

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made on December 19, 2023, by and between Imperium Consulting Group, LLC (herein referred to as “Imperium”) and (“Contractor) and the City of Santa Maria, a California Municipal Corporation and charter city (“City”), in Santa Maria, California, based on the following recitals:

WHEREAS, the City has determined it is in the City’s interest to proceed with the work hereinafter described as “Project”; and

WHEREAS, the City requires additional services to work with FEMA and Insurance Brokers for reimbursement of funding for damages to City facilities and roads caused by the December 22-January 2023 DR-4683-CA atmospheric river event;

WHEREAS, City does not have available employees to perform the specialized services for the Project;

WHEREAS, Contractor will assist the City in preparing, quantifying, and submitting all property insurance claims, as well as FEMA Public Assistance claims, pertaining to the DR-4683-CA atmospheric river event of December 2022-January 2023.

WHEREAS, Contractor is qualified, willing, and able to perform the work required by the City to complete the project within the budget of not to exceed \$217,960.75 and reserve Contractors right if substantial changes arise in relation to Contractor’s scope of work upon engagement with City to propose revisions of contract value amount with City.

NOW, THEREFORE, IT IS AGREED:

1. **Recitals true.** The above recitals are true.

2. **General.**

2.01. Term and Termination. The term of this contract is December 31, 2025, beginning on the date first written above. This contract may be extended by mutual consent of the parties. This contract may be terminated for breach of its terms or conditions, or because of discovery of any act which violates local, state or federal law. Termination is effective 14 days after deposit of notice as specified in this Agreement.

2.02. Services to be Performed. Contractor shall determine the method, details, and means of providing contract services. More specifically, Contractor agrees to perform the specific services listed in Exhibit “A.”

2.03 City’s Duties. City’s duties under this Agreement are to cooperate with Contractor in the performance of the contract and timely pay invoices.

2.04. Payment. Payment terms under this Agreement are listed in Exhibit “B.”

2.05. Insurance. Contractor shall provide insurance as listed in Exhibit “C.”

2.06. Exhibits. Exhibits “A,” “B,” and “C” are attached and incorporated.

3. **Contractor’s Obligations.**

3.01. Minimum Amount of Service. Contractor shall devote sufficient time to perform services under this agreement efficiently and effectively. Contractor may represent, perform services for and be employed by additional individuals or entities, in Contractor’s sole discretion, as long as the

performance of these extra-contractual services does not interfere with or present a conflict with City's business.

3.02. Tools and Equipment. Except as otherwise stated in this Agreement, Contractor will supply all tools and equipment necessary to perform this Agreement.

3.03. Status. Contractor (including its employees) is an independent contractor. No employer/employee relationship exists between Contractor and the City. Contractor's assigned personnel shall not be entitled to any benefits payable to employees of the City. The City is not required to make any deductions or withholdings from the compensation payable to Contractor under this agreement.

3.04. Indemnification. To the fullest extent permitted by law, the Contractor shall indemnify, defend (with independent counsel approved by the City) and hold harmless the City, and its directors, officers, and employees from and against all liabilities (including without limitation all claims, losses, damages, penalties, fines, and judgments, associated investigation and administrative expenses, and defense costs, including but not limited to reasonable attorneys' fees, court costs and costs of alternative dispute resolution) regardless of nature or type that arise out of, pertain to, or relate to the negligence, reckless, or willful misconduct of the Contractor or the acts or omissions of an employee, agent or subcontractor of the Contractor. The provisions of this paragraph survive completion of the services or the termination of this contract. The provisions of this Section are not limited by the provisions of the Section relating to insurance.

4. Miscellaneous

4.01. Notices. All communication relating to the day-to-day activities of this Agreement shall be exchanged between a designated representative of the CITY and a representative of CONTRACTOR, listed below. All notices shall be addressed as follows unless a written change is filed with the City:

To City:
Attn: Mellissa Guerrero
110 East Cook Street
Santa Maria, CA 93454

To Contractor:
Attn: Frank Russo
101 Park Avenue, 19th Floor
New York, NY 10178

If the designated Representative or address of either party changes during the term of this agreement, a written notice shall be given to the other party prior to the effective date of change. Any written notices required under this agreement shall be effective five (5) days after deposit into United States mail, postage prepaid, addressed to the designated Representative, or upon confirmation of receipt of delivery if another notification process is used.

4.02. Compliance With Laws, etc. Contractor shall comply with all laws, including but not limited to the rules and policies of the City, in performing this agreement.

4.03. Integration. This agreement constitutes the entire agreement of the parties with respect to the subject matter. All modifications, amendments, or waivers of the terms of this agreement must be in writing and signed by the appropriate representatives of the parties.

4.04. Interpretation. This agreement shall be interpreted in accordance with the laws of the State of California.

4.05. Jurisdiction. Jurisdiction and venue of all disputes over the terms of this agreement shall be in the County of Northern Santa Barbara, State of California.

4.06. Warranty of authority. Each person signing this agreement on behalf of a party warrants that he or she has authority to do so.

4.07. No Waiver. Failure to enforce with respect to a default shall not be construed as a waiver.

4.08. Severability. The provisions of this agreement are severable. If any part of this agreement is held invalid by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect unless amended or modified by mutual written consent of the parties.

4.09. Submittals. In addition to any other submittals required by this agreement, Contractor shall submit copies of its current business license and current certificate of workers compensation coverage to the City before beginning work on this project.

4.10 Prevailing Wage. Prevailing Wage. If applicable, Contractor and all subContractors are required to pay the general prevailing wage rates of per diem wages and overtime and holiday wages determined by the Director of the Department of Industrial Relations under Section 1720 et seq. of the California Labor Code. The Director's determination is on file and open to inspection at www.dir.ca.gov and is referred to and made a part hereof; the wage rates therein ascertained, determined and specified are referred to and made a part hereof as though fully set forth herein.

IN WITNESS WHEREOF, this agreement is executed by the parties on the date first written above.

IMPERIUM CONSULTING GROUP, LLC
a New York limited liability company

CITY OF SANTA MARIA, a political
subdivision of the State of California

Frank Russo
Managing Director

Alice Patino
Mayor

ATTEST:

Sarah Lansburgh
Chief Deputy City Clerk

APPROVED AS TO FORM:

Risk Manager

City Attorney

EXHIBIT "A"

SERVICES TO BE PERFORMED

This letter (the "Engagement Letter") and the accompanied Standard Terms and Conditions confirms the understanding and agreement between Imperium Consulting Group, LLC ("Imperium") and the City of Santa Maria. ("Client"), whereby you have retained Imperium to provide Claim Preparation and Presentation Services for multiple damaged facilities in and around the City of Santa Maria, California ("Project").

Outline of Imperium's Planned Approach

Our approach to assist with quantifying the loss and facilitating the claim submission process is expected to include the following steps:

- Develop an understanding of the Project and extent of the Loss through discussions with the Project team;
- Develop an understanding of the cost accounting, record keeping and other financial and project management processes that have been used to support the Project;
- Document Review: request and review documentation related to the Project, including cost and invoice records, contracts, correspondence, and other Project records;
- Prepare claim documentation for submission to the insurance carrier/FEMA, including supporting schedules, contemporaneous invoices, and cost reports, among other relevant records;
- Respond to any inquiries by the FEMA representatives / insurance carrier or its consultants/adjuster(s) regarding the quantification and documentation of the Loss.

Deliverables

Along with the steps identified above, Imperium will prepare and provide the following deliverables:

- Preliminary ROMS, cost workbooks and cost assessments for both Insurance and FEMA claim submissions;
- Recommended accounting and project management practices to document the Loss;
- Final claim submission documents, including a claim narrative to accompany all financial claim analysis;
- Data Visualization demonstrating the costs and analysis in a management view and in a format to support the Client's insurance claim submission;
- Responses to Requests for Information (RFI) directed to us by Client or representatives of FEMA or the insurance carrier; and
- Other deliverables as may be requested by and agreed with Client.

EXHIBIT "B"

PAYMENT

I. Project Authorization

A. Written authorization to proceed from the City authorizes the Contractor to generate the not-to Exceed cost of TWO HUNDRED AND TWENTY THOUSAND DOLLARS (220,000) in fees for all Work.

IMPERIUM CONSULTING GROUP (ICG)			
Insurance & FEMA Claim Preparation (DR: 4683)			
CLIENT: CITY OF SANTA MARIA, CA			
Tuesday, September 5, 2023			
Budget Category	Phase 1	Phase 2	Total Estimate
Insurance Claim Preparation	\$ 67,770.56	\$ 60,768.00	\$ 128,538.56
FEMA Public Assistance Management Costs	23,856.19	64,566.00	88,422.19
Expenses	500.00	500.00	1,000.00
Total Estimated Budget	\$ 92,126.75	\$ 125,834.00	\$ 217,960.75

II. Invoice Procedure

A. Our professional fees are based on the hourly rates of the colleagues assigned to the engagement. Our hourly rates by professional level are below. They are in US dollars.

<u>Professional</u>	<u>Rate</u>
Managing Director	\$395
Senior Director	\$375
Director	\$325
Senior Manager	\$275
Manager	\$250
Senior Consultant	\$225
Consultant	\$195
Analyst	\$150

Imperium will invoice professional fees and out-of-pocket expenses on a monthly basis. Our invoices will include a time detail of the work performed, by colleague, where the hours will be segmented by task. Additionally, a percentage fee of 4.75% will be included with each invoice for administrative costs.

We will invoice professional fees and out-of-pocket expenses monthly. Our invoices will include a time detail of the work performed, by colleague, where the hours will be segmented by task. Our practice is to avoid “block billing” by day and provide an incremental recording rounded down to the nearest quarter of an hour. Reimbursable expenses include reasonable travel related, reproduction, and other engagement-related costs.

EXHIBIT "C"

INSURANCE REQUIREMENTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his/her agents, representatives, or employees. If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or higher limits maintained by the Consultant.

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), including products and completed operations, property damage, bodily injury and personal & advertising injury.
2. Insurance Services Office Business Auto Coverage Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, covering hired (Code 8) and non-owned autos (Code 9).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Errors and Omissions liability insurance appropriate to the Consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

B. Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability - \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability - \$1,000,000 per accident for bodily injury and property damage.
3. Workers' Compensation: Statutory limits.
4. Employer's Liability - \$1,000,000 per accident for bodily injury or disease.
5. Errors and Omissions Liability - \$1,000,000 per occurrence or claim, \$2,000,000 aggregate.

C. Self-insured Retentions

Self-insured retentions must be declared to and approved by the City. The City may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration and defense expenses within the retention.

D. Other Insurance Provisions

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

1. The City, its officers, officials, employees and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Consultant including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form or an endorsement to the Consultant's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38 **and** CG 20 37 forms if later revisions are used).
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled or reduced, except with notice **stating the title of this contract** to the City. **All notices provided pursuant to this Agreement shall be given to the City representative listed for notice in this agreement and shall specify the title of this Agreement.** Notice may be given by overnight mail, facsimile with confirmation of receipt, or certified mail with return-receipt requested.
4. Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.
5. If any of the required policies provide claims-made coverage:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. 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 Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

E. Acceptability of Insurers

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

F. Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

G. Special Risks or Circumstances

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