



**REQUEST FOR PROPOSALS
FOR
HERBICIDE APPLICATION
SERVICES FOR THE BALTIMORE
RAVINE SHADED FUEL BREAK**

DATE OF ISSUANCE:	Date: Feb. 13, 2026
SUBMITTAL DEADLINE:	Date: Mar. 26, 2026 at 4:00 p.m.
CONTRACT AWARD DATE:	Date: April 27, 2026

CITY OF AUBURN FIRE DEPARTMENT
CONTACT PERSON: John Rogers, Fire Chief
jrogers@auburn.ca.gov

1225 Lincoln Way, Room 8, Auburn, CA 95603
Phone: (530) 823-4211x182



*Funding for this project provided by CAL FIRE's Wildfire Prevention
Grants Program*

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I. RFP SUMMARY

The City of Auburn (City) is seeking proposals from licensed, qualified and experienced CONTRACTORS to provide all labor, materials, and equipment necessary to complete Phase II of the Baltimore Ravine Shaded Fuel Break (Project). This Project Phase consists of applying herbicide on approximately 120 acres of land previously cleared in Phase I. The City retains the right to award to one or more CONTRACTORS to ensure the Project is completed within the specified time frame.

The maps, scope of work, and specifications, including descriptions of required treatment specifications and environmental protection requirements, are the basis for performing the Project, and establishing a cost proposal.

Proposals must be received by 4:00 pm on March 26, 2026, in accordance with the instructions contained herein. Late proposals will not be considered.

This is a sealed bid procurement process for professional services conducted pursuant to Auburn Municipal Code section 37.11 and is intended to solicit qualified responsible professionals that are interested in providing services over the course of a nine-month period (Spring 2026 to December 1, 2026). The City intends to make an award(s) using the evaluation criteria listed in the specifications. Proposal information and documents are available on the City's website: <https://www.auburn.ca.gov/Bids.aspx>

For purposes of this Request for Proposals (RFP), "AFD" refers to the City of Auburn Fire Department, "CONTRACTOR" refers to the submitter of the proposal, and "Project Manager" refers to AFD Fire Chief, John Rogers, or other designated AFD employee.

II. PROPOSAL INSTRUCTIONS

A. RFP Schedule

Issuance of RFP	Feb. 13, 2026
Pre-Proposal Field Meeting	Feb. 24, 2026
Final RFP Questions Due	Mar. 2, 2026
Pre-Proposal Question Responses Posted	Mar. 6, 2026
Proposal Due Date	Mar. 26, 2026 by 4:00 p.m.
Contract Award Date	No later than April 27, 2026

B. Questions

Questions regarding the RFP shall be submitted no later than **4:00 pm on March 2, 2026**, by email or in writing to the Project Manager, John Rogers, Fire Chief, at the following address:

City of Auburn Fire Department Attn:
John Rogers, Fire Chief
1225 Lincoln Way, Room 8
jrogers@auburn.ca.gov

Question responses will be posted on the AFD website (<https://www.auburn.ca.gov/Bids.aspx>) no later than **March 6, 2026**. Responses will also address those questions posed during the mandatory field visit.

C. Field Meeting

The AFD will conduct a **MANDATORY pre-proposal field tour on Feb. 24, 2026 at 10:00 a.m.** All interested parties are required to R.S.V.P. to John Rogers by email at jrogers@auburn.ca.gov on or before **4:00 p.m. local time on Feb. 23, 2026**. The Project site is in the Baltimore Ravine. Upon R.S.V.P, meeting location details will be provided.

D. Proposal Submittal

Proposals must be submitted by hardcopy: Three (3) sealed hard copies must be received no later than **4:00 p.m. on March 26, 2026**, at the Office of the City Manager at 1225 Lincoln Way, Room 7, Auburn CA, 95603. Please contact the Project Manager, John Rogers, if you plan to drop-off your proposal at the office.

Faxed or late proposals will not be accepted. It is the responsibility of the proposer to ensure that the Proposal is received prior to the deadline date and time. Proposals received after the submission deadline will not be accepted and will be returned unopened. Any changes to this RFP are invalid unless specifically modified by the AFD and issued as a separate addendum document. Should there be any question as to changes to the content of this document, the AFD's copy shall prevail.

E. Proposal Format and Required Content

A qualifying proposal must contain the following:

1. **Format** is to be on standard 8-1/2 by 11 pages with narrative no more than a total of ten (10) pages, single-sided. NOTE: A single sheet cover letter, dividers, any attachments, including proof of registration with the CA Secretary of State, Contractor State Licensing Board, Qualified Applicator License, City of Auburn business license, general liability insurance, vehicle insurance, cost proposal and Addenda acknowledgments do NOT count toward the ten (10) page limit. Proposals that do not furnish information organized according to the format or do not include the content specified in this RFP may be rejected.
2. **Statement of Understanding** indicating this RFP has been reviewed and the proposer understands the Project scope, services required, schedule and budget limitations.
3. **Experience, Qualifications, and References:** Describe the firm's background, experience, qualifications, staffing and equipment related to herbicide application work of similar scope and complexity, including work on shaded fuel breaks. Specifically, describe how long the firm has been in business. Describe the management team by name, title, years of experience, licenses and certifications held. Describe the crew size and experience. Describe equipment owned or leased. Describe at least three projects with a similar scope that the company has completed. Provide contact information for at least three references who oversaw past projects with a similar scope of work. Photographs of other projects completed are helpful but not required.
4. **Workplan, Staffing, Equipment and Schedule:** Provide a detailed workplan of the steps your company will implement, describe the staffing classifications, levels and equipment that will be used to carry out the workplan (indicate potential acreage/day coverage, weather and terrain permitting), outside agency coordination, and the schedule you propose to meet including completion date. Also describe any subcontractors you propose to use, including their skills, staffing levels, equipment, licenses and insurances. The CONTRACTOR must be capable of beginning work no

later than 30 days following the contract award, weather permitting, as determined by the Project Manager. The AFD anticipates 100% completion by July 1, 2026.

5. **Cost Proposal:** Will include rates based upon the best available information at the time of the RFP advertisement. Identify your cost rates to apply to cut-stumps/acre and to apply herbicide/acre. This includes labor, materials, overhead and profit. These rates will be multiplied by the number of acres treated by each type to determine the full cost. Where appropriate, enter the cost to prepare and submit necessary permits. Bids shall not be negotiated. Depending on the options you choose to perform, please include final cost per acre bids on Exhibit B, "Cost Proposal Form."
6. **Licenses:**
 - CONTRACTOR must provide proof of City of Auburn Business License. This license may be obtained after award of contract but must be in-hand before work is started. Contact the City of Auburn Finance Department at (530) 823-4211 ext. 142 or visit <https://www.auburn.ca.gov/337/Business-License>
 - CONTRACTOR must provide a certificate of "active" status obtained from the CA Secretary of State website at <https://businesssearch.sos.ca.gov/> and provide proof of a current Qualified Applicator License, Category E (forest pest control), if applicable.
 - CONTRACTOR must provide copies of insurance certificates reflecting the requirements outlined in the Sample Professional Services Agreement (Exhibit C). Note that CONTRACTOR may be required to obtain additional certificates for landowners as needed. **Endorsements do not need to be provided with the proposal.**

F. Other Vendor Requirements

Any vendor submitting a proposal for consideration may rent or lease equipment and must provide a copy of insurance for equipment that will be used for the Project; damage to vendor's equipment must be covered under vendor's insurance. The City of Auburn is not responsible for equipment damage caused by the performance of, or incurred during the work performance period for, this Project.

The vendor must use employees on their current payroll and who are covered under worker's compensation insurance. If additional employees are needed for this Project, all former "laid off" employees will be given opportunity to work based on the vendor's policies and procedures. Prevailing wage is to be used as appropriate for the job classification(s) and labor provided as required by State law.

G. Proposal Evaluation Process

An evaluation committee will evaluate all proposals received for completeness and the proposer's ability to meet all specifications as outlined in this RFP. In considering vendor proposals, the AFD and its designated employees shall take into consideration the following:

1. Knowledge and understanding of local interests pertaining to fuels treatment projects (i.e., shaded fuel breaks) to reduce risk to the community.
2. Experience, Qualifications, Certifications, References and demonstrated capability to provide required personnel and equipment to meet the overall objectives of the scope of work and Project implementation.

3. Work Plan, Staffing, Equipment, Schedule and Budget to meet the project objectives within the allocated funding and time frames.
4. Risk management through appropriate licensing and proof of sufficient insurance.

Cost proposal criteria points will be awarded on a relative scale as described below.

Evaluation Criteria	Points
Cost Proposal	25
Experience, Qualifications, Certifications and References	15
Work Plan, Staffing, Equipment and Schedule	10
Proof of Insurance	Y/N
Willingness to obtain City of Auburn Business License and proof of "Active" status with CA Secretary of State, proof of QAL	Y/N

The agreement will be awarded to the proposer whose proposal best serves the interest of the City as determined by City Council. The City has absolute discretion to select or reject any proposal.

H. City Proposal Rights

The City reserves the right to accept proposals, award proposals and /or not award proposals, reject any and all proposals and solicit new proposals, to waive any informality in the proposals, and to accept the proposal that appears from all consideration to be in the best interest of the City of Auburn. No representation is made that any contract will be awarded pursuant to this RFP. Receipt of a proposal by the City does not constitute a contract with the City.

The City reserves the right to withdraw this Request for Proposal at any time without prior notice. Further, the City makes no representations that any agreement will be awarded to any firm responding to this Request for Proposal. The City expressly reserves the right to postpone action regarding this Request for Proposal for its own convenience and to reject any and all proposals in response to this Request for Proposal without indicating reasons for such rejection.

The City may choose to award one or more CONTRACTORS to service any portion of the Project. The City may waive any minor irregularities or immaterial defects in a proposal. The City reserves the right to request additional written or oral information from proposers to obtain clarification on their proposals. All proposals become the property of the City. All costs associated with development of the proposal in response to the RFP shall be the sole responsibility of the proposers and shall not be charged in any manner to the City or AFD.

There is no expressed or implied obligation for the City to reimburse responding parties for any expenses incurred in preparing proposals in response to this request. Proposals will be accepted only from parties that are free from all obligations and interests that might conflict with the best interest of the City and are able to provide services on a timely basis in accordance with the timetable listed herein.

Materials submitted by respondents are subject to public inspection under the California Public Records Act (Government Code Sec. 7920.000 et seq.), unless exempt.

The City reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal

indicates acceptance by the vendor of the conditions contained in this request for proposal, unless clearly and specifically noted in the submitted proposal and confirmed in the contract between the City and the vendor selected.

The City reserves the right to make such changes in the Request for Proposal as it may deem appropriate. Any changes in the Request for Proposal shall be made by a written addendum, which shall be issued by the City to all prospective vendors who have been issued a copy of the Request for Proposal or who have notified the City that a copy of the Request for Proposal has been obtained.

If the evaluation of any proposal indicates minor non-compliance or variance with the Request for Proposal, the City may, but need not, make a written request to the vendor to submit a supplement to the proposal. The request will identify the non-compliance or variance and will establish a date in which the vendor will submit a supplement to be evaluated in conjunction with the submitted proposal. Any supplement to the Request for Proposal will be deemed an integral part of the vendor's submittal.

I. Contract Award

The contract shall be awarded by April 27, 2026. The start date is dependent on AFD project management capacity and weather. CONTRACTOR shall not begin work without express permission from the AFD. All work must be complete, and invoices submitted by December 1, 2026.

It is expected the selected vendor will enter into a contract with the City of Auburn for the performance of services outlined in the contract's Scope of Services Section based on a fee structure outlined in the contract's Fee Schedule. Other than for the Scope of Services and Fee Schedule as mentioned above, the City of Auburn prefers not to deter from the language as outlined in Sections one (1) through eighteen (18) of the Exemplar Agreement attached as Exhibit C of this RFP. The winning bidders Exhibit B, Cost Proposal Form, shall be an attachment to Exhibit C, Sample Professional Services Agreement.

The contract terms are subject to City approval. The City has the right to review and approve any changes in the contract terms. It is mutually understood and agreed that the selected contractor shall not assign, transfer, convey, sublet or otherwise dispose of the contract or the right, title, or interest therein, or the power to execute such contract, to any other person, company or corporation without the City's prior written consent.

III. PROJECT BACKGROUND AND OBJECTIVES

The City of Auburn is a general law city incorporated under California law in 1888. The City serves a population of approximately 14,070 and is located in Placer County. The City is organized into five departments and two offices that provide a full range of municipal services.

In October 2023 (and signed in January 2024), the California Department of Forestry and Fire Protection (CalFire) awarded the City of Auburn Fire Department a four-year \$797,663.60 grant with the ultimate objective of creating a Shaded Fuel Break in the Baltimore Ravine encompassing approximately 120 acres within about a 212-acre project footprint. The fuel break objective is to provide mitigative and preventative wildfire protection to 380 homes directly surrounding Baltimore Ravine while providing access to first responders.

In 2024, before work could start on the fuel break, the first Project Phase I objective included hiring the services of an environmental contractor to do State-required California Environmental Quality Act (CEQA) archeological and biological surveys, Project boundary mapping and flagging, preparing an Initial Study and a Mitigated Negative Declaration (IS-

MND), and providing contractor oversight during the initial fuel reduction work. The environmental contractor completed the IS-MND in October. The State determined that a more extensive Environmental Impact Report (EIR) was not required. The document identifies potential environmental impacts and treatment prescriptions on the overall Project footprint. All Contractors **must abide** by all treatment prescriptions and mitigation measures identified in the IS-MND while performing future fuel reduction work.

In December 2024, the City of Auburn issued a fuel reduction Request for Proposal #1 and awarded a Phase I contract in February 2025 to create a 120-acre shaded fuel break in the Baltimore Ravine. The contractor completed the Phase I fuel reduction work in November 2025.

The Project Phase II RFP objective is to identify a qualified contractor and award a contract to continue the fuel reduction work by applying herbicide within the 120-acre shaded fuel break.

IV. SCOPE OF WORK

A. Project Areas

Exhibit A: Project Map identifies four areas totaling 118.6 acres that are proposed for herbicide treatment. Areas are designated as either cut stump or foliar spray as dictated by the IS-MND. Foliar treatment may not occur within areas designated as cut-stump application. The following Table 1 summarizes proposed work in 2026. In 2025, 26.6 acres were treated with herbicide (cut stump application). These are option areas that will be evaluated by the CONTRACTOR and RPF to determine if further treatment is necessary. These are not guaranteed work areas.

Table 1. Acreage Summary by Treatment Category

Work to Be Performed	Area Acreage	Comment
Area 1: Cut stump only, initial treatment	28.0 acres	
Area 2: Cut stump only, herbicide applied in 2025	3.6 acres	Option Area RPF to decide
Area 3: Foliar spray, initial treatment	64.0 acres	
Area 4: Foliar spray, herbicide applied in 2025	23.0 acres	Option Area RPF to decide
Total Acres	118.6 acres	

The Project area terrain allows limited access for conventional vehicles and equipment. The CONTRACTOR is responsible for identifying access points to the project area with minimal impact on the environment.

B. Treatment Specifications

Property lines are marked by orange fluorescent flags, but internal boundaries are virtual. As a result, the CONTRACTOR is required to use Avenza Maps app (<https://store.avenza.com>) to follow treatment boundaries. Watercourse protection zones are delineated in blue/white striped flagging and are summarized in Table 2 below.

Herbicide shall be applied to vegetation throughout the Project area, targeting re-sprout of native woody species that have emerged after mechanical treatment (buckeye, live oak, black oak, toyon, manzanita). Himalayan blackberry will be targeted in foliar spray areas. Scotch broom may be present in either or both areas. A licensed Pest Control Advisor (PCA) shall prescribe herbicide and shall make recommendations specific to the target species. The PCA must also make a recommendation regarding application within watercourse protection zones as indicated in Table 2 below.

1. In All Project Areas

- a. Exhibit A identifies areas that have already been treated in 2025 with cut-stump application. CONTRACTOR and RPF shall examine these Option Areas before treatment to determine if treatment in 2026 is necessary.
- b. Herbicide shall not be applied to willows, redbud, maple, madrone, ornamental plants or to any vegetation flagged with pink “Do Not Cut” flagging.
- c. Herbicide shall not be applied to grass, forbs or other non-woody vegetation.
- d. CONTRACTOR must provide a written PCA recommendation to the RFP before starting work.
- e. CONTRACTOR shall notify the RPF within 3 business days of the start of work so that landowners can be properly notified.
- f. CONTRACTOR is responsible for timely reporting chemical usage to the Placer County Agricultural Commission.
- g. CONTRACTOR shall be responsible for applying herbicides according the label and PCA’s written recommendation. Transport, handling, and use of all herbicides shall be in strict accordance with the manufacturer’s label instructions and all applicable federal, state, and local laws and regulations.
- h. CONTRACTOR shall be responsible for application of herbicides according to the label. Transport, handling, and use of all herbicides shall be in strict accordance with the manufacturer’s label instructions and all applicable federal, state, and local laws and regulations.
- i. Herbicide shall be applied by hand crews using backpack sprayers or stump applicators (no broadcasting of chemical allowed).
- j. No soil applications – only cut stump or foliar.
- k. Every precaution shall be taken to prevent chemical drift onto desirable vegetation.

2. Cut Stump Treatment

- a. Cut stump treatments are mapped in Exhibit A. Foliar spray shall not be applied within cut stump treatment areas.
- b. Spouting brush 2 inches in diameter or under shall be hand cut and stumps shall be treated. Treatments should target re-sprout of stems that have emerged since the 2025 mechanical fuels reduction treatments.
- c. Cut material shall be lopped to a depth of no more than 6 inches.
- d. Application within watercourse buffer areas defined in Table 2 shall be dictated by the PCA.
- e. Application of cut stump treatments shall be targeted and shall not create drift.
- f. Treatment of Himalayan blackberry is not required in cut stump treatment areas.

3. Foliar Spray Treatment

- a. Foliar spray areas are mapped in Exhibit A.
- b. Spouting brush 2 inches in diameter or under shall be sprayed. Treatments should target re-sprout of stems that have emerged since the 2025 mechanical fuels reduction treatments.
- c. Treatment of Himalayan blackberry is required within foliar spray areas.

- d. Application within watercourse buffer areas defined in Table 2 shall be dictated by the PCA.
- e. Foliar spray shall not be applied within 24 hours following a rain event of 0.25 inches or more and shall not be applied within 300 feet of Class II watercourses where water is present. Areas within 300 feet of Class II watercourses are mapped as “cut stump” in Exhibit A.

C. Best Management Practices

CONTRACTOR shall comply with all applicable federal, state, and local laws, regulations and policies governing the funds for and scope of this Project.

1. Hazardous Materials

Equipment such as backpacks, spray tanks and hoses used for herbicide mixing and application shall be in good working condition and shall be free of leaks.

Mixing of chemical and re-fueling equipment shall be done outside of watercourse protection zones as listed in Table 2. CONTRACTOR shall furnish at least one spill kit to be kept on the Project site at all times.

2. Transportation and Traffic

If the Project is expected to impact public safety on adjacent public roads, CONTRACTOR is responsible for providing signage and traffic control if necessary. If closure of roads frequently used by the public is necessary for Project work, CONTRACTOR shall be responsible for providing traffic control and obtaining an encroachment permit, as necessary.

3. Watercourse Protections

All streams and riparian vegetation shall be protected through implementation of Watercourse and Lake Protection Zones (WLPZ) per the table below: Before project work starts, CONTRACTOR shall consult with the Placer County Water Agency (PCWA) about herbicide application adjacent to canals.

Table 2: Watercourse Protection Buffer Widths

Slope Class	Class II (WLPZ) Buffer	Class III (ELZ) Buffer	Class IV - canals
<30%	50 ft	25 ft	Determined by
30-50%	75 ft	50 ft	consulting
>50%	100 ft	50 ft	with facility owner

D. Inspections

AFD, or its designee, will conduct inspections to ensure the services are acceptable. Inspections do not relieve the CONTRACTOR of the responsibility for maintaining quality control. Compliance inspections will be made on a sporadic basis. Such inspections are not final, and do not constitute acceptance by the AFD or the City. Final inspections for payment will be made on completed items only. CONTRACTOR is encouraged to break down the Project into logical measurable units.

V. GENERAL CONDITIONS

- A. It is not the intent of the specifications to cover each and every detail. Any problems that may arise must be promptly reported to the AFD and shall be subject to the decision of the AFD and/or the City. The CONTRACTOR is expected to carefully examine the size and scope of the proposed work prior to submitting a proposal. The

CONTRACTOR certifies they have checked carefully all the quantities, specifications, and maps, and understands that neither the AFD nor the City shall be responsible for any errors or omissions on the part of the proposer in compiling and submitting this proposal.

- B. The CONTRACTOR agrees that they will provide the materials and/or perform the work herein under the terms and conditions set forth in the awarded contract and/or purchase order; and shall furnish and be responsible for all the labor, materials, tools, equipment, transportation, insurance, notifications, licenses, permits, and all other services and facilities necessary, including all incidental work and appurtenances as may be reasonably implied and as described in the specifications and other Contract documents. All costs incidental to these requirements will not be paid for separately but shall be included in the work, including testing, if needed. CONTRACTOR shall be responsible for paying all costs for permits, licenses, fees, and insurance which may be required to perform the work required.
- C. The CONTRACTOR certifies by submitting a proposal that to the best of his or her knowledge and belief, the required language of these General Conditions shall be included in all lower-tier subcontracts which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.
- D. CONTRACTOR is responsible for ensuring protection of residual trees, structures, property improvements, fences, power lines/other utilities, and recreational areas including but not limited to roads, trails, and signage. If incorrect chemical application results in the death of retained trees, AFD may require CONTRACTOR to return to the site to remove the affected trees at CONTRACTOR's expense.
- E. Roads, trails, and other improvements, including but not limited to gates, fences, culverts and/or drainage structures, or signs damaged by CONTRACTOR, shall be repaired to equal or better condition as that found prior to the start of work. Repairs may include repairing or replacing drainage control features. Significant damage to existing roads, trails, or other improvements, caused by CONTRACTOR, must be repaired by CONTRACTOR at CONTRACTOR's expense within ten (10) working days of notification by the AFD or the City.
- F. CONTRACTOR is responsible for renting an outhouse for use on site. No human waste shall be left on site.

VI. EXHIBITS

Exhibit A – Project Areas Map

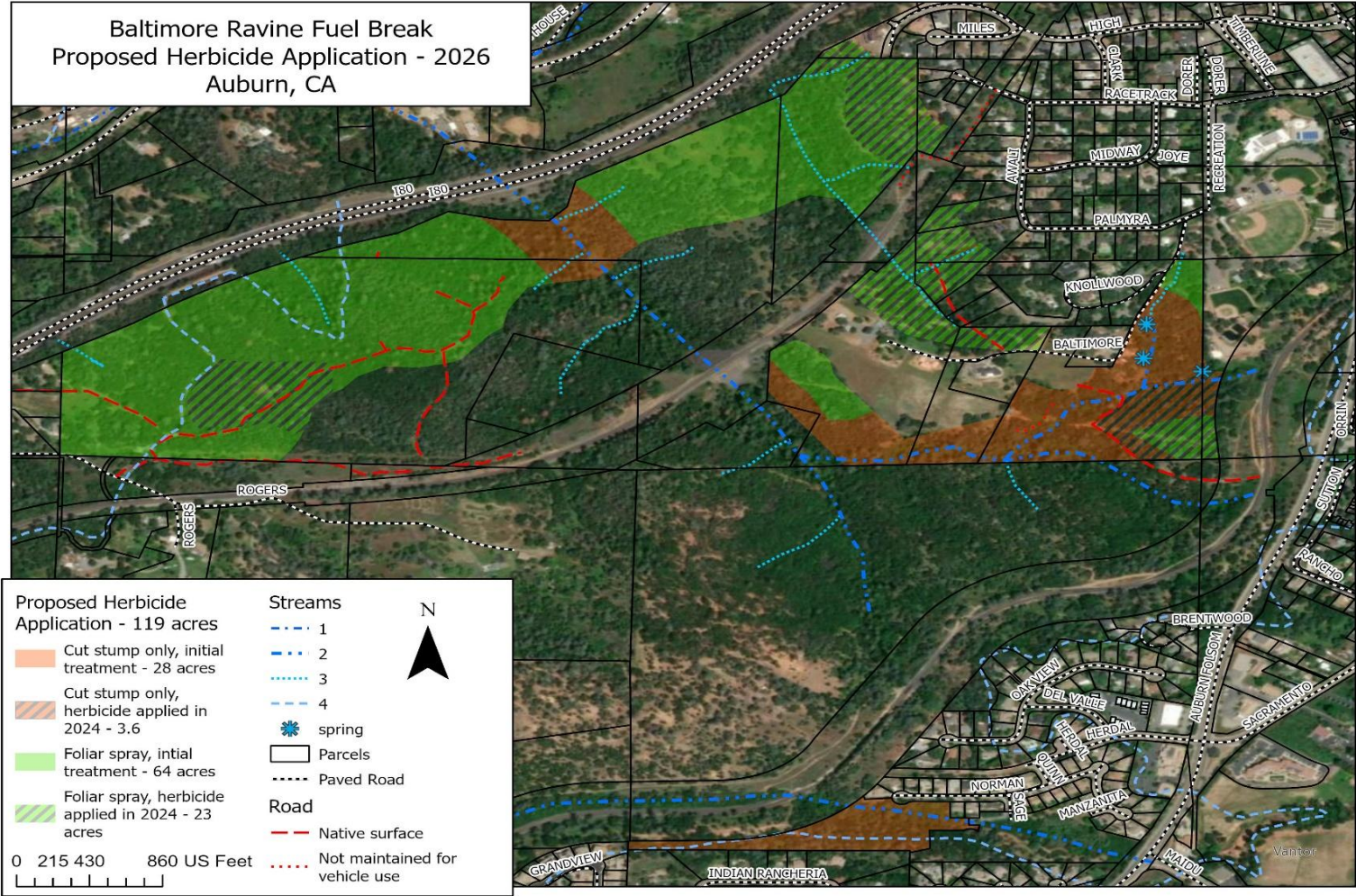


Exhibit B – Cost Proposal Form

Company Name: _____ **Date:** _____

The following bid amounts must include the cost of labor, materials, overhead and profit for cut-stump application and herbicide spray application. The bid amounts will not be negotiated.

Cut-Stump Application Cost Per Acre Bid: _____

Herbicide Spray Application Cost Per Acre Bid: _____

Total Prospective Contract Value

The total contract value is based on the number of acres by bid type that are actually completed. As noted in the Request for Proposal, 26.6 acres ("Option Areas") received cut-stump application in 2025. The Contractor and RPF will evaluate these areas to determine if further treatment is warranted in 2026.

Exhibit C – Sample Professional Services Agreement

FIRE PREVENTION SERVICES AGREEMENT

(City of Auburn / **[Company or Individual]**)

1. IDENTIFICATION

This FIRE PREVENTION SERVICES AGREEMENT (“Agreement”) is entered into by and between the City of Auburn, a California municipal corporation (“City”), and _____, a _____ (“Contractor”).

2. RECITALS

- 2.1. City has determined that it requires fuels treatment services from a contractor.
- 2.2. Contractor represents that it is fully qualified to perform such fire prevention services by virtue of its experience and the training, education and expertise of its principals and employees. Contractor further represents that it is willing to accept responsibility for performing such maintenance services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, City and Contractor agree as follows:

3. DEFINITIONS

- 3.1. “Scope of Services”: Such maintenance services as are set forth in Contractor’s **[enter Contractor’s proposal date]** proposal to City attached hereto as **Exhibit A and incorporated herein by this reference.**
- 3.2. “Agreement Administrator”: The Agreement Administrator for this project is **[Name and title]**. The Agreement Administrator shall be the principal point of contact at the City for this project. All services under this Agreement shall be performed at the request of the Agreement Administrator. The Agreement Administrator will establish the timetable for completion of services and any interim milestones. City reserves the right to change this designation upon written notice to Contractor

- 3.3. **“Maximum Amount”:** The highest total compensation and costs payable to Contractor by City under this Agreement. The Maximum Amount under this Agreement is [redacted] Dollars (\$ [redacted]).
- 3.4. **“Commencement Date”:** [date].
- 3.5. **“Termination Date”:** [date]

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Termination Date unless extended by written agreement of the parties or terminated earlier under Section 15 (“Termination”) below.

5. CONTRACTOR’S DUTIES

- 5.1. **Services.** Contractor shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 5.2. **Coordination with City.** In performing services under this Agreement, Contractor shall coordinate all contact with City through its Agreement Administrator.
- 5.3. **Budgetary Notification.** Contractor shall notify the Agreement Administrator, in writing, when fees and expenses incurred under this Agreement have reached eighty percent (80%) of the Maximum Amount. Contractor shall concurrently inform the Agreement Administrator, in writing, of Contractor’s estimate of total expenditures required to complete its current assignments before proceeding, when the remaining work on such assignments would exceed the Maximum Amount.
- 5.4. **Business License.** Contractor shall obtain and maintain in force a City business license for the duration of this Agreement.
- 5.5. **Professional Standards.** Contractor shall perform all work to the highest standards of Contractor’s profession and in a manner satisfactory to City. Contractor shall keep itself fully informed of and in compliance with all local, state, and federal laws, rules, and regulations in any manner affecting the performance of this Agreement, including all Cal/OSHA requirements, the

conflict-of-interest provisions of Government Code § 1090 and the Political Reform Act (Government Code § 81000 et seq.).

- 5.6. **Appropriate Personnel.** Contractor has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. The Contractor shall perform all such services under its supervision or by subcontractor(s) of Contractor, and all personnel engaged in the work shall be qualified to perform such services. [Name of Project Manager] shall be Contractor's project administrator and shall have direct responsibility for management of Contractor's performance under this Agreement. No change shall be made in Contractor's project administrator without City's prior written consent.
- 5.7. **Prevailing Wages.** This Agreement is subject to the prevailing wage law as more fully set forth in Section 8 (Labor Code), for all work performed under this Agreement for which the payment of prevailing wages is required under the California Labor Code. In particular, Contractor acknowledges that prevailing wage determinations are available for work performed under this Agreement.
- 5.8. **Permits and Approvals.** Contractor shall obtain, at its sole cost and expense, all permits, and regulatory approvals necessary, if any, for Contractor's performance of this Agreement including, but not limited to, professional licenses and permits.
- 5.9. **Notification of Organizational Changes.** Contractor shall notify the Agreement Administrator, in writing, of any change in name, ownership or control of Contractor's firm or of any subcontractor. Change of ownership or control of Contractor's firm may require an amendment to this Agreement.
- 5.10. **Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to City under this Agreement for a minimum of four (4) years, or for any longer period required by law, from the date of final payment to Contractor under this Agreement. All such documents shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of City. In addition, pursuant to Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds ten thousand dollars, all such documents and this Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of City, for a period of three (3) years after final payment under this Agreement.

6. SUBCONTRACTING AND ASSIGNMENT

- 6.1. General Prohibition On Assignment.** This Agreement covers services of a specific and unique nature. Except as otherwise provided herein, Contractor shall not assign or transfer its interest in this Agreement or subcontract any services to be performed without amending this Agreement.
- 6.2. Contractor Responsible.** Contractor shall be responsible to City for all services to be performed under this Agreement.
- 6.3. Subcontracting.** Contractor shall not subcontract any portion of the performance contemplated and provided for herein unless (1) such subcontracting is specifically described in the proposal attached hereto or (2) the City provides prior written approval. In any event, Contractor shall supervise all work subcontracted by Contractor in performing the services described in the Scope of Services and shall be responsible for all work performed by a subcontractor as if Contractor itself had performed such work. The subcontracting of any work shall not relieve Contractor from any of its obligations under this Agreement with respect to the services described in the Scope of Services. Contractor is obligated to ensure that any and all subcontractors performing any services under this Agreement shall be fully insured in all respects and to the same extent as set forth under Section 13 (Insurance), to City's satisfaction.
- 6.4. Compensation for Subcontractors.** Contractor shall be liable and accountable for any and all payments, compensation, and federal and state taxes to all subcontractors performing services under this Agreement. City shall not be liable for any payment, compensation, or federal and state taxes for any subcontractors.

7. COMPENSATION

- 7.1. General.** City agrees to compensate Contractor for the services provided under this Agreement, and Contractor agrees to accept payment, the Maximum Amount in full satisfaction for such services. Compensation shall not exceed the Maximum Amount. Contractor shall not be reimbursed for any expenses unless provided for in this Agreement or authorized in writing by City in advance.
- 7.2. Invoices.** Contractor shall submit to City an invoice, on a monthly basis or as otherwise agreed to by the Agreement Administrator, for services performed

pursuant to this Agreement. Each invoice shall identify the Maximum Amount, the services rendered during the billing period, the amount due for the invoice, and the total amount previously invoiced. Contractor shall include a copy of each subcontractor invoice, if any, for which reimbursement is sought in the invoice.

- 7.3. **Taxes.** City shall not withhold applicable taxes or other payroll deductions from payments made to Contractor except as otherwise required by law. Contractor shall be solely responsible for calculating, withholding, and paying all taxes.
- 7.4. **Disputes.** The parties agree to meet and confer at mutually agreeable times to resolve any disputed amounts contained in an invoice submitted by Contractor.

8. LABOR CODE

- 8.1. **Prevailing Wage Law.** Prevailing Wage Law. This Agreement is subject to the requirements of the prevailing wage laws, including, but not limited to, Labor Code Section 1720 et seq., and Labor Code Section 1770 et seq., as well as Code of Regulations, Title 8, Section 16000 et seq., which require payment of prevailing wage rates and the performance of other requirements on certain “public works” and “maintenance” projects. Contractor shall defend, indemnify, and hold harmless City, and its officers, employees, agents, and volunteers free and harmless from any claim or liability arising out of failure or alleged failure of Contractor to comply with such prevailing wage laws.
- 8.2. **Payment of Prevailing Wages.** Contractor shall pay the prevailing wage rates for all work performed under this Agreement that is subject to prevailing wage laws. When any craft or classification is omitted from the general prevailing wage determinations, the Contractor shall pay the wage rate of the craft or classification most closely related to the omitted classification.
- 8.3. **Forfeiture.** Contractor shall forfeit as a penalty to City Two Hundred Dollars (\$200.00), or any greater penalty provided in the Labor Code, for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates for any work done under this Agreement employed in the performance of the Scope of Services by Contractor or by any subcontractor of Contractor in violation of the provisions of the Labor Code. In addition, the difference between such prevailing wage rates and the amount paid to each worker for each calendar day, or portion thereof, for which each worker was paid less than the prevailing wage rate shall be paid to each worker by Contractor.

- 8.4. **Apprentices.** Contractor shall comply with the provisions of Labor Code 1777.5 concerning the employment of apprentices on public works projects. Contractor shall be responsible for ensuring compliance by its subcontractors with Labor Code 1777.5.
- 8.5. **Payroll Records.** Contractor and any subcontractor(s) shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by Contractor in connection with this Agreement as required by Labor Code section 1776. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following: (1) The information contained in the payroll record is true and correct; and (2) The employer has complied with the requirements of Labor Code 1811 and Labor Code 1815 for any work performed by his or her employees on the public works project. The payroll records shall be certified and shall be available for inspection at all reasonable hours as required by Labor Code 1776.
- 8.6. **8-Hour Workday.** This Agreement is subject to 8-hour workday and wage and hour penalty laws, including, but not limited to, Labor Code 1810 and Labor Code 1813. Contractor and any subcontractor(s) of Contractor shall strictly adhere to the provisions of the Labor Code regarding 8-hour workday and 40-hour work week requirements, and overtime, Saturday, Sunday, and holiday work. Pursuant to the Labor Code, eight hours' labor shall constitute a legal day's work. Work performed by Contractor's employees in excess of eight hours per day, and 40 hours during any one week, must include compensation for all hours worked in excess of eight hours per day, or 40 hours during any one week, at not less than one and one-half times the basic rate of pay. Contractor shall forfeit as a penalty to City \$25.00, or any greater penalty set forth in the Labor Code, for each worker employed in the execution of the work by Contractor or by any subcontractor(s) of Contractor, for each calendar day during which such worker is required or permitted to the work more than eight hours in one calendar day or more than 40 hours in any one calendar week in violation of the Labor Code.
- 8.7. **Registration with DIR.** Contractor and any subcontractor(s) of Contractor shall comply with the provisions of Labor Code 1771 and Labor Code 1725.5 requiring registration with the Department of Industrial Relations (DIR).

9. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents, or other written material (“written products” herein) developed by Contractor in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City except as provided by law. Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Contractor.

10. RELATIONSHIP OF PARTIES

- 10.1. General.** Contractor is, and shall at all times remain as to City, an independent contractor.
- 10.2. No Agent Authority.** Contractor shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor’s employees, except as set forth in this Agreement. Contractor shall not represent that it is, or that any of its agents or employees are, in any manner, employees of City.
- 10.3. Independent Contractor Status.** Under no circumstances shall Contractor or its employees look to the City as an employer. Contractor shall not be entitled to any benefits. City makes no representation as to the effect of this independent contractor relationship on Contractor’s previously earned California Public Employees Retirement System (“CalPERS”) retirement benefits, if any, and Contractor specifically assumes the responsibility for making such a determination. Contractor shall be responsible for all reports and obligations including, but not limited to social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation, and other applicable federal and state taxes.
- 10.4. Indemnification of CalPERS Determination.** In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

11. INDEMNIFICATION

- 11.1. Definitions.** For purposes of this Section 11, “Contractor” shall include Contractor, its officers, employees, servants, agents, or subcontractors, or anyone directly or indirectly employed by either Contractor or its subcontractors, in the performance of this Agreement. “City” shall include City, its officers, agents, employees, and volunteers.
- 11.2. Contractor to Indemnify City.** To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend City from and against any and all claims, losses, costs or expenses for any personal injury or property damage arising out of or in connection with Contractor’s alleged negligence, recklessness or willful misconduct or other wrongful acts, errors or omissions of Contractor or failure to comply with any provision in this Agreement.
- 11.3. Scope of Indemnity.** Personal injury shall include injury or damage due to death or injury to any person, whether physical, emotional, consequential, or otherwise, Property damage shall include injury to any personal or real property. Contractor shall not be required to indemnify City for such loss or damage as is caused by the sole active negligence or willful misconduct of the City.
- 11.4. Attorney’s Fees.** Such costs and expenses shall include reasonable attorney’s fees for counsel of City’s choice, expert fees and all other costs and fees of litigation. Contractor shall not be entitled to any refund of attorneys’ fees, defense costs or expenses in the event that it is adjudicated to have been non-negligent.
- 11.5. Defense Deposit.** The City may request a deposit for defense costs from Contractor with respect to a claim. If the City requests a defense deposit, Contractor shall provide it within 15 days of the request.
- 11.6. Waiver of Statutory Immunity.** The obligations of Contractor under this Section 12 are not limited by the provisions of any workers’ compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City.
- 11.7. Indemnification by Subcontractors.** Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 11 from each and every subcontractor or any other person or entity involved in the performance of this Agreement on Contractor’s behalf.
- 11.8. Insurance Not a Substitute.** City does not waive any indemnity rights by accepting any insurance policy or certificate required pursuant to this

Agreement. Contractor's indemnification obligations apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense.

12. INSURANCE

12.1. Insurance Required. Contractor shall maintain insurance as described in this section and shall require all of its subcontractors, Contractors, and other agents to do the same. Approval of the insurance by the City shall not relieve or decrease any liability of Contractor. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

12.2. Documentation of Insurance. City will not execute this agreement until it has received a complete set of all required documentation of insurance coverage. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. Contractor shall file with City:

- ☐ **Certificate of Insurance, indicating companies acceptable to City, with a Best's Rating of no less than A: VII showing. The Certificate of Insurance must include the following reference: Baltimore Ravine Shaded Fuel Break**
- ☐ **Documentation of Best's rating acceptable to the City.**
- ☐ **Original endorsements effecting coverage for all policies required by this Agreement.**
- ☐ **Complete, certified copies of all required insurance policies, including endorsements affecting the coverage.**

12.3. Coverage Amounts. Insurance coverage shall be at least in the following minimum amounts:

- | | | |
|--------------------------|--|--|
| <input type="checkbox"/> | Professional Liability Insurance: | \$1,000,000 per occurrence,
\$2,000,000 aggregate |
| <input type="checkbox"/> | General Liability: | \$2,000,000 |
| <input type="checkbox"/> | General Aggregate: | \$4,000,000 |
| <input type="checkbox"/> | Products Comp/Op Aggregate | \$2,000,000 |
| <input type="checkbox"/> | Personal & Advertising Injury | \$1,000,000 |
| <input type="checkbox"/> | Each Occurrence | \$1,000,000 |
| <input type="checkbox"/> | Fire Damage (any one fire) | \$ 50,000 |
| <input type="checkbox"/> | Medical Expense (any 1 person) | \$ 5,000 |

- ☐ **Workers' Compensation:**
 - ☐ **Workers' Compensation** **Statutory Limits**
 - ☐ **EL Each Accident** **\$1,000,000**
 - ☐ **EL Disease - Policy Limit** **\$1,000,000**
 - ☐ **EL Disease - Each Employee** **\$1,000,000**
- ☐ **Automobile Liability**
 - ☐ **Any vehicle, combined single limit \$1,000,000**

Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements or limits shall be available to the additional insured. Furthermore, the requirements for coverage and limits shall be the greater of (1) the minimum coverage and limits specified in this Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured

- 12.4. General Liability Insurance.** Commercial General Liability Insurance shall be no less broad than ISO form CG 00 01. Coverage must be on a standard Occurrence form. Claims-Made, modified, limited, or restricted Occurrence forms are not acceptable.
- 12.5. Worker's Compensation Insurance.** Contractor is aware of the provisions of Section 3700 of the Labor Code which requires every employer to carry Workers' Compensation (or to undertake equivalent self-insurance), and Contractor will comply with such provisions before commencing the performance of the work of this Agreement. If such insurance is underwritten by any agency other than the State Compensation Fund, such agency shall be a company authorized to do business in the State of California.
- 12.6. Automobile Liability Insurance.** Covered vehicles shall include owned if any, non-owned, and hired automobiles and trucks.
- 12.7. Claims-Made Policies.** If any of the required policies provide coverage on a claims-made basis the Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work. Claims-Made Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

- 12.8. Additional Insured Endorsements.** The City, its City Council, Commissions, officers, and employees of Auburn must be endorsed as an additional insured for each policy required herein, for liability arising out of ongoing and completed operations by or on behalf of the Contractor. Contractor's insurance policies shall be primary as respects any claims related to or as the result of the Contractor's work. Any insurance, pooled coverage or self-insurance maintained by the City, its elected or appointed officials, directors, officers, agents, employees, volunteers, or Contractors shall be non-contributory. All endorsements shall be signed by a person authorized by the insurer to bind coverage on its behalf. General liability coverage can be provided using an endorsement to the Contractor's insurance at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37.
- 12.9. Failure to Maintain Coverage.** In the event any policy is canceled prior to the completion of the project and the Contractor does not furnish a new certificate of insurance prior to cancellation, City has the right, but not the duty, to obtain the required insurance and deduct the premium(s) from any amounts due the Contractor under this Agreement. Failure of the Contractor to maintain the insurance required by this Agreement, or to comply with any of the requirements of this section, shall constitute a material breach of this Agreement.
- 12.10. Insurance Notices.** Contractor shall provide immediate written notice if (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; (3) or the deductible or self-insured retention is increased. Contractor shall provide no less than 30 days' notice of any cancellation or material change to policies required by this Agreement. Contractor shall provide proof that cancelled or expired policies of insurance have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages. The name and address for Additional Insured Endorsements, Certificates of Insurance and Notices of Cancellation is City of Auburn, Attn: [Fire Department], 1225 Lincoln Way, Auburn, CA 95603.
- 12.11. Contractor's Insurance Primary.** The insurance provided by Contractor, including all endorsements, shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City and/or its officers, employees, agents, or volunteers, shall be in excess of Contractor's insurance and shall not contribute to it.

12.12. Waiver of Subrogation. Contractor hereby waives all rights of subrogation against the City. Contractor shall additionally waive such rights either by endorsement of each policy or provide proof of such waiver in the policy itself.

12.13. Report of Claims to City. Contractor shall report to the City, in addition to the Contractor's insurer, any and all insurance claims submitted to Contractor's insurer in connection with the services under this Agreement.

12.14. Premium Payments and Deductibles. Contractor must disclose all deductibles, and self-insured retention amounts to the City. The City may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within retention amounts. Ultimately, City must approve all such amounts prior to execution of this Agreement.

City has no obligation to pay any premiums, assessments, or deductibles under any policy required in this Agreement. Contractor shall be responsible for all premiums and deductibles in all of Contractor's insurance policies. The amount of deductibles for insurance coverage required herein are subject to City's approval.

12.15. Duty to Defend and Indemnify. Contractor's duties to defend and indemnify City under this Agreement shall not be limited by the foregoing insurance requirements and shall survive the expiration of this Agreement.

13. MUTUAL COOPERATION

13.1. City Cooperation in Performance. City shall provide Contractor with all pertinent data, documents, and other requested information as is available for the proper performance of Contractor's services under this Agreement.

13.2. Contractor Cooperation in Defense of Claims. If any claim or action is brought against City relating to Contractor's performance in connection with this Agreement, Contractor shall render any reasonable assistance that City may require in the defense of that claim or action.

14. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Contractor's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to City:

John Rogers, Fire Chief
City of Auburn Fire Department
1225 Lincoln Way
Auburn, CA 95603
Telephone: (530) 823-4211
Facsimile: (530) 823-4209

If to Contractor:

[Name]
[Address]
[Address]
Telephone:
Facsimile:

With courtesy copy to:

Gary B. Bell Esq.
Auburn City Attorney
333 University Ave, Suite 200
Sacramento, CA 95825
Phone: (916) 400-0370
Fax: (530) 432-7356

15. SURVIVING COVENANTS

The parties agree that the covenants contained in paragraph 5.10 (Records), paragraph 10.4 (Indemnification of CalPERS Determination), Section 11 (Indemnification), paragraph 12.7 (Claims-Made Policies), paragraph 13.2 (Contractor Cooperation in Defense of Claims), and paragraph 18.1 (Confidentiality) of this Agreement shall survive the expiration or termination of this Agreement, subject to the provisions and limitations of this Agreement and all otherwise applicable statutes of limitations and repose.

16. TERMINATION

- 16.1. **City Termination.** City may terminate this Agreement for any reason on five calendar days' written notice to Contractor. Contractor agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials, or other tangible things shall be returned to City upon the termination or expiration of this Agreement.
- 16.2. **Contractor Termination.** Contractor may terminate this Agreement for a material breach of this Agreement upon 30 days' notice.
- 16.3. **Compensation Following Termination.** Upon termination, Contractor shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Contractor be entitled to receive more than the amount that

would be paid to Contractor for the full performance of the services required by this Agreement. The City shall have the benefit of such work as may have been completed up to the time of such termination.

- 16.4. Remedies.** City retains any and all available legal and equitable remedies for Contractor's breach of this Agreement.

17. INTERPRETATION OF AGREEMENT

- 17.1. Governing Law.** This Agreement shall be governed and construed in accordance with the laws of the State of California.
- 17.2. Integration of Exhibits.** All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations here from shall be effective and binding only if made in writing and executed on by City and Contractor.
- 17.3. Headings.** The headings and captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the language of the section or paragraph shall control and govern in the construction of this Agreement.
- 17.4. Pronouns.** Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).
- 17.5. Severability.** If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to the extent necessary to, cure such invalidity or unenforceability, and shall be enforceable in its amended form. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable,

shall not be affected, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

- 17.6. No Presumption Against Drafter.** Each party had an opportunity to consult with an attorney in reviewing and drafting this agreement. Any uncertainty or ambiguity shall not be construed for or against any party based on attribution of drafting to any party.

18. GENERAL PROVISIONS

- 18.1. Confidentiality.** All data, documents, discussion, or other information developed or received by Contractor for performance of this Agreement are deemed confidential and Contractor shall not disclose it without prior written consent by City. City shall grant such consent if disclosure is legally required. All City data shall be returned to City upon the termination or expiration of this Agreement.
- 18.2. Conflicts of Interest.** Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. Contractor further agrees to file, or shall cause its employees or subcontractor to file, a Statement of Economic Interest with the City's Filing Officer if required under state law in the performance of the services. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 18.3. Campaign Contributions.** This Agreement is subject to Government Code section 84308, as amended by Senate Bill 1439 (2022), Senate Bill 1181 (2024), and Senate Bill 1243 (2024). Contractor shall disclose any contribution to an elected or appointed City official's campaign or committee in an amount of more than five hundred dollars (\$500) made within 12 months preceding the Commencement Date, by Contractor, its, her, or his agent, or another party affiliated with Contractor. Contractor shall provide a signed copy of the attached Campaign Contribution Disclosure Form to City prior to, or concurrent with,

Contractor's execution of this Agreement and no later than the Commencement Date.

- 18.4. Multiple Phase Projects.** Pursuant to Government Code section 1097.6, Contractor's duties and services under this Agreement shall not include preparing or assisting the City with any portion of the City's preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the City. The City shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. Contractor's participation in the planning, discussions, or drawing of project plans or specifications, if any, shall be limited to conceptual, preliminary, or initial plans or specifications. Contractor shall cooperate with the City to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information, including all conceptual, preliminary, or initial plans or specifications prepared by Contractor, if any, pursuant to this Agreement.
- 18.5. Non-assignment.** Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any party other than Contractor.
- 18.6. Binding on Successors.** This Agreement shall be binding on the successors and assigns of the parties.
- 18.7. No Third-Party Beneficiaries.** Except as expressly stated herein, there is no intended third-party beneficiary of any right or obligation assumed by the parties.
- 18.8. Time of the Essence.** Time is of the essence for each and every provision of this Agreement.
- 18.9. Non-Discrimination.** Contractor shall not discriminate against any employee or applicant for employment because of race, sex (including pregnancy, childbirth, or related medical condition), creed, national origin, color, disability as defined by law, disabled veteran status, Vietnam veteran status, religion, age (40 and above), medical condition (cancer-related), marital status, ancestry, or sexual orientation. Employment actions to which this provision applies shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; or in terms,

conditions or privileges of employment, and selection for training. Contractor agrees to post in conspicuous places available to employees and applicants for employment, the provisions of this nondiscrimination clause.

- 18.10. Waiver.** No provision, covenant, or condition of this Agreement shall be deemed to have been waived by City or Contractor unless in writing signed by one authorized to bind the party asserted to have consented to the waiver. The waiver by City or Contractor of any breach of any provision, covenant, or condition of this Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other provision, covenant, or condition.
- 18.11. Excused Failure to Perform.** Contractor shall not be liable for any failure to perform if Contractor presents acceptable evidence, in City's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Contractor.
- 18.12. Remedies Non-Exclusive.** Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance from the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any or all of such other rights, powers, or remedies.
- 18.13. Attorneys' Fees.** If legal action shall be necessary to enforce any term, covenant or condition contained in this Agreement, each party shall pay its own costs, including any accountants' and attorneys' fees expended in the action.
- 18.14. Venue.** The venue for any litigation shall be Placer County, California and Contractor hereby consents to jurisdiction in Placer County for purposes of resolving any dispute or enforcing any obligation arising under this Agreement.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“City”

City of Auburn

“Contractor”

[Name of Company or Individual]

By:_____

Signature

Printed:_____

Title:_____

Date:_____

By:_____

Signature

Printed:_____

Title:_____

Date:_____

Attest:

By:_____

Amy Lind, City Clerk

Date:_____

Approved as to form:

By:_____

Gary B. Bell, City Attorney

Date:_____

WORKER'S COMPENSATION INSURANCE ACKNOWLEDGEMENT

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract. If any class of employees engaged in work under this contract at the site of the Project is not protected under any Worker's Compensation law, Contractor shall provide and shall cause each subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Contractor shall indemnify and hold harmless City for any damage resulting from failure of either Contractor or any subcontractor to take out or maintain such insurance.

Date: _____

Signature

Printed Name

Title

Exhibit D – Campaign Disclosure Provisions and Form

CAMPAIGN CONTRIBUTION DISCLOSURE PROVISIONS

Cities are subject to the campaign disclosure provisions detailed in Government Code Section 84308.

Please carefully read the following information to determine if the provisions apply to you. If you determine that the provisions are applicable, the Campaign Disclosure Form must be completed and returned to the City with your application.

No City councilmember or commissioner shall accept, solicit, or direct a contribution of more than \$500 from any party,¹ financially interested participant,² or agent³ while a proceeding is pending or for 12 months subsequent to the date a final decision is rendered by the City. This prohibition commences when your application has been filed, or the proceeding is otherwise initiated. A party to a City proceeding shall disclose on the record of the proceeding any contribution of more than \$500 made to any councilmember or commissioner by the party, or agent, during the preceding 12 months. No party to or participant in a City proceeding shall make a contribution of more than \$500 to a councilmember or commissioner during the proceeding and for 12 months following the date a final decision is rendered by the City. No agent to a party or participant shall make a contribution in any amount to a councilmember or commissioner during the proceeding and for 12 months following the date a final decision is rendered by the City.

Prior to rendering a decision on a City proceeding, any councilmember or commissioner who received contribution of more than \$500 within the preceding 12 months from any party, or agent, to a proceeding shall disclose that fact on the record of the proceeding, and shall be disqualified from participating in the proceeding. However, if any councilmember or commissioner receives a contribution that otherwise would require disqualification, and returns the contribution within 30 days of making the decision, or knowing about the contribution and the relevant proceeding, whichever comes last, that councilmember or commissioner shall be permitted to participate in the proceeding.

¹ "Party" is defined as any person who files an application for, or is the subject of, a proceeding.² "Participant" is defined as any person who actively supports or opposes a particular decision in a proceeding.

³ "Agent" is defined as a person who represents a party in connection with a proceeding for compensation who appears before or otherwise communicates with the City for the purpose of influencing the proceeding. If an individual acting as an agent also is acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar entity or corporation, both the individual and the entity or

To determine whether a campaign contribution of more than \$500 has been made by you or your agent to a councilmember or commissioner within the preceding 12 months, all contributions made by you or your agent during that period must be aggregated.

Names of current City councilmembers and commissioners are available on the City's website. If you have questions about Government Code Section 84308, FPPC regulations, or the Campaign Disclosure Form, please contact the City Clerk.

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Document:

- ☐ License
- ☐ Lease
- ☐ Permit
- ☐ Franchise
- ☐ Other Contract
- ☐ Other Entitlement

Name and address of any party, participant, or agent who has contributed more than \$500 to any councilmember or commissioner within the preceding 12 months:

Date and amount of contribution:

Date ____ Amount \$ ____

Date ____ Amount \$ ____

Date ____ Amount \$ ____

Name of councilmember or commissioner to whom contribution was made:

I certify that the above information is provided to the best of my knowledge.

Printed Name ____ Signature ____

Date ____ Phone ____

To be completed by City:

Document No: _____

corporation are agents. When a closed corporation is a party to a proceeding, the majority shareholder is subject to these provisions.

Exhibit E –Limited Scope Mitigation Monitoring and Reporting Plan

In accordance with CEQA Guidelines § 15074(d), when adopting a mitigated negative declaration, the lead agency will adopt a mitigation monitoring and reporting plan (MMRP) that ensures compliance with mitigation measures required for project approval. As the lead agency, the City of Auburn has developed this MMRP as part of the final IS-MND supporting the Project. Since this RFP is limited to herbicide application, this limited scope MMRP focuses on best practices and mitigation measures related to watercourse protection zones, and specific biological animal and plant species.

This MMRP also identifies the party responsible for implementing the measure, defines when the mitigation measure must be implemented, and which party or public agency is responsible for ensuring compliance with the measure. This form shall be kept on file by the Lead Agency and updated weekly during project implementation when operations are active.

Best Practices

1. Foliar herbicide shall not be applied within 24 hours following a rain event of 0.25 inches or more and shall not be applied within 300 feet of Class II watercourses where water is present. Direct stump applications may occur without restriction. Refer to the attached map for areas where cut stump treatment is required vs. foliar application.
2. Herbicide shall not be applied within 100 feet of any elderberry plant with a stem measuring greater than 1 inch in diameter at ground level.
3. Herbicide use within standard watercourse buffer zones noted in the tables below shall be addressed specifically by the PCA. Aquatic formulations of herbicides shall be used where necessary to protect water quality as dictated by prescription.

Mitigation Measures

The following is a list of the resources that will be potentially affected by the project and the mitigation measures made part of the Initial Study-Mitigated Negative Declaration.

Mitigation Measure 4.4.1.3: Biological- Special Status Amphibians

- a) Implement watercourse protection zones and associated protection measures as listed in Table 13 of this document (Item 4.10.2).
- b) For the California red-legged frog, protocol surveys may be conducted to establish occupancy as time and resources allow. Timing of surveys will be determined in consultation with a biologist. If protocol surveys are not conducted OR if occupancy is confirmed, the following take avoidance measures shall be implemented. These measures were adapted from the USFWS Document "California Red Legged Frog Take Avoidance Scenarios" from March of 2008,
 - i. The wet season starts with the first frontal rain system depositing a minimum of .25 inches after October 25th and ends on April 15th. During the wet season, for Class II watercourses where water is present: Maintain a 300-foot no-cut buffer and a 75-foot Equipment Exclusion Zone and fell trees away from the watercourse.
 - ii. The dry season starts April 16th and ends with the first frontal rain system. During the dry season: Maintain a 30-foot no-cut buffer around Class II watercourses where water is present.
 - iii. Foliar herbicide shall not be applied within 24 hours following a rain event of 0.25 inches or more and shall not be applied within 300 feet of Class II watercourses where water is present. Direct stump applications may occur without restriction.

- c) If a foothill yellow-legged frog or red-legged frog is discovered during operations, the contractor shall cease operations within 100 feet of the discovery and notify the RPF. Measures could include buffers and timing restrictions.

Schedule: Item a: buffer zones must be flagged prior to the start of operations. Item b: refer to mitigation measure for schedule/timing. Item c: during operations.

Responsible Party: City of Auburn and/or contracted Registered Professional Forester

Verification of Compliance: Monitoring Party: City of Auburn

Initials: _____

Date(s): _____

Mitigation Measure 4.4.1.4: Biological – special-status fish

- a) Implement watercourse protection zones and associated protection measures as listed in Table 13 of this document (Item 4.10.2).

Schedule: Buffer zones must be flagged prior to the start of operations.

Responsible Party: City of Auburn and/or contracted Registered Professional Forester

Verification of Compliance: Monitoring Party: City of Auburn

Initials: _____

Date(s): _____

Mitigation Measure 4.4.1.5: Special-Status Invertebrates

- a) Implement watercourse protection zones and associated protection measures as listed in Table 13 of the I-SMND (Item 4.10.2).
- b) Retain brush “islands” as described in Item 2.3, Tables 1 and 2.
- c) The USFWS developed conservation guidelines for the Valley elderberry longhorn beetle that describe additional protective measures (beyond those listed above) used to avoid impacts to this species (USFWS 1999). Measures to be implemented by the Project are:
 - i. Elderberry plants encountered during Project planning and layout will be flagged with pink “Do Not Cut” flagging. Contract crews shall be instructed on elderberry identification prior to start of work.
 - ii. A 100-foot-wide buffer surrounding elderberry plants will fully protect the beetles from Project-related vegetation removal activities.
 - iii. Use no insecticides, herbicides, fertilizers, or other chemicals within 100 feet of any elderberry plant with a stem measuring greater than 1 inch in diameter at ground level.
 - iv. Removal of nearby ground vegetation (within 5 feet of elderberry plants) may be completed from July through April.

Schedule: Item a: Buffer zones must be flagged prior to the start of operations. Item b: During operations. Item c(i): Prior to operations. Item c(ii) and (iii): Flag exclusion zone prior to operations. Item c(iv): During project activities between July and April.

Responsible Party: Items a, c(i-iv): City of Auburn and/or contracted Registered Professional Forester. Item b: Contractor responsible for vegetation removal.

Verification of Compliance: Monitoring Party: City of Auburn

Initials: _____

Date(s): _____

Mitigation Measure 4.4.2.2 – Biological – Special-Status Plants

- a) Focused surveys of suitable habitat shall be conducted by a qualified individual prior to the start of work. Surveys shall focus on *Balsamorhiza macrolepis* (Big-scale balsamroot), *Poa sierraea* (Sierra blue grass), *Viburnum ellipticum* (oval-leaved viburnum), and *Wyethia reticulata* (El Dorado mules' ear).
- b) If one of the sensitive plant species listed above is detected during surveys, zones of 15 feet around the plant or outermost individual in a group of plants shall be flagged with "Special Treatment Zone" flagging.
 - i. If herbicide use is planned near protection zones for special-status plants, the Pest Control Advisor or other entity prescribing chemical usage shall be notified and appropriate protections for special-status plants shall be applied. This may include a wider buffer zone, special weather conditions, different chemical mixes, etc.
- c) If a special-status plant species is detected during operations, all work will cease until the RPF is notified and appropriate buffer zones have been flagged as described above.

Schedule: Item a: Prior to operations. Item b: Buffer zones must be flagged prior to the start of operations, including herbicide application. Item c: Buffer zones must be flagged prior to the start of operations.

Responsible Party: Items a, c(i-iv): City of Auburn and/or contracted Registered Professional Forester. Item c: Contractor responsible for vegetation removal, along with City of Auburn and/or contracted RPF.

Verification of Compliance: Monitoring Party: City of Auburn

Initials: _____

Date(s): _____

Mitigation Measure 4.10.2 – Hydrology and Water Quality

- a) Prior Project implementation, watercourses will be identified, and appropriate buffer widths will be flagged by a Registered Professional Forester or supervised designee. The following watercourse buffer widths and mitigations shall apply:

Table 13. Watercourse protection measures.

Slope Class	Class II (WLPZ)	Class III (ELZ)	Class IV
<30%	50 ft	25 ft	Determined by consultation with facility owner
30-50%	75 ft	50 ft	
>50%	100 ft	50 ft	

Follow-up Herbicide Application	Herbicide may be applied within WLPZ zones as approved through a written prescription issued by a licensed Pest Control Advisor. Refer to the "Biological Resources"	Herbicide may be applied within WLPZ zones as approved through a written prescription issued by a licensed Pest Control Advisor. Refer to the "Biological Resources" section for other mitigations regarding special-status species.	Determined by consultation with facility owner.
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** For all watercourse buffers, equipment is allowed to travel through the buffer at locations of existing and functional watercourse crossings.*

Schedule: Item a: Buffer zones shall be flagged prior to operations. Consultation with landowners and facility owners shall occur during flagging of project boundaries, prior to implementation.

Responsible Party: City of Auburn and/or contracted Registered Professional Forester are responsible for flagging of buffer zones, and for communicating restrictions to vegetation management contractors. Contracted Pest Control Advisor is responsible for prescribing chemical that is appropriate for watercourse buffer zones.

Verification of Compliance: Monitoring Party: City of Auburn

Initials: _____

Date(s): _____