

REQUEST FOR PROPOSALS

Transportation Planning and Engineering Services

CITY OF ALAMEDA

September 6, 2018

Important Dates:

Proposal Due Date: October 1, 2018

Selection Interviews: October 15-17, 2018

Award of Agreement: November 27, 2018

Projected Agreement Start Date: November 29, 2018

Contact:

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Public Works

City of Alameda

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- A. Scope of Services
- B. Standard Consultant Contract

I. INTRODUCTION

The City of Alameda ("City") is requesting proposals from qualified organizations to assist the City with on-call services for Transportation Planning, and Engineering Services. The City intends to issue up to three each one-year term contracts with the option to extend up to four additional years on a year by year basis for these services, to be used as the need arises. Services will be used for a variety of small and medium projects. The contracts will have the options to renew for up to four more years.

A. Background.

The City of Alameda is a charter city with a population of over 75,000 people, located in the San Francisco Bay Area. The City is mature and almost completely built out. Most of the maintenance and capital improvement program (CIP) consists of reconstruction of buildings, streets, parks, sewer, storm drainage, and shoreline improvements. The City has limited internal resources for engineering and planning services. In the past, the City has contracted with a variety of consultants to provide on-call services, and has renewed each contracts for several years. This Request for Proposal (RFP) will provide new opportunities for consultants to work with the City.

B. Purpose of the Request.

The City desires to obtain the services of one or more outside organization to help the City with all aspects of transportation planning, and engineering services on an as-needed basis. The selected organizations will provide the full range of services including transportation planning and traffic engineering.

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 consultants' 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 consultant and the City will agree upon the specific scope of work and cost for that project. The City has the right to retain other consulting firms in 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 Consultant and City before work begins.

III. PROPOSAL FORMAT

The proposal format is up to the proposer, but proposals shall include the following minimum information, in an easy to find format:

A. Description of Organization, Management and Team Members.

Provide a description of the team/consultant organization, and a work plan that identifies the personnel to be assigned to each task. The organization description should clearly identify who will be the project manager for this term contract, and the day to day contact person for the job. Include resumes of key personnel and indicate which branch office they work out of. The City expects to work with the same project manager during the entire year of the contract, but expects that the team will be tailored to the size of each individual project.

B. Organization Qualifications.

Provide an outline of the organization qualifications indicating relevant background experience and capabilities for this work. Give examples of work accomplished that is similar in size and content to the Scope of Services. If available, give examples of other on-call services contracts. If the proposing firm is likely to be using a subconsultant for the type of work discussed in the Scope of Services, provide information on the subconsultant firm and personnel likely to be used.

C. References, Related Experience and Examples of Work.

Provide client references with phone numbers for relevant work. Specify the client, location, consultant firm members and participating individuals and role on team (principal, project director, etc.), type of work, implementation results or status, examples of work, and other relevant information as needed. Show small sized, medium sized and on-call service contracts, if available.

IV. SELECTION PROCESS

A. Qualifications.

All proposals received by the due date will be evaluated by the City. Only information which is received in response to the RFP, input from references and any subsequent interview will be evaluated. The City will judge the responses of each proposing firm in several critical areas. Selected proposers may be invited to an oral interview.

B. Selection Criteria.

The City will select the most qualified proposal(s) based on the following factors. Responses to the RFP should address the qualities and indicators that are listed below:

1. Ability of the Firm to Carry Out and Manage the Proposed Project.

An assessment of the past experience of the organization in general. Qualities and indicators that will receive consideration include the number and types of projects the organization or its employees have completed; the variety and creativity of projects completed and a demonstration of the organization's ability to be responsive to the City's need for an on-call consultant, the general level of experience in the areas of supervision, observing and monitoring projects; the organization's ability to realize timetables and quality control objectives; and the demonstrated general ability to bring about a successful completion of the projects under the proposer's direction.

2. Capabilities of the Consultant Team Members.

Assessment of the capabilities of the individuals that will be engaged in the project. Qualities and indicators that will receive consideration include what professionals will be doing/working on each task; the various professional, technical, and educational achievements and registrations of each organization and individuals involved; the applicable experience of the proposed assigned staff, and the specific experience gained on similar projects.

3. Proximity to the Project Involved for the Proposer and/or Team.

The application of this criteria shall include an assessment of the geographic proximity to the project; the location of the office from which the proposed project will be administered; the perceived response time and general availability of the proposer's management to be on site; the perceived effect that project management location will have on price and the ability of the project to be expedited on a timely basis; and the availability of special travel or communication plans which would effectively mitigate difficulties associated with location. *Firms located in the City of Alameda, or who have a team member who lives in Alameda, may be given local preference.*

4. Willingness to Comply with the Proposed Agreement Terms.

A sample agreement is attached. Proposals will be rated based on the exceptions taken to the proposed contract.

5. Billing Rate

Cost, while not determinative, may be considered in the selection process. The selected firm will be expected to maintain the proposed billing rates throughout the first fiscal year of the contract, from November 29, 2018 through November 29, 2019. If the contract is extended to an additional year, the City will consider renegotiation of the billing rates.

C. Proposed Selection and Project Schedule.

Proposal Due Date: October 1, 2018
Selection Interviews: October 15-17, 2018
Award of Agreement: November 27, 2018
Projected Award of Contract: November 29, 2018
End of Fiscal Year, with option to renew: November 29, 2019

D. Award of Contract.

It is anticipated that any award of an agreement for services will be made by the City Council on the November 27, 2018 meeting.

V. PROPOSAL DUE DATE AND DELIVERY

Provide a sealed envelope, clearly marked with the RFP title, with three copies of the proposal. 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 October 1, 2018

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

Public Works, Room 110
City of Alameda
950 West Mall Square
Alameda, CA 94501
Attention: Virendra Patel, Transportation Engineer

VI. 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.

The City also reserves the right to reject any subconsultant or individual working on a consultant team and to replace the subconsultant or individual with a mutually acceptable replacement.

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 lead consultant will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected lead consultant 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 proposer agrees to be bound by its proposal for a period of ninety (90) days commencing October 1, 2018, 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 Consultant Agreement.

A sample consultant agreement has been provided in the Appendix for the proposer's review and comment. If a proposer 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 proposer 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 proposer. 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 proposer 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 consultant agreement will not be executed by the City without first being signed by the proposer.

E. Permits and Licenses.

Proposer, and all of proposer'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 proposer will be provided to all proposers who received Requests for Proposals.

G. Proposer'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. Deliverables.

Deliverables depend upon the task assigned. In general, three copies of administrative draft reports are required upon completion of each major part of the project. Following approval by the staff, three copies of each final report are required.

One unbound copy of each final document and an electronic file containing all final documents and all information are to be provided. The consultant will develop a system to assemble, organize, store and utilize data in an electronic format. At the outset of the agreement, the consultant will submit a description of the software to be used in preparation of the reports and graphics.

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. Standard Consultant Contract

EXHIBIT A

SCOPE OF SERVICES
FOR
TRANSPORTATION PLANNING, AND ENGINEERING SERVICES

The City desires to obtain the services of one or more outside organizations to assist with Transportation Planning, and Engineering Services for city planning and capital improvement projects.

Transportation Planning includes, but is not limited to, the following:

- Development of transportation policies for inclusion in General Plan, including development of a multimodal functional classification system
- CEQA environmental studies
- Data collection for all transportation modes; including but not limited to traffic counts, vehicle classification counts, parking surveys, origin-destination surveys, GPS data collection, and assessment of existing conditions
- Project prioritization
- Cost estimates (planning level)
- Public outreach – Tasks may include developing materials for the public. This may include content for the City’s web site.
- Preparation of grant applications
- Preparation of plan documents
- Bicycle facility planning and design
- Greenway planning and design
- Pedestrian facility planning and design
- Transit/paratransit planning, design and operations
- Transportation systems management/transportation demand management strategies
- Traffic calming assessment and design
- Parking surveys
- Parking permit program development
- Feasibility studies – all modes
- Developing and administering surveys, conducting analysis of results
- GPS data collection, inventory management, and GIS integration

Traffic Engineering includes, but is not limited to, the following:

- Traffic signal timing and coordination
- Traffic impact studies
- Travel demand modeling
- Corridor and intersection analysis, including operations, safety, and level of service
- Warrant studies

- Review/prepare construction detour plans
- Traffic counts – include daily counts, classification counts, and turning movement counts for all modes
- Parking studies
- Signing, marking, and striping plans
- Roadway, intersection, and roundabout design
- Technology comparisons
- Concept designs for new or existing signalized intersection slated for modification (include considerations for transit, pedestrian and bicycle movements and focus on alternatives that reduce current intersection inefficiencies)
- Traffic operations analyses and familiarity with Synchro software based on the most current HCM Methodology.
- Develop technical information for grant applications (TFCA, HES, OTS, TETAP, RSTP etc.)
- Review Countywide Transportation Model; coordinate with County's consultant and provide traffic/transportation data as required.
- Review Transportation section of an EIR

EXHIBIT B

SERVICE PROVIDER AGREEMENT

THIS SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this ___ day of November, 2018, by and between CITY OF ALAMEDA, a municipal corporation (the “**City**”), and COMPANY (a California corporation, partnership, sole proprietor, individual), whose address is ADDRESS (the “**Provider**”), 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. City requires transportation planning, and engineering services with all aspects of transportation planning and engineering services for city planning and capital improvement projects. On September 6, 2018 the City issued a Request for Proposal and reached out to the service providers on the City’s bidders list, the builder’s exchanges and posted the Request for Proposal on the City’s website. After a bidding period of 26 days ___ firms submitted proposals. City interviewed qualified firms, and selected the firm that best meets the City’s needs.
- C. Provider is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- E. City and Provider desire to enter into an agreement for transportation planning, and engineering services upon the terms and conditions herein.

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 29th day of November 2018, and shall terminate on the 29th day of November 2019, 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:

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included

in Exhibit A as requested. The Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

3. COMPENSATION TO CONSULTANT:

a. By the 7th day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit B and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or his/her designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit B.

b. The total compensation for the work under this Agreement is not to exceed **\$75,000**.

4. TIME IS OF THE ESSENCE:

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

5. STANDARD OF CARE:

Provider 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:

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider, 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 Provider'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 Provider, 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 compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Provider 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. Provider 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 Provider.

8. NON-DISCRIMINATION:

Consistent with City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Provider or Provider'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. Provider agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

a. Provider shall indemnify, defend, and hold harmless the 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 Provider'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 Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Provider. However, Provider shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

b. **Indemnification for Claims for Professional Liability Only:** As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

10. INSURANCE:

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with subsections 10A, B, C and D. Such certificates, which do not limit Provider'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 ten (10) days' advance written notice to the City of Alameda. Attention: Risk Manager."

b. It is agreed that Provider 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:

Provider 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

(4) Professional Liability:

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Provider in the following minimum limits:

\$1,000,000 each occurrence

A. SUBROGATION WAIVER:

Provider 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, Provider shall look solely to its insurance for recovery. Provider hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Provider or City with respect to the services of Provider herein, a waiver of any right to subrogation which any such insurer of said Provider may acquire against City by virtue of the payment of any loss under such insurance.

B. FAILURE TO SECURE:

If Provider 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 Provider's name or as

an agent of the Provider and shall be compensated by the Provider 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.

C. 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 and professional liability 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.

D. SUFFICIENCY OF INSURANCE:

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

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement requires Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

a. Provider 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 the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager may consent or reject such request in his/her sole and absolute discretion. 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 against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

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

13. APPROVAL OF SUB-PROVIDERS:

a. Only those persons and/or businesses whose names and resumes are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in his/her sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by the Provider. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement.

c. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information which the Provider then analyzes and incorporates into its work product.

14. PERMITS AND LICENSES:

Provider, 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 the services and tasks hereunder.

15. REPORTS:

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

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or his/her designee.

c. Provider shall, at such time and in such form as City Manager or his/her designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

16. RECORDS:

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of the Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall

provide free access to the Records to the representatives of City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all 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 by Provider for a period of three (3) years after receipt of final payment.

c. 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 this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to City shall be addressed to City at:

City of Alameda
Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501
Attention: Virendra Patel, Transportation Engineer
Ph: (510) 747-7930 / Fax: (510) 769-6030
Email: vpatel@alamedaca.gov

e. All notices, demands, requests, or approvals from City to Provider shall be addressed to Provider at:

[Provider Name]
[Department]
[Address]
[City, State, zip]

ATTENTION: [Title]
Ph: (xxx) [xxx-xxxx] / Fax: (xxx) [xxx-xxxx]

18. SAFETY

a. The Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. The Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. The Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. The Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

19. TERMINATION:

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

b. The foregoing notwithstanding, 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 Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, 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. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

20. ATTORNEY'S FEES:

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorneys' fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in

connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the Alameda City Attorney's services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

21. COMPLIANCE WITH ALL APPLICABLE LAWS:

During the Term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by the Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by City.

22. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to 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.

23. 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.

24. INTEGRATED CONTRACT:

The Recitals and Exhibits are a material part of this Agreement and are expressly incorporated herein. 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 Provider.

25. 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.

COMPANY NAME
A _____ Corporation

CITY OF ALAMEDA
A Municipal Corporation

Name
(President / Vice President)

David L. Rudat
Interim City Manager

Name
(CFO, Treasurer, Asst. Treasurer)

RECOMMENDED FOR APPROVAL:

Liam Garland
Public Works Director

APPROVED AS TO FORM:

Janet Kern
City Attorney

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 10 93

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
Alameda Point, Building 1
950 West Mall Square, Room 110
Alameda, CA 94501-7558

SAMPLE

(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 & 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.

