

REQUEST FOR PROPOSALS
On-Call Traffic Signal Services
CITY OF ALAMEDA

September 9, 2015

Important Dates:

Proposal Due Date: September 21, 2015 by 2 p.m.
Review by City Staff: Week of September 21
Award of Agreement: October 2015
Projected Agreement Start Date: October 2015

Contact:

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I. INTRODUCTION

The City of Alameda (hereinafter "City") is inviting qualified, licensed General Contractors to submit a Request for Proposal (RFP) for "On-Call Traffic Signal Services". This contract will be administered by the Public Works Department which will receive proposals in the office of the Public Works Department located at 950 West Mall Square, Room 110, Alameda, CA 94501, up to the hour of 2:00 pm on September 21, 2015.

License(s) required: A, B, C-7, C-8, C-10, C-12, C-20, C-21, C-27, or C-42.

A. Background.

The City's Public Works Department currently operates and maintains 87 traffic signals, nine sets of flashers, 12 lighted crosswalk, three Dynamic Message Signs (DMS) signs, seven vehicle detection system (VDS), five PTZ camera, 12 speed feedback signs, and two Solar powered Rectangular Rapid Flashing Beacon located throughout the City.

The City is requesting an RFP for on-call traffic signal services to install traffic calming devices, upgrade existing traffic control devices, install traffic hardware and equipment, upgrade signals, upgrade lighted crosswalks, flashing beacons, and other traffic related signal items as needed.

B. Current Operations

The City's Traffic Signal Services are directed by the Public Works Department. The Director of Public Works supervises the overall operations within the Department and his authorized representative manages the traffic signal operations and installation services contracts. The City currently performs its own basic preventive maintenance,

C. Purpose of Request

The City desires to obtain the services of a qualified, licensed general contractor to perform on-call traffic signal services on an as-needed basis to install traffic calming devices, traffic signal installation, and modification to existing signals. Project may involve minor street and sidewalk repair, curb ramps, intelligent transportation systems, streetscape elements, pavement marking, signage, and other transportation related issues.

The selected Contractor will be required to have qualified traffic signal technicians that have demonstrated experience in traffic signal systems and priority control systems. The Contractor's assigned personnel should also have the ability to troubleshoot and diagnose problems with all our operation systems. The project manager must have knowledge with traffic signal operations as well as the on-call technicians be experienced for at least three (3) years.

II. SCOPE OF SERVICES

Attached as Exhibit A is the Scope of Services listing major work tasks that may be requested. The City's usage of the contractor's services are on an as-needed basis so that if the demand is not there, then the services will not be requested. For each on-call service request, the contractor and the City will agree upon the specific scope of work and cost for that project. The City has the right to retain other contracting firms at its sole discretion when the City believes there will be an economic or other significant advantage for doing so. Services for each contract will be provided on a negotiated fee basis, per work order. No minimum amount of work is guaranteed under these agreements. Compensation will be based on time and materials with a not-to-exceed limit agreed upon by both Contractor City before work begins.

III. PROPOSAL FORMAT AND CONTENT

All proposals shall include the following information, using the same format and sequence.

A. Cover Letter

A brief cover letter summarizing key points of the proposal that must be signed by an individual with authority to bind the Contractor and should state all conditions proposed are valid for a period of at least ninety (90) days.

B. Background and Approach

The Contractor should demonstrate his/her understanding of the needs of the City in this situation and the objectives of the work proposed. Include the approach for delivering the on-call traffic signal services being proposed to best meet the objectives of the City.

C. Methodology and Scope of Work

Describe the methodology the Contractor would use in meeting the City's needs. Detail the services to be provided along with the specific tasks, levels of service, performance criteria, standards, etc. that will be included as part of the services to be included on the project. See Scope of Services (Exhibit "A").

D. Company Profile and Organization

General company information including number of employees, location of company headquarters and branch offices, number of years in business and organization, disciplines and staffing. Identify the office for this project and related experience in the area.

Include adequate documentation on the financial status of the firm to ensure that the firm will continue in business through the period of the contract and can finance the costs of adequate personnel and support requirements.

E. Organization and Project Team

Provide appropriate organization charts showing all proposed staff and Contractors and their relationships with the proposed operations. Identify the designated on-site lead worker/foreman and other personnel assigned to the City. Be prepared to provide resumes for key team members as well as those personnel assigned to the City.

F. References

Describe recent similar experience, supplying the name of the governmental/municipal client or reference, a contact person with an address and telephone number, key team members and the coordinator. It is expected that at least three (3) governmental/municipal client references will be listed. The City reserves the right to contact any of the listed references at any time and to make any other reasonable investigation into the Contractor's background and experience.

G. Acceptance of Conditions and Agreement

Provide a statement offering the Contractor's acceptance of all conditions listed in this RFP. Also, provide a statement from your insurance agency offering acceptance of all the conditions and requirements listed for insurance and with a clear statement that proof of these insurance requirements can be met and will be provided within ten (10) days of award of the contract.

H. Promotional Material and any Other Information

The Contractor may include a reasonable amount of promotional material about the firm and any other information that the Contractor believes important for consideration as part of their proposal so long as the total number of pages is within the limit specified in this RFP.

I. Compensation Schedule

The proposed compensation schedule shall be provided as outlined in Exhibit "B". All costs associated with each line item (including labor, materials, traffic control or any other costs associated with the safe and efficient means to complete each task) shall be included in the cost. Any hourly rates/costs shown in the compensation schedule must reflect the fully "loaded" hourly rate or cost for any positions, crews, and/or equipment, materials or traffic control which may be involved in the contract.

A completed compensation schedule as included in Exhibit "B" must be submitted with this proposal. Any proposal without a completed compensation schedule will be rejected as non-responsive. No changes to this schedule will be allowed without a written proposal (identifying the change and the reasons necessitating the change) submitted to the City and an official written approval by the City.

J. General Information

1. The City shall not be liable for any pre-contractual expenses incurred by any Contractor, nor shall any Contractor include any such expenses as part of the proposed cost. Pre-contractual expenses include any expense incurred by a Contractor prior to the date of an executed contract, such as the cost of preparing and submitting a proposal and negotiating any terms with the City.
2. The City reserves the right to withdraw this RFP at any time without prior notice and to reject any or all proposals submitted without indicating any reasons therefore. Any award of a contract for services will be made to the Contractor best qualified and responsive in the opinion of the City.
3. The City reserves the right to negotiate special requirements and proposed service levels using the selected proposal as a basis. Compensation for services will be negotiated with the selected Contractor.
4. The City reserves the right to review and approve the qualifications of the Contractor's employees or any subcontracted firms or persons. Substitutions of any personnel are subject to the City's approval, and unapproved substitutions are considered sufficient grounds for termination of the contract.
5. Every reasonable effort will be made to maintain the stability and continuity of staff assignments. The City shall be notified when considering personnel changes. Review and approval of any proposed new personnel assigned to the City shall be obtained from the City prior to actual assignments.
6. All questions related to this RFP are to be submitted in writing for response by the City. Questions along with the City's response will be distributed to all firms requesting the RFP by the due date.

K. Subcontracting

The Contractor may utilize the service of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors. Unless a specific Subcontractor is listed by the Contractor, Contractor is representing to City that Contractor has all appropriate licenses, certifications, and registrations to perform the work hereunder.

After submission of his/her proposal, the Contractor shall not award work to any unlisted Subcontractor(s) without prior written approval of the City. The Contractor shall be fully responsible to the City for the performance of his/her Subcontractors, and of persons either directly or indirectly employed by them. Nothing contained herein shall create any contractual relation between any Subcontractor and the City.

IV. SELECTION PROCESS

A. Qualifications.

The proposals received by the submission date will be evaluated by the City on the basis of their responsiveness to this RFP. The City reserves the right to establish, add, delete or modify criteria by which the proposals will be evaluated and to weigh the criteria according to the City's priorities.

B. Selection Criteria.

Generally, the criteria will include, but not be limited to:

- The Contractor's demonstrated understanding of the needs of the City.
- The Contractor's responsiveness to the specific needs of the City.
- The Contractor's local experience, expertise and knowledge particular to the City's needs in providing services of a similar nature.
- The methodology for carrying out the tasks described in the proposal.
- Location of Contractor's office/operations yard and anticipated response time.
- The skills, education and experience of personnel on the Contractor's staff.
- The proposed organization structure of the project team.
- The Contractor's financial stability.
- The Contractor's time in business as a company.
- References.
- Cost.

Those Contractors considered most responsive to this RFP may be requested to attend at least one interview with the City. The City may determine that a selection can be made without conducting interviews.

C. Proposed Selection and Project Schedule.

Proposal Due Date: September 21, 2015 by 2 p.m.
Review by City Staff: Week of September 21
Award of Agreement: October 2015
Projected Agreement Start Date: October 2015

D. Award of Contract.

It is anticipated that any award of an agreement for services will be made by the City Manager.

This agreement may be mutually amended on a year-by-year basis, for up to four (4) additional years, based on satisfactory performance of all aspects of this contract. The Public Works Director may submit written notice that the contract is to be extended at the same terms and costs (plus an annual increase to the Consumer Price Index for the San Francisco Bay Area appropriate to the trades associated with the work as reported in the *Engineering News Record* (ENR), for the previous calendar year) as the existing contract, except as provided herein.

V. PROPOSAL DUE DATE AND DELIVERY

Proposals should be limited to thirty (30) pages (including cover letter and excluding the required attachments of: Agreement, Compensation Schedule and Workman's Compensation/Insurance Statement).

Three (3) copies of the proposal shall be presented in a sealed envelope bearing the name, address and telephone number of the individual or entity submitting the proposal. The envelope shall be clearly marked with "**Request for Proposal for On-Call Traffic Signal Services**". Submit envelope no later than the time listed below. All copies received by that time will be date and time stamped. Proposals **will not** be accepted after this time:

2:00 PM on September 21, 2105

Any proposals received after 2:00 p.m. on September 21, 2015 will be returned unopened.

Proposals should be submitted by mail, delivery service, or hand delivery to the address listed below. FAXed or emailed proposals will not be accepted. Emailed proposals will not be accepted.

**Mr. Virendra Patel
CITY OF ALAMEDA
PUBLIC WORKS DEPARTMENT
950 West Mall Square, Room 110
ALAMEDA, CA 94501**

VI. RIGHT TO REJECT ALL PROPOSALS

The City reserves the right to reduce or revise elements of the scope of work, or to amend or modify the Contractual requirements and to reject any and all proposals submitted. No representation is made hereby that any contract will be awarded pursuant to this RFP or otherwise. All costs incurred in the preparation of the proposal, in the submissions of additional information and/or in any other aspect of a proposal prior to the award of a written contract will be borne by the Contractor.

All proposals submitted to the City in response to this RFP shall become the property of the City.

All correspondence with the City, including responses to this Request for Proposals, will become the exclusive property of the City and will become public records under the California Public Records Act. All documents submitted in response to this Request for Proposals will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement. During the selection process, until a firm is selected the City will not disclose proposals, except as otherwise required under applicable law. This means that, depending on the nature of timing of the request, or future court decisions, that information may not remain private and may be publicly disclosed. Rates for services are not considered confidential or proprietary and are subject to disclosure.

VII. CONDITIONS OF REQUEST

A. General Conditions.

The City reserves the right to cancel or reject all or a portion or portions of the request for proposal without notice. Further, the City makes no representations that any agreement will be awarded to any organization submitting a proposal. The City reserves the right to reject any and all proposals submitted in response to this request or any addenda thereto.

Any changes to the proposal requirements will be made by written addendum.

B. Liability of Costs and Responsibility.

The City shall not be liable for any costs incurred in response to this request for proposals. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Alameda.

The selected Contractor will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected Contractor will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

C. Validity.

The Contractor agrees to be bound by its proposal for a period of ninety (90) days commencing September 21, 2015, during which time the City may request clarification or correction of the proposal for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the proposal, but only that portion so amended or clarified.

D. Standard Contractor Agreement.

A sample consultant agreement has been provided in the Appendix for the Contractor's review and comment. If a Contractor wishes to take exception to any of the terms and conditions contained in the consultant agreement, these should be identified specifically; otherwise it will be assumed that the Contractor is willing to enter into the agreement as it is written. Failure to identify contractual issues of dispute can later be the basis for the City disqualifying a Contractor. Any exceptions to terms, conditions, or other requirements must be clearly stated. Otherwise, the City will consider that all items offered are in strict compliance with the RFP, and the successful Contractor will be responsible for compliance. The City will consider such exceptions as part of the evaluation process which may constitute grounds for rejection of the proposal. The contractor agreement will not be executed by the City without first being signed by the Contractor.

E. Permits and Licenses.

Contractor, and all of Contractor's sub-consultants, at its and/or their sole expense, shall obtain and maintain during the term of any agreement, all appropriate permits, certificates and licenses including, but not limited to, a City of Alameda Business License which will be required in connection with the performance of services hereunder.

F. Oral and Written Explanations.

The City will not be bound by oral explanations or instructions given at any time during the review process or after the award. Oral explanations given during the review process and after award become binding when confirmed in writing by an authorized City official. Written responses to question(s) asked by one contractor will be provided to all contractors who received Requests for Proposals.

G. Contractor's Representative.

The person signing the proposal must be a legal representative of the firm authorized to bind the firm to an agreement in the event of the award.

H. Department of Industrial Relations Compliance and Prevailing Wage Requirements on Public Works Projects

1. Effective January 1, 2015, no Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>

2. No Contractor or Subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

3. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

4. The Prime Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

5. Effective April 1, 2015, All Contractors and Subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>

6. See attached sample contractor agreement for Hours of Labor, Certified Payroll, Apprentices, Labor Discrimination, and Registration of Contractors.

I. Insurance

General Liability, Automobile, Professional Liability, and Worker's compensation insurance are required in the amount set forth in the attached sample consultant agreement.

EXHIBITS:

- A. Scope of Services
- B. Contract Unit Price Schedule of On-Call Traffic Signal Services
- C. Standard Contractor Contract

EXHIBIT "A"

SCOPE OF SERVICE

1. TECHNICAL SERVICES

The Contractor will be required to provide the City with certified personnel, vehicles and equipment, and materials as necessary to maintain the City's traffic signals and related equipment.

The Contractor will be required to provide following services on an as needed, on-call basis:

- Installation of traffic calming devices, traffic signals, traffic signal modifications, signal interconnect
- Underground conduits and other electrical, foundation for signal systems, including solar and low voltage systems
- Intelligent Transportation Systems implementation, maintenance services, procurement, and system integration
- Upgrade existing in-pavement warning light
- underground utilities
- excavation
- concrete sidewalks and curb ramps
- pedestrian pathways
- bicycle and pedestrian facilities
- streets, sidewalks, and streetscape elements including bulb outs, curb, gutter, median islands and lighting

Above work shall be performed by qualified personnel that meet or exceed the following qualifications:

Upon request, the Contractor shall submit names of all certified staff members, along with a copy of their certificates, to the Engineer.

All technicians shall be equipped with hydraulic lift (bucket) trucks while performing work in the City. The hydraulic lift trucks shall be capable of reaching a height for the technician/operator to perform work on safety lighting, and mast-arm mounted signal indications. The Contractor may offer alternatives to existing equipment to meet the changing demand as it occurs, when directed by City.

2. UNDERGROUND SERVICE ALERT (DIG ALERT) MONITORING

The Contractor will be required to adequately mark all traffic signal conduits, traffic signal interconnect/communication lines, and equipment as well as street lights on behalf of the City in accordance with the California Government Code Section 4216 et

seq. The City's designated representative will monitor notifications submitted by Underground Service Alert (USA) to the City, and will furnish applicable notifications to a representative of the Contractor to coordinate the marking of any signalized intersections that may be scheduled for construction work or excavations as evidenced by notification from USA. The Contractor shall establish a process for monitoring and tracking the marking of any affected intersections; an Intersection Record Log shall be created, with the USA notification and corresponding action noted in the controller, with a copy provided to the City. The Contractor shall assume all liability for satisfying the City's obligations to adequately identify underground structures in accordance with this law.

Compensation for providing USA – Dig Alert services identified above will be paid at a flat rate per occurrence in accordance with the Cost Proposal, Exhibit B, included in this Solicitation and completed and returned by the Contractor in its Proposal. **No additional or separate payment will be made for daily travel time from the Contractor's base of operations to the City.**

3. UPGRADES

Upgrade work may include but is not limited to the following:

- Replacement of existing non-operative equipment as needed;
- Enhancing equipment as needed or warranted;
- Installation of new controller equipment, signal cabinets, signals heads, new and related wiring;
- When requested by the City, install, modify or upgrade traffic signals or electrical or mechanical traffic control or traffic safety devices;

No upgrade work shall be commenced or undertaken unless authorized by the City. Said authorization is a condition precedent to receiving any reimbursement for upgrade work. Work shall be performed in accordance with the Standard Plans (current) and Section 86 of the Standard Specifications (current) for the State of California Department of Transportation and the City of Alameda special provisions. This work shall be performed within a time limit established by the City and for a mutually agreed upon price.

City will retain the right to perform any additional work by use of City forces or, in the alternative, to advertise such work for bids.

4. NEW TRAFFIC SIGNALS

The Contractor shall be required to coordinate with the City's designated representative on any new traffic signals installed by another Contractor under contract with the City ("City Installed Traffic Signal"), or by another Contractor under contract with a private party ("Developer Installed Traffic Signal"). The City shall assume all responsibility for

coordinating construction inspection of new traffic signals, whether a City Installed Traffic Signal or a Developer Installed Traffic Signal, up to, but prior to, final acceptance of work and traffic signal activation. When requested by the City, the Contractor shall coordinate with the City's designated representative when notified that a new traffic signal is to be activated. The Contractor shall participate in a walk-through of the new traffic signal improvements with the City's designated representative to determine that the new traffic signal improvements will function as designed. When scheduled, the Contractor shall attend the traffic signal activation, and shall participate in confirming that all components of the new traffic signal improvements are operational with the City's designated representative and the installing Contractor.

Compensation for reviewing new traffic signals as identified above will be paid at the hourly labor rates, and vehicle and equipment rates, in accordance with the Cost Proposal, Exhibit "B" included in this RFP and completed and returned by the Contractor in its Proposal.

5. WARRANTY SERVICES

During the period of warranty, the Contractor will be required to coordinate all communication between manufacturer, installing Contractor and the City regarding any warranty service; and to notify the City of any undue delays in response by the manufacturer or installing Contractor and details of each incident.

No additional, or separate, compensation shall be paid for warranty service work, which shall be considered as included in the compensation paid for services provided in relation to "Upgrade Work" or "Traffic Signal Inspection".

6. CONSULTATION

The Contractor shall designate representatives in the organization, one of whom shall be available at all times to the Engineer for consultation at no added expense to the City. This consultation shall consist of cost estimates for traffic signal repairs, accident damage repairs and replacement of obsolete or deteriorated equipment, explanations of functional capabilities and operational characteristics of the signal systems and recommendations on anticipated changes to the signal systems.

EXHIBIT "B"

CONTRACT UNIT PRICE SCHEDULE OF ON-CALL TRAFFIC SIGNAL SERVICES

| Item No. | Item Description | Unit of Measure | Cost |
|----------|---|-----------------|------|
| 1 | Install 6'X6' detector loop (type A) | Each | |
| 2 | Install 6'X6' detector loop (type D) | Each | |
| 3 | Install Type C detector loop | Each | |
| 4 | Furnish and Install 1A pole with new foundation | Each | |
| 5 | Furnish and Install 1A pole on existing foundation | Each | |
| 6 | Furnish and Install Pedestrian Push Button post and 2" push button on existing foundation | Each | |
| 7 | Furnish and Install Pedestrian Push Button post and 2" push button on new foundation | Each | |
| 8 | Furnish and Install three section 12" signal heads with framework, backplates | Each | |
| 9 | Furnish and Install LED pedestrian countdown module | Each | |
| 10 | Install traffic signal cabinet | Each | |
| 11 | Install traffic calming devices | Lump sum | |
| 12 | Upgrade existing traffic signal system | Lump sum | |
| 13 | Install service pedestal | Each | |
| 14 | Underground Service Alert - USA requests | Each | |
| 15 | Test traffic signal cabinet | Each | |
| 16 | Assist with new traffic signal turn on | Hour | |
| 17 | Percent Markup on materials | Percent | |

| <u>Labor:</u> | <u>Regular Time Per Hour</u> | <u>Overtime Per Hour</u> |
|---------------------------------------|---|-------------------------------------|
| Traffic Signal Maintenance Supervisor | \$ _____ | \$ _____ |
| Traffic Signal Technician I | \$ _____ | \$ _____ |
| Traffic Signal Technician II | \$ _____ | \$ _____ |
| Traffic Signal Laborer | \$ _____ | \$ _____ |
| Traffic Signal Apprentice | \$ _____ | \$ _____ |
| Trainer | \$ _____ | \$ _____ |
| Other _____ | \$ _____ | \$ _____ |
| Other _____ | \$ _____ | \$ _____ |

| <u>Equipment:</u> | <u>Rate Per Hour</u> |
|---------------------------|-----------------------------|
| Pickup Truck | \$ _____ |
| Service Truck | \$ _____ |
| Service/Ladder Truck | \$ _____ |
| Boom/Ladder Truck | \$ _____ |
| Water Truck | \$ _____ |
| Concrete Saw and Truck | \$ _____ |
| Air Compressor with Tools | \$ _____ |
| Crane | \$ _____ |
| Bucket Truck | \$ _____ |

EXHIBIT C

CONTRACTOR AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____ 2015, by and between CITY OF ALAMEDA, a municipal corporation (hereinafter referred to as "City"), and **COMPANY NAME**, a (California corporation, partnership, sole proprietor, individual) whose address is _____ (hereinafter called the "Contractor"), in reference to the following:

RECITALS:

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of a contractor to perform on-call traffic signal services. On _____, a Request for Proposal (RFP) was sent out to _____ firms. After a bidding period of 10 days, _____ proposals were received. The proposals were reviewed by City staff and the lowest responsive, responsible bid was selected in accordance with Administrative Order No. 5.
- C. Contractor possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. City and Contractor desire to enter into an agreement for on-call traffic signal services.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. **TERM:**

The term of this Agreement shall commence on the ____ day of _____ 2015, and shall terminate on the 30th day of June 2016, unless terminated earlier as set forth herein.

This agreement may be mutually amended on a year-by-year basis, for up to four (4) additional years, based on satisfactory performance of all aspects of this contract. The Public Works Director may submit written notice that the contract is to be extended at the same terms and costs (plus an annual increase to the Consumer Price Index for the San Francisco Bay Area appropriate to the trades associated with the work as reported in the *Engineering News Record* (ENR), for the previous calendar year) as the existing contract, except as provided herein.

2. **SERVICES TO BE PERFORMED:**

Contractor agrees, at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all work strictly in accordance with Specifications, Special Provisions and Plans, which Specifications, Special Provisions and Plans are hereby referred to and expressly made a part hereof with the same force and effect as if the same were fully incorporated herein. The contractor acknowledges that the work plan included in Exhibit "A" is tentative and does not commit the City to request Contractor to perform all tasks included therein.

3. **COMPENSATION TO CONTRACTOR:**

Contractor shall be compensated for services performed pursuant to this Agreement in the amount and manner set forth in Contractor's bid, which is attached hereto as Exhibit "A" and incorporated herein by this reference. Payment shall be made by checks drawn on the treasury of the City, to be taken from various funds, as budgeted for the particular project or task.

Payment will be made by the City in the following manner: On the first day of each month, Contractor shall submit a written estimate of the total amount of work done the previous month. However, the City reserves the right to adjust budget within and between tasks. Pricing and accounting of charges are to be according to the bid packet pricing, unless mutually agreed to in writing.

Payment shall be made for 95% of the value of the work completed as determined by the City. The City shall retain 5% of the value of the work as partial security for the completion of the work by Contractor. Retained amounts shall be paid to Contractor within sixty days of acceptance by the City of the project. Payment shall not be construed as acceptance of defective work. No interest will be paid to Contractor on retained funds.

Total compensation for work is not to exceed \$74,000.

Prompt Payment Of Withheld Funds To Subcontractors: The City shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the City of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the City. Any delay or postponement of payment may take place only for good cause and with the City's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor's

performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

4. **TIME IS OF THE ESSENCE:**

Contractor and City agree that time is of the essence regarding the performance of this Agreement.

5. **STANDARD OF CARE:**

Contractor agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

6. **INDEPENDENT PARTIES:**

Contractor hereby declares that it is engaged as an independent business and it agrees to perform its services as an independent contractor. The manner and means of conducting the work are under the control of Contractor, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Contractor's services. None of the benefits provided by City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Contractor, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Contractor. Payments of the above items, if required, are the responsibility of Contractor.

7. **IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Contractor assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Contractor shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Contractor.

8. **NON-DISCRIMINATION:**

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Contractor agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Contractor or Contractor's employee on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Contractor agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS:**

Contractor shall indemnify, defend, and hold harmless City, its City Council, boards, commissions, officials, employees, and volunteers ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to Contractor's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Contractor, Contractor shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Contractor. However, Contractor shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

10. **INSURANCE:**

On or before the commencement of the terms of this Agreement, Contractor shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 10A, B, C and D. Such certificates, which do not limit Contractor's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda by certified mail, "Attention: Risk Manager." It is agreed that Contractor shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City, its City Council, boards, commissions, officials, employees, and volunteers as additional insured shall be submitted with the insurance certificates.

A. **COVERAGE:**

Contractor shall maintain the following insurance coverage:

(1) **Workers' Compensation:**

Statutory coverage as required by the State of California.

(2) **Liability:**

Commercial general liability coverage in the following minimum

limits:

Bodily Injury: \$1,000,000 each occurrence
 \$2,000,000 aggregate - all other

Property Damage: \$1,000,000 each occurrence
 \$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above.

(3) **Automotive:**

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

| | |
|------------------------|-----------------------------|
| Bodily injury: | \$1,000,000 each occurrence |
| Property Damage: | \$1,000,000 each occurrence |
| | or |
| Combined Single Limit: | \$2,000,000 each occurrence |

B. SUBROGATION WAIVER:

Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer of said Contractor may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE:

If Contractor at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Contractor's name or as an agent of the Contractor and shall be compensated by the Contractor for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. ADDITIONAL INSURED:

City, its City Council, boards, commissions, officials, employees, and volunteers shall be named as an additional insured under all insurance coverages, except worker's compensation insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. SUFFICIENCY OF INSURANCE:

Contractor shall furnish the following bonds from a bonding company acceptable to the City Attorney. Faithful Performance Bond and Labor and Material Bond are only required for work over \$25,000. Therefore, those estimates that are under \$25,000 will not need to budget for the bond premiums and those estimates over \$25,000 will need to be sure to budget for the bond premiums.

The insurance limits required by City are not represented as being sufficient to protect Contractor. Contractor is advised to consult Contractor's insurance broker to determine adequate coverage for Contractor.

11. **BONDS:**

Contractor shall furnish the following bonds from a bonding company acceptable to the City Attorney:

A. **Faithful Performance:**

A bond in the amount of 100% of the total contract price guaranteeing the faithful performance of this contract, and

B. **Labor and Materials:**

A bond for labor and materials in the amount of 100% of the total contract price.

12. **PROHIBITION AGAINST TRANSFERS:**

Contractor shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Contractor from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Contractor.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Contractor, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Contractor is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Contractor, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. **SUBCONTRACTOR APPROVAL:**

Unless prior written consent from City is obtained, only those people and subcontractors whose names are listed in Contractor's bid shall be used in the performance of this Agreement.

Requests for additional subcontracting shall be submitted in writing, describing the scope of work to be subcontracted and the name of the proposed subcontractor. Such request shall set forth the total price or hourly rates used in preparing estimated costs for the subcontractor's services. Approval of the subcontractor may, at the option of City, be issued in the form of a Work Order.

In the event that Contractor employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general and automobile liability insurance in reasonable conformity to the insurance carried by Contractor. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

14. **PERMITS AND LICENSES:**

Contractor, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City Business License, that may be required in connection with the performance of services hereunder.

15. **REPORTS:**

Each and every report, draft, work product, map, record and other document reproduced, prepared or caused to be prepared by Contractor pursuant to or in connection with this Agreement shall be the exclusive property of City.

No report, information nor other data given to or prepared or assembled by Contractor pursuant to this Agreement shall be made available to any individual or organization by Contractor without prior approval by City.

Contractor shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

16. **RECORDS:**

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Contractor shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. **NOTICES:**

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Contractor to City shall be addressed to City at:

Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501
Attention: Virendra Patel, Acting Supervising Civil Engineer
Ph: (510) 747-7947 / Fax: (510) 769-6030

All notices, demands, requests, or approvals from City to Contractor shall be addressed to Contractor at:

Ph: / Fax:

18. **LAWS TO BE OBSERVED.**

The Contractor shall keep himself fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

19. **DEPARTMENT OF INDUSTRIAL RELATIONS COMPLIANCE AND PREVAILING WAGE REQUIREMENTS ON PUBLIC WORKS PROJECTS.**

1. Effective January 1, 2015, no Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>

2. No Contractor or Subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

3. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

4. The Prime Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

5. Effective April 1, 2015, All Contractors and Subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>

20. **HOURS OF LABOR.**

a. As provided in Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any Subcontractor on any subcontract under this Contract, upon the work or upon any part of the work contemplated by this Contract, is limited and restricted to eight (8) hours during any one calendar day and forty (40) hours during any one calendar week, except as hereinafter provided. Notwithstanding the provision hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day and forty (40) hours during any one week shall be permitted upon this public work provided that the employees' compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half (1-1/2) times the basic rate of pay.

b. The Contractor shall pay to the City a penalty of Twenty-five Dollars (\$25.00) for each worker employed in the execution of this Contract by the Contractor, or by any Subcontractor, for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one (1) calendar week, in violation of the provisions of Article 3 (commencing at § 1810), Chapter 1, Part 7, Division 2 of the Labor Code, unless compensation for the workers so employed by Contractor is not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of eight (8) hours per day.

c. Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half (1½) times the above specified rate of *per diem* wages, unless otherwise specified. Holidays shall be defined in the Collective Bargaining Contract applicable to each particular craft, classification, or type of worker employed.

21. **CERTIFIED PAYROLL.**

a. Contractor's attention is directed to California Labor Code Section 1776, which requires Contractor and any subcontractors to keep an accurate payroll record and which imposes inspection requirements and penalties for non-compliance. Certified payrolls shall be prepared and submitted weekly to the Labor Compliance Officer, Gail Carlson, Public Works Department, 950 W. Mall Square, Room 110, Alameda, CA 94501 by the Contractor and each subcontractor. Contractor is responsible for the submission of copies of payrolls by all subcontractors. Each payroll submitted shall be accompanied by a "Statement of Compliance", signed by the Contractor or subcontractor or his/her agent who pays or supervises the payment of the persons employed under the contract, and shall certify the following:

b. That the payroll for each payroll period contains the name, social security number, and address of each employee, his or her correct classification, including applicable area and group code, hourly rates of wages paid, daily and weekly number of hours worked, deductions made and actual wages paid, and that such information is correct and complete;

c. That such laborer or mechanic (including each helper, apprentice and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions; and

d. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

e. If the Contractor or a subcontractor does not work during the payroll period, a Statement of Non-Working Days must be submitted for each day not worked.

f. In the event of noncompliance with the requirements of such section after 10 Days written notice specifying in what respects compliance is required, the CONTRACTOR shall forfeit as a penalty to the CITY, \$25.00 for each calendar Day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

22. **APPRENTICES.**

a. Attention is directed to the provisions in sections 1777.5 and 1777.6 of the Labor Code concerning the employment of apprentices by the Contractor or any subcontractor under him on contracts greater than \$30,000 or 20 working days. The Contractor and any subcontractor under him shall comply with the requirements of Sections 1777.5 and 1777.6 in the employment of apprentices.

b. Section 1777.5 requires the Contractor or subcontractor employing workers in any apprenticeable occupation to apply to the joint apprenticeship committee nearest the site of the public works project, and which administers the apprenticeship program in that trade, for a certificate of approval, if they have not previously applied and are covered by the local apprenticeship standards.

c. The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if: (1) the Contractor employs registered apprentices or journeymen in any apprenticeable trade on such contracts and if other contractors on the public works site are making such contributions; or (2) if the Contractor is not a signatory to an apprenticeship fund and if the funds administrator is unable to accept Contractor' required contribution. The Contractor or subcontractor shall pay a like amount to the California Apprenticeship Council.

d. Information relative to apprenticeship standards, wage schedules, and other requirements may be obtained from the Director of Industrial Relations, ex-officio the Administrator of Apprenticeship, San Francisco, California, or from the Division of Apprenticeship Standards and its branch offices.

23. **LABOR DISCRIMINATION.**

No discrimination shall be made in the employment of persons upon public works because of the race, color, sex, religion, age, national origin, sexual orientation, or physical disability of such persons and every Contractor for public works violating this section is subject to all the penalties imposed for a violation of the provisions of the Labor Code, and, in particular, Section 1735.

24. **REGISTRATION OF CONTRACTORS.**

Before submitting bids, contractors shall be licensed in accordance with the provisions of Chapter 9, Division 3, of the Business and Professional Code of the State of California.

25. **URBAN RUNOFF MANAGEMENT:**

The Contractor shall avoid creating excess dust when breaking asphalt or concrete and during excavation and grading. If water is used for dust control, contractor shall use as little as necessary. Contractor shall take all steps necessary to keep wash water out of the streets, gutters and storm drains.

The Contractor shall develop and implement erosion and sediment control to prevent pollution of storm drains. Such control includes but is not limited to:

A. Use storm drain inlet protection devices such as sand bag barriers, filter fabric fences, block and gravel filters. (Block storm drain inlets prior to the start of the rainy season (October 15), on site de-watering activities and saw-cutting activities; shovel or vacuum saw-cut slurry and remove from the site).

B. Cover exposed piles of soil or construction material with plastic sheeting. All construction materials must be stored in containers.

C. Sweep and remove all materials from paved surfaces that drain to streets, gutters and storm drains prior to rain as well as at the end of the each work day. At the completion of the project, the street shall be washed and the wash water shall be collected and disposed of offsite in an appropriate location.

D. After breaking old pavement, Contractor shall remove all debris to avoid contact with rainfall or runoff.

E. Contractor shall maintain a clean work area by removing trash, litter, and debris at the end of each workday. Contractor shall also clean up any leaks, drips, and other spills as they occur.

The objective is to ensure that the City and County of Alameda County-Wide Clean Water Program is adequately enforced. These controls should be implemented prior to the start of construction, up-graded as required, maintained during construction phases to provide adequate protection, and removed at the end of construction.

These recommendations are intended to be used in conjunction with the State's Best Management Practices Municipal and Construction Handbooks, local program guidance materials from municipalities, Section 7.1.01 of the Standard Specifications and any other appropriate documents on storm water quality controls for construction.

Failure to comply with this program will result in the issuance of noncompliance notices, citations, project stop orders or fines. The fine for noncompliance of the above program is two hundred and fifty dollars (\$250.00) per occurrence per day. The State under the Federal Clean Water Act can also impose a fine on the contractor, pursuant to Cal. Water Code §13385.

26. **COMPLIANCE WITH MARSH CRUST ORDINANCE:**

Contractor shall perform all excavation work in compliance with the City's Marsh Crust Ordinance as set forth at Section 13-56 of the Municipal Code. Prior to performing any excavation work, Contractor shall verify with the Building Official whether the excavation work is subject to the Marsh Crust Ordinance. Contractor shall apply for and obtain permits from Building Services on projects deemed to be subject to the Marsh Crust Ordinance.

27. **COMPLIANCE WITH THE CITY'S INTEGRATED PEST MANAGEMENT POLICY:**

The Contractor shall follow the requirements of the City's Integrated Pest Management (IPM) Policy to ensure the City is in compliance with its Municipal Regional Stormwater NPDES Permit, Order No. R2-2009-0074, issued by the San Francisco Bay Regional Water Quality Control Board.

- Contractor shall use the most current IPM technologies available to ensure the long-term prevention or suppression of pest problems and to minimize negative impacts on the environment, non-target organisms, and human health for the control or management of pests in and around City buildings and facilities, parks and golf courses, urban landscape areas, rights-of-way, and other City properties.
- Contractor will consider the City IPM Policy's hierarchy of options or alternatives listed below, in the following order before recommending the use of or applying any pesticide on City property: (1)
 1. No controls (e.g. tolerating the pest infestation, use of resistant plant varieties or allowing normal life cycle of weeds);
 2. Physical or mechanical controls (e.g. hand labor, mowing, exclusion);
 3. Cultural controls (e.g. mulching, disking, alternative vegetation) and good housekeeping (e.g. cleaning desk area);
 4. Biological controls (e.g., natural enemies or predators);
 5. Reduced-risk chemical controls (e.g., soaps or oils);
 6. Other chemical controls.
- Prior to applying chemical controls the contractor shall complete a checklist for the City's pre-approval that explains why a chemical control is necessary. For annual contracts that require regular application of chemical controls the

contractor shall submit one checklist prior to the initiation of the project demonstrating that the hierarchy has been reviewed and no other options exist. (Attached as Exhibit C). Additionally, the contractor shall provide documentation to the City's project manager of the implementation of the IPM techniques hierarchy described in the City's IPM Policy.

- ❑ Contractor shall avoid the use of the following pesticides that threaten water quality, human health and the environment:
 1. Acute Toxicity Category I chemicals as identified by the Environmental Protection Agency (EPA)
 2. Organophosphate pesticides (e.g., those containing Diazinon, chlorpyrifos or malathion)
 3. Pyrethroids (bifenthrin, cyfluthrin, beta-cyfluthrin, cypermethrin, deltamethrin, esfenvalerate, lambda-cyhalothrin, permethrin, and tralomethrin), carbamates (e.g., carbaryl), and fipronil
 4. Copper-based pesticides unless their use is judicious, other approaches and techniques have been considered, and the threat of impact to water quality is prevented.
- ❑ Contractor shall sign the Contractor Verification Form (if applicable to job) indicating the intent to implement the City's IPM Policy, and return a signed copy to the City's project manager.
- ❑ Contractor shall provide to the City's project manager an annual Report of all pesticide usage in support of City operations including pesticide name, active ingredient(s), target pest(s), the total amounts used and the reasons for any increase in use of any pesticide.
- ❑ Contractor shall provide a copy of any current IPM certifications(s) to the City's project manager prior to initiation of the service work.

A copy of the City's IPM Policy may be obtained from the City's project manager and is also on file with the City Clerk. *If this agreement pertains to the use of any items listed above, the Contractor will need to fill out and send in the Contractor Verification Form and Contractor Check List.*

28. **PURCHASES OF MINED MATERIALS REQUIREMENT:**

Contractor shall ensure that all purchases of mined materials such as construction aggregate, sand and gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation identified on the AB3098 List per the Surface Mining and Reclamation Act of 1975 (SMARA).

Within five days of award of contract, Contractor shall submit a report to City which lists the intended suppliers for the above materials and demonstrates that the suppliers are in compliance with the SMARA requirements. The AB3098 List is maintained by the Department of Conservation's Office of Mine Reclamation (OMR) and can be viewed at: www.conservation.ca.gov/OMR/ab_3098_list/index.htm. Note that the list changes periodically and should be reviewed accordingly.

29. **TERMINATION:**

In the event Contractor fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Contractor shall be deemed in default in the performance of this Agreement. If such default is not cured within a period of two (2) business days after receipt by Contractor from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may terminate the Agreement forthwith by giving to the Contractor written notice thereof.

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Contractor as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

30. **COMPLIANCES:**

Contractor shall comply with all applicable laws, state, federal, and all ordinances, rules and regulations enacted or issued by City.

31. **CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.) Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

32. **ADVERTISEMENT:**

Contractor shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

33. **WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein, shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

34. **INTEGRATED CONTRACT:**

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Contractor.

35. **INSERTED PROVISIONS:**

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

36. **CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

CONTRACTOR
A _____ Corporation

CITY OF ALAMEDA
A Municipal Corporation

Name
Title (President / Vice President)

Elizabeth D. Warmerdam
Interim City Manager

Name
Title (CFO, Treasurer, Assistant Treasurer)

RECOMMENDED FOR APPROVAL

Liam Garland
Acting Public Works Director

APPROVED AS TO FORM:
City Attorney

Andrico Penick
Assistant City Attorney

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES or CONTRACTORS FORM B

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE PART
SCHEDULE

Name of Person or Organization:
City of Alameda
Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501-7558



(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____
The City of Alameda, its City Council, boards and commissions, officers, employees and volunteers are additional insured for work done on their behalf by the named insured.

PRIMARY INSURANCE:
IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

SEVERABILITY OF INTEREST:
IT IS AGREED THAT EXCEPT WITH RESPECT TO THE LIMIT OF INSURANCE, THIS COVERAGE SHALL APPLY AS IF EACH ADDITIONAL INSURED WERE THE ONLY INSURED AND SEPARATELY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT.

WAIVER OF SUBROGATION:
IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO.

NOTICE OF CANCELLATION:
IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

POLICY NUMBER:

COMMERCIAL AUTO
CG 20 48 02 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

SAMPLE

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement. This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provisions of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

| | |
|------------------------|-----------------------------|
| Endorsement Effective: | Countersigned By: <hr/> |
| Named Insured: | (Authorized Representative) |

SCHEDULE

City of Alameda
Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501-7558

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____
The City of Alameda, its City Council, boards and commissions, officers, employees and volunteers are additional insured for work done on their behalf by the named insured.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

CA 20 48 02 99

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