



# **CITY OF EL PASO DE ROBLES**

*"The Pass of the Oaks"*

## **REQUEST FOR PROPOSALS**

ACTUARIAL SERVICES TO VALUE OTHER POST-EMPLOYMENT BENEFITS  
(OPEB) IN COMPLIANCE WITH GOVERNMENTAL ACCOUNTING STANDARDS  
BOARD STATEMENT NO. 75 (GASB 75)

**RELEASE DATE:** January 5, 2022  
**RESPONSE DUE:** February 15, 2022

## **I. INTRODUCTION**

The City of Paso Robles is seeking proposals from qualified professional actuary firms to provide services to value Other Post-Employment Benefits (OPEB) in compliance with Governmental Accounting Standards Board Statement No. 75 (GASB 75) for inclusion in the City's CAFR as of June 30, 2022, June 30, 2023 and June 30, 2024.

Valuations must be performed in accordance with generally accepted actuarial standards of practice promulgated by the Actuarial Standards Board and based on the actuarial assumptions and methods prescribed by the California Public Employees' Retirement System (CalPERS) Board. The required services and performance conditions are described in the Scope of Work.

There is no expressed or implied obligation of the City of Paso Robles to reimburse responding firms for any expense incurred in preparing proposals in response to this request.

During the evaluation process, the City of Paso Robles reserves the right, where it may serve the City of Paso Robles' best interest, to request additional information or clarifications from proposers, or to allow corrections of errors or omissions.

The City of Paso Robles reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the firm of the conditions contained in this request for proposal, unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of Paso Robles and the firm selected.

To be considered, a proposal must be received by 5:00 PM, February 15, 2022. Please see the Instructions to Submitting Firms in this document for further information.

### **A. General Information**

The City of Paso Robles was incorporated in 1889 as a general law city that operates under the council-manager form of government. The City is located approximately midway between Los Angeles and San Francisco and services a population of approximately 31,073. The City provides a full range of municipal services including police and emergency services, engineering and planning, street maintenance, parks and recreation services, water and wastewater utilities, general administrative activities as well as a municipal airport. The city employs approximately 205 full time employees. The City's Adopted General Fund Budget for fiscal year 2021-22 totals approximately \$46.2 million.

## **II. PLAN DESCRIPTION**

The City provides other post-employment benefits, in accordance with State statutes, to all employees retiring from the City and enrolled in a CalPERS health insurance plan under the California Public Employees' Medical and Hospital Care Act (PEMHCA).

The City is required to contribute the PEMHCA minimum to CalPERS on behalf of annuitants eligible for, and participating in, CalPERS health insurance. The City joined the CalPERS health program in 2015, contracting for the "Unequal" minimum contribution amount to annuitants. The Unequal minimum contribution increases annually by the number of years an agency contracts multiplied by 5% of the current monthly contribution for active employees, for 20 years, at which point it becomes 100% and Equal. The City's contribution for annuitants was \$19.95 per month in 2018, \$27.20 per month in 2019, \$34.75 per month in 2020 and \$42.90 per month in 2021.

In addition, the City has agreed to provide the following retiree insurance reimbursement:

- Retirees in the Management, Police, Fire and SEIU labor groups that were hired before January 1, 2012, and who have a minimum of ten (10) years of City service, are eligible for insurance premium reimbursement up to \$500 per month (less the PEMHCA minimum) with no age limitation.
- Retirees in the Management, Police, Fire and SEIU labor groups that were hired on or after January 1, 2012, and who have a minimum of twenty (20) years of City service, are eligible for insurance reimbursement up to \$500 per month (less the PEMHCA minimum) until Medicare eligible (age 65).

As of June 30, 2021, the City had a net OPEB liability of \$8.7 million, representing a 53.1% funded status.

### **III. NATURE OF SERVICES REQUIRED**

#### **A. Scope of the Work**

The City of Paso Robles is seeking proposals from qualified firms interested in providing actuarial services to the City for valuation of OPEB offered by the City. The primary objectives for this actuarial valuation include:

1. Ensure compliance with GASB Statement 75.
2. Determine OPEB related valuation and related roll-forward data for June 30, 2022, June 30, 2023, and June 30, 2024.
3. Prepare necessary information for inclusion in the City's audited financial statements for the Fiscal Years ending June 30, 2022 through June 30, 2024. This includes drafting in its entirety the note to the financial statements for inclusion into the City's financial statements that conform to all of the requirements of GASB Statement 75; and all of the required supplementary information required by the same.
4. Assistance in implementing any new GASB statements and other financial pronouncements related to OPEB and providing ongoing professional consultation.

### **IV. PROPOSAL REQUIREMENTS**

#### **A. General Requirements**

1. The respondent's proposal must include a project plan for the actuarial services engagement to be performed under this RFP for the valuation of other post-employment benefits. The project plan should include, at a minimum, the following:
  - a. Approach and methodology for the valuation
  - b. Approach and methodology to include compliance with GASB standards
  - c. Data requirements from the City
  - d. Identification of project plan milestones
  - e. Schedule for project completion and issuance of report
  - f. Valuation report elements to include:
    - i. Actuarial present value of total projected benefits
    - ii. Actuarial accrued liability
    - iii. OPEB assets

- iv. Unfunded actuarial accrued liability
  - v. Normal cost
  - vi. Annual required contribution as a dollar amount and as a percentage of Payroll
  - vii. Annual OPEB cost
  - viii. Net OPEB obligation
  - ix. Summary of data used for the valuation
  - x. Summary of actuarial methods and assumptions
  - xi. Financial notes to be included in the City’s audited financial statements in the GASB prescribed format
2. Describe the governmental experience of the firm including the specific details regarding experience in the area of actuarial valuation services related to OPEB.
  3. Provide a list of municipal government references where the firm has provided OPEB actuarial valuation services in the past thirty-six (36) months. This list should indicate the names and contact information of finance officers in these municipalities.
  4. Provide information regarding staffing including the experience of the individuals who will be assigned to the engagement. This should also include each individual’s relevant experience with municipalities and preparing OPEB actuarial valuations. Also, include information as to the annual training plan of the firm related to governmental services.
  5. Provide the proposed cost of services. The City requires a firm, fixed fee for the actuarial valuation services for the three terms.

**B. PROPOSED TERM OF CONTRACT**

The proposed term of the contract is three terms, up to and including OPEB actuarial valuation data to be used in the City’s audited financial statements as of June 30, 2022, June 30, 2023, and June 30, 2024. The City may extend this agreement for an additional two terms. The contract may be terminated or suspended with or without cause by the City upon giving ten (10) calendar days written notice of such termination or suspension.

**V. TIME REQUIREMENTS**

**A. Proposal Calendar**

<b>Activity:</b>	<b>Date:</b>
Deadline for submittal of Questions:	January 20, 2022
Response to Questions:	January 28, 2022
Deadline for submittal of Proposal:	5:00 PM, February 15, 2022
Interviews (if necessary)	TBD

**VI. METHOD OF SELECTION**

The City will evaluate the information provided in the submitted proposals using the following criteria as a guideline:

- Completeness and Comprehensiveness
- Responsiveness to the City’s issues

- Potential to benefit the City
- Experience of the firm providing similar services to other municipalities
- Cost effectiveness
- Quality of proposed staff

## **VII. INSTRUCTIONS TO SUBMITTING FIRMS**

### **A. Examination of Proposal Documents**

By submitting a proposal, the prospective firm represents that it has thoroughly examined and become familiar with the services required under this RFP, and that it is capable of delivering quality services to the City in a creative, cost-effective and service-oriented manner.

### **B. Questions/Clarifications**

Please direct any questions regarding this RFP to Catherine Piatti, Finance Manager, via e-mail at [cpiatti@prcity.com](mailto:cpiatti@prcity.com) or by phone at 805-237-3999.

### **C. Submission of Proposals**

Three (3) copies of the complete written proposal must be received no later than 5:00 PM on February 15, 2022, by the Department of Administrative Services. Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted. Proposals must be sealed and clearly state on the outside of the package or envelope: ***“Proposal for OPEB Actuarial Services”***.

The Proposal should be addressed as follows:

**City of Paso Robles  
Department of Administrative Services  
Attn: Ryan Cornell, Director of Administrative Services  
821 Pine Street, Suite A  
Paso Robles, CA 93446**

### **D. Withdrawal of Proposals**

A firm may withdraw its proposal at any time before the due date for submission of proposals as provided in the RFP by delivering a written request for withdrawal signed by, or on behalf of the prospective firm.

### **E. Rights of the City of Paso Robles**

This RFP does not commit the City to enter into a Contract, nor does it obligate the City to pay for any costs incurred in preparation and submission of proposals or in anticipation of a contract.

The City reserves the right to:

- a. Make the selection based on its sole discretion;
- b. Reject any and all proposals without prejudice;
- c. Issue subsequent Requests for Proposal;
- d. Postpone opening for its own convenience;
- e. Remedy technical errors in the Request for Proposal process;

- f. Approve or disapprove the use of particular sub-contractors;
- g. Negotiate with any all, or none of the prospective firms;
- h. Solicit best and final offers from all or some of the prospective firms;
- i. Accept other than the lowest offer; and/or
- j. Waive informalities and irregularities in the proposal process.

**F. Contract Type**

The City's standard professional services agreement (ATTACHMENT A) will be executed with the recommended firm.

**G. Collusion**

By submitting a proposal, each prospective firm represents and warrants that its proposal is genuine and not a sham or collusive or made in the interest of or on behalf of any person not named therein; that the prospective firm has not directly, induced or solicited any other person to submit a sham proposal or any other person to refrain from submitting a proposal; and, that the prospective firm has not in any manner sought collusion to secure any improper advantage over any other person submitting a proposal.

**ATTACHMENT A**  
**PROFESSIONAL SERVICES AGREEMENT**

**[\*\*\*FOR PROFESSIONAL SERVICES – DEFINED AS:**

**SPECIALIZED SERVICES SUCH AS FINANCIAL, ECONOMIC, ACCOUNTING, LEGAL, ENGINEERING OR  
ADMINISTRATIVE SERVICES\*\*\*]**

**CITY OF EL PASO DE ROBLES**  
**PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of \_\_\_\_\_, 20\_\_\_\_ by and between the City of El Paso de Robles, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 1000 Spring Street, Paso Robles, CA 93446 (“City”), and [\*\*\*INSERT NAME\*\*\*], a [\*\*\*INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY\*\*\*] with its principal place of business at [\*\*\*INSERT ADDRESS\*\*\*] (hereinafter referred to as “Consultant”). City and Consultant are sometimes individually referred to as “Party” and collectively as “Parties” in this Agreement.

**RECITALS**

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

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(hereinafter referred to as “the Project”).

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

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

**AGREEMENT**

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. Services.

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

2. Compensation.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B." **[Alternatively, Schedule of Charges may be included here and all subsequent exhibits renumbered accordingly.]**

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$\_\_\_\_\_ **[Insert amount of compensation]**. This amount is to cover all printing and related costs, and the City will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.

3. Additional Work.

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

4. Maintenance of Records.

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

5. **[Insert Term or Time of Performance].**

**[If engaging the Consultant for a particular term, use the following provision]**

The term of this Agreement shall be from **[Insert start date]** to **[Insert end date]**, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). **[If the City has specific milestones or timelines for performance, please input those requirements in the "Activity Schedule" attached as Exhibit C, otherwise delete Exhibit C.]** The Notice to Proceed shall set forth the date of commencement of work.

**[If engaging the Consultant to perform a discrete task with a specified deadline, use the following provision]**

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

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

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

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

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

8. Standard of Care

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

9. Assignment and Subconsultant

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

Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

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

a. Commercial General Liability

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

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

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

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

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

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

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

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

b. Automobile Liability

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

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

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

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

c. Workers' Compensation/Employer's Liability

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

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

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions

of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

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

Combined Single Limit

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

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

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

f. Evidence Required

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

g. Policy Provisions Required

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

Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

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

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

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

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

h. Qualifying Insurers

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

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

i. Additional Insurance Provisions

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

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

sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

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

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

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

12. Indemnification.

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

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

13. California Labor Code Requirements.

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

“maintenance” project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

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

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

14. Verification of Employment Eligibility.

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

**[Delete the following provision and renumber all further provisions, if not applicable.]**

15. City Material Requirements.

Consultant is hereby made aware of the City’s requirements regarding materials, as set forth in **[Insert the name of the document that contains the City’s standard material requirements]**, which are deemed to be a part of this Agreement.

16. Laws and Venue.

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

17 Termination or Abandonment

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

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

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

19. Organization

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

20. Limitation of Agreement.

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

21. Notice

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

CITY:

CONSULTANT:

City of El Paso de Robles  
1000 Spring Street  
Paso Robles, CA 93446

\*\*\*INSERT NAME, ADDRESS & CONTACT  
PERSON\*\*\*]

Attn: [\*\*\*INSERT NAME & DEPARTMENT\*\*\*]

and shall be effective upon receipt thereof.

22. Third Party Rights

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

23. Equal Opportunity Employment.

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

24. Entire Agreement

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

25. Severability

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

26. Successors and Assigns

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

27. Non-Waiver

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

28. Time of Essence

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

29. City's Right to Employ Other Consultants

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

30. Prohibited Interests

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

**[SIGNATURES ON FOLLOWING PAGE]**

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT**  
**BETWEEN THE CITY OF EL PASO DE ROBLES**  
**AND [\*\*\*INSERT NAME\*\*\*]**

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

CITY OF EL PASO DE ROBLES

[INSERT NAME OF CONSULTANT]

By: \_\_\_\_\_  
Thomas Frutchey  
City Manager

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Kristen L. Buxkemper  
Deputy, City Clerk

CITY ATTORNEY APPROVAL:

By: \_\_\_\_\_  
City Attorney

REVIEWED:

By: \_\_\_\_\_  
City Project Manager

EXHIBIT A  
Scope of Services

## EXHIBIT B

### Schedule of Charges/Payments

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

EXHIBIT C  
Activity Schedule