10,612.00</b>



## Project Name: Remedial Design Investigation

### Task 2 – Investigation

Subtasks			2.1		2.2		2.3			
WEISS LABOR			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Category	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
Principal I	\$ 303.00	hour	2	\$606.00	2	\$606.00	2	\$606.00	6	\$1,818.00
Project Engineer I	\$ 217.00	hour	8	\$1,736.00	4	\$868.00	4	\$868.00	16	\$3,472.00
Staff Geo/Scientist/Hydro I	\$ 151.00	hour	12	\$1,812.00	24	\$3,624.00	52	\$7,852.00	88	\$13,288.00
Contract Administrator	\$ 197.00	hour	5	\$985.00		\$0.00		\$0.00	5	\$985.00
<b>Total Weiss Labor</b>			<b>27</b>	<b>\$5,139.00</b>	<b>30</b>	<b>\$5,098.00</b>	<b>58</b>	<b>\$9,326.00</b>	<b>115</b>	<b>\$19,563.00</b>
Subtasks			2.1		2.2		2.3			
SUBCONTRACTORS (Not Laboratory)			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Name/Type of Subcontractor	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
Driller	\$1.00	dollars		\$0.00	17795.5	\$17,795.50	12808	\$12,808.00	30603.5	\$30,603.50
Surveyor	\$1.00	dollars		\$0.00		\$0.00	3500	\$3,500.00	3500	\$3,500.00
Concrete Corer	\$1.00	dollars		\$0.00	1680	\$1,680.00	420	\$420.00	2100	\$2,100.00
Utility Locating	\$1.00	dollars		\$0.00	2160	\$2,160.00		\$0.00	2160	\$2,160.00
Hazardous Waste Transportation/Disposal	\$1.00	dollars		\$0.00	900	\$900.00	1700	\$1,700.00	2600	\$2,600.00
<b>Total Subcontractors</b>			<b>0</b>	<b>\$0.00</b>	<b>22535.5</b>	<b>\$22,535.50</b>	<b>18428</b>	<b>\$18,428.00</b>	<b>40963.5</b>	<b>\$40,963.50</b>
<b>Mark-up</b>	10%			<b>\$0.00</b>		<b>\$2,253.55</b>		<b>\$1,842.80</b>		<b>\$4,096.35</b>
<b>Total Subcontractor with markup</b>				<b>\$0.00</b>		<b>\$24,789.05</b>		<b>\$20,270.80</b>		<b>\$45,059.85</b>



## Project Name: Remedial Design Investigation

### Task 2 – Investigation

Subtasks			2.1		2.2		2.3			
LAB COSTS			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Item	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
<b>Volatile Organics Analysis</b>										
TPH as GRO	\$ 35.00	each		\$0.00	16	\$560.00	7	\$245.00	23	\$805.00
TPH gas, BTEX, Fuel oxygenates (5), DCA & EDB	\$ 80.00	each		\$0.00	16	\$1,280.00	8	\$640.00	24	\$1,920.00
<b>Semivolatile Organics Analysis</b>										
TPH DRO and motor oil (TEPH)	\$ 70.00	each		\$0.00	16	\$1,120.00	7	\$490.00	23	\$1,610.00
<b>Metals Analysis</b>										
Mercury (cold vapor)	\$ 25.00	each		\$0.00	2	\$50.00		\$0.00	2	\$50.00
Title 22 (CAM 17 metals) by ICP	\$ 80.00	each		\$0.00	2	\$160.00		\$0.00	2	\$160.00
<b>General Chemistry Tests</b>										
Percent Moisture/Dry weight	\$ 15.00	each		\$0.00	16	\$240.00		\$0.00	16	\$240.00
<b>Other Testing Procedures:</b>		each		\$0.00		\$0.00		\$0.00	0	\$0.00
Terra Core kit per sample	\$ 25.00	each		\$0.00	16	\$400.00		\$0.00	16	\$400.00
Fish bioassay/leachate testing	\$ 700.00	each			1	\$700.00			1	\$700.00
<b>Additional Fees</b>		each								
Disposal Fee	\$ 3.00	each		\$0.00	18	\$54.00	8	\$24.00	26	\$78.00
EDF: Geotracker / COELT	\$ 25.00	each		\$0.00	1	\$25.00	1	\$25.00	2	\$50.00
EDF: Equis	\$ 25.00	each		\$0.00	1	\$25.00	1	\$25.00	2	\$50.00
<b>Total Lab Costs</b>			<b>0</b>	<b>\$0.00</b>	<b>105</b>	<b>\$4,614.00</b>	<b>32</b>	<b>\$1,449.00</b>	<b>137</b>	<b>\$6,063.00</b>
<b>Mark-up</b>	10%			<b>\$0.00</b>		<b>\$461.40</b>		<b>\$144.90</b>		<b>\$606.30</b>
<b>Total Lab Costs with markup</b>				<b>\$0.00</b>		<b>\$5,075.40</b>		<b>\$1,593.90</b>		<b>\$6,669.30</b>



## Project Name: Remedial Design Investigation

### Task 2 – Investigation

Subtasks			2.1		2.2		2.3			
Permitting, EDR and Purchased Equip/Supplies			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Item	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
Drilling Permit	\$ 1.00	dollars		\$0.00	785	\$785.00	1980	\$1,980.00	2,765	\$2,765.00
<b>Total Permitting, EDR and Purchased Equip/Supplies Costs</b>			<b>0</b>	<b>\$0.00</b>	<b>785</b>	<b>\$785.00</b>	<b>1,980</b>	<b>\$1,980.00</b>	<b>2,765</b>	<b>\$2,765.00</b>
<b>Mark-up</b>	10%			<b>\$0.00</b>		<b>\$78.50</b>		<b>\$198.00</b>		<b>\$276.50</b>
<b>Total Permitting, EDR and Purchased Equip/Supplies Costs with markup</b>				<b>\$0.00</b>		<b>\$863.50</b>		<b>\$2,178.00</b>		<b>\$3,041.50</b>
Subtasks			2.1		2.2		2.3			
WEISS FIELD EQUIPMENT			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Item	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
GPS, Trimble GEO 7x cm	\$ 200.00	day		\$0.00	1	\$200.00		\$0.00	1	\$200.00
Meter, PID ppbrae 3000	\$ 150.00	day		\$0.00	2	\$300.00	2	\$300.00	4	\$600.00
Meter, Water Level	\$ 25.00	day		\$0.00		\$0.00	4	\$100.00	4	\$100.00
Truck/Van-Std.	\$ 90.00	day	1	\$90.00	2	\$180.00	4	\$360.00	7	\$630.00
Weiss Truck Mileage	\$ 0.700	mile	4	\$2.80	8	\$5.60	16	\$11.20	28	\$19.60
<b>Total Field Equipment</b>			<b>5</b>	<b>\$92.80</b>	<b>13</b>	<b>\$685.60</b>	<b>26</b>	<b>\$771.20</b>	<b>44</b>	<b>\$1,549.60</b>
Subtasks			2.1		2.2		2.3			
WEISS FIELD SUPPLIES			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
Item	Unit Rate	Unit	Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
Gloves, nitrile, light duty (blu)	\$0.50	pair		\$0.00	18	\$9.00	7	\$3.50	25	\$12.50
Sampling fee, soil	\$10.00	sample		\$0.00	18	\$180.00	4	\$40.00	22	\$220.00
Sampling fee, water	\$12.00	sample		\$0.00		\$0.00	3	\$36.00	3	\$36.00
<b>Total Field Supplies</b>			<b>0</b>	<b>\$0.00</b>	<b>36</b>	<b>\$189.00</b>	<b>14</b>	<b>\$79.50</b>	<b>50</b>	<b>\$268.50</b>



Project Name: Remedial Design Investigation

Task 2 – Investigation

Subtasks			2.1		2.2		2.3			
TASK SUMMARY			Planning		Soil Boring Advancement		Monitoring Well Installation		TOTAL	
			Qty	Cost	Qty	Cost	Qty	Cost	Qty	Cost
				\$5,139.00		\$5,098.00		\$9,326.00		\$19,563.00
				\$0.00		\$24,789.05		\$20,270.80		\$45,059.85
				\$92.80		\$6,813.50		\$4,622.60		\$11,528.90
TOTAL TASK COST				\$5,231.80		\$36,700.55		\$34,219.40		\$76,151.75





## Project Name: Remedial Design Investigation

### Task 3 – Corrective Action Plan Preparation

Subtasks				
WEISS LABOR			Corrective Action Plan Preparation	
Category	Unit Rate	Unit	Quantity	Cost
Principal I	\$ 303.00	hour	5	\$1,515.00
Project Engineer I	\$ 217.00	hour	32	\$6,944.00
Sr. Staff Geo/Sci II/GIS Analyst I	\$ 198.00	hour	3	\$594.00
Staff Geo/Scientist/Hydro I	\$ 151.00	hour	8	\$1,208.00
Remediation Specialist	\$ 169.00	hour	2	\$338.00
GIS/Autocad Designer	\$ 138.00	hour	7	\$966.00
Technical Assistant	\$ 121.00	hour	6	\$726.00
Project Database Analyst II	\$ 224.00	hour	3	\$672.00
<b>Total Weiss Labor</b>			<b>66</b>	<b>\$12,963.00</b>
Subtasks				
TASK SUMMARY			Corrective Action Plan Preparation	
			Quantity	Cost
				\$12,963.00
<b>TOTAL TASK COST</b>				<b>\$12,963.00</b>



# City of Emeryville

CALIFORNIA

## EXHIBIT B

### Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **WEISS ASSOCIATES**.

#### 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**

**\$2,000,000.00** 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.

*Attach:  
Insurance Certificate and Endorsements*