

AGREEMENT FOR PUBLIC RELATIONS CONSULTING SERVICES
IMC Corporation

THIS AGREEMENT is made and entered into as of the 1st day of April 2024, by and between the City of Lafayette, a municipal corporation of the State of California ("City"), and IMC Corp., a California company ("Consultant") (collectively, the "Parties").

RECITALS

City requires the professional services of a public relations consultant that is experienced in community engagement. Consultant has the necessary experience in providing these professional services, has submitted a proposal to City and has affirmed its willingness and ability to perform such work.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, the Parties agree as follows:

1. Scope of Work. City retains Consultant to perform, and Consultant agrees to render, those services (the "Services") that are defined in Exhibit "A," attached and incorporated by this reference in accordance with the terms and conditions set forth in this Agreement.
2. Term. Unless earlier terminated, this Agreement will be effective for a period of eight (8) months from the date first above written.
3. Compensation. The total fee payable for the Services to be performed will be a not to exceed amount of forty thousand dollars (\$40,000.00). Payment will be made monthly within 15 days of the end of the month in the amount of \$5,000 or pro-rated for partial month services. No other compensation for the Services will be allowed except for items covered by subsequent amendments to this Agreement.
4. Status of Consultant. Consultant will perform the Services as an independent contractor and in pursuit of Consultant's independent calling, and not as an employee of City. Consultant will be under the control of City only as to the results to be accomplished.
5. Indemnification. Consultant will hold harmless, defend and indemnify City and its officers, agents and employees from and against any and all claims, demands, costs or liability including attorney fees arising out of or in any way connected with the performance of this Agreement, caused in whole or in part by any act or omission of the Consultant, any of its subcontractors, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent caused by the active negligence, sole negligence, or willful misconduct of City.
6. Insurance Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.
 - a. Commercial General Liability
 - (i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the CITY.
 - (ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

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

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

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

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

(v) The policy shall give CITY, the City Council and each member of the City Council, its officers, employees, agents and CITY designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or similar.

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

c. Workers' Compensation/Employer's Liability

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

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

d. Professional Liability (Errors and Omissions)

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

under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

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

	<u>Combined Single Limit</u>
Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Non-owned and Hired Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

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

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

f. Evidence Required

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

g. Policy Provisions Required

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

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

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. CONSULTANT shall maintain such coverage continuously for a

period of at least three years after the completion of the work under this Agreement. CONSULTANT shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

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

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

h. Qualifying Insurers

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

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

i. Additional Insurance Provisions

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

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by CONSULTANT or CITY will withhold amounts sufficient to pay premium from CONSULTANT payments. In the alternative, CITY may cancel this Agreement.

(iv) The CITY may require the CONSULTANT to provide complete copies of all insurance policies in effect for the duration of the Project.

(v) Neither the CITY nor the City Council, nor any member of the City Council, nor any of CITY's officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. CONSULTANT shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the CITY that they have secured all insurance required under this section.

Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the CITY as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by CONSULTANT, CITY may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

7. Conflict of Interest. City will evaluate Consultant's duties pursuant to this Agreement to determine whether disclosure under the Political Reform Act and City's Conflict of Interest Code is required of Consultant or any of Consultant's employees, agents or subcontractors. Should it be determined that disclosure is required, Consultant or Consultant's employees, agents, or subcontractors will complete and file with the City Clerk those schedules specified by City and contained in the Statement of Economic Interests Form 700.

8. Compliance With Laws. Consultant will comply with all applicable local, state, and federal laws and regulations prohibiting discrimination and harassment and will obtain and maintain a City of Berkeley Business License for the term of this Agreement.

9. Termination. City or Consultant may terminate this Agreement at any time after a discussion and written notice to the other party, which such termination effective immediately. City will pay Consultant's costs for Services completed up to the time of termination if the Services have been completed in accordance with the Agreement.

10. Notices. Any notices relating to this Agreement shall be given in writing and shall be deemed sufficiently given and served for all purposes when delivered personally, by facsimile or by generally recognized overnight courier service, or five (5) days after deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, addressed as follows:

For City:

City of Lafayette
3675 Mt.Diablo Blvd., #210
Lafayette CA 94549
Phone No.: (925) 284-1968
Attn: Niroop Srivatsa, City Manager

For Consultant:

Shanna Bowen, President
P.O. Box 1724
Lake Arrowhead, CA 92352

Either party may change its address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

11. Claims and Lawsuits. By signing this Agreement, Consultant agrees it may be subject to civil penalties for the filing of false claims as set forth in the California False Claims Act, Government Code sections 12650, *et seq.* Consultant further acknowledges that debarment by another jurisdiction is grounds for the City of Lafayette to terminate this Agreement.

12. Venue and Jurisdiction. Consultant agrees and stipulates that the proper venue and jurisdiction for resolution of any disputes between the parties arising out of this Agreement is the Superior Court, Contra Costa County, California.

13. Assignment. Consultant may not assign this Agreement or any part of it, or any monies due or to become due under it, without the prior written consent of City.

14. Amendments. This Agreement may be amended by mutual consent of City and Consultant. Any amendment will be in writing, signed by both parties.

15. Authority. The individuals executing this Agreement and the instruments referenced in it on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions of this Agreement.

CONSULTANT:

CITY:

* By: Shanna Bowen

Printed Name: Shanna Bowen

Title: President

By: Niroop Srivatsa

Printed Name: Niroop Srivatsa

Title: City Manager

ATTEST:

By: _____
Joanne Robbins, City Clerk

APPROVED AS TO FORM:

By: _____
Malathy Subramanian, City Attorney

Exhibit A

Scope of Work

Create a Plan of Action using:

- Traditional Media: press coverage, direct mail
- Digital Media: social media platforms, email
- In-person community engagement

Tasks/Deliverables:

- Work with key Staff and Electeds (as authorized by CM) to attain relevant information, and to identify and develop topics
- Provide insights on benchmark poll results, and situational context of CA/Bay Area matters that might impact potential measure (economy, other ballot measures, etc.)
- Create (and update as needed) a messaging toolkit:
 - Talking points for Staff/electeds
 - Slide deck for City presentations (for in-person town halls, speaker's bureau and online livestreams)
 - FAQ (updated regularly)
 - Webpage content (updated monthly or as needed)
 - E-newsletter/Email blast content (bi-weekly)
 - Social media content (written message, graphics/images including Alt text caption, and short videos)
 - Press Release content
 - Printed Newsletter and/or mailer content
- Monitor social media, create content, work with staff to respond to questions, provide monthly analytics
- Cooperate with other depts who have their own social media accounts
- Help develop materials for in-person town halls, speaker's bureau and online livestreams
- Direct questions to an email; monitor that email account; draft responses and send City-approved responses with goal of 24-48 hour response time; keep record
- Collaboratively identify community-related events (both budget-specific City-hosted and events where city is a participant) and help develop/update collateral materials for events
- Identify topics for short informational videos
- Provide ideas for engaging with community stakeholders
- Provide advice for ballot measure preparation, including ballot measure language (to be reviewed by City Attorney)
- Review staff reports and other ballot measure documents such as presentation to City Council, resolution, etc.