



CITY OF RICHMOND

REQUEST FOR PROPOSAL

PUBLIC BROADBAND NETWORK

---- RFP Dated October 26, 2017 ----

**Proposal Due by 4:00 PM November
29, 2017**

RICHMOND CITY COUNCIL

Tom Butt - Mayor

Jovanka Beckles – Vice Mayor

Jael Myrick – Councilmember

Ben Choi – Councilmember

Eduardo Martinez – Councilmember

Melvin Willis – Councilmember

Ada Recinos – Councilmember

Bill Lindsay

City Manager

Sue Hartman

Information Technology Director

www.ci.richmond.ca.us

1. INTRODUCTION

1.1 BACKGROUND

The City of Richmond recognizes that access to high bandwidth services within sections of Richmond are difficult to attain. Known as the, “digital divide”, this lack of service creates an economic and social inequality limiting a community's access to, use of, or knowledge of information and communication technologies. As Internet access becomes more of a necessity than luxury, lack of access limits a community's economic potential.

One such underserved area within Richmond is known as the Iron Triangle. Within the 5,036 residential properties within the District, the City estimates that 40% of these properties are not able to attain high speed Internet connectivity. To address the issue, the City has secured funding from the California Public Utilities Commission (CPUC) Communications Division's California Advanced Services Fund to deploy broadband connectivity (WIFI) at several locations within the City. The locations the City intends to serve with this project are illustrated in **Exhibits A and B** and includes the following sites:

- Public Housing Communities including:
 - o Triangle Court at 960 Triangle Court including 98 units
 - o Nevin Plaza at 2400 Nevin Avenue including 142 units
 - o Friendship Manor at 564 Stege Avenue including 58 units
- Atchison Village at 270 Curry Street including 450 apartments in 97 one-story and 65 two-story buildings
- Nevin Community Center at 598 Nevin Avenue for public WIFI
- Elm Park at 720 Elm Avenue for public WIFI
- The traffic signal at Macdonald Avenue and Harbour Way for public WIFI

The City of Richmond has a partnership with Internet Archive who is a nonprofit library that hosts free books, movies, software, and music that will provide connectivity to the Internet. The City seeks to serve these sites using its existing fiber optic network and / or wireless links.

1.2 NETWORK OVERVIEW

The City of Richmond owns a fiber optic network illustrated in **Exhibit A** shown in red that receives broadband access to the Internet through a connection to the Internet Archive. Additionally, the City of Richmond has rights to use 12 strands of fiber optic cable shown in blue, which are owned by a private telecommunications provider; this cable is generally located above ground along joint utility poles.

The City's intent with this project is to use either its fiber optic network or microwave links to serve the sites. For the wireless option, the City has the rights to use a tower at Nicholl Knob as shown in **Exhibit A**, which the vendor can use as a microwave relay station. This will also require a transmitter/ receiver antenna at the Internet Archive site. The vendor selected by the City may use either or a combination of wireless and wireline infrastructure to provide service to the sites consistent with the performance requirements as defined in this request for proposal.

At each site, the vendor shall provide a router and power-over-ethernet switches to connect the wireless access points as shown in **Exhibit C** to serve each of the units in the three public housing sites and at Atchison Village. The vendor will likely need to install wireline infrastructure within the public housing units. The vendor may construct a fiber optic network using the City's assets as illustrated in **Exhibit A** to provide connectivity to the core router. For the Nevin Community Center and Elm Park, the vendor shall provide a wireless repeater atop the building to serve the neighborhood. At the traffic signal and Macdonald Avenue and Harbour Way, the vendor shall install a

wireless repeater to serve the neighborhood. The City has a fiber optic cable along Macdonald Avenue, but will require an extension through the existing conduit system to the traffic signal.

All wireless hardware shall comply with the 802.11ac standard. The network shall provide the following levels of service from the core router downstream to the end users:

- A minimum download speed during average peak utilization periods of 140 Mbps
- An average download speed during the peak hours of 7 pm to 11 pm of 20 Mbps
- An upload speed for the average user during the peak hours of 7 pm to 11 pm of 20 Mbps

The vendor shall secure all hardware to prevent theft and vandalism.

1.3 SCOPE OF WORK

The City seeks a vendor to complete a fully functional broadband network to provide minimum access speeds as defined in paragraph 1.2. The vendor may construct the network using either wireless in the 2.4 GHz and/ or 5 GHz spectrum and/or wireline infrastructure. For installation of wireline infrastructure, the vendor will need to secure an encroachment permit for the City and construct the improvements consistent with the City's requirements. The vendor must complete the work in accordance with the schedule described in paragraph 2.2. The City envisions the vendor complete the work in two stages:

- Task 1 – Complete a detailed design of the network. This work will include plans, details, and a schedule of the equipment proposed to be installed. This fee cannot exceed 10% of the construction cost for the specific element of work.
- Task 2 – Install the network once the design is approved by the City. The City will approve construction in accordance with the fee structure defined in paragraph 3.1.F.
- Task 3 – Conduct testing of the network consistent with the standards provided. The City will retain 5% of the project cost for the specific element of work, which will be paid to the vendor upon completion of testing.

Once the City accepts the work, the Vendor shall guarantee the installation and the products used for a period of not less than 12 months.

1.4 CITY FURNISHED MATERIALS

The City will provide information related to its fiber optic network, partnership with Internet Archive, and assets at Nichol Knob. The City will pay all private telecommunications provider costs associated with connecting to the 12 fiber optic cable strands only.

1.5 SITE VISIT

The City will conduct a tour of each of the sites for vendors to review field conditions. The tour will commence at Triangle Court at 9:00 AM on November 13, 2017. Please allow six (6) hours for the site visit.

1.6 QUESTIONS

Any questions regarding this Request for Proposals (RFP) should be directed (via email only) by **5:00 PM on November 16, 2017** to Sue Hartman at Sue_Hartman@ci.richmond.ca.us. All answers to questions will be in the form of an addendum to the RFP posted on the City's BidsOnline system.

2.0 SELECTION PROCESS

2.1 PROPOSAL RANKING

City staff will review and rank all responsive proposals received based on a total possible score of 100 points. The selection criteria includes:

1. The overall experience of the team as evidenced by recent representative projects - 20 points;
2. Adherence to the parameters contained in this RFP specifically related to the development schedule - 10 points
3. Innovation in network design - 20 points; and
4. The City will evaluate the cost for the work to be the total sum of the base bid plus all the additional alternative bid items. The City may award the base bid, plus any combination, all, or none of the alternative bid items. Please review incentives for participation by Richmond businesses as defined in **Exhibit D** "Richmond Business Opportunity Ordinance" - 50 points.

2.2 SCHEDULE OF EVENTS

The anticipated schedule for procuring a vendor and completing the Public Broadband Network includes the following:

<u>Event</u>	<u>Date</u>
RFP Releases by City	October 26, 2017
Site Visit	November 13, 2017
Written Question (via Email) Deadline	November 16, 2017
Proposal Due to the City of Richmond	November 29, 2017 (by 4:00 p.m.)
Vendor Interviews, if necessary	Early December 2017
Vendor Selected	December 2017
Notice to Proceed Issued	January 2018
Submit Design for Review (base bid)	February 1, 2018
Commence Installation (base bid)	February 12, 2018
Complete Installation of the Public Housing (base bid)	April 24, 2018
Complete all other Network Components (base bid)	August 31, 2018
Complete all other Network Components (Alternative items)	December 2018

3.0 PROPOSAL REQUIREMENTS

3.1 GENERAL

The proposal should be limited to no more than twenty-five (25) pages and include the following documents in the order described.

- A. Cover Letter.** Provide a cover letter describing interest in the project summarizing the major points contained in the proposal.
- B. Team Members.** Identify type of legal entity with whom the City would negotiate and contract. Include the contact person, firm name, address and telephone number of each of the members on the team. Indicate contractors, engineers, architects, or other consultants that are part of the team.

- C. Relevant Experience of Team Members.** Provide a summary of the team's experience with broadband deployment specifically within public housing.
- D. Reference.** Provide at least two references regarding the team's experience with broadband deployment.
- E. Network Design.** Provide a narrative describing the network topology and hardware proposed for the installation.
- F. Schedule of Performance.** Provide a schedule to complete the work consistent with the requirements detailed in paragraph 2.2 for all elements of the project.
- G. Bid Bond.** Submit a bid bond as detailed in **Exhibit H**.
- H. Cost.** Provide a cost to complete the work as detailed in **Exhibit I**.
- I. Contingencies.** Explain any conditions or contingencies that limit the submitted proposal.
- J. Warranty.** Provide a written statement regarding how you will warranty the work. Include a description of your proposed repair plan should there be an issue.
- K. Richmond Ordinances.** Include a discussion on your plan to comply with the City's Local Employment Program and New Business Opportunity Ordinances as described in **Exhibit D**. Complete the list of subcontractors and suppliers as detailed in **Exhibit J**.

3.2 SUBMITTAL OF PROPOSAL

Please submit three hardcopies and one electronic version of the proposal **no later than 4:00 p.m., November 29, 2017** to the attention of:

Sue Hartman
Information Technology Director
450 Civic Center Plaza
Richmond, CA 94804

3.3 PROPOSAL INFORMATION

All responses to the RFP become the property of the City. Once a final award is made, all RFP responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsible for the use and disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act.

4.0 LAWS AND ORDINANCES

The successful team and all contractors and subcontractors used in the improvement work including the work described in paragraph 1.3 will be required to hold or to obtain a City business license for which the fee will not be waived. Prior to the start of work, the successful team shall obtain all other required permits from all applicable regulatory and permitting agencies. The City will not pay agency review fees and permit charges and fees.

If any contractor or any subcontractor used in the proposal, is currently in violation of any federal, state or local law or ordinance, the proposal will be rejected.

The successful team and all contractors and subcontractors shall comply with the City of Richmond Business Opportunity Ordinance (Richmond Municipal Code Chapter 2.50), Local Employment Program Ordinance (Richmond Municipal Code Chapter 2.56), and Living Wage Ordinance (Richmond Municipal Code Chapter 2.60), which are attached as **Exhibit D** and are incorporated into this RFP by this reference.

Furthermore, the City of Richmond First Source Agreement shall be executed between the successful team and the City concurrently with the execution of the Lease Agreement. A copy of the First Source Agreement is attached as **Exhibit D**.

For general information regarding compliance with local ordinances contact the City's Employment and Training Department at:

Gina Baker, Contract Compliance Manager
(510) 307-8011
gbaker@richmondworks.org

4.1 PREVAILING WAGES

All improvement work including the work described in Paragraph 1.3 shall require compliance with the State of California's Labor Code, which requires the payment of prevailing wages in the performance of work as those wages are determined pursuant to Labor Code Sections 1720 et seq., and implementing regulations of the Department of Industrial Relations. Contractors and any subcontractors shall submit weekly payroll records within 10 days of the end of pay period through the City's labor compliance system. This web-based tool is offered at no cost to the Contractor.

4.2 INSURANCE REQUIREMENTS

The successful team shall provide and maintain the Insurance coverage as specified in **Exhibit E** for the respective phases of the project.

Insurance certificates and endorsements shall be reviewed and approved by the City's Risk Management before work may begin. The City reserves the right to require complete, certified copies of all required insurance policies including endorsements affecting the coverage at any time.

Upon notification of receipt by the City of a Notice of Cancellation, major change in coverage or expiration, the successful team shall file with the City a certified copy of the required new renewal policy and certificates for such policies.

If at any time during the life of the contract or any extension the successful team fails to maintain the required insurance in full force and effect, all work under the contract shall be discontinued immediately. Any failure to maintain the required insurance will be sufficient cause for City to terminate the contract.

4.3 CONTRACT

The successful team shall execute an agreement with the City; a sample is attached as **Exhibit F**.

4.4 BONDS

The successful team shall furnish to the City performance and payment bonds as illustrated in **Exhibit G** in the amount equal to the sum of the cost to complete the work. Additionally, the vendor shall submit a bid bond as detailed in **Exhibit H** with the proposal. This shall be equal to the sum of the base and alternative items of work.

4.4 LICENSES

The successful team shall possess licenses as required by the State of California to complete the work. At a minimum, all communications equipment and appurtenances shall be installed by a contractor with a classification of C-7 "Low Voltage Systems Contractor" as defined by the State of California Department of Consumer Affairs Contractors State License Board.

5.0 TERMS AND CONDITIONS

- a. The City reserves the sole right to evaluate each proposal and to accept any or all proposals received because of the RFP process.
- b. The City reserves the unqualified right to reject any or all proposals, modify, suspend, or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all proposing teams and to waive any defects as to form or content of the RFP or any responses by any teams.
- c. The RFP does not commit the City to award a contract or enter into a lease agreement.
- d. No submittal shall be withdrawn for a period of thirty (30) days subsequent to the opening of proposals without the written consent of the City.
- e. Any interpretation, correction or change of the proposal documents will be made by addendum. Interpretations, corrections and changes of the proposal documents made in any other manner will not be binding, and proposer shall not rely upon such interpretations, corrections and changes. The City's Representative will not be responsible for oral clarification.
- f. The City shall have no liability to any of the proposers or the selected team for any costs and expenses incurred in connection with the preparation and/or submittal of their responses to this RFP.
- g. Title to all final documents, including but not limited to drawings, specifications, data, summaries, correspondences, photographs, computer software (if purchased on the City's behalf), video and audio recordings, software output including but not limited to electronic drawings, and any other materials with respect to work performed shall be provided to City upon completion of the work. Any information obtained by the selected team in the performance of the work shall become the property of the City and shall not be released to others without prior written consent from the City.
- h. The City may award any or all the additional alternative network deployment sites to the vendor.

6.0 EXHIBITS

The following Exhibits are either appended hereto.

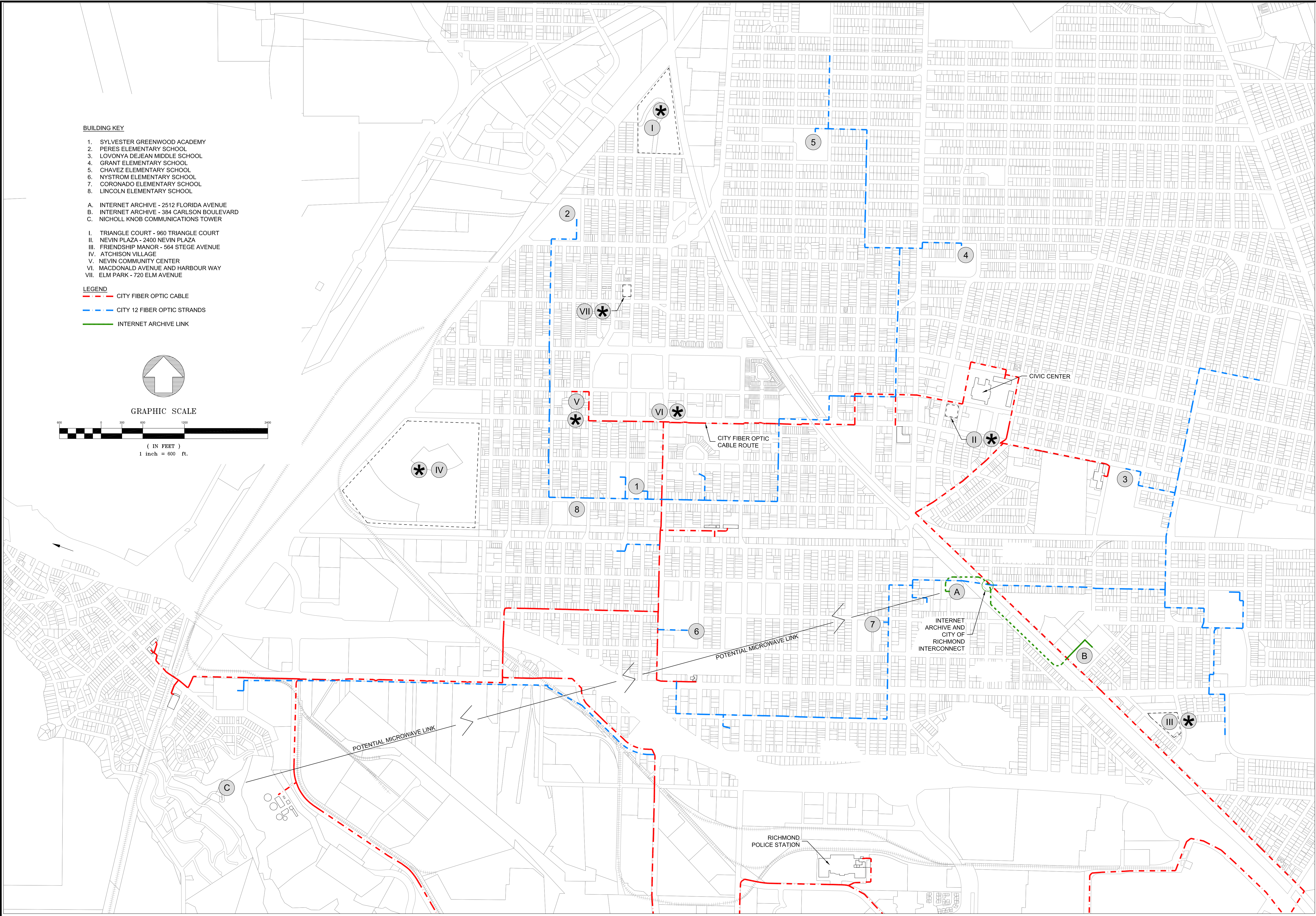
Exhibit A	Site Map
Exhibit B	Public Housing/ Service Locations
Exhibit C	Concept Network Diagram
Exhibit D	Local Employment Program, New Business Opportunity Ordinances, and "Ban the Box" Ordinance
Exhibit E	Insurance Requirements
Exhibit F	Sample Agreement
Exhibit G	Sample Performance and Payment Bonds

Exhibit H	Example Bid Bond
Exhibit I	Cost Proposal
Exhibit J	List of Subcontractors and Suppliers

EXHIBIT A

SITE MAP

DRAWING NAME: F:\2017-18-Richmond-Broadband\wifi-rfp\LAYOUT.dwg
PLOT DATE: 10-25-17 PLOTTED BY: RCS



REVISIONS

NO.	DESCRIPTION	BY	DATE	APPVD
4				
3				
2				
1				

210 WASHINGTON AVENUE
RICHMOND, CA 94801
510.974.3195
www.hIGHLAND-consulting-group.com

HCG
Highland Consulting Group

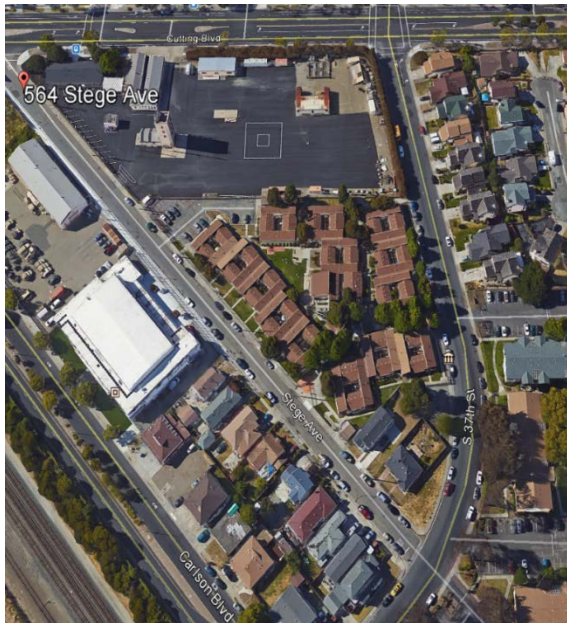
DRAWN: HCG
CHECKED: HCG
DESIGNED: HCG
APPROVED: RCS

PUBLIC BROADBAND NETWORK
SITE MAP

DATE:	10.18.17	SCALE:	AS SHOWN
HCG JOB NO.			
CLIENT NO.			
SHEET NO.	1	OF	1
SHEET			EX A

EXHIBIT B

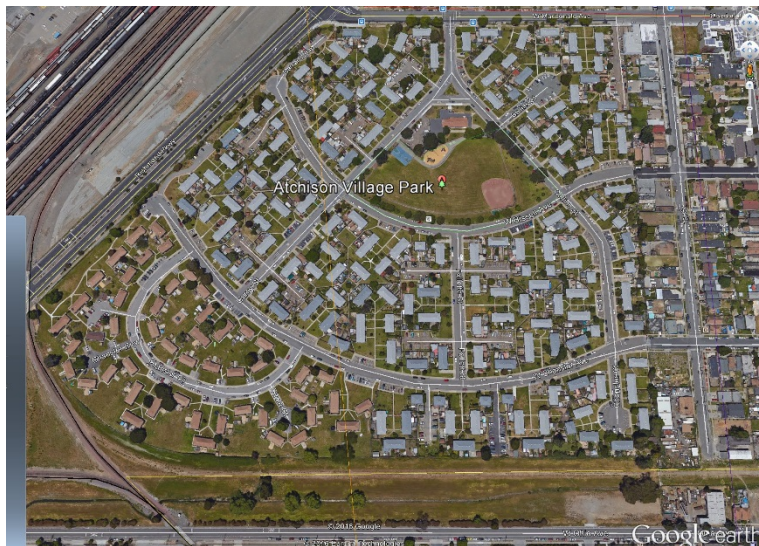
PUBLIC HOUSING/ SERVICE LOCATIONS



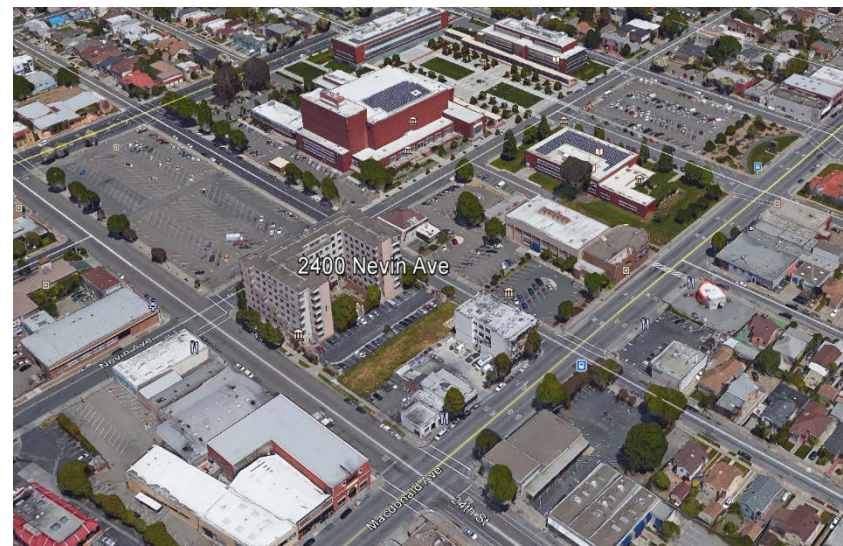
Friendship Manor



Triangle Court



Atchison Village



Nevin Plaza

EXHIBIT C

CONCEPT NETWORK DIAGRAM

SAMPLE CONCEPT - VENDOR TO REFINE

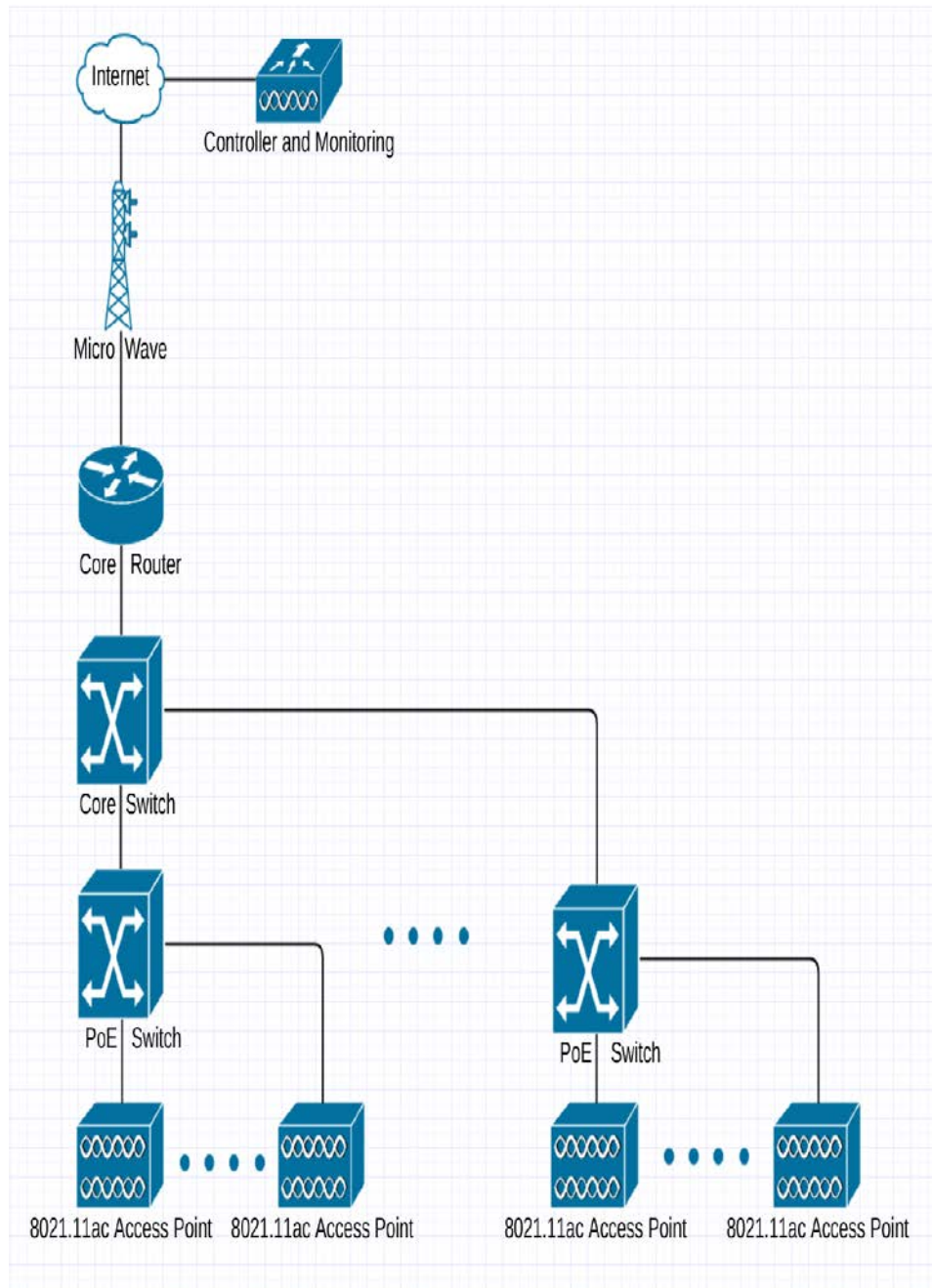


EXHIBIT D

LOCAL EMPLOYMENT PROGRAM, NEW BUSINESS OPPORTUNITY ORDINANCES, and “Ban the Box” Ordinance

ORDINANCE NO. 15-10 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND AMENDING CHAPTER 2.56 OF THE RICHMOND MUNICIPAL CODE (LOCAL EMPLOYMENT PROGRAM) TO REVISE THE CITY OF RICHMOND LOCAL EMPLOYMENT ORDINANCE (52-06 N.S)

The City Council of the City of Richmond do ordain as follows:

SECTION 1. Richmond Municipal Code Section 2.56 is amended as follows:
(Insertions are noted with underline and deletions are noted with)

Chapter 2.56 LOCAL EMPLOYMENT PROGRAM

- 2.56.010 Findings.
- 2.56.020 Declaration of policy and purpose.
- 2.56.030 Scope and goals.
- 2.56.040 Definitions.
- 2.56.050 Powers and duties of the City.
- 2.56.060 Responsibilities of employers.
- 2.56.070 Responsibilities regarding new hires.
- 2.56.080 Noncompliance.
- 2.56.090 Miscellaneous.

2.56.010 Findings.

The City Council of the City of Richmond hereby finds that statistics indicate that unemployment levels for the citizens of the City of Richmond are higher than for the remainder of Contra Costa County and for neighboring Alameda County. Statistics also indicate that the higher unemployment level in the City of Richmond correlates to the higher number of families living in poverty and to a higher crime rate.

2.56.020 Declaration of policy and purpose.

(a) It is the policy of the City of Richmond to ensure full and equitable opportunities for Richmond residents to participate in the employment opportunities that arise from public works contracts, service contracts, and subsidized projects.

(b) It is also the policy of the City of Richmond to increase the number of employed persons living in the City of Richmond in an attempt to counteract the grave economic and social ills associated with the higher unemployment levels that exist within the City.

(c) The City Council has determined there is a need to provide Richmond residents with more opportunities to participate in workforce development and pre-apprenticeship programs that include life skills training, job readiness training, and case management services. Such pre-apprenticeship programs will increase the capacity of Richmond residents to succeed later in formal apprenticeship programs and hence reduce the unemployment rate and accompanying poverty and crime conditions. The City of Richmond currently sponsors a number of excellent

pre-apprenticeship programs that should be expanded and enhanced in order to alleviate the conditions associated with Richmond's high unemployment rate.

(d) By increasing the capacity of the Richmond residents through workforce development and pre-apprenticeship programs, Richmond residents will be better suited to compete in the marketplace, and thus Richmond employers will be better able to meet increased local workforce participation goals.

(e) In furtherance of these policies, the City of Richmond has established a local employment program to encourage the hiring and retention of Richmond residents for the work to be performed under public works contracts, service contracts, and subsidized projects.

2.56.030 Scope and goals.

(a) For any public works or service contract with the City that has a value of \$100,000 or more, or a subsidized project with a subsidy from the City of \$100,000 or more, there is hereby established the following goals for employment of Richmond residents: (1) Public works (construction) employment: that a minimum of twenty-five percent (25%) of the total work hours for the contract or project shall be performed by Richmond residents, and that a minimum of twenty-five percent (25%) of all new hires for the contract or project shall be Richmond residents for the duration of the contract or project;

(2) Retail employment: that a minimum of thirty-five percent (35%) of the total workforce shall be residents, and that a minimum of thirty-five percent (35%) of all new hires shall be residents;

(3) Office, administrative, and other employment: that a minimum of thirty-five percent (35%) of the total workforce shall be residents, and that a minimum of thirty-five percent (35%) of all new hires shall be residents.

An employer must achieve these goals or document a good faith effort to achieve these goals.

(b) The goals established by subsection (a) of this section represent the minimum employment standards for the affected categories, and subject businesses are encouraged to exceed these goals whenever possible.

(c) With respect to retail employment and office, administrative, and other employment, any employer that occupies any portion of the project site and employs more than ten full time equivalent employees at the site shall have the employment goals as provided for in subsection (a) or (c) of this section. The term of this obligation shall be calculated at a rate of one-year for every \$100,000 of subsidy provided by the City to the project. In no event, however, shall the term of this obligation be less than three (3) years or more than ten (10) years after the completion of any subsidized project.

(d) Each construction contractor or subcontractor performing work on a public works contract or subsidized project shall employ in its regular workforce Richmond residents who are enrolled and participating in an apprenticeship program. Such an apprenticeship program must have been approved by the State Department of Industrial Standards. The expected number of apprentices will vary based upon the availability of Richmond residents indentured in the various apprenticeship programs. The apprenticeship program must have graduated apprentices annually for at least the past five (5) years and must have an established history of partnering with the City and community based organizations in establishing and operating pre-apprenticeship programs.

(1) This requirement applies to any craft for which the State of California Department of Apprenticeship Standards has approved an apprenticeship program. A properly indentured apprentice will be employed under the regulations of the craft or trade at which he or she is indentured and shall be employed only at the work of the craft or trade in which he or she is registered.

(2) The graduation requirement for each of the preceding five (5) years shall not apply to any trade or craft not recognized by the Department of Labor or Division of Apprenticeship Standards as an apprenticeable occupation for more than nine (9) years immediately prior to the effective date of the ordinance codified in this chapter.

(e) Any business that is a small business is exempt from the requirements of this chapter.

2.56.040 Definitions.

As used in this chapter:

"City" means the City of Richmond, its agencies, departments and shall include the Richmond Community Redevelopment Agency.

"City Council" means the City Council of the City, and shall include the Agency Board of the Richmond Community Redevelopment Agency.

"City Manager" means the City Manager for the City of Richmond and, for the purposes of this chapter, shall include the Chief Executive Officer of the Richmond Community Redevelopment Agency.

"Construction contractor" means an individual, partnership, corporation, joint venture or other legal entity entering into a public works contract with the City, or performing construction work on a subsidized project.

"Employer" means a construction contractor, service contractor, subsidy recipient or any of their subcontractors, or any business which occupies and conducts its business on any portion of the site of any subsidized project within ten years after completion of the project.

"First source agreement" means a written contract between an employer and the City establishing the hiring process to be followed and containing, at least, the employer's: (1) commitment to abide by the responsibilities of an employer under this chapter, and (2) agreement that the specified hiring process shall be followed in order to maximize the number of Richmond residents employed. Unless the City Council directs otherwise, first source agreements shall contain the terms set forth in the sample documents considered by the City Council in approval of this chapter.

"New hire" means any employee of a contractor or subcontractor who is not listed on the contractor or subcontractor's last quarterly tax statement for the period prior to the commencement of work.

"Public works contract" means any contract with the City for construction, alteration, demolition or repair work.

"Referral system" means the system established by the City to provide referrals of residents to employers for employment covered by this chapter.

"Resident" means any person whose primary residence is in the City of Richmond.

"Service contract" means a contract with the City for performance of services, not including public works contracts.

"Service contractor" means any recipient of a service contract, and any subcontractor performing work in furtherance of that service contract.

"Small business" means any business that employs the equivalent of ten or fewer full-time employees in its total workforce.

"Subcontractor" means any and all parties with whom a subsidy recipient, construction contractor or other subcontractor enters into a contract to perform a portion of any construction, alteration, demolition or repair work.

"Subsidized project" means a development project for which a subsidy recipient received one or more subsidies with a total cost to the City of \$100,000 or more.

"Subsidy" means direct or indirect assistance by the City that materially benefits that person or entity, including, but not limited to: grants or loans of funds administered by the City; tax abatements or deferrals; infrastructure improvements made for the purpose of facilitating or supporting a development project; land sale at below market value; a ground lease at below market value.

"Subsidy recipient" means: (1) a person or entity that in any twelve month period receives one or more subsidies with a total cost to the City of \$100,000 or more; and/or (2) a person or entity that receives written notice that in exchange for the City's grant or subsidy to that person or entity, such person or entity must abide by the provisions of this chapter.

2.56.050 Powers and duties of the City.

In addition to the duties and powers given to the City set forth elsewhere in the Richmond Municipal Code, the City shall have the following duties and powers regarding this chapter:

(a) The City shall conduct pre-bid meetings for contracts or projects subject to this chapter to inform potential bidders of the requirements of the ordinance codified in this chapter;

(b) The City shall have the exclusive right to determine whether or not a business is a small business;

(c) The City shall require all employers with contracts or projects subject to this chapter to abide by its provisions;

(d) The City shall require that employers require compliance with and enforce the provisions of this chapter with any and all subcontractors, successors and assigns;

(e) The City shall actively monitor compliance with this chapter and will submit a quarterly report to the City Council on the status of the implementation of this chapter on all public works contracts, service contracts and subsidized projects. Compliance will be measured from the initial day of performance and shall continue for the duration of the contract or project in question;

(f) The City shall convene a semi-annual meeting of stakeholders including, local labor unions, local contractors who participate in State-certified jointly administered training programs, community-based training programs, local college training programs, and social justice advocacy groups to provide feedback and suggestions about Richmond's Local Employment Program and to review employment goals established by this Chapter. Such feedback and suggestions shall be included in the report to City Council that is required by Subsection 2.56.050(5).

(g) The City shall require that this chapter is incorporated into all relevant development agreements, development and disposition agreements, land disposition agreements, requests for proposal, requests for qualifications, and other such documents;

(h) The City shall ensure that the employment goals set under this chapter are maintained for the duration of the contract or project in question.

2.56.060 Responsibilities of employers.

(a) Each employer shall, as a condition of entry into any contract or receipt of a subsidy subject to this chapter, or of locating in a subsidized project, comply with the responsibilities and goals set forth in this chapter, including, but not limited to:

(1) First Source Agreements. Each employer shall enter into a first source agreement. The first source agreement shall establish the hiring process to be followed by the employer for construction and non-construction hiring to achieve the goals of this chapter. It is an operational document, and a model first source agreement is attached hereto to guide City staff on the necessary provisions for such agreements;

(2) Pre-bid Meetings. Each employer shall attend any pre-bid meeting conducted by the City for any contract or project subject to this chapter;

(3) Cooperation with Monitoring Efforts. Each employer shall make available to the City records and information that are relevant to monitoring and enforcement of this chapter, including contracts with other entities. The City shall not use such records or information for any purpose other than monitoring or enforcement of this chapter. Each employer shall cooperate fully and promptly with any inquiry or investigation the City deems necessary in order to monitor compliance with this chapter, including allowing access to job sites and employees. In no event shall an employer take more than 10 days to respond to a City inquiry or investigation. Employers may remove names and social security numbers from requested records to protect the privacy of individual employees, however, the City may require that an employer provide addresses of individual employees if their actual place of residence is at issue.

(b) Safe Harbor. As an incentive to exceed the goals of this chapter, an employer who meets the following requirements shall be deemed to be in compliance with the goals of the ordinance for the quarter and exempt from reporting requirements for that quarter:

(1) Public works (construction) employment: that a minimum of forty percent (40%) of the total work hours for the contract or project during the quarter was performed by residents;

(2) Retail employment: that a minimum of fifty percent (50%) of the total workforce during the quarter was residents;

(3) Office, administrative, and other employment: that a minimum of fifty percent (50%) of the total workforce during the quarter was residents.

Any employer who achieves the safe harbor requirements for four consecutive quarters shall thereafter be required only to make an annual report, unless the employer fails to file the annual report or the report fails to demonstrate compliance.

(c) Non-City Project Hiring. An employer who can adequately document the new hire of a Richmond resident on any non-City project within one of the nine Bay Area counties (Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Solano, Napa, and Sonoma), during the time a subject contract or project is in effect, shall be entitled to credit the hours of that Richmond hire towards meeting the new hire goals of this chapter.

(d) Binding on Successors and Assigns. Each employer under this chapter shall not assign, sell or in any way transfer any portion of their interest in a contract, project, subsidy or other interest subject to this chapter without first notifying the City. Each employer shall require that each of said employer's successors and/or assigns agree to comply with all terms of this chapter applicable to employers.

(e) Nondiscrimination in Conditions of Employment. Employers shall not discriminate against residents in any terms and conditions of employment, including retention, promotions, job duties, shift assignments and training opportunities.

2.56.070 Responsibilities regarding new hires.

Every employer shall have the following responsibilities:

(a) Each employer shall comply with the goals for all new hires, as stated in Section 2.56.030(a), and shall use union hiring halls for union contracts and the referral system for non-union contracts;

(b) Each employer shall, prior to hiring in furtherance of the contract or project, provide to the City its hiring projections, including number, type, and qualifications for the projected jobs;

(c) Each employer shall utilize the hiring process specified in their first source agreement with the City.

2.56.080 Noncompliance.

(a) The City shall determine whether an employer has complied with the requirements of this chapter. If the City determines that the employer failed to comply with the provisions of this chapter, the employer has the burden of proving compliance with this chapter and its obligations under this chapter or a good faith effort to comply. For the purposes of this chapter, a good faith effort shall mean compliance with the requirements of the hiring process as established in their first source agreement. Each employer agrees to pay the civil penalties set forth in subsection (d) of this section if they are found in noncompliance.

(b) The City Manager has the power, in addition to any other remedy the City may have under this chapter or by operation of law, to suspend or terminate the pertinent contract in whole or in part, with continuance thereof conditioned upon a satisfactory showing to the City Manager of the employer's ability to comply.

(c) In the event the City believes the employer may not be in compliance with the requirements of this chapter, the following procedure will be followed:

(1) The City Manager or designee shall cause to be delivered to the employer a written "Notice of Noncompliance." This notice shall specify the matters which constitute the noncompliance; the specific action required to correct the noncompliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the notice by the employer. If the notice is mailed, it will be deemed received five days after the date of mailing;

(2) If the employer disagrees with the notice, they shall have the burden of proving compliance with the provisions of the ordinance and shall submit any evidence and argument to the City Manager or designee to establish compliance no more than thirty (30) days after receipt of the notice by the employer;

(3) In the event the City Manager or designee subsequently agrees that compliance has occurred, the City Manager or designee shall cause to be delivered promptly to the employer a written "Notice of Correction of Noncompliance," specifying the original noncompliance which has been corrected;

(4) In the event the City Manager or designee does not agree that compliance has occurred, the City Manager or designee shall promptly notify the employer by a written "Notice of Failure to Correct Noncompliance," describing the facts constituting the noncompliance;

(5) After the issuance of a written "Notice of Failure to Correct Noncompliance," the employer shall have the right to request a hearing before the City Manager, designee, or a mutually agreed upon arbitrator who shall make the final determination. The request for a hearing must be made within ten (10) working days after receipt of the "Notice of Failure to Correct Noncompliance." If the notice is mailed, it will be deemed received five days after the date of mailing. The hearing shall be held no sooner than 20 and no later than 30 days after receipt by the City of the request for hearing, unless otherwise agreed to by the parties. At the hearing, the employer will be allowed to present any evidence and argument it believes proves compliance. The City Manager, designee, or neutral arbitrator shall issue their final determination no later than 10 business days after the hearing. The employer must exhaust this administrative remedy prior to commencing further legal action;

(6) In the event no request for hearing is timely made, the determination of failure to correct noncompliance shall be deemed to be final;

(7) Should the employer fail to comply with the "Notice of Noncompliance" as specified above, and a final determination of noncompliance is made, the City may exercise any of its powers as specified in this section.

(d) Civil Penalties. The City may assess civil penalties for violations of this chapter. Civil penalties for violations of this chapter are as follows: an amount not to exceed \$1,000.00 or 1% of the total contract amount, whichever is greater, for each working day of noncompliance, regardless of the number of separate acts of noncompliance by the employer existing on a particular day.

(e) The City shall keep a record of all violations of the hiring goals established by this chapter. A history of violation of the ordinance's goals shall be a factor which is considered by the City when deciding upon any future awards of contracts to the affected employer and may form the basis for denying any future contracts to the affected employer.

2.56.090 Miscellaneous.

(a) Severability. The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of the ordinance codified in this chapter, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

(b) Effective Date. The ordinance codified in this chapter shall take effect 30 days after the date of its enactment and shall govern all contracts and other relevant agreements that have not been executed by that date.

(c) Sources of Authority. This chapter constitutes an exercise of the police powers of the City, the contracting and spending powers of the City and Agency, and the powers of the Agency deriving from the California Health & Safety Code, § 33000 et seq.

(d) Compliance with State and Federal Law. This chapter shall be enforced only to the extent that it is consistent with the laws of the State of California and the United States of America. Nothing in this Chapter is intended to affect the duties of any business, including any small business, under State or federal law. In addition, no provision of this Chapter, including but not limited to Subsection 2.56.030(e), is intended to exempt any business from complying with applicable State or federal law, or from complying with State requirements for apprenticeship programs as detailed in Subsection 2.56.030(d). No employer shall be required by this agreement to violate its obligations under an agreement governed by the National Labor Relations Act and the Labor-Management Relations Act. If any provision of this chapter is held by a court of law to be in conflict with State or federal law, the applicable law shall prevail over the terms of this chapter, and the conflicting provisions of this chapter shall not be enforceable.

(e) Compliance with Court Order. An employer shall be excused from compliance with the pertinent terms of this chapter if the employer is bound by a court or administrative order or decree which conflict with those terms.

(f) Material Terms. The provisions of this chapter are material terms of all contracts or agreements in which the ordinance codified in this chapter is incorporated.

SECTION 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional, such division shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases or clauses be declared unconstitutional on their face or as applied.

SECTION 3. This ordinance shall be effective 30 days after passage and adoption.

First introduced at a regular meeting of the City Council of the City of Richmond held on April 6, 2010, and finally passed and adopted at a regular meeting held on April 20, 2010, by the following vote:

AYES: Councilmembers Bates, Lopez, Rogers, Viramontes, Vice Mayor
Ritterman, and Mayor McLaughlin.

NOES: None.

ABSTENTIONS: None.

ABSENT: Councilmember Butt.

DIANE HOLMES
Clerk of the City of Richmond

(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

RANDY RIDDLE
City Attorney

I certify that the foregoing is a true copy of Ordinance No. 15-10 N.S., finally passed and adopted by the Council of the City of Richmond at a regular meeting on April 20, 2010.

**CITY OF RICHMOND
FIRST SOURCE AGREEMENT**

RECITALS

THIS FIRST SOURCE AGREEMENT is entered into on the date stated below by and between the CITY OF RICHMOND, a municipal corporation and charter city (hereinafter the "City"), and _____ (hereinafter the "Employer").

WHEREAS, the Employer has been awarded a contract, forgivable loan or subsidy by the City and/or the Richmond Community Redevelopment Agency, dated _____, 20____ (hereinafter the "Contract") to perform certain work and provide certain services at _____ in Richmond, California, described as follows: _____

WHEREAS, the Employer, in addition to the Contract, agrees to enter into this First Source Agreement (hereinafter the "FSA") with the City;

NOW, THEREFORE, the parties hereto mutually agree as follows:

1. Compliance with Chapter 2.56. Employer will comply with the terms of Chapter 2.56 of the Richmond Municipal Code, Local Employment Program (hereinafter the "Ordinance"), a copy of which is attached hereto and incorporated herein by reference.

2. Liaison. Employer shall designate a liaison for issues related to the Ordinance and this FSA. The liaison shall work with designated City of Richmond staff to facilitate effective implementation of the Ordinance and this FSA (hereinafter the "Designated City Staff").

3. First Source Hiring Process for CONSTRUCTION and NON-CONSTRUCTION JOBS -Employer shall take the following steps regarding hiring in furtherance of the Contract.

(a) Long-Range Planning. Employer shall, prior to hiring in furtherance of the Contract, and as soon as practicable, provide to the Designated City Staff the approximate number and type of hires that it will make for employment, and the basic qualifications necessary for each projected hire.

(b) Dual Notification Process (CONSTRUCTION ONLY). Where there is a signatory agreement with the local union and the associated craft, Employer shall work with the local union and the City of Richmond Employment and Training Department (hereinafter the "ETD") to fill those positions. The Employer shall forward to the ETD a copy of all personnel requests made to the trade unions, specifying the residency of personnel requested (this process is

hereinafter referred to as the "dual notification process" and a description of it is attached hereto along with the Request for Craft form for use by the Employer). In the dual notification process, the Employer shall utilize the "name call," "rehires," "transfers," or "sponsorship" options in maximizing the participation of Richmond, California residents.

(c) Notification of job opportunities. Prior to hiring in furtherance of the Contract, Employer shall notify the Designated City Staff, by email or fax, of available job openings and provide a description of job responsibilities and qualifications, including expectations, salary, work schedule, duration of employment, required standard of appearance, and any special requirements, e.g., language skills, driver's license, etc. Job qualifications shall be limited to skills directly related to performance of job duties.

(d) Filling of job opportunities. Prior to announcing or advertising in any form and by any means (except for compliance with internal posting procedures) the availability of an employment position created by the vacancy of an existing position or a new employment position, the Employer shall utilize the dual notification process to notify the pertinent union, if appropriate, and ETD in writing of such position, including a general description of the position and Employer's minimum requirements for qualified applicants, and shall request any pertinent union and ETD to refer qualified applicants for such position to Employer's trade union and/or personnel representative, as appropriate. The Employer shall refrain from any general announcement or advertisement of the availability of such position for a period of ten (10) business days after notification to the ETD. This ten-day period shall be known as the "Advance Notice Period."

(e) Job Site Applications. In the event that any persons seek employment with the Employer at the job site, the Employer shall have the person complete a Job Site Application consisting of name, address, telephone number, social security number and trade. The Employer will then submit this information to the ETD.

(f) Transfer and Promotion. Nothing contained herein shall prevent the Employer from filling job vacancies or newly created positions without compliance with the foregoing procedures by transfer or promotion from its existing staff.

4. Monthly Reports. Employer shall, on a monthly basis, furnish certified payroll sheets to ETD. Failure to provide the City with this information shall result in delay of progress payments for that portion which is deemed not in compliance with the provisions of this FSA.

5. Quarterly Reports. Employer shall prepare quarterly reports detailing the number of hires for employment in furtherance of the Contract during the quarter and stating what percentage of such hires were residents of Richmond, California. The Designated City Staff shall assist Employer by preparing forms to be completed for this purpose. Reports shall be filed with the ETD within thirty (30) days after the completion of each quarter. Reports may include a description of any difficulties the Employer is having with obtaining qualified referrals through the Designated City Staff.

6. Non-compliance Procedure. In the event the City believes the Employer may not be in compliance with the requirements of this FSA, the following procedure will be followed:

(a) The Community and Economic Development Executive Director (hereinafter the "Executive Director") or designee shall cause to be delivered to the Employer a written "Notice of Non-Compliance" (hereinafter the "Notice"). The Notice shall specify the matters which constitute the non-compliance; the specific action required to correct the non-compliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the Notice by the Employer. If the Notice is mailed, it will be deemed received five (5) days after the date of mailing.

(b) If the Employer disagrees with the Notice, they shall have the burden of proving compliance with the provisions of the Ordinance and shall submit any evidence and argument to the Executive Director or designee to establish compliance no more than thirty (30) days after receipt of the Notice by the Employer.

(c) In the event the Executive Director or designee subsequently agrees that compliance has occurred, the Executive Director or designee shall cause to be delivered promptly to the Employer a written "Notice of Correction of Non-Compliance," specifying the original non-compliance which has been corrected.

(d) In the event the Executive Director or designee does not agree that compliance has occurred, the Executive Director or designee shall promptly notify the Employer by a written "Notice of Failure to Correct Non-Compliance" ("hereinafter the "Notice of Failure to Correct"), describing the facts constituting the non-compliance.

(e) After the issuance of the Notice of Failure to Correct, the Employer shall have the right to request a hearing before the City Manager or designee (hereinafter "Request for Hearing"), who shall make the final determination. The Request for a Hearing must be made within ten (10) working days after receipt of the Notice of Failure to Correct. If the Notice of Failure to Correct is mailed, it will be deemed received five (5) days after the date of mailing. The hearing shall be held no sooner than twenty (20) and no later than thirty (30) days after receipt by the City of the Request for Hearing, unless otherwise agreed to by the parties. At the hearing, the Employer will be allowed to present any evidence and argument it believes proves compliance. The City Manager or designee shall issue their final determination no later than ten (10) business days after the hearing. The Employer must exhaust this administrative remedy prior to commencing legal action.

(f) In the event no Request for Hearing is timely made, the determination of failure to correct non-compliance shall be deemed to be final.

(g) Should the Employer fail to comply with the Notice of Non-Compliance as specified above, and a final determination of non-compliance is made, the City may exercise any of its powers as specified in §2.56.080 of the Ordinance.

Executed this __ day of _____, 20____

EMPLOYER

By: _____

Name: _____

Its:

CITY OF RICHMOND

By: _____

Name: _____

Title: _____

Approved as to form:

City Attorney

ORDINANCE NO. 16-12 N.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RICHMOND AMENDING CHAPTER 2.50 TO THE RICHMOND MUNICIPAL CODE ENTITLED BUSINESS OPPORTUNITY ORDINANCE

SECTION I

Chapter 2.50 entitled “**RICHMOND BUSINESS OPPORTUNITY ORDINANCE**” of the Richmond Municipal Code is hereby amended as follows:

Sections:

- 2.50.010 Findings.**
- 2.50.020 Declaration of Policy and Purpose.**
- 2.50.030 Scope and goals.**
- 2.50.040 Definitions.**
- 2.50.050 Powers and duties of the City.**
- 2.50.060 Powers and responsibilities of contractors.**
- 2.50.070 Rating incentives.**
- 2.50.080 Compliance.**
- 2.50.090 Exceptions.**
- 2.50.100 Monitoring Compliance.**
- 2.50.110 Duration of chapter.**

2.50.010 Findings.

The City Council of the City of Richmond hereby finds that it is in the best interest of the City of Richmond to have a healthy local business community. The City Council also finds that Richmond businesses, particularly small and nonprofit businesses, often encounter obstacles to obtaining financing and credit; to obtaining bonding and insurance and to maintaining their economic viability.

2.50.020 Declaration of policy and purpose.

(a) It is the policy of the City to ensure full and equitable opportunities for Richmond business enterprises, including small and nonprofit businesses, to participate as contractors in the provision of goods and services to the City. Policies and programs that enhance the opportunities and entrepreneurial skills of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses will best serve the public interest because the growth and development of such businesses will have a significant positive impact on the economic health of the City. Moreover, businesses in Richmond need to be encouraged because there are fewer businesses in the Richmond area than in comparable parts of the Bay Area and because the businesses that do exist in Richmond tend to be smaller and more fragile than businesses located in other parts of the San Francisco Bay Area.

(b) It is the City's policy that first preference for awarding contracts be given to businesses located within its City limits. The public interest is served by continuing to encourage businesses, including small and nonprofit businesses, to locate and remain in Richmond through the provision of a preference to Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in the award of City contracts.

(c) The City is instituting rating incentives for Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in the award of City contracts in order to encourage businesses to locate and remain in Richmond and thereby enhance employment opportunities for persons living in Richmond. In effect, the rating incentives are intended to promote the growth and development of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and to assist these businesses in contributing to the economic health of the City. The rating incentives should not unduly hamper non-Richmond businesses in the contracting process, and parallels the ratings incentives awarded in many other jurisdictions.

(d) Because many Richmond businesses are small and may not have the resources, capability or experience to act as prime contractors or to provide specialty services, it is the policy of the City to encourage qualified prime contractors to use Richmond businesses, Richmond small

businesses and Richmond nonprofit businesses as subcontractors to participate and gain experience in a way that will enhance their ability to compete for contracts on their own.

2.50.030 Scope and goals.

- (a) The provisions of this chapter shall apply to three categories of contracts funded by the City:
 - (1) construction and construction-related contracts valued at or above one hundred thousand dollars (\$100,000);
 - (2) service contracts valued at or above fifty thousand dollars (\$50,000); and
 - (3) contracts for the procurement of goods, materials, equipment, furnishings or supplies valued at or above twenty-five thousand dollars (\$25,000).
- (b) In accordance with the findings in Section 2.50.010, the evidence supports the conclusion that Richmond businesses, Richmond small businesses and Richmond nonprofit businesses have been disadvantaged when competing for contracts.
- (c) In order to eliminate the disparity between available and utilized Richmond businesses, including small and nonprofit businesses, the City is establishing a goal to achieve an adequate level of Richmond business participation in City contracts. The goal is that a minimum of twenty-five percent (25%) of the total contract dollar amount for all contracts covered by this chapter is allocated to Richmond businesses and/or Richmond nonprofit businesses and that a minimum of ten percent (10%) of that percentage be allocated to Richmond small businesses and/or Richmond small nonprofit businesses.

2.50.040 Definitions.

As used in this chapter:

- (a) "Contract" means any contract or agreement between the City and a person to provide or procure labor, goods, materials, equipment, furnishings, supplies or services to, for or on behalf of the City. Except as otherwise specifically defined in this section a contract does not include:
 - (1) Awards made by the City with a federal or state grant where the grant requirements do not permit local preferences;
 - (2) City general fund grants to a nonprofit entity where the City offers assistance, guidance or supervision on a project or program and the recipient of the grant award uses the monies to provide services to the community;
 - (3) Sales transactions where the City sells its personal or real property;
 - (4) Gifts of materials, equipment, supplies or services to the City; or
 - (5) Contracts exempted from the provisions of Chapter 2.52 of the Richmond Municipal Code.
- (b) "Contract Awarding Authority" or "CAA" means the City officer, department, employee or legislative body authorized and empowered by law to enter into contracts on behalf of the City. In the case of an agreement with a contractor to perform or fund the performance of construction-related services, the term "contract awarding authority" or "CAA" shall mean the contractor receiving funds from the City to perform or fund the performance of such services.
- (c) "Contractor" or "Prime Contractor" means any person who submits a bid or proposal to perform, performs any part of, agrees with a person to provide services in relation to or enters into any contract subject to this chapter with CAA's for public works or improvements to be performed, or for goods or services or supplies to be purchased at the expense of the City or to be paid out of monies deposited in the treasury or out of trust monies under the control of, or collected by, the City.
- (d) "Good faith effort" means the steps undertaken to comply with the goals and requirements of this chapter and shall include the following mandatory activities, as determined by the City:
 - (1) Attending any pre-solicitation or pre-bid meetings scheduled by the City to inform all prime contractors of the Richmond business, Richmond small business and Richmond nonprofit business requirements for the project for which the contract will be awarded;
 - (2) Listing any Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses that will be participating in the project for which the contract will be awarded;
 - (3) Advertising, not less than twenty (20) calendar days before the date the bids are to be opened by the CAA, in one or more daily or weekly newspapers, trade association publications, trade journals or other media as specified by the City. This subsection applies only if the City gave public notice of the project for which the contract will be awarded not less than thirty (30) calendar days prior to the date the bids are opened;
 - (4) Following up initial solicitations of interest by contacting Richmond businesses, Richmond small businesses and Richmond nonprofit businesses to determine with certainty whether such businesses are interested in performing specific items for the contract; and

- (5) Negotiating in good faith with Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and not unjustifiably rejecting as unsatisfactory bids or proposals prepared by any such businesses.
- (6) Good faith effort shall also include the following non-mandatory activities for which the contractor must accomplish at least two of five of the following, as determined by the City:
- (A) Identifying specific items of work to be performed by Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses in order to increase the likelihood of meeting the business goals and intent of this chapter, including breaking down contracts into smaller units;
 - (B) Providing written notice of its interest in bidding on the contract to the number of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses required to be notified by the project specifications for the project for which the contract will be awarded. Written notice shall specify which items of work the prime contractor has identified pursuant to subsection (A), above. This notice shall be provided to any such Richmond businesses, Richmond small businesses and Richmond nonprofit businesses not less than twenty (20) calendar days prior to the opening of bids by the CAA. These solicitations shall include a description of the specific items of work to be performed by the Richmond businesses, Richmond small businesses and Richmond nonprofit businesses and all related conditions of the work including the City Engineer's estimate and specifications for the items for which the bid is solicited. The City shall make available to the contractor a list or a source of lists of enterprises which have been certified as Richmond businesses, Richmond small businesses and Richmond nonprofit businesses not less than twenty (20) calendar days prior to bid opening;
 - (C) Making the project plans, specifications, and in the case of a construction, design or engineering contract, the City Engineer's estimate available for review by interested Richmond businesses, Richmond small businesses and Richmond nonprofit businesses;
 - (D) Requesting assistance from Richmond community organizations; Richmond contractor or professional groups; local, state or federal business assistance offices; or other organizations that provide assistance in the recruitment and placement of Richmond businesses, Richmond small businesses and Richmond nonprofit businesses, if any are available; and
 - (E) Assisting interested Richmond businesses, Richmond small businesses and Richmond nonprofit businesses in obtaining bonds, lines of credit, or insurance required by the City or contractor.
- (e) "Joint venture" means and may be referred to as an "association" of two or more businesses, one of which must be a Richmond small business and/or Richmond small nonprofit business, acting as a prime contractor and performing or providing services on a contract, in which each joint venture or association partner combines property, capital, efforts, skill and/or knowledge. Richmond businesses, Richmond small businesses and Richmond nonprofit businesses participating in joint ventures shall have a commensurate share of the profit or loss to be realized from the joint venture. The joint venture shall be allowed to count the entire amount of the work performed by the Richmond business, Richmond small business and/or Richmond nonprofit business partner in determining whether the joint venture meets the business goals of this chapter. In order to be considered a Richmond business joint venture, the joint venture must conform to pertinent laws which govern the creation of such business arrangements and first be certified by the City as provided in Section 2.50.050(c).
- (f) "Person" means one or more individuals, partnerships, associations, organizations, trade or professional associations, corporations, nonprofit corporations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers or any combination thereof, including any official, agent or employee of the City.
- (g) "Richmond business" means any business (small, nonprofit or otherwise) which possesses or establishes all of the following at least six (6) months before bids or proposals are opened:
- (1) A written agreement for City occupancy or proof of ownership of a Richmond office;
 - (2) Proof that business is transacted in the Richmond office;
 - (3) A conspicuously displayed business sign at the Richmond business premises except where the business operates out of a residence;
 - (4) Proof that the office is appropriately equipped for the type of business for which certification as a Richmond business is sought. Where equipment, such as computers, and reproduction and communications machines are typically and routinely used in a non-Richmond location, comparable equipment shall be installed and routinely used at the Richmond office. A Richmond office that is used solely or primarily for meetings shall not comply, unless such activities are the sole or principal use of the principal non-Richmond office;
 - (5) A valid City of Richmond business license;

- (6) An operating telephone that, when answered by a person, is answered only on the Richmond premises;
- (7) Proof that the Richmond office is the principal office of the business where the predominant office work of the business is performed; and
- (8) When the Richmond office is a branch or supplementary office of a multi-location business, proof that the Richmond office is staffed by at least one full time equivalent employee (minimum thirty (30) hours per week), or that the Richmond office is staffed by at least one full time equivalent employee at least as many hours per week as the principal non-Richmond office.
- (h) "Richmond nonprofit business" means any Richmond business or Richmond small business which is a public benefit organization certified by the City as an organization formed for purposes other than generating a profit and in which no part of the organization's income is distributed to its directors or officers. A Richmond nonprofit business must be incorporated by the State, treated as a corporate entity under the law and be on file with the Internal Revenue Service. Richmond nonprofit businesses must apply for tax exempt status at both the federal and State levels. Any and all profits accrued must be retained by the organization for its goals, preservation, maintenance and/or growth. Profits generated cannot personally benefit shareholders, individuals, corporate officers or trustees. To seek Richmond nonprofit business certification, any such Richmond based organizations will apply to the City pursuant to the rules and regulations adopted pursuant to this chapter.
- (i) "Richmond small business" means any Richmond business that is certified as a small business by the California Department of General Services, or as a Disadvantaged Business Enterprise by the California Unified Certification Program.
- (j) "Subcontractor" means any person providing labor, goods or services to a prime contractor for profit, if such goods or services are procured or used in fulfillment of the contractor's obligations arising from a contract with the City.
- (k) "Supplier" means any person who submits a bid or proposal or enters into a contract for the supplying of goods, materials, equipment, furnishings or supplies.

2.50.050 Powers and duties of the City.

In addition to the duties and powers given to the City, as set forth elsewhere in the Richmond Municipal Code, the City shall have the following duties and powers:

- (a) The City shall notify Richmond businesses, Richmond small businesses and Richmond nonprofit businesses of contracting and procurement opportunities under this chapter by appropriate means designed to maximize awareness of these opportunities.
- (b) The City shall have the exclusive power to certify businesses as bona fide Richmond businesses, Richmond small businesses and Richmond nonprofit businesses, and may rely on outside organizations such as the California Department of General Services and the California Unified Certification Program for any such certification.
- (c) The City shall have the exclusive power to certify Richmond business joint ventures. In order for the City to make its determination:
 - (1) The joint venture shall submit a written request for certification with its bid and provide the City with a full account of the nature of the business, the local ownership interest, the basis for creation of the joint venture, and the responsibilities of the interested parties.
 - (2) The joint venture shall submit a written agreement creating the joint venture and, in the case of construction contracts, a joint venture license.
 - (3) The joint venture shall provide the City with any further information or documents the City requests to assist the City in determining whether the joint venture is bona fide. The information received from such a joint venture shall demonstrate that the Richmond business, Richmond small business and/or Richmond nonprofit business has a commensurate share of responsibility and profit or loss to be realized from the joint venture.
- During the term of a contract with a joint venture, or within twelve (12) months after the termination of any such contract, the City shall have the right to review the joint venture's records to determine whether the joint venture is being carried out as a bona fide Richmond business joint venture. The City may investigate whether the joint venture partners are sharing equitably in the profit or loss of the entity and whether they are performing tasks commensurate with their share of the joint venture.
- (d) The City shall initiate and investigate complaints arising from a failure to comply with any of the requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business participation.
- (e) During the term of a contract covered by this chapter, or within twelve (12) months after the termination of any such contract, where there is a prime contractor and one or more Richmond

business, Richmond small business or Richmond nonprofit business subcontractors, the City shall have the right to review any records of the contractors and subcontractors to verify that any subcontract is bona fide, that any subcontractor is actually performing the work of their subcontract, and that the contractor and subcontractor are in compliance with requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business participation.

(f) All contracts with the City for the purpose of contracting with businesses to perform contracts, shall require compliance with the provisions of this chapter in awarding and administering such contracts, except where prohibited by state or federal law or regulation.

(g) The requirements of this chapter are separate from those imposed by the federal government or the State as a condition of financial assistance or otherwise. However, the City shall enforce the imposition of Federal Minority Business Enterprise, Women Business Enterprise, Disadvantaged Business Enterprise, and Disabled Veteran Business Enterprise requirements in addition to the requirements of this chapter whenever such federal requirements are warranted.

(h) Consistent with the contracting and purchasing procedures prescribed in Chapter 2.52 of the Richmond Municipal Code (Contracting and Purchasing Procedures) and Article V, Section 2 of the Bylaws of the Richmond Community Redevelopment Agency (Contract Authority), as the same may be amended, the CAA may award, or recommend approval of an award of, a contract that has an estimated value of greater than five thousand dollars (\$5,000), but less than (1) one hundred thousand dollars (\$100,000) for construction and construction-related contracts, (2) fifty thousand dollars (\$50,000) for service contracts and (3) twenty-five thousand dollars (\$25,000) for the procurement of goods, materials, equipment, furnishings or supplies, to a Richmond small business or Richmond small nonprofit business as long as the CAA obtains price quotations from two or more Richmond small businesses or Richmond small nonprofit businesses. If the estimated cost to the CAA is less than five thousand dollars (\$5,000) for the contract, or a greater amount as administratively established by the City Manager, the CAA shall obtain at least two price quotations from any responsible contractors and suppliers whenever there is reason to believe a response from a single source is not a fair and reasonable price.

2.50.060 Powers and responsibilities of prime contractors and subcontractors.

Prime contractors and subcontractors shall have the following powers and responsibilities:

(a) Each contractor and subcontractor shall have responsibility for monitoring its compliance with the provisions of this chapter, the rules and regulations adopted pursuant to this chapter, and contract provisions pertaining to Richmond business participation, including obtaining and analyzing reports, conducting preliminary investigations to determine compliance or noncompliance with this chapter, and taking any other action which may be appropriate to assure that all contractors and subcontractors comply with these provisions.

(b) Each contractor shall be responsible for meeting all of its Richmond business, Richmond small business and Richmond nonprofit business participation goals as specified in each relevant section of the chapter. The contractor shall be given an opportunity to demonstrate that it has made a "good faith effort" to ensure that the goals are met, and to ensure compliance with the requirements and intent of this chapter.

(c) Each contractor shall have the right to make field inspections, to review documents, monitor and interview such individual commercial tenants, employers and subcontractors as necessary to verify the accuracy of reports and to otherwise monitor compliance with the requirements and intent of this chapter.

(d) Each contractor and subcontractor shall cooperate with monitoring efforts of the City including, but not limited to, providing all relevant records and documents, assisting field or site inspections, and other monitoring efforts deemed necessary by the City.

(e) Each contractor shall designate a staff person who shall have the primary responsibility for ensuring that its responsibilities as outlined in each relevant section of the chapter are being met.

(f) Whenever contract supplements, amendments, or change orders are made which cumulatively increase the total dollar value of a contract by more than ten percent (10%), the contractor shall comply with those provisions of this chapter that applied to the original contract with respect to the supplement, amendment or change order.

2.50.070 Rating incentives.

Whenever a bid process is utilized in awarding a contract, the following rating incentives shall apply:

- (a) A five percent (5%) or five point rating incentive to bids submitted by Richmond business prime contractors;
 - (b) A five percent (5%) or five point rating incentive to bids submitted by Richmond business joint ventures where the Richmond small business or Richmond small nonprofit business partner is allocated a minimum of twenty-five percent (25%) of the total contract amount;
 - (c) A five percent (5%) or five point rating incentive to bids submitted by prime contractors, including joint ventures, that utilize a minimum of twenty-five percent (25%) of the total contract dollar amount allocated to Richmond businesses and of which at least ten percent (10%) of that amount is allocated to Richmond small businesses or Richmond small nonprofit businesses.
- Notwithstanding anything above to the contrary, rating incentives shall not cumulatively equal more than ten percent (10%) or ten points for each procurement.

2.50.080 Compliance.

- (a) In submitting bids for projects for which a contract will be awarded pursuant to this chapter, prime contractors shall do the following:
 - (1) Demonstrate in their bid that they have used good faith efforts to utilize Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses; and
 - (2) Identify the particular Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses and suppliers to be utilized in performing the contract, specifying for each such business the dollar value of the participation, the type of work to be performed and such information as may be reasonably required to determine the responsiveness of the bid.
- (b) During the term of the contract, any failure to comply with the level of Richmond business, Richmond small business and/or Richmond nonprofit business participation specified in the contract shall be deemed a material breach of the contract.
- (c) The CAA shall use good faith efforts to solicit bids or proposals from Richmond businesses, Richmond small businesses and/or Richmond nonprofit businesses.
- (d) The City is empowered to take actions to ensure compliance with the provisions of this chapter. The actions which the City is empowered to take may include, but are not limited to:
 - (1) Ordering the suspension of the selection process for the award of contract;
 - (2) Intervening in the selection process to correct contracting practices which hinder business opportunities for Richmond businesses, Richmond small businesses and Richmond nonprofit businesses;
 - (3) Declaring the contractor or any subcontractor to be nonresponsive and ineligible to receive the award of contract or in the case of any subcontractor, to participate in the contract as a subcontractor;
 - (4) Subject to the rules and regulations adopted pursuant to this chapter, declaring an existing contract terminated;
 - (5) Subject to the rules and regulations adopted pursuant to this chapter, imposing penalties in the form of liquidated damages. The liquidated damages shall be in an amount equal to the contractor's net profit on the contract, or ten percent (10%) of the total amount of the contract or one thousand dollars (\$1,000), whichever is greatest, said amount to be determined by the City. All liquidated damages assessed shall be payable to the City upon demand and may be set off against any monies due to the contractor from any contract with the City and the City shall have the right to withhold payment due the contractor;
 - (6) Subject to Section 2.52.700, et. seq. of the Richmond Municipal Code, disqualifying the contractor or any subcontractor from eligibility for providing goods or services to the City for a period not to exceed five (5) years. Any business disqualified under this subsection shall have a right to review and reconsideration by the City Manager after two (2) years upon a showing of corrective action indicating that violations are not likely to recur; or
 - (7) Not awarding any contracts to a contractor or subcontractor that is disqualified from doing business with the City under the provisions of this subsection.

2.50.090 Exceptions.

- (a) The City shall waive the Richmond business rating incentives and good faith efforts requirements of this chapter under the following circumstances:

- (1) Whenever the City finds, with the advice of the CAA, that needed goods or services are available only from a sole source and the prospective contractor is not currently disqualified from doing business with the City or from doing business with any governmental agency based on a failure to comply with this chapter or other City requirements;
- (2) If the CAA certifies in writing to the City that:
 - (A) Pursuant to the contract, it is necessary to respond to an emergency which endangers the public health or safety, and
 - (B) There is no time to apply the rating incentives and no Richmond businesses, Richmond small businesses or Richmond nonprofit business capable of performing the emergency work are immediately available;
- (3) Any certification submitted pursuant to this provision shall be made prior to the contract being submitted for City Council review and approval or ratification.
- (b) The City shall waive the Richmond business rating incentives for contracts in excess of one million dollars (\$1,000,000) whenever a CAA establishes that:
 - (1) Sufficient qualified Richmond businesses, Richmond small businesses and Richmond nonprofit businesses capable of providing the needed goods and services required by the contract are unavailable, and sufficient qualified businesses located outside of the area capable of providing the needed goods and services required by the contract are available; or
 - (2) The application of the rating incentives will result in significant additional costs to the City if the waiver of the rating incentive is not granted.
- (c) This provisions of this chapter shall not apply where local preferences are prohibited by state or federal law or regulation.

2.50.100 Monitoring compliance.

- (a) The City shall monitor compliance with and will submit a report annually by no later than October 1 of each year, or more frequently upon request of the City Council, to the City Council on the status of the implementation of this chapter. Compliance will be measured from the initial day of performance and shall continue for the duration of the project for which a contract will be awarded pursuant to this chapter. The City shall issue an exit report for any contract which includes Richmond business, Richmond small business and/or Richmond nonprofit business participation as a joint venture partner. The purpose of the exit report is to ensure that such businesses are actually performing services on joint ventures.
- (b) In cases where the City has cause to believe that a contractor or subcontractor acting in good faith has failed to comply with any of the requirements and intent of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business, Richmond small business and/or Richmond nonprofit business participation, the City shall notify the CAA and shall attempt to resolve the noncompliance through conciliation. The City shall be empowered to require the contractor or subcontractor to participate in alternative dispute resolution to resolve the noncompliance. If the noncompliance cannot be resolved, the City shall submit to the City Manager and the contractor or subcontractor a written finding of noncompliance. The City Manager shall give the contractor or subcontractor an opportunity to appeal the finding, and if the City Manager concurs with the finding of the City, the City Manager shall take such action as will effectuate the purposes of this chapter, including the actions permitted in Section 2.50.080(d).
- (c) In cases where the City has reason to believe that a contractor or subcontractor has willfully or in bad faith failed to comply with any of the provisions of this chapter, rules and regulations adopted pursuant to this chapter, or contract provisions pertaining to Richmond business, Richmond small business or Richmond nonprofit business participation, the City shall be empowered to conduct an investigation and require the contractor or subcontractor to participate in alternative dispute resolution to resolve the noncompliance. If the alternative dispute resolution is not successful, and after affording the contractor or subcontractor notice and an opportunity to be heard, the City may take action as will effectuate the purposes of this chapter, including the actions permitted in Section 2.50.080(d).

2.50.110 Duration of chapter.

The provisions of this chapter shall remain in effect until December 31, 2016. On that date, the provisions shall cease to exist unless the City Council acts to renew the provisions of this chapter.

SECTION 2

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid or unconstitutional.

SECTION 3

This Ordinance shall be effective 30 days after passage and adoption.

First read at a regular meeting of the Council of the City of Richmond, California, held, December 4, 2012, and finally passed and adopted at a regular meeting thereof held December 18, 2012, by the following vote:

AYES:	Councilmembers Bates, Boozé, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.
NOES:	None.
ABSTENTIONS:	None.
ABSENT:	Councilmembers Beckles.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE MCLAUGHLIN
Mayor

Approved as to form:

BRUCE REED GOODMILLER
City Attorney

State of California	}	
County of Contra Costa		: ss.
City of Richmond	}	

I certify that the foregoing is a true copy of Ordinance No. 16-12 N.S., finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on December 18, 2012.

ORDINANCE NO. 14-13 N. S.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND ADDING CHAPTER 2.65 TO THE MUNICIPAL CODE OF THE CITY OF RICHMOND ENTITLED “BAN THE BOX” REQUIRING ANY CONTRACTOR, LESSEE, RECIPIENT OF FINANCIAL AID OR THEIR SUBCONTRACTORS TO REFRAIN FROM ANY INQUIRIES REGARDING EMPLOYMENT APPLICANTS' PRIOR CRIMINAL CONVICTIONS.

The Council of the City of Richmond, California do ordain as follows:

Section I. Amendment

Article II of the Municipal Code of the City of Richmond is hereby amended by adding a Chapter 2.65 which reads as follows:

Chapter 2.56

BANNING THE REQUIREMENT TO PROVIDE INFORMATION OF PRIOR CRIMINAL
CONVICTIONS ON ALL EMPLOYMENT APPLICATIONS

Sections:

2.65.010	Purpose
2.65.020	Findings
2.65.030	Definition
2.65.040	Prohibition on Requiring an Applicant for Employment to Provide Information on Their Prior Criminal Convictions
2.65.050	Exemptions
2.65.060	Compliance
2.65.070	Severability
2.65.080	Effective Date

2.65.010 Purpose

The purpose of this ordinance is to require that all contractors, lessees, recipients of City financial aid, and their respective subcontractors that employ the equivalent of ten or more full-time employees in their total workforce and who desire to obtain contracts with the City of Richmond, remove any question regarding prior criminal convictions from their printed and/or on-line employment application forms and do not make any inquiry into an applicant’s conviction history. Nothing provided for herein, prohibits an employer who is required by either state or federal law to perform background checks as part of the hiring process, to take the necessary actions to comply with applicable law.

2.65.020 Findings

The City Council of Richmond finds as follows:

(a) The City of Richmond is committed to ensuring that all qualified individuals seeking employment within the City should be given an equal opportunity to apply for available positions; and

(b) The City of Richmond believes that providing an equal opportunity includes extending employment opportunities to qualified individuals who have been released from incarceration and are rebuilding their lives; and

(c) The U.S. Equal Employment Opportunity Commission has stated that “excluding individuals from employment on the basis of their conviction records has an adverse impact on Blacks and Hispanics in light of statistics showing that they are convicted at a rate disproportionately greater than their representation in the population” and that “such a policy or practice is unlawful under Title VII in the absence of a justifying business necessity”; and

(d) Hiring practices that consider the past criminal history of applicants without a justifying business necessity can prevent willing and qualified job applicants from obtaining gainful employment; and

(e) The inability to obtain gainful employment after release from incarceration can contribute to a host of problems including high rates of unemployment, increased recidivism rates, and increased crime; and

(f) The community at large benefits when recidivism rates are reduced and gainful employment is critical for individuals to avoid re-offending, and

(g) There has been a nationwide initiative, referred to as “Ban the Box”, in which employers are encouraged to remove questions regarding prior criminal convictions from employment applications; and

(h) Various cities and counties throughout the United States, including Compton, California; Hartford and New Haven, Connecticut; Boston, Cambridge, and Worcester, Massachusetts; Detroit, Michigan; Atlantic City and Newark, New Jersey; Buffalo and New York City, New York; Philadelphia, Pennsylvania; and Seattle, Washington and the states of Hawaii, Massachusetts, Minnesota, and Rhode Island have all adopted employment application practices aligned with the "Ban the Box" initiative that are applicable to government contractors or all private employers;

(i) As one of the larger purchasers of goods and services and providers of financial aid in Richmond, the City’s contracting practices can influence the hiring practices utilized by other employers, and

(j) The City of Richmond has an opportunity to lead the way toward greater economic opportunity for individuals by providing equal opportunities for employment to members of the community, including those members who were formerly incarcerated and are attempting to rebuild their lives; and

(k) The City of Richmond recognizes that State and/or federal laws may require criminal background investigations for certain positions, including positions that involve work with children, positions in law enforcement, and other sensitive positions; and

(l) The City of Richmond recognizes that its contractors, lessee’s and recipients of financial aid will have to continue to comply with State and/or federal laws in conducting required and necessary background investigations, while also balancing the interest in providing opportunities for employment to those who have prior convictions in positions in which there are no statutory prohibitions against employment.

2.65.030 Definitions

The following words and phrases whenever used in this Chapter shall be construed as defined in this section:

(a) "City" means the City of Richmond and all City agencies, departments and offices, including the Richmond Successor Agency to the Richmond Redevelopment Agency, the Richmond Housing Authority and the Port of Richmond.

(b) "Contractor" means any person or entity that employs the equivalent of ten or more full-time employees in their total workforce that enters into a contract, service contract, or a franchise agreement with the City,

(c) "Employer" means any person who is a City financial assistance recipient, lessee, or a contractor or subcontractor and who employs the equivalent of ten or more full-time employees in their total workforce.

(d) “Employee” means all persons engaged in the operation or conduct of any business, whether as owner, any member of owner's family, partner, associate, agent, manager, or solicitor, and any and all other persons engaged or employed in said business.

(e) "Leaseholder" means any person that enters into an agreement with the City for any lease of public property, license, concession or franchise and which employs the equivalent of ten or more full-time employees in their workforce.

(f) "Non-profit" shall mean a non-profit organization described in Section 501(c) (3) of the Internal Revenue Code of 1954 which is exempt from taxation under Section 501(c) (3) of that code, or any non-profit educational organization qualified under Section 233701(d) of the Revenue and Taxation Code, subcontractor and who employs the equivalent of ten or more full-time employees in their total workforce.

(g) "Person" means any individual, proprietorship, partnership, joint venture, corporation, Limited Liability Company, trust, association or other entity that may employ individuals or enter into contracts.

(h) "Sensitive Position" means that the Richmond Police Department has made the determination that a job position is of such sensitivity that an exemption is warranted per Section 2.65.050. The City Manager, or designee is hereby delegated the power and authority to develop the list of "Sensitive Positions", which shall be submitted to the City Council to be adopted by Resolution.

(i) "Service Contract" means:

(1) A contract let to a contractor by the City for the furnishing of services, to or for the City, except contracts where services are incidental to the delivery of products, equipment or commodities; or

(2) A lease or license under which service contracts are let by the lessee or licensee. A contract for the purchase or lease of goods, products, equipment, supplies or other property is a "service contract," unless it is not subject to a formal bidding process with the City.

(j) "Subcontractor" means any person who enters into a contract with:

(1) A contractor to assist the contractor in performing a service contract; or

(2) A City financial aid recipient designated to assist the recipient in performing the work for which the assistance is being given or to perform services on the property which is the subject of City financial assistance. Service contractors of City financial aid recipients shall not be regarded as subcontractors except to the extent provided by the definition of "employee" in this section.

(k) "Substantially Job-Related Conviction" means that the conviction record is substantially related to the duties and qualifications of the position. The Employer will consider whether the position offers the opportunity for a similar offense to occur and whether circumstances leading to the offense will recur to determine whether the conviction record is substantially job-related. If the Employer believes that an applicant has a Substantially Job-Related Conviction to a Sensitive Position as defined in (h) of this Section, the Employer will submit to the City Manager or designee the information about the relevant conviction record and the duties and qualifications of the Sensitive Position. The City Manager or designee, based on this information and the definition provided herein of Substantially Job-Related Conviction, will make the final determination of whether the conviction record may be the basis for an adverse hiring decision.

2.65.040 Prohibition on Requiring an Applicant for Employment to Provide Information on Their Prior Criminal Convictions

(a) All contractors, lessees, recipients of City financial aid, and their respective subcontractors that employ the equivalent of ten or more full-time employees in their total workforce and who desire to obtain contracts with the City of Richmond, are subject to the following requirements as a condition precedent to the award of any contract or lease with the City as per Section 2.65.060:

(1) Remove any question regarding prior criminal convictions from printed and/or on-line employment application forms; and

(2) Do not make any inquiry into an applicant's conviction history.

(3) If a criminal background investigation is required by State and/or Federal law for a position or the position is Sensitive as defined in Section 2.65.030 (h), the background screening will be conducted after the Employer has determined that the applicant is otherwise qualified, and the Employer has made a conditional offer of employment. The Employer's consideration of a conviction record will be limited to a

Substantially Job-Related Conviction and must involve an Employer's individualized assessment including time elapsed since the offense and any evidence of rehabilitation or other mitigating circumstances. If the Employer makes an adverse hiring decision because of a Substantially Job-Related Conviction, the applicant must be provided with a written notice of rejection including how the conviction may be related to the job, and given the opportunity to correct any inaccuracies in the conviction record information and to offer any other evidence of rehabilitation or other mitigating circumstances.

2.65.050 Exemptions

If a criminal background investigation is required by State and/or Federal law for a position or the position is Sensitive as defined in Section 2.65.030 (h), then Section 2.65.040 (a)(2) does not apply.

2.60.060 Compliance

(a) Compliance with this Ordinance is a condition precedent to the award of any contract or lease. All contractors, lessees, recipients of City financial aid, and their respective subcontractors with ten or more full-time employees in their total workforce seeking to obtain contracts with the City of Richmond will provide to the City a copy of their employment application as part of the formal bidding process. Violation of this Ordinance shall be subject to contract or lease termination.

(b) The City Manager or designee shall conduct periodic, random reviews to assess compliance with this Ordinance.

(c) The City Manager or designee shall determine whether an employer subject to this Ordinance has complied with the requirements of this Chapter. If the City Manager determines that the employer failed to comply with the provisions of this Chapter, the employer has the burden of proving compliance with this Chapter and its obligations under this Chapter. Each employer agrees to pay the civil penalties set forth in subsection (f) of this section if they are found in noncompliance.

(d) The City Manager or designee has the power, in addition to any other remedy the City may have under this Chapter or by operation of law, to suspend or terminate the pertinent contract in whole or in part, with continuance thereof conditioned upon a satisfactory showing to the City Manager of the employer's ability to comply.

(e) In the event the City Manager or designee believes the employer may not be in compliance with the requirements of this Chapter, the following procedure will be followed:

(1) The City Manager or designee shall cause to be delivered to the employer a written "Notice of Noncompliance." This notice shall specify the matters which constitute the noncompliance; the specific action required to correct the noncompliance; and the time period during which such correction shall occur. In no event shall this time period be more than thirty (30) days after receipt of the notice by the employer. If the notice is mailed, it will be deemed received five (5) days after the date of mailing;

(2) If the employer disagrees with the notice, they shall have the burden of proving compliance with the provisions of the Ordinance and shall submit any evidence and argument to the City Manager or designee to establish compliance no more than thirty (30) days after receipt of the notice by the employer;

(3) In the event the City Manager or designee subsequently agrees that compliance has occurred, the City Manager or designee shall cause to be delivered promptly to the employer a written "Notice of Correction of Noncompliance," specifying the original noncompliance which has been corrected;

(4) In the event the City Manager or designee does not agree that compliance has occurred, the City Manager or designee shall promptly notify the employer by a written "Notice of Failure to Correct Noncompliance," describing the facts constituting the noncompliance;

(5) After the issuance of a written "Notice of Failure to Correct Noncompliance," the employer shall have the right to request a hearing before the City Manager, designee, or a mutually agreed upon arbitrator who shall make the final determination. The request for a hearing must be made within ten (10) working days after receipt of the "Notice of Failure to Correct Noncompliance." If the notice is mailed, it will be deemed received five (5) days after the date of mailing. The hearing shall be held no sooner than twenty (20) and no later than thirty (30) days after receipt by the City of the request for hearing, unless otherwise agreed to by the parties. At the hearing, the employer will be allowed to present any evidence and argument it believes proves compliance. The City Manager, designee, or neutral arbitrator shall issue their final determination no later than ten (10) business days after the hearing. The employer must exhaust this administrative remedy prior to commencing further legal action;

(6) In the event no request for hearing is timely made, the determination of failure to correct noncompliance shall be deemed to be final;

(7) Should the employer fail to comply with the "Notice of Noncompliance" as specified above, and a final determination of noncompliance is made, the City may exercise any of its powers as specified in this section.

(f) Civil Penalties. The City may assess civil penalties for violations of this Chapter. Civil penalties for violations of this Chapter are as follows: An amount not to exceed \$1,000.00 or 1% of the total contract amount, whichever is greater, for each instance of noncompliance, regardless of the number of separate acts of noncompliance by the employer.

(g) The City shall keep a record of all violations of the application provisions established by this Chapter. A history of violation of the Ordinance's provisions shall be a factor which is considered by the City when deciding upon any future awards of contracts to the affected employer and may form the basis for denying any future contracts to the affected employer.

(h) The City Manager shall make a report on all such complaints, investigations and reviews to the City Council on a quarterly basis.

2.65.070 Severability

If any section, subsection, paragraph, sentence or word of this Ordinance is for any reason held to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed each section, subsection, paragraph, sentence or word of this Ordinance irrespective of the invalidity of any other section, subsection, paragraph, sentence or word.

2.65.080 Effective Date

This Ordinance shall become effective 30 days after its final adoption and passage.

First read at a regular meeting of the Council of the City of Richmond held July 2, 2013, and finally passed and adopted at a special meeting thereof held July 30, 2013, by the following vote:

AYES:	Councilmembers Bates, Beckles, Myrick, Rogers, Vice Mayor Boozé, and Mayor McLaughlin.
NOES:	Councilmember Butt.
ABSTENTIONS:	None.
ABSENT:	None.

DIANE HOLMES
CLERK OF THE CITY OF RICHMOND
(SEAL)

Approved:

GAYLE McLAUGHLIN
Mayor

Approved as to form:

BRUCE GOODMILLER
City Attorney

State of California	}	
County of Contra Costa		: ss.
City of Richmond	}	

I certify that the foregoing is a true copy of **Ordinance No. 14-13 N.S.** finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on July 30, 2013.

EXHIBIT E

INSURANCE REQUIREMENTS

City of Richmond - Insurance Requirements – Type 1: Consultants and Contractors

In all instances where a CONTRACTOR or its representatives will be conducting business and/or providing services, the City requires the following MINIMUM insurance requirements and limits.

CONTRACTOR shall procure and maintain for the duration of the contract, agreement, or other order for work, services or supplies, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, its agents, representatives, employees or subcontractors. **Maintenance of proper insurance coverage is a material element of the contract. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.**

CONTRACTOR agrees that in the event of loss due to any of the perils for which it has agreed to provide Commercial General Liability insurance, CONTRACTOR shall look solely to its insurance for recovery. CONTRACTOR hereby grants to CITY, on behalf of any insurer providing Commercial General Liability insurance to either CONTRACTOR or CITY with respect to the services of CONSULTANT herein, a waiver of any right to subrogation which any such insurer of said CONTRACTOR may acquire against the CITY by virtue of the payment of any loss under such insurance.

Original, signed certificates and original, separate policy endorsements, naming the City as an additional insured for general liability, as well as a waiver of subrogation for Workers' Compensation insurance, shall be received and approved by the City **before any work may begin**. However, failure to do so shall not operate as a waiver of these insurance requirements.

City reserves the right to modify or require additional coverages for specific risk exposures depending on scope of CONTRACTORS work.

Minimum coverage is detailed below. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated herein shall not serve to reduce the policy limits of coverage of CONTRACTOR.

Minimum Scope of Insurance – the following forms shall be provided and coverage shall be at least as broad as the following:

1. Insurance Services Office Commercial General Liability coverage (ISO Occurrence Form CG 0001) including coverage for bodily and personal injury, property damage, and products and completed operations.
2. Insurance Services Office Automobile Liability coverage (ISO Form CA 0001, Code 1, Any Auto)
3. Original and Separate Additional Insured Endorsements for General Liability (ISO Form CG 20 10 11/85 or its equivalent) with primary and non-contributory language.
4. Workers' Compensation Insurance as required by the State of California including Employer's Liability coverage.
5. Original and Separate Waiver of Subrogation for Workers' Compensation and Builder's Risk/ Course of Construction Insurance.
6. Builder's Risk/Course of Construction insurance covering all risks of loss less policy exclusions when the City of Richmond has a financial interest in the property. – *(Only required for Construction Contracts involving property)*
7. Contractor's Pollution Liability *(if applicable for Construction Contractors)*

Required Coverage	Minimum Limits
Workers' Compensation and Employers' Liability	Statutory limits as required by the State of California including \$1 million Employers' Liability per accident, per employee for bodily injury or disease. If CONTRACTOR is self-insured, provide a certificate of Permission to Self-Insure, signed by the California Department of Industrial Relations and Self-Insurance. If contractor is a sole proprietor (has no employees) than contractor must sign "Contractor Release of Liability" found at: http://www.ci.richmond.ca.us/index.aspx?nid=61 .

City of Richmond - Insurance Requirements – Type 1: Consultants and Contractors

General Liability <i>(primary and excess limits combined)</i>	PROJECT COST	REQUIRED LIMIT
	\$0 - \$5 million	\$2 million p/o
	\$5 million - \$10 million	\$5 million p/o
	Over \$10 million	\$10 million p/o
	Fireworks	\$5 million p/o
	Includes coverage for bodily injury, personal injury, property damage and products and completed operations. The policy shall not exclude coverage for XCU perils (explosion, collapse, or damage to underground property).	
	If the policy includes a general aggregate, either the general aggregate shall apply separately to this project, service or location or the minimum required aggregate limit shall be twice the per occurrence limit (\$4 million aggregate limit) .	
	Policy shall be endorsed to name the City of Richmond as an additional insured per the conditions detailed below.	
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage.	
Builders' Risk/Course of Construction – Covers property under construction, repair or renovation as well as equipment and materials to be installed. <i>(Only required for Construction Projects involving property and equipment installation.)</i>	Coverage shall include all risks of direct physical loss, excluding earthquake, <i>for an amount equal to the full completed value of the covered structure or replacement value of alterations or additions, including soft costs and business interruption.</i> If the project does not involve new or major reconstruction, an Installation Floater may be acceptable. For such projects, a property installation floater shall be obtained that provides for the improvement, remodel, modification, alteration, conversion or adjustment to existing buildings, structures, processes, machinery and equipment. The Property Installation Floater shall provide property damage coverage for any building, structure, machinery or equipment damaged, impaired, broken or destroyed during the performance of the Work, including during transit, installation and testing at the City of Richmond's site. The City of Richmond shall be named as loss payee as its interest may appear. The insurer shall waive all rights of subrogation against City.	
Contractor's Pollution Liability (<i>if applicable</i>) Protects against: <i>unexpected/unintended release of pollution resulting from contractors covered operations such as:</i> HVAC, paving, carpentry, pipeline & tank installation, drillers, remediation contractors, maintenance, mechanical, demolition, excavation, grading, street/road construction, residential & commercial builders.	Same limits as General Liability.	
Required Policy Conditions		
A. M. Best Rating	A:VII or Better. If the A.M. Best Rating falls below the required rating, CONTRACTOR must replace coverage immediately and provide notice to City.	
Additional Insured Endorsement	Applicable to General Liability Coverage. The City of Richmond, its officers, officials, employees, agents and volunteers are to be named as additional insureds for all liability arising out of the operations by or on behalf of the named insured, including but not limited to bodily injury, deaths and property damage or destruction arising in any respect directly or indirectly in the performance of this contract. ISO form CG 20 10 (11/85) or its equivalent is required. The endorsement <u>must not</u> exclude products and completed operations coverage. If it does, then CG 20 37 (10/01) is also required.	

City of Richmond - Insurance Requirements – Type 1: Consultants and Contractors

Additional Insured Endorsement (continued)	SAMPLE Endorsements can be found at http://www.ci.richmond.ca.us/index.aspx?nid=61
Primary and Noncontributory	The contractor's insurance coverage must be primary coverage as it pertains to the City, its officers, officials, employees, agents and volunteers. Any insurance or self insurance maintained by the City is wholly separate from the insurance of the contractor and in no way relieves the contractor from its responsibility to provide insurance.
Waiver of Subrogation Endorsement Form	Contractor's insurer will provide a Waiver of Subrogation in favor of the City for Workers Compensation and Builder's Risk/ Course of Construction coverage during the life of this contract. SAMPLE Endorsements can be found at http://www.ci.richmond.ca.us/index.aspx?nid=61
Deductibles and Self-Insured Retentions	Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City or the CONTRACTOR shall procure a financial guarantee in an amount equal to the deductible or self-insured retention guaranteeing payment of losses and related investigations, claims administration and defense expenses. Contractor is responsible for satisfaction of the deductible and/or self-insured retention for each loss.
Loss Payable Endorsement (only required when Builder's Risk and /or Course of Construction Insurance is required.)	Applicable to Builder's Risk/Course of Construction naming the City of Richmond as Loss Payee.
SURETY BONDS (If a Public Works/Engineering Project)	The Contractor shall provide: 1. A Bid bond 2. A Performance Bond 3. A Payment Bond

Umbrella / Excess Liability Policies

If an Umbrella or Excess Liability Policy is used to meet the liability limits, coverage shall be as broad as specified for underlying coverages and cover those insured in the underlying policies.

Claims-Made Policies

If any insurance policy is written on a claims-made form: 1) the retroactive date must be shown, and must be before the date of the contract or the beginning of contract work. 2) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. 3) If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the contract effective date, the Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of contract work.

Subcontractors

CONTRACTOR shall include all subcontractors as insured under its policies or shall furnish to the City for review and approval, separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

CONTRACTOR agrees to defend and indemnify the City of Richmond for any damage resulting to it from failure of either CONTRACTOR or any subcontractor to take out or maintain the required insurance policies. The fact that insurance is obtained by CONTRACTOR, and/or CONTRACTOR's subcontractors, will not be deemed to release or diminish the liability of CONTRACTOR, including, without limitation, liability under the indemnity provisions of this contract. Damages recoverable by CITY from CONTRACTOR or any third party will not be limited by the amount of the required insurance coverage.

City of Richmond - Insurance Requirements – Type 1: Consultants and Contractors

Verification of Coverage

All original certificates and endorsements shall be received and approved by the City **before work may begin**. The City of Richmond reserves the right to require complete, certified copies of all required insurance policies including endorsements affecting the coverage at any time.

Original insurance certificates and required policy endorsements shall be mailed, or delivered to the Designated Project Manager for the City of Richmond.

Insurance certificates and endorsements may be faxed to the Designated Project Manager. However, Contractor must mail the original certificates and endorsements to Designated Project Manager once faxed.

Continuous Coverage

CONTRACTOR shall maintain the required insurance for the life of the contract. Should the CONTRACTOR cease to have insurance as required during this time, all work by the CONTRACTOR pursuant to this agreement shall cease until insurance acceptable to the City is provided. In the event that CONTRACTOR fails to comply with the City's insurance requirements, the City may take such action as it deems necessary to protect the City's interests. Such action may include but is not limited to termination of the contract, withholding of payments, or other actions as the City deems appropriate.

If services or the scope of work extend beyond the expiration dates of the required insurance policies initially approved by the City, CONTRACTOR must provide updated certificates and endorsements indicating that the required coverage, terms and conditions are still in place. **Renewal certificates and updated endorsements shall be mailed to the Designated Project Manager.**

Cancellation

CONTRACTOR shall ensure that coverage shall not be cancelled, reduced or otherwise materially changed except after thirty (30) days' prior written notice has been given to the City.

Reporting Requirements

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 officers, officials, employees or volunteers.

Consistent with Public Policy

The insuring provisions, insofar as they may be judged to be against public policy shall be void and unenforceable only to the minimum extent necessary so that the remaining terms and provisions herein may be consistent with public policy and thus enforceable.

EXHIBIT F

SAMPLE AGREEMENT

**CITY OF RICHMOND
STANDARD CONTRACT**

Department:	Project Manager:
Project Manager E-mail:	Project Manager Phone No:
PR No: Vendor No:	P.O./Contract No:
Description of Services:	

The parties to this STANDARD CONTRACT do mutually agree and promise as follows:

1. Parties. The parties to this Contract are the City of Richmond (herein referred to as the "City") and the following named Contractor:

Company Name: _____

Street Address: _____

City, State, Zip Code: _____

Contact Person: _____

Telephone: _____

Email: _____

Business License No: _____

/ Expiration Date: _____

A California ☐ corporation, ☐ limited liability corporation ☐ general partnership, ☐ limited partnership, ☐ individual, ☐ non-profit corporation, ☐ individual dba as [specify:] _____, ☐ other [specify:] _____

2. Term. The effective date of this Contract is _____ and it terminates _____ unless terminated as provided herein.
3. Payment Limit. City's total payments to Contractor under this Contract shall not exceed \$ _____. City shall not pay for services that exceed the Contract Payment Limit unless a contract amendment has been approved by the City Council or City Manager.
4. Contractor's Obligations. Contractor shall provide those services and carry out that work described in the Service Plan (Exhibit A) which is attached hereto and is incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
5. City's Obligations. City shall make to the Contractor those payments described in the Payment Provisions (Exhibit B) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.

6. Authorized Representatives and Notices. This Contract is subject to the Authorized Representatives and Notices Provisions (Exhibit C) which are attached hereto and are incorporated herein by reference.
7. General Conditions. This Contract is subject to the General Conditions (Exhibit D) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein.
8. Special Conditions. This Contract is subject to the Special Conditions (Exhibit E) (if any) which are attached hereto and are incorporated herein by reference, subject to all the terms and conditions contained or incorporated herein. (Note: other than Public Works contracts, the City will agree to Special Conditions only in unusual circumstances.)
9. Insurance Provisions. This Contract is subject to the Insurance Provisions (Exhibit F) which are attached hereto and are incorporated herein by reference.
10. Signatures. These signatures attest the parties' Contract hereto:

CITY OF RICHMOND
a municipal corporation

CONTRACTOR:

By: _____

(* The Corporation Chairperson of the Board,
President or Vice President should sign below)

Title: _____

By: _____

I hereby certify that this Contract
has been approved by City Council.

Title: _____

Date Signed: _____

By: _____
City Clerk

(* The Corporation Chief Financial Officer,
Secretary or Assistant Secretary should sign below)

Approved as to form:

By: _____

By: _____
City Attorney

Title: _____

Date Signed: _____

(NOTE: Pursuant to California Corporations
Code Section 313, if Contractor is a corporation
or nonprofit organization, this Contract (1) must
be signed by (a) the Chairperson of the Board,
President or Vice-President and (b) the
Secretary any Assistant Secretary, the Chief
Financial Officer or any Assistant Treasurer.

LIST OF ATTACHMENTS:

Service Plan
Payment Provisions
Authorized Representatives and Notices
General Conditions
Special Conditions
Insurance Provisions
Standard Contract/EJ/TE 9-26-07

Exhibit A
Exhibit B
Exhibit C
Exhibit D
Exhibit E
Exhibit F

For the Contract between the City of
Richmond and

EXHIBIT A
SERVICE PLAN

Contractor shall, to the satisfaction of the _____, perform the
following services and be compensated as outlined below:

**EXHIBIT B
PAYMENT PROVISIONS**

{PLEASE NOTE THAT THE CITY OF RICHMOND SHALL NOT PAY FOR SERVICES THAT EXCEED THE CONTRACT PAYMENT LIMIT UNLESS A CONTRACT AMENDMENT HAS BEEN APPROVED BY THE CITY COUNCIL OR THE CITY MANAGER}

1. Provided Contractor is not in default under this Contract, Contractor shall be compensated as provided below.
2. Any and all payments made pursuant to this Contract shall be subject to the Contract Payment Limit. The Payment Limit includes expenses (phones, photo copying, meals and travel etc). Invoices, shall be adequately detailed, based on accurate records, and be in a form reasonably satisfactory to the City. Contractor may be required to provide back-up material upon request.
3. Contractor shall submit timely invoices to the following address:

Attention: City of Richmond, Finance Department - Accounts Payable
Project Manager: _____ Department: _____
PO Box 4046
Richmond, CA 94804-0046
4. All invoices that are submitted by Contractor shall be subject to the approval of the City's Project Manager, _____ before payments shall be authorized.
5. The City will pay invoice(s) within 45 days after completion of services to the City's satisfaction. The City shall not pay late fees or interest.
6. A Richmond business license shall be obtained before any payment under this Contract shall be authorized and the business license must be kept current during the term of this Contract for payments to continue to be authorized.
7. All insurance coverage required by this Contract shall be provided by the Contractor before this Contract shall be executed by the City. The insurance coverage must be kept current during the term of this Contract for payments to continue to be authorized.

EXHIBIT C
AUTHORIZED REPRESENTATIVES AND NOTICES

1. Notices. All notices, demands, statements, or communications provided for by this Contract shall be in writing and may be delivered by deposit in the United States mail, postage prepaid. Notices to the City shall be addressed to the Department Head and (as delineated below in section 1.1) to the project manager responsible for the administration of or the supervision of the scope of work under this Contract. Notices to the Contractor shall be addressed to the party designated by Contractor (as delineated below in section 1.2). Notice shall be deemed delivered (a) upon personal delivery; (b) as of the fifth business day after mailing by United States certified mail, postage prepaid, addressed to the proper party; or (c) as of 12:00 p.m. on the second business day immediately after the day it is deposited with and accepted by Federal Express, or a similar overnight courier service, addressed to the proper party and marked for next business day morning delivery. For the purposes of this Contract, a "business day" means any day Monday through Friday that is not a holiday recognized by the federal government or the State of California.

1. 1 CITY hereby designates as its Authorized Representative the Project Manager whose name and address are as follows:

City of Richmond

Richmond, CA 94804-0046

1. 2 CONTRACTOR hereby designates as its Authorized Representative the Project Manager whose name and address are as follows:

EXHIBIT D GENERAL CONDITIONS

1. Independent Contractor. Contractor acknowledges, represents and warrants that Contractor is not a regular or temporary employee, joint venturer or partner of the City, but rather an independent Contractor. This Contract shall not be construed to create an agency, servant, employee, partnership, or joint venture relationship. As an independent Contractor, Contractor shall have no authority to bind City to any obligation or to act as City's agent except as expressly provided herein. Due to the independent Contractor relationship created by this Contract, City shall not withhold state or federal income taxes, the reporting of which shall be Contractor's sole responsibility.
2. Brokers. Contractor acknowledges, represents and warrants that Contractor has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.
3. City Property. The rights to applicable plans, drawings, reports, calculations, data, specifications, videos, graphics or other materials prepared for or obtained pursuant to this Contract, which, upon request, are to be delivered to City within a reasonable time, shall be deemed assigned to City. If applicable, Contractor shall prepare check prints upon request. Notwithstanding the foregoing, Contractor shall not be obligated to provide to City proprietary software or data which Contractor has developed or had developed for Contractor's own use; provided, however, that Contractor shall, pursuant to Section 15 below, indemnify, defend and hold harmless City from and against any discovery or Public Records Act request seeking the disclosure of such proprietary software or data.
4. Patents, Trademarks, Copyrights and Rights in Data. Contractor shall not publish or transfer any materials, discoveries, developments, concepts, designs, ideas, know how, improvements, inventions and/or original works of authorship resulting from activities supported by this Contract without the express prior written consent of the City Manager. If anything resulting from activities supported by this Contract is patentable, trademarkable, copyrightable or otherwise legally protectable, City reserves the exclusive right to seek such intellectual property rights. Notwithstanding the foregoing, Contractor may, after receiving City's prior written consent, seek patent, trademark, copyright or other intellectual property rights on anything resulting from activities supported by this Contract. However, City reserves, and Contractor irrevocably grants, a nonexclusive, fully paid-up, royalty-free, assumable, perpetual, worldwide license, with the right to transfer, sublicense, practice and exploit said license and the right to make, have made, copy, modify, make derivative works of, use, sell,

import, and otherwise distribute under all applicable intellectual properties without restriction of any kind said license.

Contractor further agrees to assist City, at City's expense, in every proper way to secure the City's rights in any patents, trademarks, copyrights or other intellectual property rights relating thereto, including the disclosure to City of all pertinent information and data with respect thereto. Contractor shall also assist City in the execution of all applications, specifications, oaths, assignments, recordations, and all other instruments which City shall deem necessary in order to apply for, obtain, maintain and transfer such rights, or if not transferable, to waive such rights. Contractor shall further assist City in the execution of all applications, specifications, oaths, assignments, recordations and all other instruments which City shall deem necessary in order to assign and convey to City, and any assigns and nominees the sole and exclusive right, title and interest in and to any patents, trademarks, copyrights or other intellectual property rights relating thereto. Contractor further agrees that its obligation to execute or cause to be executed, when it is in Contractor's power to do so, any such instruments or papers shall continue during and at all times after the end of Contractor's services and until the expiration of the last such intellectual property right. Contractor hereby irrevocably designates and appoints City, and its duly authorized officers, agents and servants, as its agent and attorney-in-fact, to act for and in its behalf and stead to execute and file any such applications and to do all other lawfully permitted acts to further the application for, prosecution, issuance, maintenance or transfer of letters of patents, copyright and other registrations. This power of attorney is coupled with an interest and shall not be affected by Contractor's subsequent incapacity.

5. Inspection. Contractor's performance, place of business and records pertaining to this Contract are subject to monitoring, inspection, review and audit by authorized representatives of the CITY, the State of California, and the United States Government.

If the project or services set forth in Exhibit A shall be performed on City or other public property, City shall have the right to inspect such work without notice. If such project or services shall not be performed on City or other public property, City shall have the right to inspect such work upon reasonable notice.

6. Services. The project or services set forth in Exhibit A shall be performed to the full satisfaction and approval of City. In the event that the project or services set forth in Exhibit A are also itemized by price, City, in its sole discretion, may, upon notice to Contractor, delete certain items or services set forth in Exhibit A, in which case there shall be a corresponding reduction in the amount of compensation paid to Contractor.

Contractor shall, at its own cost and expense, furnish all facilities and equipment necessary for Contractor to complete the project or perform the services required herein, unless otherwise provided in Exhibit A.

7. Records. Contractor shall keep and make available for inspection and copying by authorized representatives of the City, the State of California, and the United States Government, the Contractor's regular business records and such additional records pertaining to this Contract as may be required by the City.

Contractor shall retain all documents pertaining to this Contract for a period of five (5) years after this Contract's termination (or for any further period that is required by law) and until all Federal or State audits are complete and exceptions resolved for this contract's funding period. Upon request, CONTRACTOR shall make these records available to authorized representatives of the CITY, the State of California, and the United States Government.

Contractor shall keep full and detailed accounts, maintain records, and exercise such controls as may be necessary for proper financial management under this Contract. The Contractor's accounting and control systems shall be satisfactory to City. Contractor's accounting systems shall conform to generally accepted accounting principles and all records shall provide a breakdown of total costs charged under this Contract, including properly executed payrolls, time records, utility bills, invoices and vouchers. The City shall be afforded prompt access to Contractor's records, books, and Contractor shall preserve such project records for a period of at least five (5) years after the termination of this Contract, or for such longer period as may be required by law.

Contractor shall permit City and its authorized representatives and accountants to inspect, examine and copy Contractor's books, records, accounts, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to the project or services set forth in Exhibit A, and any and all data relevant to this Contract at any reasonable time for the purpose of auditing and verifying statements, invoices, or bills submitted by Contractor pursuant to this Contract and shall provide such assistance as may be reasonably required in the course of such inspection. Contractor shall also allow City access to the record keeping and accounting personnel of Contractor. City further reserves the right to examine and re-examine said books, records, accounts, and data during the five (5) year period following the termination of this Contract; and Contractor shall in no event dispose of, destroy, alter, or mutilate said books, records, accounts, and data in any manner whatever for five (5) years after the termination of this Contract.

Pursuant to California Government Code § 10527, the parties to this Contract shall be subject to the examination and audit of representatives of the Auditor General of the State of California for a period of three (3) years after final payment under this Contract. The examination and audit shall be confined to those matters connected with the performance of this Contract including, but not limited to, the cost of administering this Contract.

8. Changes and Extra Work. All changes and/or extra work under this Contract shall be performed and paid for in accordance with the following:

Only the City Council or the City Manager may authorize extra and/or changed work. Contractor expressly recognizes that other City personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Contractor to secure the authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and Contractor thereafter shall be entitled to no compensation whatsoever for performance of such extra and/or changed work.

If Contractor is of the opinion that any work which Contractor has been directed to perform is beyond the scope of this Contract and constitutes extra work, Contractor shall promptly notify City of the fact. The City shall make a determination as to whether or not such work is, in fact, beyond the scope of this Contract and constitutes extra work. In the event that City determines that such work does constitute extra work, City shall provide extra compensation to Contractor on a fair and equitable basis. A change order or Contract Amendment providing for such compensation for extra work shall be negotiated between City and Contractor and executed by Contractor and the appropriate City official.

In the event City determines that such work does not constitute extra work, Contractor shall not be paid extra compensation above that provided herein and if such determination is made by City staff, said determination may be appealed to the City Council; provided, however, a written appeal must be submitted to the City Manager within five (5) days after the staff's determination is sent to Contractor. Said written appeal shall include a description of each and every ground upon which Contractor challenges the staff's determination.

9. Additional Assistance. If this Contract requires Contractor to prepare plans and specifications, Contractor shall provide assistance as necessary to resolve any questions regarding such plans and specifications that may arise during the period of advertising for bids, and Contractor shall issue

any necessary addenda to the plans and specifications as requested. In the event Contractor is of the opinion that City's requests for addenda and assistance is outside the scope of normal services, the parties shall proceed in accordance with the changes and extra work provisions of Section 8 of these General Conditions.

10. Professional Ability. Contractor acknowledges, represents and warrants that Contractor and its employees are skilled and able to competently provide the services hereunder, and possess all professional licenses, certifications, and approvals necessary to engage in their occupations. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Contract. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession. In the event that City, in its sole discretion, desires the removal of any person employed or retained by Contractor to perform services hereunder, such person shall be removed immediately upon receiving notice from City.
11. Business License. Contractor shall obtain a Richmond Business License before performing any services required under this Contract. The failure to so obtain such license shall be a material breach of this Contract and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual or extraordinary circumstances without necessitating any modification of this Contract to reflect such waiver.
12. Termination Without Default. Notwithstanding any provision herein to the contrary, City may, in its sole and absolute discretion and without cause, terminate this Contract at any time prior to completion by Contractor of the project or services hereunder, immediately upon written notice to Contractor. Contractor may terminate this Contract at any time in its sole and absolute discretion and without cause upon 30 days' written notice to City. In the event of termination by either party, Contractor shall be compensated for: (1) all authorized work satisfactorily performed prior to the effective date of termination; (2) necessary materials or services of others ordered by Contractor for this Contract, prior to receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, provided that Contractor is not able to cancel such orders. Compensation for Contractor in such event shall be determined by City in accordance with the percentage of the project or services completed by Contractor; and all of Contractor's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to City. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.

13. Termination in the Event of Default. Should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Contract, City may immediately terminate this Contract by giving written notice of such termination, stating the reasons for such termination. Contractor shall be compensated as provided in Section 12 of these General Conditions; provided, however, there shall be deducted from such amount the amount of damage, including attorney's fees, expert witness fees and costs, if any, sustained by City by virtue of Contractor's breach of this Contract. Additionally, in the event of such termination, the City may proceed with the work in any reasonable manner it chooses.

14. Conflict of Interest. Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Contract. Contractor further acknowledges, represents and warrants that no City official or employee has any economic interest, as defined in Title 2, California Code of Regulations §§ 18703.1 through 18703.5, with Contractor that would invalidate this Contract. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Contract, all consideration received under this Contract shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Contract for one (1) year.

15. Indemnification.

(a) If this Contract is a contract for design professional services subject to California Civil Code Section 2782.8(a) and Contractor is a design professional, as defined in California Civil Code Section 2782.8(b)(2), Contractor shall hold harmless, defend and indemnify the City, its officers, agents, employees, and volunteers from and against any and all claims, damages, losses, and expenses including attorneys' fees arising out of, or pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Contractor, except where caused by the active negligence, sole negligence, or willful misconduct of the City. To the fullest extent permitted by law, Contractor shall immediately defend and indemnify the City and its officers, agents, employees, and volunteers from and against any and all liabilities, regardless of nature or type, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, or its employees, agents, or subcontractors. Liabilities subject to the duties to defend and indemnify include, without limitation, any and all claims, losses, damages, penalties, fines, and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution. Contractor's obligation to

indemnify applies unless it is finally adjudicated that the liability was caused by the sole active negligence or sole willful misconduct of an indemnified party.

- (b) If this Contract is not a contract for design professional services subject to California Civil Code Section 2782.8(a) or Contractor is not a design professional as defined in California Civil Code Section 2782.8(b)(2), Contractor shall indemnify, defend, and hold harmless the City, its officers, agents, employees and volunteers from any and all claims, suits, or actions of every name, kind and description, brought forth on account of injuries to or death of any person or damage to property arising from or connected with the willful misconduct, negligent acts, errors or omissions, ultra-hazardous activities, activities giving rise to strict liability, or defects in design by Contractor or any person directly or indirectly employed by, or acting as, the agent for Contractor in the performance of this Contract, including the concurrent or successive passive negligence of the City, its officers, agents, employees or volunteers.
- (c) It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. Contractor shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its officers, agents, employees, and volunteers, immediately upon tender to Contractor of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination that persons other than Contractor are responsible for the claim does not relieve Contractor from its separate and distinct obligation to defend under this Section 15. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent counsel if Contractor asserts that liability is caused in whole, or in part, by the negligence or willful misconduct of an indemnified party.
- (d) The review, acceptance or approval of the Contractor's work or work product by any indemnified party shall not affect, relieve or reduce the Contractor's indemnification or defense obligations. This Section 15 survives completion of the services or the termination of this Contract. The provisions of this Section 15 are not limited by, and do not affect, the provisions of this Contract relating to insurance.
- (e) Acceptance of insurance certificates and endorsements required under this Contract does not relieve Contractor from liability under this Section 15. This Section 15 shall apply whether or not such insurance policies are determined to be applicable to any such damages or claims for damages.

16. Safety. Contractor acknowledges that the City is committed to the highest standards of workplace safety. Contractor shall perform all work hereunder in full compliance with applicable local, state and federal safety requirements including but not limited to Occupational Safety and Health Administration requirements, and shall assume sole and complete

responsibility for the safety of Contractor's employees and any subContractor's employees. If a death, serious personal injury or substantial property damage occurs in connection with the performance of this Contract, Contractor shall immediately notify the City by telephone.

17. Insurance. Insurance requirements are set forth in Exhibit F to this Contract. Contractor shall abide by the insurance requirements set forth in said Exhibit F.
18. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Contract.
19. Compliance with Laws. Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Contract, including without limitation environmental laws, employment discrimination laws and prevailing wage laws. Compliance under this provision includes compliance with all provisions of the Richmond Municipal Code ("Municipal Code"), including Chapters 2.50, 2.52, 2.56, and 2.60, if applicable.

Contractor acknowledges that under § 2.60.070 of the Municipal Code ("Living Wage Ordinance"), Contractor shall promptly provide to City documents and information verifying its compliance with the Living Wage Ordinance. Also as prescribed in § 2.60.070, Contractor shall notify each of its affected employees with regards to the wages that are required to be paid pursuant to the Living Wage Ordinance.

Contractor shall comply with § 2.28.030 of the Municipal Code, obligating every Contractor or subcontractor under a contract or subcontract with the City for public work or for goods or for services to refrain from discriminatory employment or subcontracting practices on the basis of race, color, sex, sexual orientation, religious creed, national origin or ancestry of any employee, any applicant for employment or any potential subcontractor.

Contractor acknowledges that the City's Drug Free Workplace Policy, Violence in the Workplace Policy and the Policy Against Workplace Harassment, are available on the City's website at <http://www.ci.richmond.ca.us/workplacepolicies> . Contractor agrees to abide by the terms and conditions of said policies.

20. Limitations upon Subcontracting and Assignment. This Contract binds the heirs, successors, assigns and representatives of Contractor. The Contractor shall not enter into subcontracts for any work contemplated

under this Contract and shall not assign this Contract, nor any portion hereof or monies due or to become due, without the prior written consent of the City Council or its designee.

Contractor acknowledges that the services which Contractor shall provide under this Contract are unique, personal services which, except as otherwise provided herein, Contractor shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in City's sole and absolute discretion. In the event that City, in writing, approves any assignment or subletting of this Contract or the retention of subcontractors by Contractor, Contractor shall provide to City upon request copies of each and every subcontract contract prior to the execution thereof by Contractor and subcontractor. Any assignment by Contractor of any or all of its rights under this Contract without first obtaining City's prior written consent shall be a default under this Contract.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor (if applicable), or of the interest of any general partner or joint venturer or syndicate member if Contractor is a partnership or joint-venture or syndicate, which shall result in a change of control of Contractor, shall be deemed an assignment. For this purpose, control shall mean fifty percent or more of the voting power or twenty-five percent or more of the assets of the corporation, partnership or joint-venture.

21. Integration. This Contract constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Contractor and City may be used to assist in the interpretation of the Exhibits to this Contract.
22. Modifications and Amendments. This Contract may be modified or amended only by a change order or Contract Amendment executed by both parties and approved as to form by the City Attorney.
23. Conflicting Provisions. In the event of a conflict between these General Conditions and those of any Exhibit or attachment hereto, these General Conditions shall prevail; provided, however, that any Special Conditions as set forth in Exhibit E shall prevail over these General Conditions. In the event of a conflict between the terms and conditions of any two or more Exhibits or attachments hereto, those prepared by City shall prevail over those prepared by the Contractor, and the terms and conditions preferred by the City shall prevail over those preferred by the Contractor.
24. Non-exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Contractor hereunder shall be non-exclusive, and

City reserves the right to employ other Contractors in connection with the project.

25. Exhibits. All Exhibits hereto are made a part hereof and incorporated herein by reference; provided, however, that any language in Exhibit A which does not pertain to the project description, proposal, scope of services, or method of compensation (as applicable) , or any corresponding responsibilities of City, shall be deemed extraneous to, and not a part of, this Contract.

26. Force Majeure. Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of such an obligation is prevented or delayed by reason of acts of God, strikes, boycotts, lock-outs, inability to procure materials not related to the price thereof, failure of power, restrictive governmental laws and regulations enacted after the date of this Contract, riots, civil unrest, acts of terrorism, insurrection, war, declaration of a state or national emergency or other reasons of a like nature not within the reasonable control of such party.

27. Time of the Essence. Time is of the essence of this Contract. Contractor and City agree that any time period set forth in Exhibit A represents their best estimates with respect to completion dates and both Contractor and City acknowledge that departures from the schedule may occur. Therefore, both Contractor and City will use reasonable efforts to notify one another of changes to the schedule. Contractor shall not be responsible for performance delays caused by others, or delays beyond Contractor's control, and such delays shall extend the times for performance of Contractor's work.

28. Confidentiality. Contractor agrees to comply with, and to require its employees, agents and partners to comply with, all applicable State or Federal statutes or regulations respecting confidentiality, including but not limited to, the identity of persons served under this Contract, their records, or services provided them, and assures that:

All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this Contract will be confidential, and will not be open to examination for any purposes not directly connected with the administration of such service.

No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service.

29. Third Parties. Nothing herein shall be interpreted as creating any rights or benefits in any third parties. For purposes hereof, transferees or assignees as permitted under this Contract shall not be considered "third parties."
30. Governing Law. This Contract shall be construed in accordance with the law of the State of California without regard to principles of conflicts of law. This Contract is made in Contra Costa County, California, and any action relating to this Contract shall be instituted and prosecuted in the courts of Contra Costa County, California.
31. Nonrenewal. Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by Contractor under this Contract will be purchased or renewed by the City under a new contract following expiration or termination of this Contract, and waives all rights or claims to notice or hearing respecting any failure by City to continue the purchase of all or any failure to continue purchase of all or any such services from Contractor.
32. Claims. Any claim by Contractor against City hereunder shall be subject to Government Code §§ 800 et seq. The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six months after accrual of the cause of action.
33. Interpretation. This Contract shall be interpreted as if drafted by both parties.
34. Warranty. In the event that any product shall be provided to the City as part of this Contract, Contractor warrants as follows: Contractor possesses good title to the product and the right to transfer the product to City; the product shall be delivered to the City free from any security interest or other lien; the product meets any specifications contained herein; the product shall be free from material defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery; and the product shall be fit for its intended purpose(s). Notwithstanding the foregoing, consumable and maintenance items (such as light bulbs and batteries) shall be warranted for a period of one hundred and eighty (180) days from the date of delivery. All repairs during the warranty period shall be promptly performed by Contractor, at Contractor's expense, including shipping.
35. Severability. In the event that any of the provisions or portions or applications thereof of this Contract are held to be unenforceable or invalid by any court of competent jurisdiction, City and Contractor shall negotiate an equitable adjustment in the provisions of the Contract with a view

toward effecting the purpose of this Contract, and the validity and enforceability of the remaining provisions or portions or applications thereof, shall not be affected thereby.

36. Authority. City warrants and represents that the signatory hereto (the Mayor of the City of Richmond or the City Manager) is duly authorized to enter into and execute this Contract on behalf of City. The party signing on behalf of Contractor warrants and represents that he or she is duly authorized to enter into and execute this Contract on behalf of Contractor, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Contract on behalf of Contractor.
37. Waiver. The waiver by City of any breach of any term or provision of this Contract shall not be construed as a waiver of any subsequent breach. Inspections or approvals, or statements by any officer, agent or employee of the City relating to the Contractor's performance, or payments therefore, or any combination of these acts, shall not relieve the Contractor's obligation to fulfill this Contract as prescribed; nor shall the City be thereby stopped from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this Contract.
38. Possessory Interest. If this Contract results in the Contractor having possession of, claim to or right to the possession of land or improvements, but does not vest ownership of the land or improvements in the same person, or if this Contract results in the placement of taxable improvements on tax exempt land (Revenue and Taxation Code 107), such interest or improvements may represent a possessory interest subject to property tax, and Contractor may be subject to the payment of property taxes levied on such interest.
39. Performance and Final Acceptance.

Contractor represents that it is experienced, qualified, registered, licensed, equipped, organized and financed to perform the services under this Contract.

Contractor shall perform the services under this Contract with that degree of skill and judgment normally exercised by professional firms performing services of a similar nature in the State of California, and shall be responsible for the professional quality, technical accuracy and coordination of the services it performs under this Contract. In addition to the other rights and remedies which City may have, Contractor shall, at its own expense, correct any services which fail to meet the above standard.

City shall provide Contractor an opportunity to cure errors and omission which may be disclosed during the review of submittals, with no increase in the authorized Contract Payment Limit. Should Contractor fail to make necessary corrections in a timely manner, such corrections shall be made by the City and the cost thereof shall be charged to Contractor.

If warranted, City shall determine, and Contractor may request such determination, that Contractor has satisfactorily completed performance of this Contract. Upon such determination, City shall issue to Contractor a written Notice of Final Acceptance, after which Contractor shall not incur further costs under this Contract. Contractor shall respond to such Notice of Final Acceptance by executing and submitting to City a Release and Certificate of Final Payment.

40. Survival. The rights and obligations of the parties which by their nature survive termination or completion of the services covered by this Contract shall remain in full force and effect after termination or completion.

For the Contract between the City of
Richmond and

EXHIBIT E
SPECIAL CONDITIONS

The General Conditions are hereby amended to include the following modifications
and/or provisions (if applicable):

For the Contract between the City of
Richmond and

EXHIBIT F
INSURANCE PROVISIONS

During the entire term of this Contract and any extension or modification thereof, the CONTRACTOR shall keep in effect insurance policies meeting the insurance requirements specified in the insurance provisions which are attached hereto and incorporated herein by this reference.

EXHIBIT G

SAMPLE PERFORMANCE AND PAYMENT BONDS

PERFORMANCE BOND

Whereas, The City Council of the City of Richmond, State of California, and _____ (hereinafter designated as "principal") have entered into an agreement whereby principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 201_, and identified as project _____, is hereby referred to and made a part hereof; and

Whereas, Said principal is required under the terms of said agreement to furnish a bond for the faithful performance of said agreement.

Now, therefore, we, the principal and _____, as surety, are held and firmly bound unto the City of Richmond (hereinafter called "City"), in the penal sum of _____ dollars (\$_____) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless City, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by City in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on _____, 201__.

By: _____

Title: _____

By: _____

Title: _____

PAYMENT BOND

Whereas, The City Council of the City of Richmond, State of California, and _____ (hereinafter designated as “the principal”) have entered into an agreement whereby the principal agrees to install and complete certain designated public improvements, which agreement, dated _____, 201__, and identified as project _____, is hereby referred to and made a part hereof; and

Whereas, Under the terms of the agreement, the principal is required before entering upon the performance of the work, to file a good and sufficient payment bond with the City of Richmond to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

Now, therefore, the principal and _____, as corporate surety, are held firmly bound unto the City of Richmond (hereinafter called “City”) and all contractors, subcontractors, laborers, material suppliers, and other persons employed in the performance of the agreement and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the sum of _____ dollars (\$ _____), for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this work or labor, that the surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney’s fees, incurred by City in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void, otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension, alteration, or addition.

In witness whereof, this instrument has been duly executed by the principal and surety above named, on _____, 201__.

By: _____

Title: _____

By: _____

Title: _____

EXHIBIT H

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

That We, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto the City of Richmond, in the penal sum of TEN PERCENT (10%) of the total bid submitted by said Principal to the City of Richmond for the work described below, for the payment of which sum in lawful money of the United States, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH THAT, whereas the Principal has submitted to the City of Richmond a certain bid, attached hereto and hereby made a part hereof, to enter into a contract in writing for the _____.

NOW, THEREFORE, if said bid submitted by the Principal be accepted and the contract be awarded to the Principal and the Principal shall, within ten (10) days after having received notice that the contract has been awarded to the Principal, enter into the Contract so awarded, shall furnish the required corporate surety bonds and insurance coverage verification and shall in all other respects perform the agreement created by the acceptance of the bid, then this obligation shall be void, otherwise the same shall remain in full force and effect.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the City of Richmond may accept such Bid; and said Surety does hereby waive notice of such extension.

As a part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City of Richmond in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals on this _____ day of _____, 20_____.

By:

Title:

By:

Title:

EXHIBIT I
COST PROPOSAL

BASE BID

Description	Total Design Fee	Total Construction Cost	Total Fee
Triangle Court	\$	\$	\$
Nevin Plaza	\$	\$	\$
Friendship Manor	\$	\$	\$

Total base bid proposal (in numbers) \$_____

ADDITIONAL ALTERNATIVE BID ITEMS

Description	Total Design Fee	Total Construction Cost	Total Fee
Atchison Village	\$	\$	\$
Nevin Center	\$	\$	\$
Traffic Signal	\$	\$	\$
Elm Park			

Total base Additional Alternative Bid Proposal (in numbers) \$_____

Vendors Name: _____

EXHIBIT J

LIST OF SUBCONTRACTORS AND SUPPLIERS

BIDDER STATEMENT OF SUBCONTRACTORS

NAME OF VENDOR: _____

COMPANY NAME AND ADDRESS	CONTACT PERSON AND TELEPHONE #	ITEM DESCRIPTION	CHECK BOX IF FIRM IS RBE	PROPOSED SUBCONTRACTOR AMOUNT	SUBCONTRACTOR'S PERCENT SHARE OF PRIME'S TOTAL BID
			TOTAL		

BIDDER STATEMENT OF MAJOR SUPPLIERS

NAME OF VENDOR: _____

COMPANY NAME AND ADDRESS	CONTACT PERSON AND TELEPHONE #	ITEM DESCRIPTION	CHECK BOX IF FIRM IS RBE	PROPOSED SUPPLIER AMOUNT	SUPPLIER'S PERCENT SHARE OF PRIME'S TOTAL BID
			TOTAL		

**CITY OF RICHMOND
PUBLIC BROADBAND NETWORK
END REQUEST FOR PROPOSAL**