



Request for Proposal

No. RFP No. PW-0140

FOR

WEST CLIFF DR. 60-INCH RCP HEADWALL REPAIR

Contact: Hoi Yu, Associate Professional Engineer

Email: hyu@santacruzca.gov

RESPONSE DEADLINE: July 25, 2024, 2:00 pm

RESPONSES MUST BE SUBMITTED ELECTRONICALLY TO:

<https://procurement.opengov.com/portal/santacruzca>

City of Santa Cruz
West Cliff Dr. 60-inch RCP Headwall Repair

- I. INTRODUCTION
- II. GENERAL INFORMATION FOR PROPOSERS.....
- III. PROCESS INSTRUCTIONS.....
- IV. EVALUATION CRITERIA
- V. TERMS AND CONDITIONS
- VI. PRELIMINARY SCOPE OF WORK.....
- VII. PROPOSAL SUBMITTALS

Attachments:

- A - WC 60-inch - Sample Agreement
- B - Plans - West Cliff 60 in Storm Drain Rehab

1. INTRODUCTION

1.1. [Summary](#)

The West Cliff 60-inch RCP Repair Project will stabilize the eroded slope around the 60-inch reinforced concrete pipe beneath the West Cliff Dr footpath between Auburn Ave and Sacramento Ave. The goal of this project is to prevent property loss to a public infrastructure, stabilize the eroded slope, and restore the 60-inch outfall by November 2024.

1.2. [Background](#)

The City of Santa Cruz was incorporated in 1866 and formed its current charter in 1948. It is governed under a Council/Manager form of government. A Mayor and six Council members set policy for the City and a City Manager serves as chief administrator of those policies. The City is located on the coast, 75 miles south of San Francisco on the northern edge of the Monterey Bay. It encompasses 15.8 square miles with cultural and ethnic diversity among its population of 65,000. Santa Cruz is part of the National Marine Sanctuary and is a popular tourist destination owing to its beaches, surf culture, and historical landmarks.

The City provides a full range of municipal services and facilities including a recreational wharf, public golf course, over thirteen hundred acres of open space, full beach services, refuse management, law enforcement, fire protection, and water and wastewater utilities. The City is also host to University of California Santa Cruz, the Santa Cruz Harbor, and the Santa Cruz Beach Boardwalk amusement park.

1.3. [Contact Information](#)

Hoi Yu

Associate Professional Engineer

Email: hyu@santacruzca.gov

Phone: [\(831\) 420-5427](tel:(831)420-5427)

Department:

Public Works

Department Head:

Nathan Nguyen

Public Works Director

1.4. [Timeline](#)

The City will make every effort to adhere to the following tentative schedule. All dates set forth in this RFP are subject to change at the City's sole discretion. Any change will be set forth in an addendum. All references in this RFP to "time" are Pacific Standard Time.

Release Project Date	June 25, 2024
-----------------------------	---------------

Pre-Proposal Meeting (Non-Mandatory)	July 9, 2024, 10:00am West Cliff footpath across from 2112 West Cliff Dr., Santa Cruz, CA 95060
RFP Questions and Clarification Due Date	July 12, 2024, 5:00pm
Proposal Submission Deadline	July 25, 2024, 2:00pm All proposals shall be submitted online on the procurement website. Late proposals may not be considered.

2. GENERAL INFORMATION FOR PROPOSERS

2.1. Summary Scope of Work

All applicants must provide thorough and comprehensive responses that clearly demonstrate their team's approach to and consistency with the below-mentioned standards.

The City invites qualified firms to respond to this Request for Proposal (RFP) for the project ("Project") titled below:

West Cliff Dr. 60-inch RCP Headwall Repair

RFP No. **RFP No. PW-0140**

The Proposer will provide the services outlined in Section [PRELIMINARY SCOPE OF WORK](#).

The successful Proposer shall furnish all tools, equipment, materials, tax, apparatus, facilities, labor, transportation, supervision, and management, not specifically provided by the City, to complete the work described in this RFP. The successful Proposer will provide a brief statement of services, as detailed further in Section [PRELIMINARY SCOPE OF WORK](#).

2.2. Contact

If you have any questions concerning this solicitation, please ask questions utilizing City's e-Procurement Question & Answer feature. This RFP document may be downloaded from the City's e-Procurement Portal at <https://procurement.opengov.com/portal/santacruzca/projects/98069>. For technical assistance, contact OpenGov using the real-time chat feature on the Portal (located in the lower right-hand corner of the screen), or via email at procurement-support@opengov.com for support. All questions must be received by 5:00 pm on Friday, July 12, 2024.

2.3. Proposal Submittal Due Date

Proposals are due no later than 2:00 pm on Thursday, July 25, 2024, to guarantee review. Proposals received after the deadline will be deemed non-responsive. All proposals will be submitted via City's e-Procurement Portal at: <https://procurement.opengov.com/portal/santacruzca/projects/98069>. Proposers take full responsibility for City's receipt of its Proposal. The City will not be liable for any expenses incurred by Proposers in responding to this solicitation, including but not limited to any costs associated with interviews.

It is the responsibility of the Proposer to ensure that electronic submittals are received by the City prior to the deadline.

2.4. Pre-Proposal Meeting

A pre-proposal meeting is scheduled on the date and time and at the location stated in Timeline in [INTRODUCTION](#) Section. The purpose of this meeting is to give Proposers the opportunity to familiarize themselves with the City's requirements. Clarification and a review of the RFP process will be discussed at the pre-proposal meeting. To expedite the sign-in process, the city will accept a company business

card containing the attendee's name and contact information, as a valid sign-in. Attendance at the pre-proposal conference is not mandatory, however, it is strongly encouraged.

The City complies with the Americans with Disabilities Act. If you require reasonable accommodations in order to attend the pre-bid meeting, please call the contact listed in the [INTRODUCTION](#) section at least 48 hours prior to the meeting.

2.5. [Responsiveness and Responsibility](#)

When determining the **Responsiveness** of the proposal, the City may consider any of the following but not limited to:

- A. Proposal received on time and completed per instructions.
- B. Proposal contains required contents, forms and signatures submitted in accordance with RFP instructions.
- C. Proposal is compliant with specifications and industry standards.

When determining the **Responsibility** of the Proposer, the City may consider any of the following but not limited to:

- A. Possession of industry standard licensing and/or certifications.
- B. Financial capacity of the Proposer.
- C. Experience or past performance of the Proposer.
- D. Use of Subcontractors / Subconsultants.
- E. Past, Present and Pending Legal Actions.
- F. Exceptions with City's Terms and Conditions.
- G. Anticipated adherence with Project delivery schedule.
- H. Ability to respond to City's inquiries for proposal clarification.

Proposers have the right to take exception to the specifications or terms and conditions of this RFP, however, such exceptions may deem the proposal non-responsible. Any exceptions taken must be explained in the proposal and submitted by the submittal due date. Any exceptions that contradict the City's terms and conditions or contain provisions that are not in the best interest of the City will disqualify the Proposer. If exceptions are not explained, the Proposer will comply with the specifications as stated in this RFP. Exceptions submitted after the proposal due date will not be accepted.

The City reserves the right to reject any or all proposals and to waive any informality or minor defect in proposals received.

2.6. [Definitions](#)

In this RFP document:

- A. "Proposer" means contractor, firm, supplier, vendor, or consultant submitting a proposal to this RFP.
- B. "Proposal" means the complete submittal of Proposer to the City in response to this RFP, including any written documentation and oral interview responses.
- C. "Subcontractor" means those performing any portion of the services as subcontractors, vendors, suppliers, and other business entities and individuals that is not the Proposer.
- D. "Key Staff", if required, means the employees of the Contractor or subcontractor(s) that will provide project leadership or expertise in lead technical services and are considered essential to the success of the Project.
- E. "Contract" also means Purchase Order or Agreement.

3. PROCESS INSTRUCTIONS

3.1. Questions and Requests for Clarification and Addenda

Questions or concerns regarding any aspect of this RFP shall be sent via City's e-Procurement Portal's Question & Answer feature and received by the date identified in **Timeline in INTRODUCTION Section**. Any questions or objections not submitted within the time and manner stated above or to anyone other than the above-stated contact will be deemed waived. The City is not bound by the oral representation of any City employee or official. Answers to questions received will be sent out in the City's procurement portal.

The City may determine it is necessary to revise any part of this RFP. Revisions will be made by written addenda and it is the Proposer's sole responsibility to comply with any addenda to this RFP. Addenda will be posted on the City's e-Procurement Portal, <https://procurement.opengov.com/portal/santacruzca/projects/98069>, under Bidding Information.

3.2. Proposal Evaluation Criteria

RFP responses will be evaluated and ranked according to the evaluation criteria identified in the sub-sections Responsiveness and Responsibility in GENERAL INFORMATION FOR PROPOSERS section, below, by an evaluation committee composed of City staff. The evaluation committee will open and review the proposals in confidence. Proposals will be available to the public after the contract award.

After the initial proposal evaluation, the City may determine that additional information is needed to establish the final ranking of proposers. The semi-finalists will be contacted and may be asked to:

- Conduct a scenario-based demonstration of the equipment or service,
- Revise the submitted proposal for the purpose of obtaining best and final offers, and/or
- Provide additional information to assist City in determining the best value proposer.

The Evaluation Committee will use all information collected to rank the semi-finalists in order of their ability to best meet the requirements of the City. The City will begin negotiating a firm contract with the highest ranked Proposer. If no agreement can be reached, negotiations will begin with the next ranked Proposer.

3.3. Responsiveness

Does the proposal meet the minimum requirements in **Sub-Section Responsive and Responsibility of Section GENERAL INFORMATION FOR PROPOSERS** to be responsive (the submittal includes all of the required documentation).

3.4. Responsibility

Does the proposal meet the minimum requirements in **Sub-Section Responsive and Responsibility of Section GENERAL INFORMATION FOR PROPOSERS** to be responsive (the submittal includes all of the required documentation).

The total maximum score for the evaluation of proposals is 100 percent (100%). Proposals will be evaluated by the EC using the Proposal Evaluation Criteria as set forth in Section EVALUATION CRITERIA.

Proposals that are deemed responsive, from a Proposer that has been deemed responsible, will be evaluated based on the Evaluation Criteria below. Evaluation and scoring of proposals will be based on how likely the proposal content meets or exceeds the performance requirements of this RFP.

3.5. [Negotiations](#)

Upon the City's final ranking of proposals, the Proposers shall be prepared to enter negotiations to enter into the Contract. The City will first begin negotiations with the top-ranked Proposer(s). If the City and the top-ranked Proposer(s) do not reach an agreement, then the City may negotiate with the next highest-ranked Proposer. This process will continue until the City reaches an agreement with a Proposer(s) or terminates the procurement. The City may begin negotiating with the next highest-ranked Proposer whenever the City determines that doing so is in its best interest, and the City may negotiate with more than one Proposer at the same time.

The failure of the highest-ranked Proposer to comply with any of the requirements of this section shall constitute grounds for the City to negotiate the agreement with the next top-ranked Proposer. Upon completion of successful negotiations, the City will issue a written Notice of Intent to Award (NOITA) letter to all Proposers which lists the "Successful Proposer" that the City recommends for award of an agreement.

3.6. [Collusive or Sham Bids](#)

No person, supplier, or corporation shall make or file or be interested in more than one bid for the same work, except so far as alternate bid may be called for. Nor shall any person, supplier, or corporation submit a collusive or sham bid, per se, directly or indirectly, to induce any other supplier to submit such a bid, or to refrain from responding, or seek in any way to fix the price, or any portion of the proposed price, in order to secure an advantage against the owner or any person interested in a proposed contract. However, a person, supplier, or corporation submitting a sub-bid to a proposer or quoting prices on materials for a bidder, is not hereby disqualified from submitting sub-bids or quoting prices to other bidders.

The proposer shall acknowledge that it has not directly or indirectly been collusive with any other proposer in the preparation and submission of the proposal by submitting the Non-Collusion Declaration. If at any time it shall be found that the proposer to whom a contract has been awarded has, in presenting the proposal, colluded with any other party or parties, said proposer shall be liable to the City for all loss or damage which the City has or may suffer as the result of the collusive activity, including, but not limited to, the cost of advertising and awarding a new contract.

3.7. [Public Record](#)

Proposals received are the property of the City. All proposals, evaluation documents, and any subsequent contracts will be subject to public disclosure per the "California Public Records Act," (CPRA) California Government Code, sections 7920.000 – 7931.000. All documents related to this solicitation will become public records once discussions and negotiations with proposers have been fully completed and a Notice of Intent to Award (NOITA) letter to all Proposers is issued.

If Proposer's proprietary information is contained in documents or information submitted to City, and Proposer claims that such information falls within one or more CPRA exemptions, Proposer must clearly mark such information "Confidential and Proprietary," and identify the specific lines containing the

information. In the event of a public request for such information, City will make best efforts to provide notice to Proposer prior to such disclosure. If Proposer contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Santa Cruz County before the City is required to respond to the CPRA request. If Proposer fails to obtain such remedy within the time the City is required to respond to the CPRA request, City may disclose the requested information without any liability to Proposer. Proposer further agrees that it shall defend, indemnify and hold City harmless against any claim, action or litigation (including but not limited to all judgments, costs, and attorney's fees) that may result from denial by City of a CPRA request for information arising from any representation, or any action (or inaction), by the Proposer.

3.8. Award Protests

The City desires to foster cooperative relationships with Proposers and to reach a fair agreement in a timely manner.

The City encourages Proposers to resolve issues regarding the RFP requirements or the procurement process through written correspondence and discussions at least 5 business days prior to the proposal due date. This will allow the City time to research the validity of any stated issues and either issue an addendum to the RFP, cancel the RFP, or determine the protest to be unfounded and proceed with the solicitation. In the event, the protest of specifications is denied, and the protester wishes to continue in the protest process, the protesting Proposers must still submit a proposal in accordance with the proposal submittal procedures provided in this solicitation. Questions or concerns prior to the intent to award notice will be directed to:

Hoi Yu, Associate Professional Engineer, hyu@santacruzca.gov

Any Proposer who unsuccessfully bids on a City contract or any trade association representing workers who would have potentially been employed by such contract may formally protest a contract award. Protest letters regarding a formal contract award will be directed to:

City of Santa Cruz
City Clerk Administrator
809 Center Street, Room 9
Santa Cruz, California 95060

Protests will be filed with the City Clerk's office no later than 5 business days after the written Notice of Intent to Award is sent by the City. Protest letters will include:

- The name, address, and telephone number of the protester;
- The Project title, RFP Number, and RFP due date;
- Name of City employee and Department designated as the contact in the original RFP;
- A detailed statement of the legal and/or factual grounds for the protest; and
- The form of relief requested.

The City Council will hear the protest prior to award of the contract. The protesting party may protest the City's or successful Proposer's failure to comply with the requirements of the Purchasing Ordinance or the solicitation documents. The protest must clearly set forth the basis for the protest; grounds not set forth in the written protest will not be considered by the City Council at the protest hearing. The City Council will sustain a protest if the protesting party demonstrates by clear and convincing evidence that, as specified above, the City would act improperly in awarding the contract. The decision of the City Council is final.

3.9. [Debriefing](#)

A debriefing may be held after the contract award with the City and a Proposer for the Proposer to receive information about the evaluation of their proposal. A Proposer shall submit a written request to the City for a debriefing shall within thirty (30) days after the issuance of the NOITA. The debrief conference will be allotted a maximum of thirty (30) minutes and will consist only of evaluating the requesting Proposer's Proposal.

3.10. [Contract Implementation](#)

Upon award notification and prior to final contract approval, the successful proposer will be required to submit:

- Proof of insurance and prevailing wage compliance documentation as specified in **Sub-Section Insurance Requirements and Sub-Section Prevailing Wage** in **Section Terms and Conditions** of this RFP;
- Documentation of all credentials necessary to legally perform the Project specified;
- A completed W9 form and, if applicable, non-resident withholding exemption form, if not already on file with the City; and
- Proof of a current City of Santa Cruz business tax certificate if the proposer is located in, or performs services within, the city limits for more than 6 days annually.
- The finalized contract will be in the form included as **Appendix A Sample Agreement** herein, and include the **RFP documents**, the Proposer's response to **RFP and Vendor Questionnaire**, the Budget as described in **Cost Proposal**, and any negotiated modifications agreed to by the parties.

3.11. [Reservation of Rights](#)

The City, at its sole discretion, reserves the following rights:

- To reject any or all proposals or information received pursuant to this RFP;
- To waive any informality or minor defects in proposals received;
- To supplement, amend, substitute, or otherwise modify this RFP at any time by means of written addendum;
- To cancel this RFP with or without the substitution of another RFP or prequalification process;

- To cancel the scope of services awarded through this RFP process with or without the substitution of another RFP or prequalification process;
- To request additional information from a Proposer;
- To bid separately any item or items where it is determined by the Purchasing Manager that:
 - A substantial savings in cost will result due to a large quantity purchase, or
 - The commodity is not appropriately classified under this specification contract.
 - To verify the qualifications and experience of each Proposer;
- To require one or more Proposers to supplement, clarify, or provide additional information in order for the City to evaluate proposals submitted.

3.12. [Environmental Conservation and Sustainable Living](#)

The City of Santa Cruz has long been an advocate for environmental conservation and sustainable living. This includes, but is not limited to, the Green Business Program, the Living Wage Ordinance, the Clean Ocean Business Program, the Green Building Program and Climate Action Plan 2030 goals which define greenhouse gas reduction objectives to reduce community-wide greenhouse gas emissions 40 percent by 2030 and 100 percent by 2035 (compared to 1990 levels). In your proposal, please provide information about your company regarding any existing environmental conservation goals or guidelines, environmental or greenhouse gas emissions disclosures, Green Business certifications, existing alternative fuel service vehicles, superior employee benefit policies, or other applicable policies.

3.13. [Financial Responsibility](#)

The City accepts no financial responsibility for any costs incurred by a Proposer in responding to this RFP. Proposers acknowledge and agree that their Proposals will become the property of the City and may be used by the City in any way deemed appropriate.

4. EVALUATION CRITERIA

4.1. Phase 1

No.	Evaluation Criteria	Scoring Method	Weight (Points)
-----	---------------------	----------------	-----------------

1.	<p>Adherence to RFP Requirements</p> <p>To be considered responsive, the proposal shall include the information detailed in this section. Proposer must provide information in the proposal in the same order as shown below. The proposal shall be separated into the sub-headings referenced below. Failure to provide this information may result in a proposal being considered non-responsive to requirements.</p> <p><u>Proposal Format</u></p> <p>Proposals should be organized as follows:</p> <ul style="list-style-type: none">● Cost Proposal Provide a comprehensive cost proposal uploaded separately in the Procurement Portal.● Written Technical Proposal● Optional Appendices or Exhibits: Proposers may include sample project information, sample reports, peer review reports, letters of recommendation, or other exhibits that may assist the City in favorably evaluating the proposal. Do not include generic marketing materials.● Proposals will be deemed non-responsive and removed from further consideration if the Proposal is not received in accordance with the terms of this RFP or the Proposer does not meet the basic minimum qualifications and proposal requirements set forth in this RFP. <p>Proposals shall be typed, as concise as possible, and shall not include any unnecessary promotional material. The Proposer shall provide the information required in this Evaluation Criteria section and comply with the maximum page limitations provided for each subsection of the proposal. The RFP Required Submittal Documents do not count toward applicable section page limits.</p> <p>Resumes shall be included as a separate attachment. Number every page sequentially beginning with the cover page, including any</p>	0-100 Points	5 <i>(9.1% of Total)</i>
----	---	--------------	-----------------------------

	<p>text charts and graphic pages and including attachments and exhibits.</p> <p>Narrative pages are to be 8½x11 inches. 11x17 pages, if used, shall be used sparingly and only where required to convey related information that cannot otherwise be accommodated on an 8½x11 page. 11x17 will count as two pages.</p> <p>The proposal shall use Arial or a similar, easily readable font. A minimum of 11-point font size and 1.25-line spacing is required for text. Narrow or condensed fonts are not permitted. Font restrictions do not apply to attachments. Different size fonts will be allowed for headings, charts, tables, and graphics and must be easily readable.</p>		
--	---	--	--

2.	<p>Firm Background Information</p> <p>This section must include the following (maximum 2 pages):</p> <ul style="list-style-type: none">A. Legal name, addresses, telephone numbers of the principal office (national headquarters) and local office. Include the same information if services will be provided from additional locations.B. Year established and history.C. Business entity status (i.e., partnership, corporation, LLC).D. Indicate if Proposer has defaulted in its performance of an agreement or project during the past five (5) years which has led the other party to terminate the agreement and if so, the identity of the parties involved and the circumstances of the default or termination.E. Respond to the following:<ul style="list-style-type: none">1. Explain any pending litigation, liens, or claims involving your organization.2. Has your company filed for bankruptcy in the last ten (10) years?F. Provide information about your company regarding environmental conservation practices or objectives, Green Business certifications, alternative fuel service vehicles, superior employee benefit policies, or other applicable policies that align with Sub-Section Environmental Conservation and Sustainable Living in Section Process Instructions.	0-100 Points	10 <i>(18.2% of Total)</i>
----	--	--------------	-------------------------------

3.	<p>Firm Qualifications, Expertise, and Experience</p> <p>In this section (maximum 5 pages), include the following:</p> <ul style="list-style-type: none">A. Describe the Proposer’s qualifications and experience working on similar, relevant, or related projects that were completed, as outlined in Section Preliminary Scope of Services.B. Describe how the Proposer (or Proposers if submitting a jointly prepared proposal) is organized to provide the required services as outlined in Section Preliminary Scope of Services.C. If utilizing any subconsultants and/or subcontractors, describe their qualifications working on similar, relevant, or related projects that were completed, as outlined in Section Preliminary Scope of Services.D. Provide a list of all services Proposer has performed for the City in the past three (3) years, include a description of the services, date of engagement(s), members of the proposed team that performed the services. Indicate if Proposer served as the prime contractor or as a subcontractor.	0-100 Points	10 <i>(18.2% of Total)</i>
----	---	--------------	-------------------------------

4.	<p>Team Qualifications, Expertise, and Experience</p> <p>In this section (maximum 5 pages), include the following:</p> <ul style="list-style-type: none">A. Provide the names, qualifications, certifications, and relevant technical experience of personnel and subcontractors of the proposed project team who will perform the services described in Section Preliminary Scope of Services. Include details about their experience with similar projects with comparable magnitude.B. Provide resumes for each member of the proposed project team and include the qualifications and experience suited to the proposed assignment. Include resumes as a separate attachment. <p>If awarded the contract, Proposer shall make every effort to ensure that the staff resources identified in the proposal will be available for the Project. If staff identified in the proposal are not available, the City reserves the right to review and approve alternate personnel.</p>	0-100 Points	10 <i>(18.2% of Total)</i>
----	--	--------------	-------------------------------

5.	<p>Technical Approach and Work Plan</p> <p>A. Technical Approach: Describe your approach to completing Section Preliminary Scope of Services. Identify deliverables and key decision points. Provide comments regarding the proposed Section Preliminary Scope of Services. This may be used as an opportunity to expand upon your team’s specific experience and expertise, and to outline any changes you believe would help achieve the Project’s goals and objectives.</p> <p>B. Work Plan: Describe how the project team will fulfill the Section Preliminary Scope of Services. Include a detailed project schedule in the Project Schedule Document. Provide a matrix of personnel, tasks, and an estimated effort in hours.</p> <p>The work plan shall include a process for delivery of the range of services outlined in Section Preliminary Scope of Services. To the extent possible, the proposal shall reflect the roles and responsibilities of team members in the major tasks outlined in the Section Preliminary Scope of Services and strategies to accommodate the staffing needs for each task order. As appropriate, include tools and techniques you could use in addressing challenges and delivering services outlined in Section Preliminary Scope of Services.</p> <p>Proposers shall address all major tasks outlined in Section Preliminary Scope of Services and as appropriate, suggest supplemental tasks/sub-tasks for incorporation into the final Section Preliminary Scope of Services.</p>	0-100 Points	15 <i>(27.3% of Total)</i>
----	---	--------------	-------------------------------

6.	<p>References</p> <p>In this section (maximum 5 pages), provide the following:</p> <p>A. Three (3) Client References that provide former clients and representative projects undertaken in the last five (5) years which demonstrate relevant experience with the Project.</p> <p>B. For each project identified above, provide a project description, project costs, dates of engagement, project owner, and member(s) of the proposed team for this RFP that participated in the project, including any subcontractors that worked on the project.</p> <p>C. For each reference, provide the name of the agency/firm, and contact person's name, title, address, phone number, and email address. Please ensure that the contact information is accurate for each reference.</p> <p>OR FOR MORE DETAILED ADD THE ADDITIONAL LANGUAGE BELOW.</p> <p>The City reserves the right to:</p> <ul style="list-style-type: none">• Check as many references that the City deems necessary.• Assess a Proposer's past performance.• Contact references that the City determines are representative projects demonstrating experience relevant to this RFP.• Check any other reference(s) that might be indicated through the specified contacts or that result from communication with other entities involved with similar projects.	0-100 Points	5 <i>(9.1% of Total)</i>
----	---	--------------	-----------------------------

	<ul style="list-style-type: none">• Include other industry sources and users of similar services known to the City.• Contact client references for only shortlisted Proposers. <p>It is the responsibility of the Proposer to ensure the client reference contact person is available and willing to provide a reference within the timeframe stated in this section. The client reference score/weight shall have no bearing on any other evaluation criteria.</p>		
--	--	--	--

4.2. [Phase 2](#)

No.	Evaluation Criteria	Scoring Method	Weight (Points)
-----	---------------------	----------------	-----------------

5. TERMS AND CONDITIONS

5.1. Insurance Requirements

Proposer will provide Certificate of Insurance(s) for Professional Liability, Commercial General Liability, Auto Liability, and Workers' Compensation as stated in the City's standard Terms and Conditions. The City reserves the right to adjust the insurance terms provided based on the type and scope of project proposed by the Proposer.

5.2. Prevailing Wages and Labor Compliance

Prevailing wages must be paid to all employees working under this contract. This contract is subject to compliance monitoring and enforcement by the California Department of Industrial Relations (DIR). Contractors and subcontractors must register with the DIR in order to submit a bid and be awarded a contract (<http://www.dir.ca.gov/dlse/dlsePublicWorks.html>). No bid will be accepted, nor any contract entered into without proof of the contractor's and subcontractors' current registration with the Department of Industrial Relations to perform public work. If awarded a Contract, the Contractor and its subcontractors, of any tier, shall maintain active registration with the Department of Industrial Relations for the duration of the Project.

5.3. Living Wage

Proposers agree to comply with the requirements of the Living Wage Ordinance as provided in Santa Cruz Municipal Code Chapter 5.10.

5.4. Agreement (Appendix A)

The successful Proposer will be required to enter into an Agreement in the form of the Agreement attached hereto as Appendix A. The City reserves the right to adjust the terms, including insurance terms provided, based on the type and scope of the project proposed by the Proposer. If a Proposer is unable to accept City's proposed Agreement terms substantially in the form presented, the Proposer shall include a revised copy of the Agreement with its Proposal. The revised copy must clearly mark any section to which it objects, set forth the Proposer's proposed alternative terms, and explain the basis for each proposed change. The City reserves all rights to reject any revisions to the Agreement.

If a satisfactory contract cannot be negotiated in a reasonable time, the City in its sole discretion may terminate negotiations.

5.5. Contract Period

The term of the contract will commence upon notification of award and continue for a period of 0 year(s) plus any renewals agreed to by the parties and made in writing.

5.6. Equal Employment Opportunity and Non-Discrimination

City's policies promote a working environment free from abusive conduct, discrimination, harassment, and retaliation; and require equal opportunity in employment for all regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, religion, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation,

and military or and veteran status, or any other consideration made unlawful by local, State or Federal law. City requires Consultant to be in compliance with all applicable Federal and State and local equal employment opportunity acts, laws, and regulations and Consultant is responsible for ensuring that effective policies and procedures concerning the prevention of abusive conduct, discrimination, harassment, and retaliation exist in Consultant's business organization. The City's current Equal Employment Opportunity and Non-Discrimination policies to which this Section applies may be viewed at <http://www.codepublishing.com/CA/SantaCruz/?SantaCruz09/SantaCruz0983.html> and <http://www.cityofsantacruz.com/home/showdocument?id=59192>. Copies are available upon request from the City's Purchasing Division.

5.7. Indemnification

To the fullest extent permitted by law, Proposer agrees to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents, and volunteers (collectively, "Indemnitees") from and against any and all liability, claim, action, loss, injury, damage, judgment, or expense, including attorneys' fees and costs ("Losses") caused by or resulting from the negligence, recklessness, or willful misconduct of Proposer, Proposer's officers, employees, agents, or subcontractors in any way related to this RFP, including but not limited to Proposer's Proposal. Proposer's duty to indemnify and hold harmless Indemnitees shall not apply to the extent such Losses are caused by the sole or active negligence or willful misconduct of Indemnitees, as determined by an adjudicatory body or court of competent jurisdiction, if applicable. The obligation to defend shall arise regardless of any claim or assertion that Indemnitees caused or contributed to the Losses.

In the event this Agreement involves the performance of design professional services by Proposer, Proposer's officers, employees, agents, or subcontractors, Proposer's costs to defend Indemnitees shall not exceed the Proposer's proportionate percentage of fault per Civil Code §2782.8. This section shall survive the termination or expiration of the Agreement.

5.8. Liquidated Damages

The parties agree that in litigation or arbitration resulting from either party's breach, the amount of loss would be extremely difficult or impracticable to prove. Accordingly, the parties wish to make a commercially reasonable estimate of the damages they would incur in the event of a breach by the other party and to establish that estimate as liquidated damages. In the event of a breach by the seller, the buyer shall recover as liquidated damages and as the buyer's exclusive remedy for the seller's breach, the amount of \$1000 per day for failure to deliver or perform within the specified time limit.

5.9. Performance Bond/Payment Bond

Bonding requirements for federally funded contracts are subject to the following federal directives: Bidder's security of ten percent of the bid price for all public works contracts at the time of Bid submittal (Public Contract Code Section 20483(a)).

- A. Performance bond equal to 100-percent of the contract price for all public works contracts.
- B. Payment bond for all public works contracts of at least:
- C. 50-percent of the contract price if the contract price does not exceed \$1 million.

1. 40 percent of the contract price if the contract price exceeds \$1 million but is not more than \$5 million; or
2. \$2.5 million if the contract price exceeds \$5 million.

Within ten (10) business days, not including legal holidays, of contract award, the successful Proposer must submit a performance bond and payment bond, executed by the Contractor and the Surety. All bonds must be issued by California admitted Sureties.

Should any surety or sureties be deemed unsatisfactory by the City, a notice will be given to the Contractor. The Contractor shall promptly substitute a new surety or sureties satisfactory to the City. No further payment shall be deemed due or will be made under the contract until the new sureties are accepted by the City.

At its sole discretion, the City may allow the Contractor to provide bonds from multiple sureties to meet the bond requirements.

6. PRELIMINARY SCOPE OF WORK

6.1. Project Objectives

The West Cliff Dr. 60-inch RCP Headwall Repair will replace the damaged headwall structure around the 60-inch reinforced concrete storm drain outfall under the West Cliff Drive footpath between Sacramento Ave and Auburn Ave with a wall to retain and stabilize the exposed slope. Depending on the design and the location of the new headwall, the last two sections of concrete pipe may be removed and/or replaced.

On January 22, 2024, a failure was discovered on a 60-inch concrete storm drain outfall on West Cliff Drive. The damage consisted of a slope failure behind the outfall headwall, and the misalignment of the final joints of 60-inch concrete pipe. High water flows also eroded a section of slope downstream. Emergency repair and stabilization included inserting an inflatable seal inside the outfall at the second pipe joint, and stabilizing the exposed hillside with visquene and sandbags.

The goal of this project is to retain the exposed slope and stabilize the West Cliff footpath by November 2024.

6.2. Minimum Qualifications

- Firm has no fewer than five years of similar design and construction experience for similar types of coastal bluff retaining walls.
- Present sufficient qualified personnel to carry out the project tasks in a timely fashion.
- Demonstrate experience in conducting work for government institutions of similar or larger size and scope.
- All construction documents shall be prepared by a professional engineer licensed in the state of California. The professional seal indicating such license by the state shall appear on the final construction documents. The engineer whose seal is shown will be known as the Engineer of Record.
- Time is of the essence. All work shall be complete by November 15, 2024.

6.3. Scope of Work

The following information summarizes the City's requirements for the design of the proposed wall. The information is provided as a guide; the City is relying on the Vendor to design and construct the wall according to Civil and Geotechnical Engineering, and Construction Industry standards.

The West Cliff Dr. 60-inch RCP Headwall Repair will replace the damaged headwall structure around the 60-inch reinforced concrete storm drain outfall under the West Cliff Drive footpath between Sacramento Ave and Auburn Ave with a wall to retain and stabilize the exposed slope. Depending on the design and the location of the new headwall, the last two sections of concrete pipe may be removed and/or replaced.

The Vendor is responsible for all investigations, tests, analyses and design work necessary to complete the retaining wall project design.

Construction design drawings for the damaged outfall structure are available through the Public Works Dept. It is the Vendor's responsibility to determine if technical information provided by the City from previous projects is applicable to the design of the Project, and to verify all utilities location.

The design and construction shall include removing a portion or all of the existing outfall structure and damaged pipe to allow for the installation of the new retaining wall.

Lane closure for construction will be extremely limited as West Cliff Drive is the scenic route for tourist traffic. One lane must remain open and unimpeded for all traffic for the duration of the project.

Should it be necessary to qualify or include any exceptions when the Proposal is submitted, please do so on a separate sheet with the heading "EXCEPTIONS" and attach to the RFP submittal. Any exceptions to either the RFP or the Agreement should include a clear description of the reason for a requested change, and alternative language.

New guardrails and wall underdrains, shall be included in proposals.

6.4. [Responsibilities of the Vendor](#)

Any and all design services required by this Agreement shall be performed by qualified engineers and other design professionals licensed under the laws of the state of California. The contractual obligations of such professional persons or entities are undertaken and performed in the interest of the Vendor.

The agreements between the Vendor and the persons or entities identified in this Agreement, and any subsequent modifications, shall be in writing. These agreements, including financial arrangements with respect to this Project, shall be promptly and fully disclosed to the Owner upon request.

The Vendor shall be responsible to the Owner for acts and omissions of the Vendor's employees, subcontractors and their agents and employees, and other persons, including the Architect and other design professionals, performing any portion of the Vendor's obligations under this Agreement.

The Vendor shall perform all design and construction services, and provide all material, equipment, tools and labor necessary to complete the scope of the work described in the Request for Proposals and all amendments or change orders.

The Vendor shall designate a representative authorized to act on the Vendor's

behalf with respect to the Project.

The Vendor shall submit Construction Documents as they are developed for review and approval by the Owner. Construction Documents include drawings, specifications, submittals, and other documents and electronic/digital data setting forth in detail the requirements for construction of the Work, and shall:

- be consistent with the intent of the Vendor's Proposal
- provide information for the use of those in the building trades
- include documents customarily required for regulatory agency approvals.

The Vendor at their cost shall file any and all documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project and shall provide the Owner with a complete set of as-built drawings, specifications, manuals, warranties, and other documents necessary to maintain, operate, upgrade and expand the materials recovery facility.

The Vendor shall provide or cause to be provided and shall pay for all design services, labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

The Vendor shall be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under this Agreement.

The Vendor shall keep the Owner informed of the progress and quality of the Work.

The Vendor shall be responsible for correcting Work that does not conform to the Owner's standards and requirements.

The Vendor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the construction will be free from faults and defects, and that the construction will conform to the requirements of the Contract Documents. Construction not conforming to these requirements, including substitutions not properly approved by the Owner, shall be corrected in accordance with Article 9.

The Vendor shall pay all sales, consumer, use and similar taxes which had been legally

enacted at the time the Vendor's Proposal was first submitted to the Owner, and shall secure and pay for building and other permits and governmental fees, licenses and inspections necessary for the proper execution and completion of the Work which are either customarily secured after execution of a contract for construction or are legally required at the time the Vendor's Proposal was first submitted to the Owner.

The Vendor shall comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Project.

The Vendor shall pay royalties and license fees for patented designs, processes or products. The Vendor shall defend suits or claims for infringement of patent rights and shall hold the Owner harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer is required by the Owner. If the Vendor has reason to believe the use of a required design, process or product is an infringement of a patent, the Vendor shall be responsible for such loss.

The Vendor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by its operations under this Agreement. Progressively throughout the job and at the completion of the Work, the Vendor shall remove from the site waste materials, rubbish, the Vendor's tools, construction equipment, machinery, and surplus materials.

The Vendor shall notify the Owner when the Vendor believes that they have arrived at Substantial Completion. If the Owner concurs, the Vendor shall issue a Certificate of Substantial Completion, which shall establish the Date of Substantial Completion and shall include a list of items to be completed or corrected (i.e. "punch list"). The Vendor shall complete the punch list items before the expiration of the Contract Time. "Contract Time" is defined in Article 4.1 and "Substantial Completion" is defined in Article 4.5 below. The punch list shall be established by collaboration between the Owner and Vendor prior to issuance of the Certificate of Substantial Completion by the Vendor.

The Vendor shall maintain one record copy of the drawings, specifications, product data,

samples, shop drawings, Change Orders and other modifications, in good order and regularly updated to record the completed construction. These shall be delivered to the Owner upon completion of construction and prior to final payment. All record drawings shall be delivered to the Owner and include a set of Mylar hard-copies, , one (1) sets of 11" x 17" hard-copy, and an electronic copy (i.e. AutoCAD files in the latest version of AutoCAD, written documents in Microsoft Word, etc.).

6.5. Responsibilities of City

A designated City contact during the course of the project. Access to the facilities/reports/systems/records/etc. needed to complete the work. Information regarding past work performed on this project.

6.6. Installation

[Remove if Service Contract]

[Explain any installation requirements.]

6.7. Damage

[Remove if Service Contract]

The Vendor will be responsible for any damage to City property during the performance of this contract. In the event that there is damage to City property, the Vendor will immediately report the incident to the City in writing. Any such damage will be repaired or replaced with same by the Vendor at his/her expense and to the satisfaction of the City.

6.8. Vendor's Employee Conduct

Vendor will agree to remove any employee whose conduct is improper, inappropriate, or offensive as determined by the City. A removed employee(s) is not to work on City premises without the written consent of the City. The Vendor will remove any employee from working in, or delivering to, City facilities who is convicted of a felony during his/her employment.

6.9. Background Check

[For Police Department and Water Treatment Facility]

Only employees of the firm who successfully pass the City-required background check will be allowed within the facility. The City will pay for the cost of no more than two background checks per contract year; Vendor will be responsible for the cost if more than two employees need background checks per contract year. Background checks will be completed before the employee is allowed facility access.

6.10. City Furloughs and Closures

[Remove if Not Applicable]

As a cost saving measure, many City offices may be closed on Fridays and the City typically closes several facilities during two weeks in December. These pre-scheduled furloughs are subject to change. Vendor will be given prior notice of cost-saving furloughs; and the monthly billing will be prorated accordingly.

7. PROPOSAL SUBMITTALS

7.1. Proposal Response*

By confirming, the proposer is affirming to the following:

The proposer, upon acceptance, agrees to furnish the following in accordance with the specifications and terms and conditions per City of Santa Cruz "Request for Proposals for West Cliff Dr. 60-inch RCP Headwall Repair" at the prices indicated herein.

The proposer, under penalty of perjury, declares not to be a party with any other business to an agreement to propose a fixed or uniform price in connection with this proposal.

The proposer declares under penalty of perjury that she/he is authorized to submit this proposal and bind the business or organization to the terms of this Proposal.

The proposer recognizes the right of the City of Santa Cruz to reject any or all proposals received and to waive any informality or minor defects in proposals received.

The proposer declares under penalty of perjury that the information contained in this Proposal and all accompanying documents are true and correct.

Please confirm

*Response required

7.2. Technical Proposal*

Proposers shall submit their proposal to this procurement website. The following items must be submitted as part of the proposal for the Project:

- A. LIST CONSULTANTS AND SUBCONTRACTORS: Identify major consultants and sub-contractors who will be working on the Project and describe their role and performance responsibilities. Proposers shall also submit the List of Subcontractors form located in the Forms section.
- B. LIST KEY PROJECT PERSONNEL: Identify key personnel who will be directly involved with the Project, identify their responsibilities and what work they will be accountable for. List any similar types of project experience they may have had. Include pictures or renderings where possible.
- C. PROJECT MANAGER: Identify the individual who will function as the project manager during the preparation and development of the Contract Documents through final construction and startup.
- D. QUALITY CONTROL PROCEDURES: Describe your proposed methods and procedures for quality control in both the performance of design and construction. Identify inspections, tests,

certifications, cost tracking, cost control and project tracking systems that will be used. Describe how the City will be afforded oversight of Project progress. Indicate the types of reports that will be provided to the City, frequency, purpose and general content of each report.

- E. INDEX OF DRAWINGS AND SPECIFICATIONS: The Vendor shall prepare an index of design drawings. The Proposer shall provide a brief description of the content of each drawing on the index.

Indicate which drawings (sheet number and title) will be provided with the 60%, and 90% design review submittals required under Section II.C.2.b.

Provide an outline of the specifications (including section number and title) and indicate which specifications will be provided with the 60%, and 90% design review submittals.

- F. PROJECT SCHEDULE: Provide a CPM resource loaded (i.e. labor and equipment) schedule showing your proposed Project delivery schedule. Identify all critical activities for the Project. Identify key milestones at which Owner reviews and Owner approvals will be required. Describe your proposed action plan to maintain compliance with your construction schedule. Address your ability to respond quickly to potential delays. The Proposer shall identify how much allowance has been made for bad weather in the schedule, the days of the week and the hours of construction operations during each phase of the work, and the anticipated dates that the existing processing operation will need to be shut down. The City anticipates an overall schedule of 90-days to complete the Project, as required in Article 4.1 of the Agreement. The Vendor may submit an alternative schedule. A shorter alternative schedule is favorable to the City. However, a longer alternative schedule may be acceptable if there is significant cost savings to the City.
- G. Concept drawings; prepared following industry design standards and generally accepted civil engineering practices.
- H. CITY FORMS AND OTHER REQUIREMENTS: Each Proposer's proposal shall include the items required in the above Section I—INTRODUCTION, including the proposal cover sheet, the first five forms in the Forms section attached to the end of the Agreement, and a certified check, cashier's check or Proposer's Bond made payable to the order of the City of Santa Cruz,

California, for an amount not less than (10) percent of the amount of the proposal. The five forms to be included include:

- A. Proposal documents list
 - B. Schedule of Values
 - C. List of Subcontractors
 - D. Equal Opportunity Clause Certificate
 - E. Proposer's Bond
- I. ALTERNATIVE DESIGN PROPOSALS: The City requires only one proposal from each Proposer that adheres to the requirements of this RFP. However, Proposers may, at their discretion, offer additional alternative proposals or schemes for the Project.

Alternatives that are of interest to the City are repair solutions that preserve or re-use, provide drainage to, secure and re-mortar any portions of the existing granite wall, or that uses granite facing over new shotcrete.

Alternative proposals shall meet all of the RFP's requirements that apply to the type of alternative proposed. If an alternative design proposal is submitted, then the following information shall also be provided:

- A. A general assessment of the alternative proposal versus the required proposal.
- B. A comparison of the alternative proposal versus the required proposal that identifies the differences and impacts, including the cost differences, scheduling, impacts to traffic, etc.

*Response required

7.3. Cost Proposal*

Proposers must complete and submit a **Cost Proposal** with their Proposal submittal by the Proposal Submittal Due date. It is the Proposer's responsibility to state all costs required to provide the services outlined in **Section Preliminary Scope of Services**.

Cost proposal must include TOTAL PRICE FOR COMPLETION OF THE PROJECT: The price is to include the cost of all design, construction and operational services. The price shall include, but not limited to, direct labor, overhead, fringe benefits, profit, subcontractor costs, and other direct costs (ODC) such as the

furnishing of design and professional services, all materials, equipment, systems, tools, utilities, acquisition of all permits, approvals, authorizations, certificates, including applicable taxes and the performance of all labor and professional services including design costs and management necessary for the proper coordination and completion of the Project.

Proposers shall complete and submit the Schedule of Values Sheet, found in the Forms section at the end of the Agreement. The Schedule of Value Sheet provides a breakdown of the total cost proposed for the Project. It shall, at a minimum, contain costs for each work category listed. Proposers may also provide additional cost details for each cost category.

A Proposer's failure to submit a Cost Proposal will deem the Proposal non-responsive.

*Response required

7.4. Non-Collusion Declaration*

By confirming, the proposer, the party making the foregoing proposal declares that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Consultant has not directly or indirectly induced or solicited any other Consultant or Sub-Consultant to put in a false or sham proposal; and has not directly or indirectly colluded, conspired, connived, or agreed with any Consultant, Sub-Consultant or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the Consultant has not in any manner directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Consultant or any other Consultant or Sub-Consultant, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Consultant or Sub-Consultant, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Consultant has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Please confirm

*Response required

7.5. Acknowledgment of Addenda and Question and Answer*

In order to submit a proposal, the vendor acknowledges that they have read all addenda, and questions and answers posted for this solicitation.

Please confirm

*Response required

7.6. California Levine Act Statement

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any member of the City Council of the City of Santa Cruz from participating in any action related to a contract if they receive any political contributions totaling more than \$250 within twelve (12) months before or after the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract.

Answering YES to either of the two questions above does not preclude the City of Santa Cruz from awarding a contract to your firm or taking any subsequent action related to the contract. It does, however, preclude the identified City Council Member(s) from participating in any actions related to this contract.

*7.6.1. 1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to a member of the City of Santa Cruz city council in the twelve (12) months preceding, the date of the submission of your proposals or the anticipated date of any city council action related to this contract? **

Yes

No

*Response required

When equals "Yes"

*7.6.2. If yes, please identify the Council Member(s): **

*Response required

*7.6.3. 2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any member of the City of Santa Cruz City Council in the twelve (12) months following any city council action related to this contract? **

Yes

No

*Response required

When equals "Yes"

*7.6.4. If yes, please identify the Council Member(s): **

*Response required

Professional Services Agreement With
_____ [VENDOR NAME]
For WEST CLIFF 60-INCH HEADWALL REPAIR PROJECT

THIS AGREEMENT for professional services is made by and between the City of Santa Cruz (“City”) and _____ (“Vendor”) (each is referred to individually as a “Party” and collectively, as the “Parties”) as of _____, 20__ (the “Effective Date”).

NOW, THEREFORE, in consideration of each other’s mutual promises, the Parties hereto agree as follows:

SECTION 1: SCOPE OF WORK

Vendor will furnish services as defined and described in the Scope of Work, attached hereto as Exhibit A and incorporated herein.

SECTION 2: RESPONSIBILITIES OF VENDOR

All work performed by Vendor, or under Vendor’s direction, shall be rendered in accordance with the generally accepted practices, and to the standards of, Vendor's profession. Vendor represents and agrees that Vendor: (i) is fully experienced and properly qualified to perform the work and services provided for herein, (ii) has the financial capability required for the performance of the work and services, and (iii) is properly equipped and organized to perform the work and services in a competent, timely, and proper manner, in accordance with the requirements of this Agreement.

Vendor shall not undertake any work beyond the **Scope of Work** set forth in **Exhibit A** unless such additional work is approved in advance and in writing by City. The cost of such additional work shall be reimbursed to Vendor by City on the same basis as provided for in Section 4.

If, in performing the work, it is necessary to conduct field operations, security and safety of the job site will be the Vendor's responsibility excluding, the security and safety of any facility of City within the job site which is not under the Vendor's control.

Vendor shall meet with _____ [DEPT HEAD NAME], Director of the [] Department, hereinafter called "Director", or other designated and authorized City personnel, or third parties as necessary, on all matters connected with carrying out of Vendor’s services described in Exhibit A. Such meetings shall be held at the request of either Party. Review and City approval of completed work shall be obtained monthly, or at other intervals as may be mutually agreed upon during the course of this Agreement. Review, approval, or acceptance of Vendor’s work by City or others shall not relieve Vendor from responsibility for errors and omissions in Vendor’s work.

SECTION 3: RESPONSIBILITIES OF THE CITY

City shall make available to Vendor all necessary data and information in the City's possession and shall actively assist Vendor in obtaining such information from other agencies and individuals as needed. Vendor is entitled to reasonably rely upon the accuracy and completeness of such data and information, and Vendor shall provide City prompt written notice of any known defects in such data and information.

The Director may authorize a staff person to serve as his or her representative. The work in progress shall be reviewed at such intervals as may be mutually agreed upon between the Parties. The City will be the sole judge of acceptable work, provided that such approval will not be unreasonably withheld or delayed. If the work is not acceptable, City will inform Vendor of the changes or revisions necessary to secure approval.

SECTION 4: FEES AND PAYMENT

For services actually performed, the City will compensate Vendor at the rates set forth in the **Fee Schedule** detailed in **Exhibit B** and in accordance with the terms set forth therein. Payment for Vendor's services in carrying out the entire Scope of Work shall be made within the budget limit, or limits shown, upon **Exhibit B**. Such payment shall be considered the full compensation for all personnel, materials, supplies, and equipment used by Vendor in the Scope of Work.

Vendor agrees that the payments to Vendor specified in this Section 4 will constitute full and complete compensation for all obligations assumed by Vendor under this Agreement. Where conflicts regarding compensation may occur, the provisions of this section apply.

Variations from the budget for each task which are justified by statements indicating personnel time expended and submittal of a revised budget are only allowed with prior City approval; however, in no event shall the total fee charged for the Scope of Work set forth in Exhibit A exceed the budget of **\$DOLLAR** without advance written City authorization in the form of an amendment or change order.

Invoices shall detail the time worked by each class of employee on each task and the expenses incurred for which billing is made. Invoices shall indicate the percentage completion of each work task as identified in the Scope of Work in Exhibit A and the overall percentage of completion of the total required services. Unless otherwise specified in the fee schedule, payments shall be made monthly by the City within 30 days based on itemized invoices from the Vendor which list the actual costs and expenses.

All invoices shall contain the following affidavit signed by Vendor (if individual) or by a principal of Vendor's firm (if Vendor is an entity):

"I hereby certify [or as principal of Vendor] that the charge of (Insert invoice amount) as summarized above and shown in detail on the attachments is a fair and reasonable use of public funds, is in accordance with the terms of Agreement dated (Insert Agreement Date), and has not been previously paid."

This Agreement is contingent upon the appropriation of sufficient funding by the City for the services covered by this Agreement. If funding is reduced or deleted by the City for the services covered by this Agreement, the City has the option without penalty or liability to either terminate this Agreement or to offer an amendment to this Agreement indicating the reduced amount.

SECTION 5: TRAVEL REIMBURSEMENT POLICY

The City shall not be responsible for any travel, meal, or lodging reimbursements to Vendor and/or Vendor's employees unless otherwise specified in the Scope of Work.

SECTION 6: CHANGES IN WORK

City may negotiate changes in the Scope of Work. No changes in the Scope of Work shall be made without the written approval of City and Vendor. Any change requiring compensation in excess of the sum specified in Exhibit B shall be approved in advance in writing by the City. Only City's authorized representative(s) is authorized to approve changes to this Agreement on behalf of City.

SECTION 7: TERM AND SCHEDULE

The term of this Agreement shall be on the effective date of this Agreement and terminating on [REDACTED] 20 [REDACTED]. At the option of the City, this Agreement may be renewed annually under the same contractual terms and conditions by letter agreement.

Vendor shall begin work as specified in a written authorization (e.g., Notice to Proceed) to perform services. The written authorization to perform work shall not be issued until after this Agreement has been approved and authorized by the City.

The **Work Schedule** for completion of the work shall be as shown upon **Exhibit C**. In the event that major changes are ordered, the schedule for completion as stated in Exhibit C may be adjusted by City so as to allow Vendor a reasonable period of time within which to complete any additional work which may be required as a result of the ordered changes.

Neither party will be held responsible for delay or default caused by declared emergencies, natural disasters, or any Force Majeure event which is beyond the party's reasonable control. Vendor will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause, diligently pursue performance of its obligations in this Agreement.

The City reserves the right to obtain the item(s) and/or services covered by this Agreement from another source during any on-going suspension of service due to the circumstances outlined above.

Vendor acknowledges that it is necessary for Vendor to complete its work on or before the completion date set forth in Exhibit C in order to allow the City to achieve its objectives for entering into this Agreement. The Parties therefore agree that time is of the essence in the performance of this Agreement.

SECTION 8: TERMINATION

The City may terminate the Agreement for any reason by providing written notice to Vendor not less than 10 calendar days prior to an effective termination date.

The Vendor may terminate the Agreement for cause by providing written notice to the City` not less than 30 calendar days prior to an effective termination date.

The City may, at its option, allow Vendor to cure its failure to perform within 10 business days (or longer period authorized in writing by the City) from the date of the City's termination notice. The termination shall be become effective if Vendor has not cured within the specified time period to the City's satisfaction.

Vendor may terminate this Agreement for cause if the City fails to cure a material default in performance within a period of 30 calendar days (or such longer period agreed to by the Vendor), from date of the Vendor's written termination notice specifying the default in performance.

Upon notice of termination by either the City or Vendor, the Vendor will immediately act to not incur any additional obligations, costs or expenses, except as may be reasonably necessary to terminate its activities. The City's only obligation to the Vendor will be just and equitable payment for services authorized by, and received to the satisfaction of, the City up to and including the effective date of termination less any amounts withheld. All finished or unfinished work or documents procured or produced under the Agreement will become property of the City upon the termination date. In the event of Vendor's failure to perform pursuant to the Agreement, the City reserves the right to obtain services elsewhere and Vendor will be liable for the difference between the prices set forth in the terminated Agreement and the actual cost to the City. Termination of the Agreement pursuant to this paragraph shall

not relieve the Vendor of any liability to City for additional costs, expenses, or damages sustained by City due to failure of the Vendor to perform pursuant to the Agreement. City may withhold any payments to Vendor for the purpose of set-off until such time as the exact amount of damages due City from Vendor is determined. After the effective date of termination, Vendor will have no further claims against the City under the Agreement. No other compensation will be payable for anticipated profit on unperformed services.

SECTION 9: INSURANCE

Prior to the beginning of and throughout the duration of the Agreement, Vendor will maintain and comply with the **Insurance Requirements** as set forth in **Exhibit D**. Vendor will insure the City against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder. The insurance coverages required shall not in any way limit the liability of the Vendor.

SECTION 10: INDEMNIFICATION

Vendor agrees, to the fullest extent permitted by law, to indemnify, defend, and hold harmless the City, its officials, officers, employees, agents, and volunteers (collectively, "Indemnitees") from and against any and all liability, claim, action, loss, injury, damage, judgment, or expense, including attorneys' fees and costs ("Losses") caused by or resulting from the negligence, recklessness, or willful misconduct of Vendor, Vendor's officers, employees, agents, or subcontractors in any way related to this Agreement. Vendor's duty to indemnify and hold harmless Indemnitees shall not apply to the extent such Losses are caused by the sole or active negligence or willful misconduct of Indemnitees. Vendor's obligation to defend shall arise regardless of any claim or assertion that Indemnitees caused or contributed to the Losses.

In the event this Agreement involves the performance of design professional services by Vendor, Vendor's officers, employees, agents, or subcontractors, Vendor's costs to defend Indemnitees shall not exceed the Vendor's proportionate percentage of fault per Civil Code §2782.8. This section shall survive the termination or expiration of this Agreement.

SECTION 11: EQUAL EMPLOYMENT OPPORTUNITY/NON-DISCRIMINATION POLICIES

City's policies promote a working environment free from abusive conduct, discrimination, harassment, and retaliation; and require equal opportunity in employment for all regardless of race, religious creed (including religious dress and grooming practices), color, national origin (including language use restrictions), ancestry, religion, disability (mental and physical), medical condition, sex, gender (including gender identity and gender expression), physical characteristics, marital status, age, sexual orientation, genetic information (including family health history and genetic test results), organizational affiliation, and military or veteran status, or any other consideration made unlawful by local, State or Federal law. City requires Vendor to comply with all applicable Federal and State and local equal employment opportunity laws and regulations, and Vendor is responsible for ensuring that effective policies and procedures concerning the prevention of abusive conduct, discrimination, harassment, and retaliation exist in Vendor's business organization. The City's current Equal Employment Opportunity and Non-Discrimination policies to which this Section applies may be viewed at <http://www.codepublishing.com/CA/SantaCruz/?SantaCruz09/SantaCruz0983.html> and <http://www.cityofsantacruz.com/home/showdocument?id=59192>.

SECTION 12: LEGAL ACTION/ATTORNEYS' FEES

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief. The laws of the State of California, with jurisdiction in the Santa Cruz County Superior Court, shall govern all matters relating to the validity, interpretation, and

effect of this Agreement and any authorized or alleged changes, the performance of any of its terms, as well as the rights and obligations of Vendor and the City.

SECTION 13: AMENDMENTS

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies this particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the City and Vendor. Vendor acknowledges that no such amendment shall be effective until approved and authorized by the City's authorized representative. No representative of the City is authorized to obligate the City to pay the cost or value of services beyond the scope of services set forth in Exhibit A. Such authority is retained solely by the City Manager, Director, or their designee. Unless expressly authorized by the City Manager or Director, Vendor's compensation shall be limited to that set forth in Exhibit B, Fee Schedule.

SECTION 14: MISCELLANEOUS PROVISIONS

1. Project Manager/Key Staff. Director reserves the right to evaluate and confer with Vendor regarding the project manager or other key staff assigned by Vendor to perform the work under this Agreement. Vendor shall replace the project manager or key staff upon Director's request due to Director's concern about their performance, or City shall have the right to terminate this Agreement. Otherwise, no change in assignment by the Vendor may occur without prior written approval of the City.
2. Vendor Services Only. Vendor is employed to render professional services only and any payments made to Vendor are compensation solely for such professional services.
3. Independent Contractor. In the performance of this Agreement, it is expressly understood that Vendor, including each of Vendor's employees, agents, subcontractors or others under Vendor's supervision or control, is an independent contractor solely responsible for its own acts and omissions, and shall not be considered an employee of the City for any purpose. Vendor agrees to comply with AB5, codified at Labor Code section 2750.3, and shall indemnify, defend and hold harmless the City, its officials, officers, employees, and agents against any claim or liability, including attorneys' fees and costs, arising in any manner related to this Agreement that an employee, agent or others under Vendor's supervision or control was misclassified.
4. Vendor Not an Agent. Except as City may specify in writing, Vendor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Vendor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.
5. Subcontractors. Vendor shall obtain prior approval of the City prior to subcontracting of any work pursuant to this Agreement. If at any time, the City determines any subcontractor is incompetent or unqualified, Vendor will be notified and will be expected to immediately cancel the subcontract. Vendor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein, including naming the City of Santa Cruz, its officers, officials, employees, agents, and volunteers as additional insureds. Any modification to the insurance requirements for subcontractors must be agreed to by the City in writing.
6. Assignment. This Agreement shall not be assigned without first obtaining the express written consent of the Director or after approval of the City Council. Neither party may assign this Agreement unless this Agreement is amended in accordance with its terms.
7. Conflicts of Interest. Vendor agrees to comply with conflict of interest laws in performing the work and services under this Agreement. Vendor covenants (on behalf of Vendor and Vendor's employees, agents, representatives, and subcontractors) that there is no direct or indirect interest, financial or otherwise, which would conflict in any

manner or degree with the performance of services required under this Agreement. Vendor acknowledges and agrees to comply with applicable provisions of conflict of interest law and regulations, including the CA Political Reform Act, Sections 1090 and 87100 of the Government Code, and the City's conflict of interest code. Vendor will immediately advise City if Vendor learns of a conflicting financial interest of Vendor during the term of this Agreement.

8. City Property. The work, or any portion, of Vendor in performing this Agreement shall become the property of City. The Vendor may be permitted to retain copies of such work for information and reference in connection only with the provision of services for the City. All materials and work product, whether finished or unfinished, shall be delivered to City upon completion of contract services or termination of this Agreement for any reason. Vendor acknowledges and agrees that the work product shall be considered a work made for hire within the meaning of the patent and copyright laws of the United States; and Vendor agrees that all copyrights which arise from creation of project-related documents and materials pursuant to this Agreement shall be vested in the City and Vendor waives and relinquishes all claims to copyright or other intellectual property rights in favor of City. Any work product related to this Agreement shall be confidential, not to be used by the Vendor on other projects or disclosed to any third party, except by agreement in writing by the City, or except as otherwise provided herein. Vendor's final deliverables shall comply with Section 508 (29 U.S.C. Section 794d) accessibility requirements, as applicable.
9. Intellectual Property and Indemnity. Vendor represents to City that, to the best of Vendor's knowledge, any Intellectual Property (including but not limited to: patent, patent application, trade secret, copyright and any applications or right to apply for registration, computer software programs or applications, tangible or intangible proprietary information, or any other intellectual property right) in connection with any services and/or products related to this Agreement does not violate or infringe upon any Intellectual Property rights of any other person or entity.

To the fullest extent permitted by law, Vendor agrees to indemnify, defend, and hold harmless City, its officials, officers, employees, and agents, from any and all claims, demands, actions, liabilities, damages, or expenses (including reasonable attorneys' fees and costs) arising out of a claim of infringement, actual or alleged, direct or contributory, of any Intellectual Property rights in any way related to Vendor's performance under this Agreement or to the City's authorized intended or actual use of Vendor's product or service under this Agreement. This provision shall survive termination or expiration of this Agreement.

If any product or service becomes, or in the Vendor's opinion is likely to become, the subject of a claim of infringement, the Vendor shall, at its sole expense: (i) provide the City the right to continue using the product or service; or (ii) replace or modify the product or service so that it becomes non-infringing; or (iii) if none of the foregoing alternatives are possible even after Vendor's commercially reasonable efforts, in addition to other available legal remedies, City will have the right to return the product or service and receive a full or partial refund of an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which may be due to the Vendor. City shall have the right to retrieve its data and proprietary information at no charge prior to any return of the product or termination of service.

10. Confidentiality.
 - a. Vendor shall not acquire any ownership interest in data and information ("City Data") received by Vendor from City, which shall remain the property of the City. Certain information may be considered confidential ("Confidential Information"). Confidential Information shall mean all information or proprietary materials (in every form and media) not generally known to the public and which has been or is hereafter disclosed or made available directly or indirectly to Vendor through any means of communication, either verbally or in writing even if it has not been designated in writing as "Confidential" to Vendor in connection with this

Agreement. Unless otherwise required by law, Vendor shall not, without City's written permission, use or disclose City Data and/or Confidential Information other than in the performance of the obligations under this Agreement. As between Vendor and City, all City Confidential Information shall remain the property of the City. Vendor shall not acquire ownership interest in the City's Confidential Information.

- b. Vendor shall be responsible for ensuring and maintaining the security and confidentiality of City Data and Confidential Information, protect against any anticipated threats or hazards to the security or integrity of City Data and Confidential Information, protect against unauthorized access to or use of City Data and Confidential Information that could result in substantial harm or inconvenience to City or any end users; and ensure the proper return and/or disposal of City Data and Confidential Information upon termination of this Agreement with notice to the City.
 - c. Vendor shall take appropriate action to address any incident of unauthorized access to City Data and Confidential Information, including addressing and/or remedying the issue that resulted in such unauthorized access, notifying City as soon as possible of any incident of unauthorized access to City Data and Confidential Information, or any other breach in Vendor's security that materially affects City or end users; and be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality provisions hereof. Should confidential and/or legally protected City Data be divulged to unauthorized third parties, Vendor shall comply with all applicable federal and state laws and regulations, including but not limited to California Civil Code sections 1798.29 and 1798.82 at Vendor's sole expense. Vendor shall not charge City for any expenses associated with Vendor's compliance with these obligations.
 - d. Vendor shall defend, indemnify and hold harmless City, its officials, officers, employees and agents against any claim, liability, loss, injury or damage (including attorneys' fee and costs) arising out of, or in connection with, the unauthorized use, access, and/or disclosure of City Data and/or Confidential Information by Vendor and/or its agents, employees or subcontractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the City. This provision shall survive the termination or expiration of this Agreement.
11. Vendor's Records. Vendor shall maintain accurate accounting records and other written documentation pertaining to the costs incurred relating to this Agreement for examination and audit by the City, State, or federal government, as applicable, during the period of this Agreement, and for a period of at least five (5) years from the date of the final City payment for Vendor's services, or date of the termination of this Agreement, whichever is later. If Vendor engages a subcontractor to perform work related to this Agreement with a cost of \$10,000 or more over a 12-month period, such subcontract shall contain these same requirements. This provision shall survive the termination of this Agreement.
12. California Public Records Act. City is a public agency subject to the disclosure requirements of the California Public Records Act ("CPRA"). If Vendor's proprietary information is contained in documents or information submitted to City, and Vendor claims that such information falls within one or more CPRA exemptions, Vendor must clearly mark such information "Confidential and Proprietary," and identify the specific lines containing the information. In the event of a request for such information, City will make best efforts to provide notice to Vendor prior to such disclosure. If Vendor contends that any documents are exempt from the CPRA and wishes to prevent disclosure, it is required to obtain a protective order, injunctive relief, or other appropriate remedy from a court of law in Santa Cruz County before the City is required to respond to the CPRA request. If Vendor fails to obtain such remedy within the time the City is required to respond to the CPRA request, City may disclose the requested information without any liability. Vendor further agrees that it shall defend, indemnify and hold City harmless against any claim, action or litigation (including but not limited to all judgments, costs,

and attorney's fees) that may result from denial by City of a CPRA request for information arising from any representation, or any action (or inaction), by the Vendor.

13. Compliance with Laws. All activities of Vendor, its employees, subcontractors and/or agents will be carried out in compliance with all applicable federal, state, and local laws and regulations. Vendor further agrees to comply with the covenant of good faith and fair dealing and other provisions of Santa Cruz Municipal Ordinance chapter 3.09, or otherwise Vendor may be subject to penalties including being declared an irresponsible contractor.
14. Licensure. Vendor agrees that Vendor, its subcontractors and/or agents (if any) has/have complied with all applicable federal, state, and local licensing requirements and agrees to provide proof of a current City of Santa Cruz Business Tax Certificate if:
- Vendor, its subcontractor(s) and agent(s) or its business is/are located in the City of Santa Cruz;
 - Will perform actual work in the City of Santa Cruz for 6 or more days annually; or
 - Will use company vehicles to deliver within the City of Santa Cruz for 6 or more days annually.
- For additional information and licensing requirements, view the City's [Business Licenses and Permits webpage](#) or call the Revenue and Taxation division at 831/420-5070.
15. Living Wage. Every contract for services to the City for \$10,000 or more, is subject to City of Santa Cruz Living Wage Ordinance number 2000-25. If applicable, Vendor agrees to comply with the requirements of the Living Wage ordinance as provided in Santa Cruz Municipal Code Chapter 5.10.
16. Prevailing Wages for Public Work. To the extent that the work or services to be performed under this Agreement may be considered a "public work" (construction, alteration, demolition, or repair work) pursuant and subject to Labor Code section 1720 *et seq.*, Vendor (and any subvendor performing the work or services) shall conform to any and all prevailing wage requirements applicable to such work/and or services under this Agreement. Vendor (and any subvendor) shall adhere to the prevailing wage determinations made by the Director of Industrial Relations (DIR) pursuant to California Labor Code Part 7, Chapter 1, Article 2, applicable to the work, if any. All workers employed in the execution of a public works contract (as such term is defined California Labor Code section 1720 *et seq.* and section 1782(d)(1)) must be paid not less than the specified prevailing wage rates for the type of work performed. (CA Labor Code sections 1720, 1774 and 1782.) To the extent applicable to the scope of work and services under this Agreement, Vendor agrees to be bound by the state prevailing wage requirements, including, but not limited to, the following:
- a. If a worker is paid less than the applicable prevailing wage rate owed for a calendar day (or any portion thereof), Vendor shall pay the worker the difference between the prevailing wage rate and the amount actually paid for each calendar day (or portion thereof) for which the worker(s) was paid less than the prevailing wage rate, as specified in Labor Code section 1775;
 - b. Vendor shall maintain and make available payroll and worker records in accordance with Labor Code sections 1776 and 1812;
 - c. If Vendor employs (and/or is legally required to employ) apprentices in performing the work and/or services under this Agreement, Vendor shall ensure compliance with Labor Code section 1777.5;
 - d. Vendor is aware of the limitations imposed on overtime work by Labor Code sections 1810 *et seq.* and shall be responsible for any penalties levied in accordance with Labor Code section 1813 for failing to pay required overtime wages;

-
- e. Vendor shall post a copy of the applicable wage rates at each jobsite at a location readily available to its workers.
- f. Any failure of Vendor and/or its subvendor to comply with the above requirements relating to a public work project shall constitute a breach of this Agreement that excuses the City's performance of this Agreement at the City's sole and absolute option and shall be at the sole risk of Vendor. Vendor on behalf of itself and any subvendor, agree to indemnify, defend and hold harmless the City and its officials, officers, employees, and agents from and against any and all claims, liabilities, losses, costs, expenses, attorney's fees, damages, expenses, fines, financial consequences, interest, and penalties, of any kind or nature, arising from or relating to any failure (or alleged failure) of the Vendor and any subvendor to pay prevailing wages or to otherwise comply with the requirements of prevailing wage law relating to a public work.
- g. Vendor acknowledges that it and/or any subvendor may not engage in the performance of any contract for public work unless currently registered with the DIR and qualified to perform public work pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
17. Storm Water Requirements. To the extent applicable to the Scope of Work under this Agreement, Vendor, Vendor's employees, subcontractors, and agents are required to abide by the applicable City of Santa Cruz Storm Water Best Management Practices (BMPs) for the duration of the work. The City's mandatory Storm Water BMPs, which are listed according to the type of work, operations, or business, are located on the City website at: <https://www.cityofsantacruz.com/government/city-departments/public-works/stormwater/best-management-practices>
18. Dispute Resolution. The Parties agree to attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate negotiations by providing written notice in letter form to the other party, setting forth the subject of the dispute and the relief requested. Promptly upon such notification, the Parties shall meet at a mutually agreeable time and place in order to exchange relevant information and perspective, and to attempt to resolve the dispute. In the event that no resolution is achieved, and if, but only if, the parties mutually agree, then prior to pursuing formal legal action, the parties shall make a good faith effort to resolve the dispute by non-binding mediation or negotiations between representatives with decision-making power, who, to the extent possible, shall not have had substantive involvement in the matters of the dispute. To the extent that the dispute involves or relates to a public works project, the Parties agree to attempt to resolve the dispute by complying with the claims process as set forth in Public Contract Code sections 9204(e), 20104-20104.6, but without waiving the requirements of the California Tort Claims Act, Gov't Code section 800 et seq. unless otherwise agreed to by the Parties.
19. Force Majeure. Neither party hereto shall be considered in default in the performance of its obligation hereunder to the extent that the performance of any such obligation is prevented or delayed by an act of God, natural disaster, pandemic, acts of terrorism, war, a strike, lockout or other labor difficulty, or other peril, which is beyond the reasonable control of the affected party and without the negligence of the respective Parties. Each party hereto shall give notice promptly to the other of the nature and extent of any Force Majeure claimed to delay, hinder or prevent performance of the services under this Agreement. Each Party will, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and will, upon the cessation of the cause, diligently pursue performance of its obligations in this Agreement. In the event either party is prevented or delayed in the performance of its respective obligation by reason of such Force Majeure, the only remedy is that there may be an equitable adjustment of the schedule based on City's sole discretion.

- 20. Complete Agreement. This Agreement, along with any attachments, is the full and complete integration of the Parties' agreement with respect to the matters addressed herein, and that this Agreement supersedes any previous written or oral agreements between the Parties with respect to the matters addressed herein. Unless otherwise stated, to the extent there is any conflict between this Agreement and any other agreement (written or oral), the terms of this Agreement shall control.
- 21. Severability. The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid or illegal.
- 22. Waiver. Waiver by any party of any portion of this Agreement shall not constitute a waiver of the same or any other portion hereof.
- 23. Governing Law. This Agreement shall be governed by and interpreted in accordance with California law.
- 24. Contract Interpretation. Each party acknowledges that it has reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement.
- 25. MacBride Principles/Peace Charter. City of Santa Cruz Resolution NS-19,378 (7/24/90) encourages all companies doing business in Northern Ireland to abide by the MacBride Principles and Peace Charter.
- 26. Notices. If either party shall desire or is required to give notice to the other such notice shall be given in writing, via email, and concurrently delivered by: (a) personal delivery, in which case notice is effective upon delivery; (b) overnight courier (i.e., Federal Express) with charges prepaid or charged to the sender's account, in which case notice is effective when delivered; (c) priority U.S. Mail, in which case notice shall be deemed delivered on the second business day after the deposit thereof with the U.S. Postal Service. Notices shall be addressed to recipient as follows:

To CITY:
 Public Works
 Ms. Hoi Yu
 809 Center Street Room 201
 Santa Cruz, CA 95060
 hyu@santacruzca.gov

To VENDOR:
 Business Name
 Vendor Contact Name
 Address
 Email/Phone

Changes to the above information shall be given to the other party in writing ten (10) business days before the change is effective.

- 27. Counterparts. The Parties may execute this Agreement in two or more counterparts, which shall, in the aggregate, be deemed an original but all of which, together, shall constitute one and the same instrument. A scanned, electronic, facsimile or other copy of a party's signature shall be accepted and valid as an original.
- 28. Warranty of Authority. The signatories to this Agreement warrant and represent that each is authorized to execute this Agreement and that their respective signatures serve to legally obligate their respective representatives, agents, successors and assigns to comply with the provisions of this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this Agreement is executed by the City Manager of the City of Santa Cruz, under and pursuant to a resolution of the City Council authorizing such execution, and the Contractor has affixed his/her signature hereto the day and year first hereinabove written.

Technical Review by:

Kevin Crossley, Assistant Director/City Engineer

Date: _____

Approved as to Form by:

Anthony P. Condotti, City Attorney

Date: _____

For Contractor Name:

Signature: _____
(Name, Title)

Date: _____

For CITY OF SANTA CRUZ, a municipal corporation

Matt Huffaker, City Manager

Date: _____

EXHIBIT A: SCOPE OF WORK

EXHIBIT B: FEE SCHEDULE

EXHIBIT C: WORK SCHEDULE

EXHIBIT D: INSURANCE REQUIREMENTS

Vendor shall procure and maintain insurance against claims for injuries to persons or damages to property and otherwise which may arise from or in connection with the performance of the work under this Agreement and the results of that work by Vendor, its agents, representatives, employees, or subcontractors.

A. CERTIFICATE REQUIREMENTS

The City will be issued a Certificate of Insurance (a Memorandum of Understanding will not be accepted) with the following minimum requirements:

- Certificate(s) will show current policy number(s) and effective dates,
- Coverage and policy limits will meet, or exceed, requirements below,
- The Certificate Holder will be City of Santa Cruz, Risk Management, 1200 Pacific Ave., Suite 290, Santa Cruz, CA 95060,
- Certificate will be signed by an authorized representative,
- An endorsement, if required below, will be provided to show the City, its officers, officials, employees, and volunteers as additional insureds, and
- Coverages must be maintained during the term of the Agreement with the City, unless a longer duration is required as specified below.

B. MINIMUM SCOPE AND LIMITS OF INSURANCE

Vendor acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. If Vendor maintains broader insurance coverage and/or higher limits than the minimums shown below, the City of Santa Cruz requires and shall be entitled to the broader insurance coverage and/or higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Santa Cruz.

Coverage will be at least as broad as:

- **COMMERCIAL GENERAL LIABILITY (CGL):** \$1,000,000 PER OCCURRENCE; \$2,000,000 AGGREGATE
Proof of coverage for \$1 Million per occurrence and \$2 Million in the aggregate including products and completed operations, property damage, bodily injury, personal and advertising injury will be provided on Insurance Services Office (ISO) Form CG 00 01 covering CGL.
- **PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS):** \$2,000,000 PER OCCURRENCE OR CLAIM, \$2,000,000 AGGREGATE.

Vendor will maintain insurance appropriate to Vendor's profession; with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after date of completion of the services under this Agreement. 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 or start of work date, Vendor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the contract of work.

- **AUTOMOBILE LIABILITY:**
Proof of coverage for \$1,000,000 provided on ISO Form Number CA 00 01 covering any auto (Code 1), or if Vendor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), per accident for bodily injury and property damage.
- **WORKERS' COMPENSATION AS REQUIRED BY THE STATE OF CALIFORNIA, WITH STATUTORY LIMITS, AND EMPLOYER'S LIABILITY INSURANCE:** \$1,000,000 per accident for bodily injury or disease.

The Worker's Compensation policy must be **endorsed** with a waiver of subrogation in favor of the City for all work performed by the Vendor and its employees.

(Not required if Vendor provides written verification it has no employees) - If Vendor has no employees, Vendor shall complete and sign a [Workers' Compensation Exemption Declaration and Release of Liability](#).

- CONTRACTORS' POLLUTION LIABILITY and/or ASBESTOS POLLUTION LIABILITY (CPL) (if project involves environmental hazards) with limits no less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate.
 1. If the services involve lead-based paint or asbestos identification / remediation, the Pollution Liability shall not contain lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Pollution Liability shall not contain a mold exclusion and the definition of "Pollution" shall include microbial matter including mold.
 2. The Automobile Liability policy shall be **endorsed** to include **Transportation Pollution Liability** insurance, covering hazardous materials to be transported by Vendor pursuant to the Agreement. This coverage may also be provided on the Vendor's Pollution Liability policy.

C. OTHER INSURANCE PROVISIONS

The insurance policies are to comply with the following provisions:

- ADDITIONAL INSURED STATUS
The City, its officers, officials, employees, agents, and volunteers are to be covered as additional insureds on the CGL [OPTIONAL: ,CPL, and automobile insurance (if transporting hazardous materials) policy[(ies)] with respect to liability arising out of work or operations performed by or on behalf of Vendor including materials, parts, or equipment furnished in connection with such work or operations, products and completed operations. General liability coverage will be provided in the form of an **endorsement** to Vendor's insurance at least as broad as ISO Form CG 20 10 11 85, or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 (if a later edition is used).
- PRIMARY COVERAGE
For any claims related to this Agreement, Vendor's and all subcontractor's insurance coverage will be **primary and non-contributory** as respects the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, agents, or volunteers will be excess of Vendor's and all subcontractor's insurance and will not contribute with it.
- NOTICE OF CANCELLATION
Each insurance policy required above shall state that the coverage shall not be canceled, except with notice to the City.
- WAIVER OF SUBROGATION
Vendor hereby grants to the City a waiver of any right to subrogation, except as otherwise not applicable, which any insurer of said Vendor may acquire against the City by virtue of the payment of any loss, including attorney's fees under such insurance. Vendor agrees to obtain any endorsement that may be necessary to effectuate this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
- EXCESS LIABILITY/UMBRELLA INSURANCE POLICIES

Vendor may use excess liability/umbrella policies to meet the required liability limits on the condition that they provide all of the insurance coverages required herein, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The excess liability/umbrella insurance policies shall be provided on a true “**following form**” or broader coverage basis, with coverage at least as broad as provided on the underlying CGL insurance. No insurance policies maintained by the additional insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Vendor’s primary and excess liability policies are exhausted.

- **DURATION OF COVERAGE**

CGL & Excess Liability/Umbrella policies for any construction related work, including, but not limited to, maintenance, service, or repair work, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.

- **SELF-INSURED RETENTIONS (SIR)**

Self-insured retentions must be declared to and approved by the City. City may require Vendor to purchase coverage with a lower retention or provide proof of ability to pay losses and related expenses. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

- **ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the City.

- **CLAIMS MADE POLICIES**

If any of the required policies provide coverage on a claims-made basis:

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 Vendor must purchase “extended reporting” coverage for a minimum of *five (5)* years after completion of contract work.

- **VERIFICATION OF COVERAGE**

Vendor will furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy (and CPL, automobile and any Excess Liability/Umbrella policies, as applicable) listing all policy endorsements to be approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning will not waive the Vendor’s obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

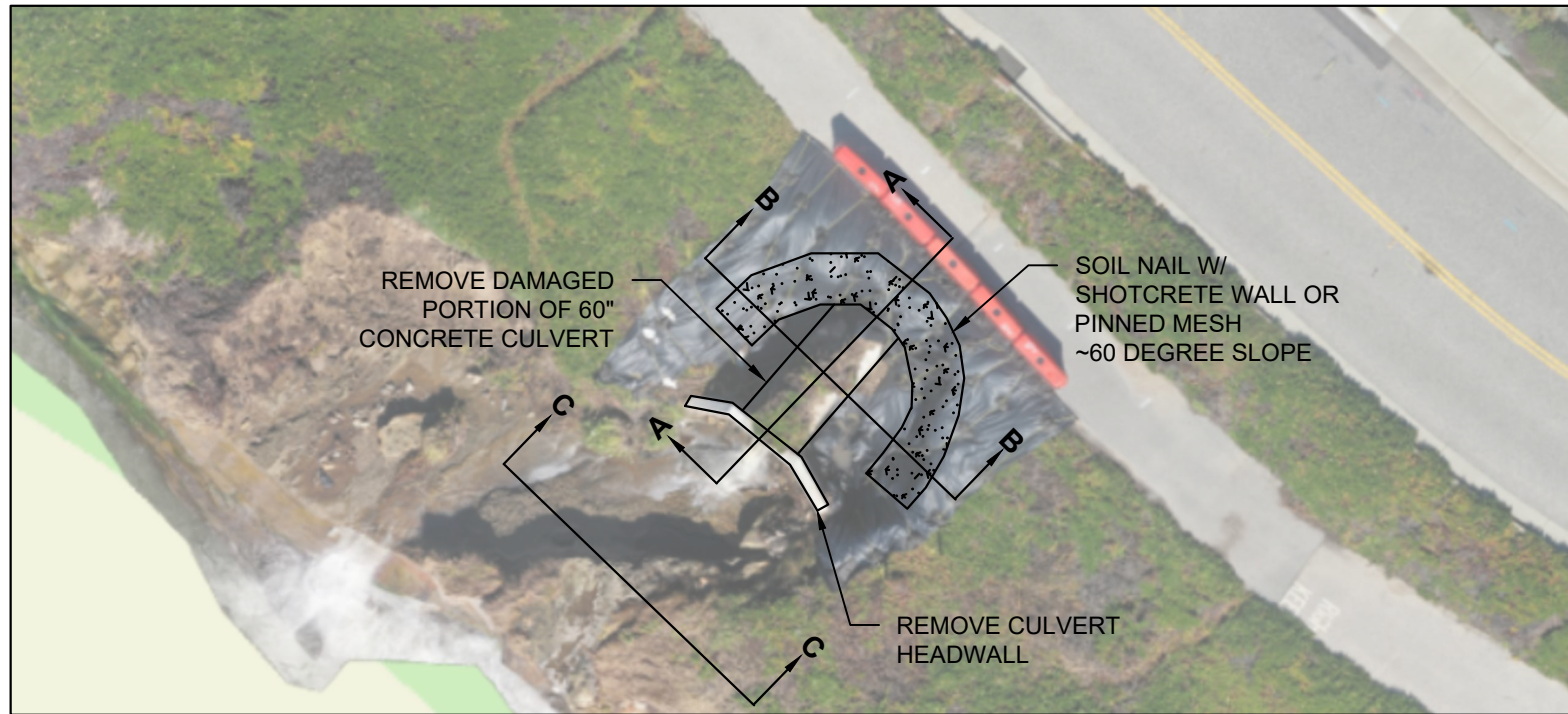
- **D. SUBCONTRACTORS**

Vendor shall include their subcontractor(s) as additional insured(s) under the policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. Vendor shall require and verify that all contractors and subcontractors maintain insurance meeting all the requirements stated herein,

and Vendor shall ensure that City, its officers, officials, employees, agents, and volunteers are named as additional insureds on insurance required from its contractor(s) and subcontractor(s).

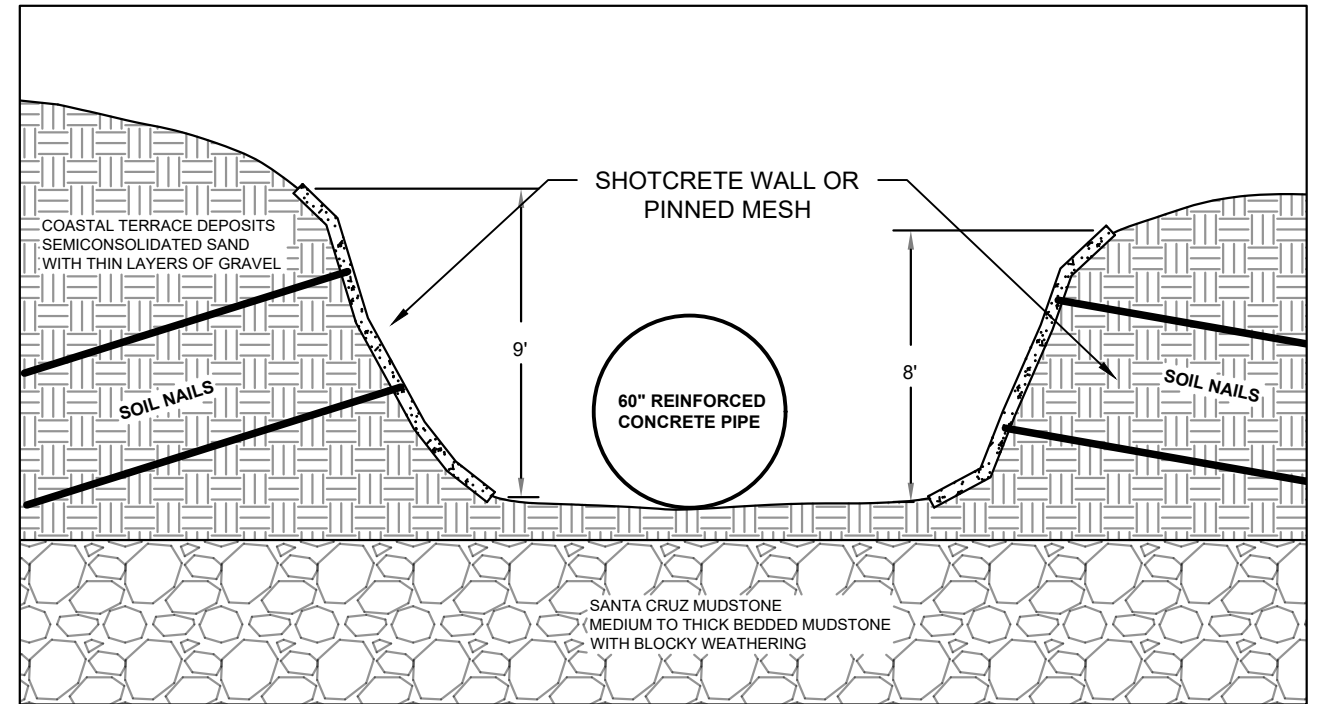
E. SPECIAL RISKS/CIRCUMSTANCES

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances and provide notice to Vendor.



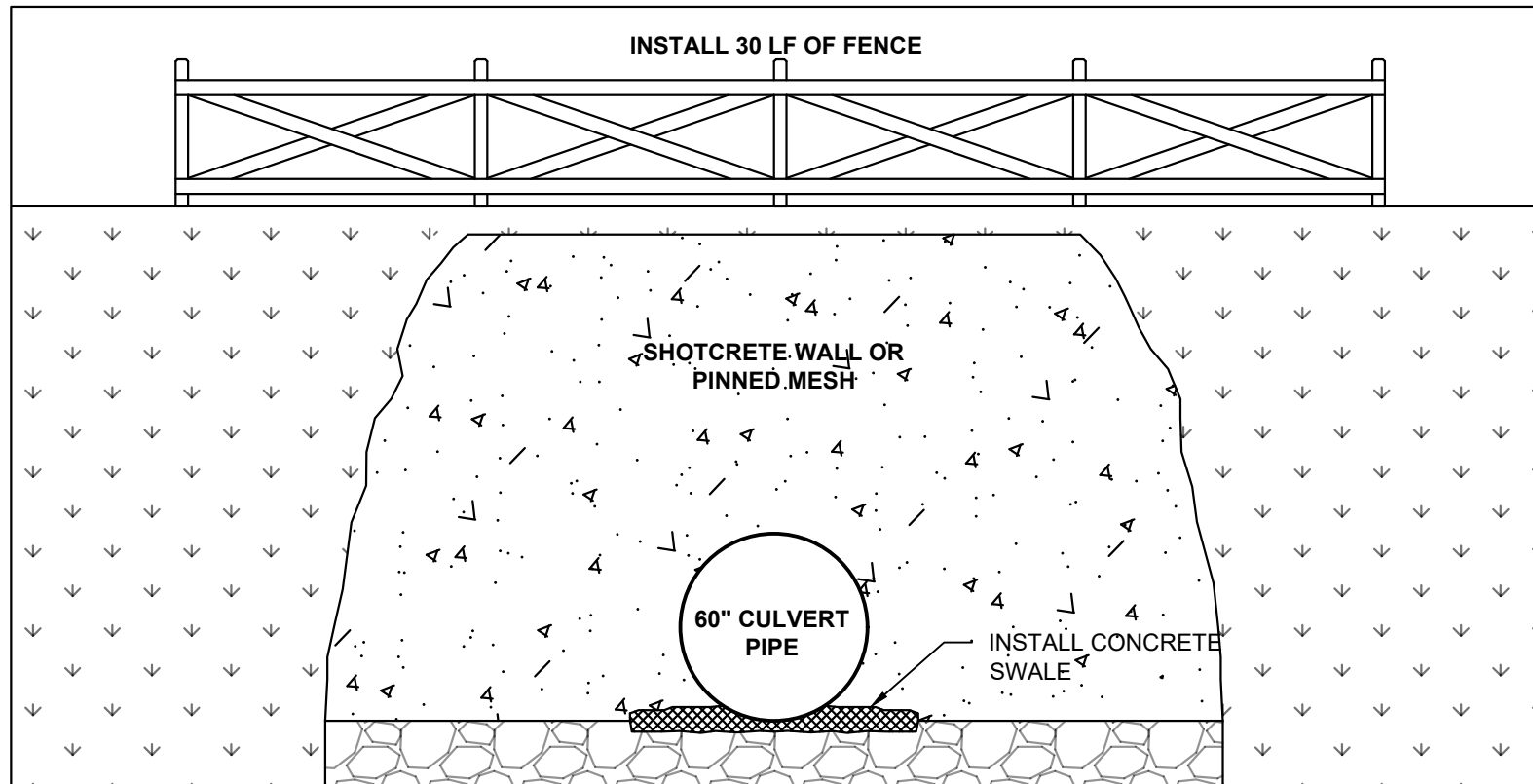
AERIAL PLAN VIEW

NOT TO SCALE



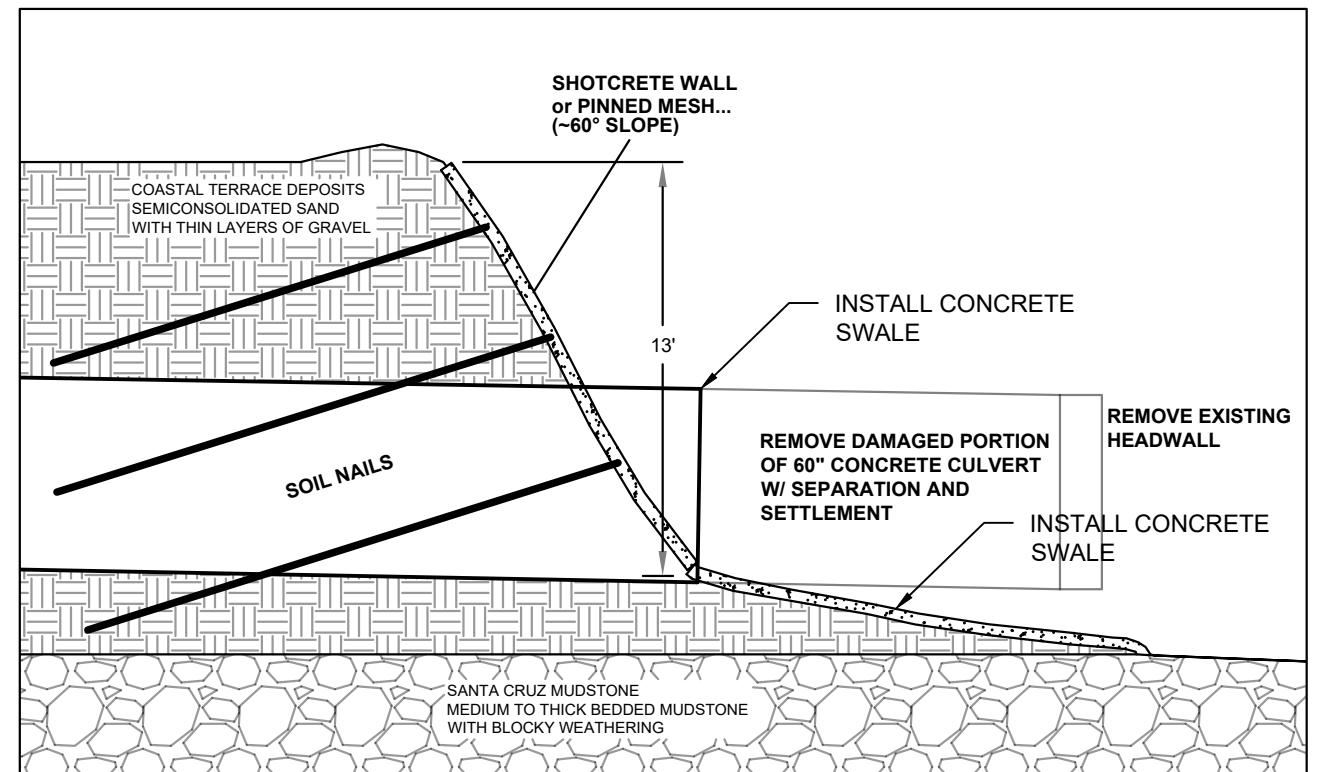
CROSS-SECTION B-B

NOT TO SCALE



CROSS-SECTION C-C

NOT TO SCALE



CROSS-SECTION A-A

NOT TO SCALE

REVISIONS	



CITY OF
SANTA CRUZ
PUBLIC WORKS DEPARTMENT
809 Center Street, Room 201
Santa Cruz, CA 95060

**WEST CLIFF 60 INCH
OUTFALL REHABILITATION**
CONSTRUCTION PLAN

REFERENCES
FIELD BOOK:

DRAWING #:
#4669

DATE	DATE
DRAWN	STAFF
DESIGN	STAFF
CHECKED	STAFF

SCALE	NOT TO SCALE
SHEET	1 OF 1
VAULT NO.	#