

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY
OF BURLINGAME AND COMMUNITY PLANNING COLLABORATIVE
TO MANAGE A MULTIJURISDICTIONAL ENVIRONMENTAL
JUSTICE ELEMENT PROJECT IN THE AMOUNT OF \$54,000**

THIS AGREEMENT is by and between Community Planning Collaborative (“Consultant”) and the City of Burlingame, a public body of the State of California (“City”). Consultant and City agree:

1. **Services.** Consultant shall provide management services for the Multijurisdictional Environmental Justice Element Project (“Project”) between the City of Burlingame, the City of East Palo Alto, and the County of San Mateo, as set forth in Exhibit A attached hereto and incorporated herein. Separate from this agreement, Memorandums of Understanding have been established with the City of East Palo Alto and County of San Mateo outlining the roles of each participating agency, the consultants, and the funding obligations for the Project.

2. **Compensation.** Notwithstanding the expenditure by Consultant of time and materials in excess of said Maximum compensation amount, Consultant agrees to perform all of the Scope of Services herein required of Consultant for \$54,000, including all materials and other reimbursable amounts (“Maximum Compensation”). Consultant shall submit invoices on a monthly basis. All bills submitted by Consultant shall contain sufficient information to determine whether the amount deemed due and payable is accurate. Bills shall include a brief description of services performed, the date services were performed, the number of hours spent and by whom, a brief description of any costs incurred and the Consultant’s signature.

3. **Term.** This Agreement commences on full execution hereof and terminates on December 31, 2025 unless otherwise extended or terminated pursuant to the provisions hereof. Consultant agrees to diligently prosecute the services to be provided under this Agreement to completion and in accordance with any schedules specified herein. In the performance of this Agreement, time is of the essence. Time extensions for delays beyond the Consultant’s control, other than delays caused by the City, shall be requested in writing to the City’s Contract Administrator prior to the expiration of the specified completion date.

4. **Assignment and Subcontracting.** A substantial inducement to City for entering into this Agreement is the professional reputation and competence of Consultant. Neither this Agreement nor any interest herein may be assigned or subcontracted by Consultant without the prior written approval of City. It is expressly understood and agreed by both parties that Consultant is an independent contractor and not an employee of the City.

5. **Insurance.** Consultant, at its own cost and expense, shall carry, maintain for the duration of the Agreement, and provide proof thereof, acceptable to the City, the insurance coverages specified in Exhibit B, "City Insurance Requirements," attached hereto and incorporated herein by reference. Consultant shall demonstrate proof of required insurance coverage prior to the commencement of services required under this Agreement, by delivery of Certificates of Insurance to City.

6. **Indemnification.** Consultant shall indemnify, defend, and hold City, its directors, officers, employees, agents, and volunteers harmless from and against any and all liability, claims, suits, actions, damages, and causes of action arising out of, pertaining or relating to the negligence, recklessness or willful misconduct of Consultant, its employees, subcontractors, or agents, or on account of the performance or character of the Services, except for any such claim arising out of the sole negligence or willful misconduct of the City, its officers, employees, agents, or volunteers. It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code. Notwithstanding the foregoing, for any design professional services, the duty to defend and indemnify City shall be limited to that allowed pursuant to California Civil Code section 2782.8. Acceptance of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

7. **Termination and Abandonment.** This Agreement may be cancelled at any time by City for its convenience upon written notice to Consultant. In the event of such termination, Consultant shall be entitled to pro-rated compensation for authorized Services performed prior to the effective date of termination provided however that City may condition payment of such compensation upon Consultant's delivery to City of any or all materials described herein. In the event the Consultant ceases performing services under this Agreement or otherwise abandons the project prior to completing all of the Services described in this Agreement, Consultant shall, without delay, deliver to City all materials and records prepared or obtained in the performance of this Agreement. Consultant shall be paid for the reasonable value of the authorized Services performed up to the time of Consultant's cessation or abandonment, less a deduction for any damages or additional expenses which City incurs as a result of such cessation or abandonment.

8. **Ownership of Materials.** All documents, materials, and records of a finished nature, including but not limited to final plans, specifications, video or audio tapes, photographs, computer data, software, reports, maps, electronic files and films, and any final revisions, prepared or obtained in the performance of this Agreement, shall be delivered to and become the property of City. All documents and materials of a preliminary nature, including but not limited to notes, sketches, preliminary plans, computations and other data, and any other material referenced in this Section, prepared or obtained in the performance of this Agreement, shall be made available, upon request, to City at no additional charge and without restriction or limitation on their use. Upon City's request, Consultant shall execute appropriate documents to assign to the City the copyright or trademark to work created pursuant to this Agreement. Consultant shall return all City property in Consultant's control or possession immediately upon termination.

9. **Compliance with Laws.** In the performance of this Agreement, Consultant shall abide by and conform to any and all applicable laws of the United States and the State of California, and all ordinances, regulations, and policies of the City. Consultant warrants that all work done under this Agreement will be in compliance with all applicable safety rules, laws, statutes, and practices, including but not limited to Cal/OSHA regulations. If a license or registration of any kind is required of Consultant, its employees, agents, or subcontractors by law, Consultant warrants that such license has been obtained, is valid and in good standing, and Consultant shall keep it in effect at all times during the term of this Agreement, and that any

applicable bond shall be posted in accordance with all applicable laws and regulations.

10. **Conflict of Interest.** Consultant warrants and covenants that Consultant presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless hereinafter arise, Consultant shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this Agreement. Consultant further warrants its compliance with the Political Reform Act (Government Code § 81000 et seq.) respecting this Agreement.

11. **Whole Agreement and Amendments.** This Agreement constitutes the entire understanding and Agreement of the parties and integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or any previous written or oral Agreements between the parties with respect to all or any part of the subject matter hereof. The parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established herein. This Agreement may be amended only by a written document, executed by both Consultant and the City Manager, and approved as to form by the City Attorney. Such document shall expressly state that it is intended by the parties to amend certain terms and conditions of this Agreement. The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement. Multiple copies of this Agreement may be executed but the parties agree that the Agreement on file in the office of the City Clerk is the version of the Agreement that shall take precedence should any differences exist among counterparts of the document. This Agreement and all matters relating to it shall be governed by the laws of the State of California.

12. **Capacity of Parties.** Each signatory and party hereto warrants and represents to the other party that it has all legal authority and capacity and direction from its principal to enter into this Agreement and that all necessary actions have been taken so as to enable it to enter into this Agreement.

13. **Severability.** Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

14. **Notice.** Any notice required or desired to be given under this Agreement shall be in writing and shall be personally served or, in lieu of personal service, may be given by (i) depositing such notice in the United States mail, registered or certified, return receipt requested, postage prepaid, addressed to a party at its address set forth in Exhibit A; (ii) transmitting such notice by means of Federal Express or similar overnight commercial courier ("Courier"), postage paid and addressed to the other at its street address set forth below; (iii) transmitting the same by facsimile, in which case notice shall be deemed delivered upon confirmation of receipt by the sending facsimile machine's acknowledgment of such with date and time printout; or (iv) by

personal delivery. Any notice given by Courier shall be deemed given on the date shown on the receipt for acceptance or rejection of the notice. Either party may, by written notice, change the address to which notices addressed to it shall thereafter be sent.

15. **Miscellaneous.** Except to the extent that it provides a part of the definition of the term used herein, the captions used in this Agreement are for convenience only and shall not be considered in the construction of interpretation of any provision hereof, nor taken as a correct or complete segregation of the several units of materials and labor.

Capitalized terms refer to the definition provide with its first usage in the Agreement.

When the context of this Agreement requires, the neuter gender includes the masculine, the feminine, a partnership or corporation, trust or joint venture, and the singular includes the plural.

The terms “shall”, “will”, “must” and “agree” are mandatory. The term “may” is permissive.

The waiver by either party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

When a party is required to do something by this Agreement, it shall do so at its sole cost and expense without right to reimbursement from the other party unless specific provision is made otherwise.

Where any party is obligated not to perform any act, such party is also obligated to restrain any others within its control from performing such act, including its agents, invitees, contractors, subcontractors and employees.

IN WITNESS WHEREOF, Consultant and City execute this Agreement.

CITY OF BURLINGAME
501 Primrose Road
Burlingame, CA 94010

CONSULTANT
Community Planning Collaborative
2635 Benvenue Avenue
Berkeley, CA 94704

By Lisa K. Goldman

Lisa Goldman
City Manager

Date: 6/30/2023

By David Driskell

Name: David Driskell
Title: Principal

Date: 6/20/2023

Attest: Meaghan Hassel-Shearer

Meaghan Hassel-Shearer
City Clerk

Federal ID Number: 85-1061628

Approved as to form:

Michael Guina

Michael Guina
City Attorney

Attachments:

Exhibit A: Scope of Work

Exhibit B: Insurance Requirements

EXHIBIT A

2635 Benvenue Ave
Berkeley, CA 94704

April 17, 2023

Joseph Sanfilippo, Economic Development & Housing Specialist
City of Burlingame
Community Development Department – Planning Division
501 Primrose Road
Burlingame, CA 94010

Subject: Project Management – Collaborative Development of Environmental Justice Elements for the Cities of Burlingame and East Palo Alto and the County of San Mateo

We are pleased to provide this proposal for continued project management services for the collaborative work between Burlingame, East Palo Alto and County of San Mateo to develop Environmental Justice Elements and General Plan policies consistent with SB 1000 and community goals.

Over the past year, Community Planning Collaborative (formerly Baird + Driskell Community Planning) has served as convenor, facilitator and project manager for the interested jurisdictions in 21 Elements for this collaborative effort. To date, our role as project manager has been through our role as lead consultant for the 21 Elements Project. 21 Elements was originally created to assist San Mateo County jurisdictions (20 cities and the county) with required Housing Element updates and has now expanded to assist with other General Plan element updates. With the selection of PlaceWorks, Inc. as the lead consultant for undertaking the scope of work we developed, there is still the need to provide oversight and management of the collaborative effort over the duration of the project rather than rely on you and the Burlingame team to shoulder that responsibility.

The attached scope of work outlines our roles and responsibilities for the project and the associated cost budget. This includes convening and facilitating joint meetings of the three jurisdictions; providing preliminary review and direction for PlaceWorks on all process and product components; reviewing public outreach and engagement materials and other deliverables; monitoring and providing updates on budget and deliverable requirements to each jurisdiction; and preparing documents for staff for their communications to Planning Commissions and elected bodies.

As a Principal, David Driskell is authorized to bind CPC to the contents of this submittal and to negotiate contracts on behalf of CPC. We propose to have Cathy Capriola serve as Project Manager for this effort, helping to ensure close coordination between the work in developing effective Environmental Justice elements in conjunction with the collaborative work she is also helping manage for Safety Elements.

Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Driskell", with a long horizontal flourish extending to the right.

David Driskell, Principal

david@planningcollaborative.com / 607.227.0327



SCOPE OF WORK

Joint Development of Environmental Justice Elements for Burlingame, East Palo Alto and County of San Mateo

Contractor shall serve as PROJECT MANAGER for the collaborative Environmental Justice Element project on behalf of and in partnership with the cities of Burlingame and East Palo Alto and County of San Mateo, with responsibility for the following tasks:

1. **Joint Steering Committee** – Coordinate, facilitate and communicate with the agencies individually and together as a Joint Steering Committee throughout the project. Lead the Steering Committee and serve as its primary point of contact. Ensure meetings of the Steering Committee provide opportunities to share information, provide feedback at key points in the process, discuss options and opportunities for community engagement, and review approaches to addressing key environmental justice issues. Review meeting materials prepared by PlaceWorks Team before distribution to the Committee members and partner with them in developing meeting agendas. After each meeting, prepare and distribute a high-level summary of key points, action items, decisions, and next steps.
2. **Project Management** – Monitor and oversee the overall project per the executed contract with PlaceWorks. Ensure timeline and project deliverables are met in a timely manner and at the quality expectation of the project.
3. **Reporting and Agency Communication** – Conduct quarterly check-in meetings with each participating agency and ensure concerns, ideas or issues are reviewed and resolved with the PlaceWorks Team. Prepare quarterly project progress reports regarding status of the project, overall progress on budget, and update on individual agency costs to date.
4. **Invoice Review and Budget Monitoring** – Review submitted invoices by PlaceWorks; monitor and track invoices and submitted charges against the overall approved budget for the project as a whole and for each jurisdiction. Communicate with City of Burlingame as fiscal agent on monthly invoices and provide updates to the Steering Committee as a whole and individual jurisdictions as needed.
5. **Coordination with Lead Environmental Justice Element Consultant (PlaceWorks) and CBOs** – Coordinate on a regular basis with PlaceWorks on project process, deliverables, and community outreach, including coordination with Climate Resilient Communities and other Community-Based Organizations engaged in the outreach and engagement work to ensure close coordination with jurisdiction partners. Provide guidance and conduct outreach to individual jurisdictions or the Steering Committee as a whole as needed.
6. **Coordination with Safety Element Collaborative** – Coordinate as needed between the work program and tasks of the Safety Element Collaborative and Environmental Justice team, especially in relation to community outreach and engagement to help ensure an effective and efficient engagement process and overall coordinated work efforts.
7. **Work Product Review** – Review all public engagement tools and products in a comprehensive manner. Review technical work products at a higher level focused on clarity and broad objectives

with the detailed review to be completed by the individual agencies based on their specific knowledge and expertise.

8. **Staff Reports and Adoption Resolutions** – Prepare staff reports and enacting resolutions at the completion of the project for adoption of the completed Environmental Justice Elements by each jurisdiction.
9. **Community Outreach Activities** – Participate in occasional community outreach activities, such as the community workshops, to monitor outcomes and to understand the key community issues within the Environmental Justice Element processes.
10. **Responses to Requests from Individual Jurisdictions** -- Provide easy and direct access for jurisdiction staff to ask questions, distribute information, query other jurisdictions, obtain updated information on State laws and particular items of importance, etc.

FEE PROPOSAL

Contractor shall submit monthly invoices for services rendered during the prior month to jsanfilippo@burlingame.org, identifying the specific work completed, the contract do-not-exceed amount, and the amount remaining unspent under this Agreement. The invoice shall be based on the fee schedule and terms set forth in the table below which identify the overall budget and distribution of total hours by task. Modifications to the estimated billing amounts by task may be made, without amendment to this Agreement, through consultation between the Director of Community Development or designee and Contractor followed by written authorization from the Director of Community Development or designee. City shall pay Contractor within thirty (30) business days of receipt of a satisfactory invoice.

In no event shall total payment for services under this Agreement exceed fifty-four thousand dollars (\$54,000) without a written amendment signed by both parties.

The hourly rate for this project is \$200 per hour.

	Hours	Costs
Steering Committee Coordination	40	\$ 8,000
Coordination Meetings with Fiscal Agent and Individual Jurisdictions, including Quarterly Check-ins	36	\$ 7,200
Coordination Meetings with EJ Element Consultant Team, including subconsultants	44	\$ 8,800
Participation in Community Engagement events	24	\$ 4,800
Coordination with Safety Element work effort	20	\$ 4,000
Monthly Invoice Review	36	\$ 7,200
Review of Work Products & Community Engagement	40	\$ 8,000
Preparation of Final Staff Report and Resolutions	10	\$ 2,000
Sub-Total	250	\$ 50,000
Contingency	20	\$ 4,000
TOTAL	270	\$ 54,000

COST SHARING

The table below summarizes the cost sharing between the three jurisdictions for this scope of work and cost schedule:

JURISDICTION	COST SHARE
Burlingame (24%)	\$ 12,960
East Palo Alto (32%)	\$ 17,280
San Mateo County (40%)	\$ 23,760
TOTAL	\$ 54,000

Exhibit B

INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Contractor, his agents, representatives, employees or subcontractors.

Minimum Scope of Insurance *Coverage shall be at least as broad as:*

1. **Commercial General Liability (CGL):** Insurance Services Office (ISO) Form CG 00 01 12 04 covering CGL on an "occurrence" basis, including products-completed operations, personal & advertising injury, with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be **\$2,000,000**.
2. **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
3. **Workers' Compensation** insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.
4. **Professional Liability** (Errors and Omissions) Insurance appropriate to the Contractor's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the contractor and on the general liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the **Contractor's insurance coverage shall be primary** insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

06/24/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hiscox Inc. d/b/a/ Hiscox Insurance Agency in CA 520 Madison Avenue 32nd Floor New York, New York 10022	CONTACT NAME: PHONE (A/C, No, Ext): (888) 202-3007 FAX (A/C, No): E-MAIL ADDRESS: contact@hiscox.com INSURER(S) AFFORDING COVERAGE INSURER A: Hiscox Insurance Company Inc NAIC # 10200 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Baird + Driskell Community Planning 2635 Benvenue Ave Berkeley, CA 94704	

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / ☒ N / A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below						PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Professional Liability		Y	P100.356.226.5	06/28/2022	06/28/2023	Each Claim: \$ 1,000,000 Aggregate: \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

City of Burlingame	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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