

RESOLUTION NO. 19-77

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EMERYVILLE AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH WEST COAST CODE CONSULTANTS FOR A TOTAL AMOUNT NOT TO EXCEED \$2,069,200 FOR PROVIDING BUILDING DIVISION SERVICES FOR THE CITY OF EMERYVILLE DURING FISCAL YEAR 2019-2020 AND 2020-2021

WHEREAS, over the past several fiscal years, the City of Emeryville has maintained an extensive amount of construction activity and expects activity to continue through fiscal years 2019-2020 and 2020-2021. Contract services in the past have provided plan checking, building inspection, project coordination, and other support services such as front counter coverage during City staff vacation and absences; and

WHEREAS, the City finds that additional plan check, project coordination, field inspection and other support services will be necessary to provide Building Division services during fiscal years 2019-2020 and 2020-2021; and

WHEREAS, in response to a March 29, 2019 Request for Proposals, West Coast Code Consultants (WC³) was the highest-ranked respondent; and

WHEREAS, West Coast Code Consultants (WC³) is proposing to provide experienced Plan Reviewers, Combination Building Inspectors, Permit Technicians and Code Enforcement Officers capable of handling the Building Division's needs for an amount not to exceed \$2,069,200; and

WHEREAS, the City of Emeryville has determined that specialized knowledge, skills, and training are necessary to render the services contemplated hereunder; and

WHEREAS, the City of Emeryville has determined that WC³ is qualified by training and experience to render such services, and WC³ has agreed to provide such services; and


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

RESOLVED, that the City Council of the City of Emeryville hereby authorizes the City Manager to enter into a professional services contract with West Coast Code Consultants, in the form attached hereto as Exhibit A, to provide Building Division services on a project by project basis for a total compensation not to exceed \$2,069,200.00 during fiscal years 2019-2020 and 2020-2021.

ADOPTED by the City Council of the City of Emeryville at a regular meeting held Tuesday, June 18, 2019 by the following vote:

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

ATTEST:


CITY CLERK


MAYOR

APPROVED AS TO FORM:


CITY ATTORNEY



City of Emeryville

CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT ("Contract") is effective as of this _____ day of _____, 2019 (the "Effective Date"), by and between **THE CITY OF EMERYVILLE**, a municipal corporation, ("City") and **WEST COAST CODE CONSULTANTS, INC.** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH THAT

WHEREAS, the City desires to engage Contractor for providing, the Building Division, services with various construction projects to be determined by the City within the City of Emeryville for compliance with the California Building, Plumbing & Mechanical codes; National Electrical Code; State Energy Conservation; Disabled Access Regulations as contained in the current edition of the State Building Code; fire/life safety; structural design; any additional local ordinances or regulations governing building requirements effective in the City and designated by the City in writing, hereinafter collectively referred to as "Governing Codes"; 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

FOR CITY USE ONLY			
Contract No.		CIP No.	
Resolution No.		Project No.	

REV401/2019

Exhibit 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, 2021**. The Parties may, by mutual, written consent, extend the term of this Contract.

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 **TWO MILLION, SIXTY-NINE THOUSAND, TWO HUNDRED DOLLARS AND NO CENTS (\$2,069,200.00)**,

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. In the event that compliance with the Living Wage Ordinance is not required, the Contractor may still 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.

4.13.2 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 **\$15.73 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.

4.14 **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 **Victor R. Gonzales, CBO** for the City and **Giyan Senaratne, Principle West Coast Code Consultants, Inc.** for the Contractor:

CITY	CONTRACTOR
Victor R. Gonzales, CBO Phone No.: 510-596-4359 E-Mail: vgonzales@emeryville.org	Giyan Senaratne, Principle Phone No.: 925-275-1700 E-Mail: giyan@wc-3.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> Victor R. Gonzales, CBO 1333 Park Avenue Emeryville, California 94608 Phone No.: 510-596-4359 E-Mail: vgonzales@emeryville.org	Giyan Senaratne, Principle, West Coast Code Consultants, Inc 2400 Camino Ramon, Suite 240 San Ramon, California, 94583 Phone No.: 925-275-1700 E-Mail: giyan@wc-3.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 or scanned signature and shall accept the telecopied or scanned 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:

Asst. 

City Attorney

Dated:

_____, 2019

CITY OF EMERYVILLE

Christine S. Daniel, City Manager

Dated:

MAY 16th
_____, 2019

WEST COAST CODE CONSULTANTS



(Signature)
GIYAN SENARATNE
PRINCIPAL/CEO

Building Inspection Services

All of our inspectors can perform combination building inspections as well as OSHPD-3 inspections to ensure that construction complies with the applicable codes as depicted on the approved plans. Having worked in various jurisdictions our inspection staff understands the inter working of the Building Department and can assess procedures quickly. They will perform inspections and provide reports and associated inspection services in the manner established by the City.

WC³'s inspectors will provide field services in accordance with the following:

All field inspections will be performed through the City Building Department and under the direction of City staff members.

WC³ will assign personnel who are professionally qualified to perform commercial and residential construction inspection. All materials, resources, tools, and training will be provided by WC³.

Projects under construction, by permit from the City, will be inspected for compliance with all applicable state codes and local ordinances.

WC³ staff will coordinate all inspection and re-inspection requests per established City procedures.

Our field inspectors will enter all inspection records into the CRW/Trackit permit tracking system. They will maintain all inspection records, correction notices and all documentation related to design changes for all assigned projects.

WC³ will be able to provide inspection staff for "temporary" assignments of less than two weeks duration within 24-hours of the request from the City of Emeryville.

WC³ will be able to provide inspection staff for "semi-temporary" assignments of less than three months duration within one week of the request from the City of Emeryville.

WC³ will be able to provide inspection staff for assignments in excess of three months duration within two weeks of the request from the City of Emeryville.

Over the Counter Plan Review

Mr. Giyan Senaratne, S.E., P.E., LEED, CASp will be assigned to perform various duties, including over the counter reviews, at the City of Emeryville's front counter a minimum of two (2) days a week. In addition to Mr. Giyan Senaratne, WC³ proposes Mr. Eric Schneiderjohn, to perform plan reviews two (2) days a week in the City of Emeryville. WC³ has other plan review staff that have experience performing over-the counter plan reviews and if needed will be provided to serve at the front counter.

Counter Services

WC³ understands how critical the permit processing position is to maintaining a smooth workflow in the Building Department. Our permit technicians easily step in to assist where necessary and keep the process moving.

Having worked in other jurisdictions, they are familiar with the process and can assess City procedures quickly to support the public at the front counter or on the phone. They are able to review and screen permit applications and documents, route and direct projects to other departments, calculate permit fees, research project status, issue permits, and utilize the City's permit tracking system. They are familiar with construction drawings and documents and can review them for compliance with the conditions of project approval. They have strong computer skills and can research, compile, and prepare reports and presentation graphics as needed.

The Building Department's front counter can be hectic, but our technicians understand the public's needs and work to assist them and fellow co-workers with a professional and friendly attitude. They can also help with any other clerical duties the City may require.

Currently Mr. Eric Schneiderjohn from our WC³ San Ramon office provides in-house Permit Processing Services for the City of Emeryville twice a week and in case of short notice demands. WC³ can provide Counter Service help within an hour's notice.

Project Management

WC³ will assign Mr. Giyan Senaratne, S.E., P.E., LEED, CASp as the Project Manager for the City of Emeryville. He will assist the Chief Building Official, and other department heads, in any and all

assignments. As he has done for the last twenty-three (25) years, Mr. Senaratne will be commit to manage all projects, coordinate with other City Departments, attend pre-construction or pre-design meetings, perform field visits, communicate with design team members, and provide support for field inspection personnel. Additionally, should the workflow demand, WC³ can assign Mr. Eric Schneiderjohn, to assist in managing project for the City of Emeryville as he has done in the past.

Interim CBO Services

As in the past, if needed, Mr. Giyan Senaratne, S.E., P.E., LEED, CASp will perform the duties of the Building Official on an interim basis. As requested, Mr. Senaratne will attend DCC and other

meetings scheduled by the Chief Building Official or other department heads.

Plan Review Services Performed from WC³'s San Ramon Office

For complete plan review services, WC³ proposes a fee equal to sixty five percent (65%) of the plan review and T-24 fees received by the City of Emeryville. Minimum plan review fee of \$290.00 (2-hour minimum).

Expedited Reviews will be charged at a rate of 150%.

Hourly projects plan review fee \$ 145.00 per hour—two (2) hour minimum.

Plan review services will include an initial first and second review with a minor third review for approval of the plans. Any additional plan review time required beyond the third review will be billed hourly according to WC³'s hourly billing rates presented within. Approval of any hourly charges will be obtained by the City prior to proceeding with the review.

Preliminary plan checks, review of revisions after a project has been approved, and review of deferred submittals will be performed on an hourly basis according to the rates listed within.

Currently plans and documents are picked-up and deliver to our headquarters in San Ramon by our WC³ in-house staff member who is there in the City at least twice a week. When our review is complete the plans are hand delivered back to the City. However, should the City prefer WC³ maintains a GSO account that can easily pick and deliver to the City at no additional charge to the City.

In House Service

(Over the Counter Plan Review, Inspection Services, Counter Services, Project Management, Interim CBO)

WC³ provides below several options for the City of Emeryville to consider with regards to in-house services. These options will reduce monthly expenses and address the changing economic environment and building construction workflow. Reimbursable expenses associated with in-house service have also been provided which are in addition to the hourly rates indicated below.

Over the Counter Plan Review and In-house Project Management

Continue to provide the same exceptionally qualified staff twice a week at the City's front counter to review plans, revisions, answer code questions, provide guidance to applicants and perform Project Management services. Our current and proposed staff members are as follows:

Mr. Giyan Senaratne, P.E., S.E.,
LEED, CASp (one day a week) _____ \$135/hr.

Mr. Eric Schneiderjohn (two days a
week) _____ \$125/hr.

Interim Chief Building Official Services (CBO)

Provide experienced staff, familiar with the Cities operations and services, that can step-in when requested by the Chief

Building Official to assist in his absence. Our current and proposed staff member is as follows:

Mr. Giyan Senaratne, P.E., S.E., LEED, CASp (as needed) _____ \$145/hr.

The cost implications to the City are unknown for this service since the request has been rare. WC³ has provided this information should unforeseen circumstances occur.

Permit Counter Services (Non-Prevailing Wages)

Provide experienced staff, familiar with processing building permits and working with the public. Currently WC³ provides counter services twice a month and on an on-call basis. Our proposed staff members are as follows:

Denise Rose (on-call) _____ \$70/hr.

Mario Morales (on-call; back-up) _____ \$75/hr.

Andrew Wallace (on-call; back-up) _____ \$75/hr.

Angelina Carrillo (on-call; back-up) _____ \$70/hr.

Angela Silveira (on-call; back-up) _____ \$70/hr.

Nelson Pureco (on-call; back-up) _____ \$75/hr.

Kimii Birdon (on-call; back-up) _____ \$70/hr.

Inspection Services

Continue to provide the same inspection staff five days a week.

Our current and proposed staff member is as follows:

(Prevailing Wage 154.25 / hr.)

Alan Wong, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

Charles Greer, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

Edmund Domian, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

Romeo Harrera, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

John Vails, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

Marty Olsen, Senior Inspector _____ \$95/hr. (Prevailing Wage 154.25 / hr.)

Jordan Asano, Inspector _____ \$75/hr. (Prevailing Wage 154.25 / hr.)

Leo Bautista, Inspector _____ \$75/hr. (Prevailing Wage 154.25 / hr.)

Hourly Billing Rates

WC³ proposes the following discounted billing rates for services charge hourly.

Classification	Hourly Billing Rate
Interim CBO_____	\$145
Project Manager_____	\$135
Senior Structural Engineer_____	\$135
Senior Plan Review Engineer_____	\$125

Expedited Reviews will be charged at a rate of 150%.

Additional Costs

We propose the following costs for miscellaneous expenses that will be authorized by the City prior to being charged:

Miscellaneous Expenses to Include

Mileage_____ Current IRS Rate + 15% Reimbursat

Reimbursable expenses may include specialized equipment rental, printing costs, and expedited shipping costs (same day delivery).

When in-house services or inspection overtime is requested on weekends or holidays, these overtime services will be provided in 4-hour minimum segments



EXHIBIT B
Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **WEST COAST CODE CONSULTANTS, 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

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.
- ☐ **General Liability (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**
\$1,000,000.00 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:

- ☒ **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; 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.

☒ **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.

☒ **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. SEPARATION OF INSURED; NO SPECIAL LIMITATIONS

All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such 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.