REQUEST FOR PROPOSALS FOR BICYCLE AND PEDESTRIAN MASTER PLAN UPDATE

RFP No. 55693

RFP Issue Date:
August 11, 2016

Proposal Submittal Due Date:
September 2, 2016

Purchasing Office, San Leandro City Hall,
835 E. 14th Street, San Leandro, CA 94577
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1.0 PROJECT SUMMARY

The City of San Leandro seeks a qualified transportation consultant or team specializing in multi-modal mobility and pedestrian/bicycle planning to provide professional and technical planning services to update the City of San Leandro’s Bicycle and Pedestrian Master Plan (Plan). This effort will be considered a “Focused Update” of the City’s current plan. Update of the Plan must be consistent with the City’s General Plan and Complete Streets policies, and will include public outreach, and creation of detailed system maps. The goal of the project is to update the existing plan for the City’s development of a convenient transportation alternative to motor vehicles for residents, visitors and commuters with the following objectives:

- Update and amend current goals, policies and programs regarding bicycle and pedestrian access and safety.
- Meet the requirement set forth in the “Alameda County Transportation Commission Bicycle Master Plan Guidelines” (FINAL Version – January 2015), and include core elements described in the “Toolkit for Improving Walkability in Alameda County” (as amended in June 2009). These documents are available at http://www.alamedactc.org/app_pages/view/3429.
- Meet the requirements of current bicycle and pedestrian grant programs such as Active Transportation Program (ATP).
- Identify and improve upon a comprehensive interconnected network of existing and planned bikeways and trails for transportation and recreation purposes.
- Identify areas with high-levels of pedestrian and bicycle activity where improvements can be cost-effective and beneficial.
- Develop a description of all proposed facilities, including cross-sections, right-of-way width needed, estimated cost, agency coordination needed, ownership, proposed street crossings, etc.
- Prioritize proposed projects into short-term and long-term timeframes with high, medium and low priorities.
- Identify funding sources and strategies for implementation of the proposed projects. Specifically, develop a strategy for the use of sales tax Measures B and BB Bicycle and Pedestrian funds as administered by the Alameda County Transportation Commission.
- Develop geographic information diagrams for the recommended bicycle, trail, and pedestrian improvements in a form that can continue to be modified and presented to the public.
- Attend San Leandro’s Bicycle and Pedestrian Advisory Committee (BPAC) meetings and incorporate their input into the plan update.
- Solicit data from Alameda County Transportation Commission (Matthew Bomberg, ph. 510-208-7444) concerning the four locations in San Leandro where since 2010 ACTC have counted bicycles and pedestrians on an annual basis to analyze trends in pedestrian and bicycle trip growth. Document the four additional locations where ACTC plans to install counters in the coming year. Comment on how trends can guide future investment in bicycle and pedestrian infrastructure.
The Scope of Services is listed in Section 3.0 and should be used only as a guide to complete the project. It is subject to interpretation and the proposers are encouraged to modify or add to this list in their proposal as deemed necessary. The City is open-minded on the process that can best be applied to achieve the desired work product and, therefore, seeks creative firms with original ideas and a complete and demonstrated understanding of how to execute these concepts.

While the intent of the City is to award the contract to the selected consultant, it reserves the right to withdraw and/or not award a contract at any time it so desires. This solicitation is consistent with California Government Code Sections 4525-4529.5

All submitted copies of the proposal become the property of the City of San Leandro.

2.0 PROJECT INFORMATION

2.1 PROJECT BACKGROUND

Bicycle and Pedestrian Master Plan 2010
The Bicycle and Pedestrian Master Plan, last updated in September 2010, provides information on existing bicycle and pedestrian infrastructure and policies previously adopted by the City Council. The current plan can be viewed from the City’s website:


2.2 PROJECT SCHEDULE

The City intends to have the Bicycle and Pedestrian Master Plan update project completed by September 30, 2017. The consultant and/or consultants shall provide a preliminary project schedule using key milestones or tasks in the proposal.

3.0 SCOPE OF REQUIRED SERVICES

3.1 GENERAL

The Scope of Services is not definitive and is intended only as a guide to illustrate the minimum project requirements.

3.2 WORK ELEMENTS

3.2.1 Kick-off Meeting

Consultant will meet with City staff and others to review purpose of the project, scope of work and project goals. The updated Plan will incorporate the City’s 2035 General Plan and other relevant plans, policies and guidelines, including the Downtown San Leandro Transit-Oriented
Development Strategy from 2007, the Bay Fair TOD Specific Plan (currently under development), and the San Leandro Creek Trail Master Plan Study (currently under development). An initial project schedule will be developed and submitted to Staff at the meeting. Consultant shall prepare and deliver a more detailed schedule following the kick off meeting. The City will provide Consultant with all relevant documents and a list of stakeholders.

**Deliverable 3.2.1:** Kick-off meeting minutes and updated project schedule within one week of the meeting.

### 3.2.2 Public Outreach and Meetings

Public input will be implemented in a number of ways during different stages of the Plan development process, including working with the City’s Bicycle and Pedestrian Advisory Committee (BPAC). The Consultant will attend and facilitate the discussion at up to four BPAC meetings. Consultant will also be required to attend and be available to answer questions at meetings of the Planning Commission, the City Council’s Facility and Transportation Committee, and at a City Council meeting. The consultant’s task includes the preparation of agendas, accompanying materials and meeting notes. The consultant shall prepare noticing information in print and web format, prepare a Power Point presentation and prepare the meeting agenda and minutes.

**Deliverables 3.2.2:** Develop meeting agenda & noticing, Power Point presentation and meeting minutes within one week of the meeting.

### 3.2.3 Updates of Chapters 1 and 2: Introduction, Vision, Goals & Policies

The consultant will update the Introduction, and the Vision, Goals, and Policies Chapters of the Bicycle and Pedestrian Master Plan. The Plan shall continue to conform to the City of San Leandro General Plan and the City’s Complete Streets Policy.

The following sections to be updated in the Introduction, and The Vision, Goals, and Policies Chapters are as follows:

a. Review bicycle and pedestrian goals. Update as needed to continue to reflect relevant City goals and polices and implementing actions of the Transportation Element of the General Plan, Complete Streets, and other City requirements.

b. Update as needed the Plan to reflect relevant goals set by the county, regional, state and federal level. Update should also include the required Core Elements of the Alameda County Transportation Commission (ACTC) Bicycle Master Plan Guideline, and incorporate appropriate, feasible guidelines and/or concepts of Urban Bikeway Design Guide.
published by National Association of City Transportation Officials into the Bicycle and Pedestrian Master Plan.

c. Update Chapter One to reflect current information regarding Major Activity Centers, Major Employment Centers, and Multimodal Connections.

d. Summarize the data from the four ACTC pedestrian and bicycle counters installed in San Leandro with respect to trends in pedestrian and bicycle trip growth as compared to investments in pedestrian and bicycle infrastructure. Disclose the four proposed locations for future pedestrian and bicycle counters and how these locations will enhance the data collection.

e. Include Complete Streets and Active Transportation best practices and recommendations, and include a discussion of modal priority.

f. Discuss how the Bicycle and Pedestrian Master Plan will be integrated with adjacent jurisdictions’ bike and pedestrian plans, the ACTC Multimodal Priorities, the Countywide Bicycle and Pedestrian Plans and the Regional Bicycle and Pedestrian Plans, including policies, priorities and funding.

Deliverables 4.2.3: Technical memorandum summarizing all proposed Plan changes (one administrative draft version, one Working Group draft and one final draft).

3.2.4 Updates to Chapter 3: Bicycle Network

The consultant will update the Existing Bicycle Facilities and contents of the chapter to reflect changes since the 2010 Bicycle and Pedestrian Master Plan.

a. Update data, tables, figures, and maps, including information on the Regional Bicycle Network.

b. Update the Plan summarizing projects completed since the adoption of the 2010 Bicycle Master Plan.

c. Update total miles of existing trails, bicycle lanes and routes.

d. Update maps and descriptions of existing and proposed bicycle transportation facilities. All recommended bikeway facilities will incorporate Appendix C “Bikeway Facility Classification” of the Alameda CTC Local Bicycle Master Plan Guidelines into the proposed plan.

e. Discuss with City staff and BPAC options of keeping or eliminating the bicycle routing numbering system, which is in the existing plan but has never been implemented.

f. Designate and map an “all age and abilities” bike network defined in aforementioned Appendix C of the Alameda CTC Local Bicycle Master Plan Guidelines into the proposed plan.
g. Add a map and description of major barrier/gap closure projects (bridges, freeway crossings, major arterial crossings, etc.).

h. Update and coordinate with Complete Street policies information of design guidelines the City uses for bikeway geometry, striping, and traffic control devices.

i. Add information and/or a map of the existing Bicycle Parking Locations.

j. Add a map and description of existing and proposed bicycle transport and parking facilities at transit terminals.

k. Add information of the past implementation of bicycle programs and expenditures that may be optionally located in this Chapter 3 or Chapter 6, Implementation.

l. Add information about the estimated number of existing bicycle trips in the plan area, both in absolute numbers and as a percentage of all trips.

Deliverables 3.2.4: Technical memorandum summarizing the Bicycle Network Chapter (one administrative draft version, one Working Group draft and one final draft).

3.2.5 Updates to Chapter 4: Pedestrian Network

The consultant will update the Existing Pedestrian Facilities and contents of the chapter to reflect changes since the 2010 Bicycle and Pedestrian Master Plan.

a. Update a map and descriptions of pedestrian improvement areas and key pedestrian locations, including identifying typical improvements in these key areas. Many of these improvement areas can be identified by referring to other City planning documents.

b. Update Citywide improvement plans and programs

Deliverables 3.2.5: Technical memorandum summarizing the Bicycle Network Chapter (one administrative draft version, one Working Group draft and one final draft).

3.2.6 Updates to Chapter 5: Safety, Education and Enforcement

The consultant will update contents of the chapter to reflect changes since the 2010 Bicycle and Pedestrian Master Plan.

a. Update a map and information concerning the number and location of collisions, serious injuries, and fatalities suffered by bicyclists and pedestrians in the plan area, both in absolute numbers and as a percentage of all trips.

b. Update information concerning education and encouragement programs for bicyclists and pedestrians.

c. Update components of Safe Routes to School, Safe Routes to Transit, and Security.
d. Update information on Enforcement.

*Deliverables 3.2.6: Technical memorandum summarizing the Safety, Education and Enforcement Chapter (one administrative draft version, one Working Group draft and one final draft).*

### 3.2.7 Updates to Chapter 6: Implementation

The consultant will update contents of the chapter to reflect changes since the 2010 Bicycle and Pedestrian Master Plan.

a. Update project prioritization.
b. Update information of bicycle and pedestrian project coordination.
c. Update high priority projects.
d. Update expenditures.
e. Update bikeway facility costs.
f. Update Funding strategies.
g. Update implementation strategies.

*Deliverables 3.2.7: Technical memorandum summarizing the Implementation Chapter (one administrative draft version, one Working Group draft and one final draft).*

### 3.2.8 Updates Design Standards

The consultant will coordinate with the City’s Complete Streets policies and update the contents of the chapter to reflect changes since the 2010 Bicycle and Pedestrian Master Plan. The Consultant will update the general design standards for bikeway and sidewalk design. A graphic of each item and text discussion of application of the standards or recommendations should be included. These standards will include, but are not be limited to, the following:

a. Update width requirements for all bikeway, trail and sidewalk classifications.
b. Update design of bike lanes and trails at intersections.
c. Update recommendations for bicycle detection.
d. Update recommendations for striping and signing.
e. Update recommendations for types of bicycle parking, placement of bicycle parking.
f. Update details of bicycle parking and establish new bicycle parking requirements for various land development types.
g. Update standards for typical pedestrian improvements (i.e. bulb-outs, median pedestrian refuges, enhanced lighted crosswalks, pedestrian traffic signal, etc.).
h. Update crosswalk criteria to include Prioritization Policy that will address citizens’ requests and program the project implementation.
i. Update information concerning accessibility issues.

j. Update information on creek trail standards.

k. Add any other best practices that can further enhance and improve the Design Guidelines.

**Deliverables 3.2.8: Technical memorandum summarizing the Design Guidelines (one administrative draft version, one Working Group draft and one final draft)**

3.2.9 Update Trails and Bikeways User Map

The Consultant will update a user friendly, easy to read user map that will indicate suitability ratings and the location of all trails and bikeways, as well as support facilities (i.e. bicycle parking) and recreation and activity centers. If the bikeway numbering system is decided to remain in the Bicycle and Pedestrian Plan, the Consultant will update Route/Trail numbers which are consistent with that of the City of Oakland and County of Alameda. This map will be distributed to the public as a guide to local trails and bikeways.

a. One side of the map will have the locations of the trails and bikeways while the other side of the map will have educational tips regarding bicycle safety and rules, and other pertinent information to be determined by City staff and the Consultant.

**Deliverables 3.2.9: Update Map (one administrative draft version, one Working Group draft and one final draft)**

3.2.10 Format and Deliverables for the Bicycle and Pedestrian Master Plan

It is the responsibility of the consulting team to provide a first draft (initial), second draft (administrative draft), third draft (public review), and a fourth adopted or final version of the Citywide Bicycle and Pedestrian Master Plan. In order to reduce printing costs, all documents will be primarily distributed to the public in PDF format. All deliverables and work produced by the consulting team for the Bicycle and Pedestrian Master Plan, whether in hard copy or electronic form, is public record and the property of the City, and may be freely copied, modified, and distributed.

a. Electronic Format

All documentation shall be submitted to the City in a compatible electronic format to include Microsoft Word and Portable Document Format (.pdf). Administrative Draft and later versions shall include a “redline” copy which identifies any changes or deletions from the previous version. The draft and final Bicycle and Pedestrian Plan will be distributed for comments in a digital format and be made available for download from the City website. City staff shall be responsible for the cost of printing, mailing, and
distributing all public notifications. The City shall provide printed copies of the plan upon request for public and outside agency comment through the Printing Services division.

b. Print Format

A minimum of thirty printed copies in a loose-leaf binder format and one reproduction copy (un-punched) shall be provided for the third draft (public review) and final (adopted) versions. These printed versions shall be used by appointed and elected officials, the BPAC, division managers, and as a permanent file reference.

c. Maps, Graphics and Tables

The consulting team shall provide staff with a digital copy of all updated and completed maps, tables, and graphic display work. The current maps and graphics that can only be updated with Adobe Illustrator shall be revised and updated based on following guidelines.

It is necessary for the City to secure geographic information for the recommend bicycle, trail, and pedestrian improvements in a form that can continue to be modified and presented to the public. There are three major mapping deliverables from this effort:

1. Mapping exhibits throughout the Plan, including detailed maps for each element of the recommended network;
2. An editable, aesthetically-pleasing, easy-to-use printed map for public distribution;
3. Digital map files will be updated and/or established in AutoCAD format in the City’s coordinate system. The AutoCAD Map 3D 2013 is the current version used in the City’s Engineering & Transportation Department.

City and consultant will meet to discuss the existing schema, proposed additions, and other modifications recommended by Consultant.

d. File Formats

The consultant shall provide the City with a modifiable/unlocked copy of all digital files used in the creation of the documents, including any .jpg, .mxd, .pdf, Microsoft Office, or other file formats on a CD-ROM or USB flash drive. Documents intended for email or download from the website shall not exceed 10 MB in size (due to internal server limitations) and should be compressed or separated into multiple volumes for easy transmittal. Documents forwarded for printing shall be compatible with those formats required by the City’s Printing Services.
3.2.11 Environmental Review (CEQA)

The environmental review of the updated plan will be performed by City staff. The consultants should keep in mind that the information collected for the update process will be used for the environmental document. Development of the plan document will be closely coordinated with the environmental review process. This is to ensure that significant environmental impacts are avoided in the plan to the extent feasible.

3.3 Additional Services that May Be Required

The selected consultant(s) may be required to provide additional services at the discretion of the City. A contract change order will be negotiated at the time it is determined by the City that any additional services are required. This notification is made to inform proposers of this option of the City.

4.0 PROPOSAL REQUIREMENTS

4.1 The response to this Request for Proposal shall include, but need not be limited to, the following information:

4.1.1 Number, function and availability of personnel assigned to perform the work specified in Section 3.0. A project organization chart, including names of individuals and any sub-consultants, is to be included.

4.1.2 Qualifications, including education, experience, certifications, of key personnel who will be assigned to the project from start to finish, including the sub-consultants. Expertise applicable to the work specified in Section 3.0 is to be emphasized.

4.1.3 The proposer's anticipated approach to the work, including:

4.1.3.1 A summary of the methodology to be used for the work specified in Section 3.0.

4.1.3.2 A discussion of the methods of management, quality control, and coordination that will be used to accomplish the work schedule for the tasks delineated in Section 3.0.

4.1.3.3 A time line depiction of the schedule for the work specified in Section 3.0 with regard to the time limitations discussed in Section 2.2.

4.1.3.4 An estimated level of effort by each discipline, firm and personnel for each task. Effort must be represented in hours and fees to be spent on each task.
4.1.4 A statement of past work performed on projects of a similar nature that would indicate qualifications of the proposer. Supply names of clients, client’s contact person and telephone number, type of projects, and description of proposer's activities. The City reserves the right to contact the proposer's previous clients at any time.

4.1.5 Names of entities associated with the proposer who may have a conflict of interest with any activity of this project. Provide details and reasons. Proposers are subject to disqualification on the basis of conflict of interest as determined by the City.

4.1.6 A detailed statement explaining any provision in Sections 3.0 and 4.0 that the proposer chooses not to address in the proposal.

4.1.7 A fee schedule for each classification and sub-consultant proposed.

4.2 The proposal shall follow the general outline of Section 4.1.

4.3 The proposal shall be limited to twenty-five pages, excluding prepared company documents, pre-printed resumes, and similar material that the proposer believes will aid in determining its qualifications for the project.

4.4 The City will not pay the costs of relocating any project staff members to the San Leandro area. Any such relocation cost shall be included in the proposer's overhead.

Non-Collusion Affidavit

The Consultant declares, by signing and submitting a proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the Consultant has not directly or indirectly induced or solicited any other Consultant to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any Consultant or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the Consultant has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the Consultant or any other Consultant, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other Consultant, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the Consultant has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, proposal depository, or to any member or agent thereof to effectuate a collusive or sham proposal.
5.0 SUBMITTAL REQUIREMENTS

Consultants shall submit all information as stated in Section 4.0 – PROPOSAL REQUIREMENTS. Consultant is required to indicate the Designated Contact in the proposal package. Include the designated contact individual’s name, address, phone number(s) and email address.

One original, three copies, and an electronic copy of the proposals shall be submitted, with the hard copies printed double-sided on recycled-content paper. The original proposal must be clearly marked and contain original signatures and must be easily reproducible on a standard copying machine. The proposal shall be signed by an individual(s) authorized to execute legal documents on behalf of the Consultant.

Proposals shall be received by the City of San Leandro Purchasing Office no later than 5:00 p.m. on September 2, 2016. Late proposals will not be considered under any circumstance. Mail or deliver proposals to:

City of San Leandro
Julie Jenkins
Purchasing Agent
835 E. 14th Street
San Leandro, CA  94577
(510) 577-3472 Voice

Failure to provide all required submittals in completed form and/or a clearly marked original with original signatures may result in a proposal being found non-responsive and given no consideration. Proposals must be neat, complete, and fully address all information specified in Section 4.0.

For information concerning RFP procedures and regulations (i.e., submission deadline, forms required, etc.) interested parties may contact the City’s Purchasing Agent. All questions shall be submitted via email.

CITY OF SAN LEANDRO
Julie Jenkins
Purchasing Agent
Email: juliejenkins@sanleandro.org

6.0 PROJECT SCHEDULE

The City reserves the right to alter the schedule as necessary.

The duration of the project may start on October 15, 2016 and end by September 30, 2017.
7.0 EVALUATION OF PROPOSALS

Proposals must fully address the evaluation factors, contain complete technical submittals, references and data to verify qualifications and experience and include a statement that the City contract can be executed, listing any exceptions. Proposals without sufficient submittal data to provide a complete evaluation will be considered non-responsive. As part of the technical proposal, Consultants must evaluate the City’s proposal terms and conditions. Any exceptions taken to the proposal specifications and/or the City’s Consulting Services Agreement must be listed as a separate item as Exceptions to Specifications.

Proposals will be evaluated as follows:

7.1 Technical Competence

Technical competence to perform the work specified in Section 3.0 as determined by City staff. Factors to be considered include, but may not be limited to, experience, familiarity with similar types of projects, and the commitment of key personnel.

7.2 Record of Past Performance

Past record of performance as determined from all available information, including direct communication by the City with proposer's former clients. Factors to be considered include, but may not be limited to, cost control, work quality, and completion of work on schedule.

7.3 Capability to Meet Schedule

Capability under current workload to perform the work within the project schedule and subsequent revisions. Factors to be considered include, but may not be limited to, size of staff assigned to the project and availability of staff.

7.4 Approach to Work

Adequacy of proposed method of accomplishing the project work specified in Section 3.0. Factors to be considered include, but may not be limited to, work methodology, management methodology, activity coordination methodology, and consideration of areas not addressed in Section 2.0 and 3.0, but deemed essential to the effective conduct of the project.

The City reserves the unilateral right to amend this RFP in writing at any time. The City also reserves the right to cancel or reissue the RFP at its sole discretion. Additionally, the City may seek clarification or additional information from Consultants. All Consultants shall verify if any addendum for this project has been issued by the City and shall respond to the final written RFP and any exhibits, attachments and amendments. It is the Consultant’s responsibility to ensure that all requirements of contract addendum are included in their submittal. This RFP does not commit the City of San Leandro to sign an agreement, award a contract, or to pay any costs incurred in the
preparation of a response to this RFP. All documents, conversations, correspondence, etc. with the City are subject to the laws and regulations that govern the City. All Proposals submitted in response to this RFP become the property of the City and public records, and as such may be subject to public review.

The City reserves the right to reject any or all proposals and the right to waive minor irregularities in any proposals. Waiver of one irregularity does not constitute waiver of any other irregularities.

Because this proposal is negotiable, all pricing data will remain confidential until after award is made, and there will be no public opening and reading of proposals.

8.0 SELECTION PROCESS

A consultant selection committee will assess and rate all eligible written proposals based on the criteria under Section 7. Follow-up interviews may be conducted for further evaluation and clarification purposes. Based on the results of the rating, a contract will be negotiated with the highest rated proposer. If agreement cannot be reached, negotiations with other proposers, in order of their respective final ratings, will then be conducted until tentative agreements can be reached.

9.0 DELIVERABLES REQUIRED OF SUCCESSFUL CONSULTANT

The successful Consultant(s) shall enter into a Consulting Services Agreement with the City of San Leandro and submit the following items within ten (10) days of notice of award:

1. City of San Leandro business license; to be maintained throughout length of contract
2. Copy of Certificate of Insurance which shows compliance with the attached requirements and naming the City of San Leandro as an additional insured
3. Completed IRS W-9 tax form
4. Self-verification form which shows compliance with the City of San Leandro Living Wage Ordinance

10.0 CONDITIONS

Consultant Records

The selected consultants must maintain auditable records, documents and papers for inspection by authorized City representatives.

Before the City approves a contract, the selected consultants may be required to undergo an audit evaluation to verify proper accounting and financial procedures.
Permits and Codes

The selected Consultant will comply with all laws, codes, rules and regulations of the State, County, and City, applicable to the work to be performed at the City’s location(s). The Consultant, who shall pay all lawful charges, shall obtain all permits lawfully required.

City of San Leandro Living Wage Ordinance

The San Leandro Municipal Code Title 1, Chapter 6, San Leandro's Living Wage Ordinance (LWO), provides that Consultants who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City during the City's fiscal year shall comply with all provisions of this ordinance. The LWO requires a City Consultant to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, the selected Consultant must submit a completed self-verification form. Please note that the LWO applies to those contracts where the Consultant has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, change orders to this contract or the entering into of subsequent contracts may make them subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Consultant's employees change (i.e. additional employees are hired) so that Consultant falls within the scope of the Ordinance.

Insurance Requirements

Requirements are incorporated in Section 4 of Attachment A, Consulting Services Agreement (CSA).
CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
[NAME OF PROFESSIONAL CONSULTANT]
FOR
[NAME OF PROJECT]

THIS AGREEMENT for consulting services is made by and between the City of San Leandro (“City”) and ______________ (“Consultant”) (together sometimes referred to as the “Parties”) as of ______________, 20__ (the “Effective Date”).

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

1.1 Term of Services. The term of this Agreement shall begin on the Effective Date and shall end on ______________, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as referenced in Section 8.

1.2 Standard of Performance. Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.

1.3 Assignment of Personnel. Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

1.4 Time. Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant’s obligations hereunder.

1.5 Reserved

1.6 City of San Leandro Living Wage Rates. This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder’s attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-verification form and comply with the LWO if covered.

1.7 Public Works Contractor Registration. Consultant agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be
Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed
________________, notwithstanding any contrary indications that may be contained in Consultant’s
proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event
of a conflict between this Agreement and Consultant’s proposal, attached as Exhibit B, regarding the
amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered
pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below
shall be the only payments from City to Consultant for services rendered pursuant to this Agreement.
Consultant shall submit all invoices to City in the manner specified herein. Except as specifically
authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than
one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this
Agreement is based upon Consultant’s estimated costs of providing the services required hereunder,
including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties
further agree that compensation hereunder is intended to include the costs of contributions to any pensions
and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City
therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the
term of this Agreement, based on the cost for services performed and reimbursable costs
incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings,
  the total due this period, the balance available under the Agreement, and the
  percentage of completion;
Attachment A

- At City’s option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;

- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;

- The Consultant’s signature;

- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

2.3 Final Payment. City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

2.4 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.5 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.

2.6 Reimbursable Expenses. Reimbursable expenses are specified in Exhibit B, and shall not exceed $_________________. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.

2.8 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant’s use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 **Workers’ Compensation.**

4.1.1 **General Requirements.** Consultant shall, at its sole cost and expense, maintain Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers’ Compensation Insurance and Employer’s Liability Insurance shall be provided with limits of not less than $1,000,000 per accident. In the alternative,
Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers’ Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agendas, and subcontractors.

4.1.2 **Submittal Requirements.** To comply with Subsection 4.1, Consultant shall submit the following:

a. Certificate of Liability Insurance in the amounts specified in the section; and

b. Waiver of Subrogation Endorsement as required by the section.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than $1,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than $1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an “occurrence” basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.

c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

d. For any claims related to this Agreement or the work hereunder, the Consultant’s insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant’s insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant shall submit the following:

a. Certificate of Liability Insurance in the amounts specified in the section;
b. Additional Insured Endorsement as required by the section;
c. Waiver of Subrogation Endorsement as required by the section; and
d. Primary Insurance Endorsement as required by the section.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than $1,000,000 covering the licensed professionals’ errors and omissions. Any deductible or self-insured retention shall not exceed $150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
Attachment A

c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.3.3 Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

4.3.4 Submittal Requirements. To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 All Policies Requirements.

4.4.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests’ rating of no less than A:VII.

4.4.2 Verification of Coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant’s obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days’ prior written notice has been provided to the City.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each
subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant’s breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or

- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES. Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. STATUS OF CONSULTANT.

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant’s services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant Not an Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

7.1 Governing Law. The laws of the State of California shall govern this Agreement.
7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant’s failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person’s race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. **TERMINATION AND MODIFICATION.**

8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon _____________ days’ written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs,
Attachment A

computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.

8.3 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.

8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.

8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City’s remedies shall include, but are not limited to, the following:

8.6.1 Immediately terminate the Agreement;

8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;

8.6.3 Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or

8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9.** **KEEPING AND STATUS OF RECORDS.**
9.1 **Records Created as Part of Consultant’s Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.

9.2 **Consultant’s Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds $10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. **MISCELLANEOUS PROVISIONS.**

10.1 **Attorneys’ Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys’ fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
10.4 No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

10.5 Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.

10.6 Use of Recycled Products. Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.

10.7 Conflict of Interest. Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq.

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 et seq.

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 et seq., the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 et seq., and, if applicable, will be disqualified from holding public office in the State of California.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by _______________________________ ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Any written notice to City shall be sent to:

________________________________________________________________________
With a copy to:
City of San Leandro
Department of Finance
c/o Purchasing Technician
835 East 14th Street
San Leandro, CA 94577

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.

________________________________________
Seal and Signature of Registered Professional with report/design responsibility.

10.12 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C (and D)] represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<table>
<thead>
<tr>
<th>Exhibit</th>
<th>Description</th>
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<tbody>
<tr>
<td>Exhibit A</td>
<td>Scope of Services</td>
</tr>
<tr>
<td>Exhibit B</td>
<td>Compensation Schedule &amp; Reimbursable Expenses</td>
</tr>
<tr>
<td>Exhibit C</td>
<td>Indemnification USE VERSION 1 OR 2</td>
</tr>
</tbody>
</table>

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

10.14 **Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars ($1,000,000.00) or more, by Consultant’s signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

**SIGNATURES ON FOLLOWING PAGE**
The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

**CITY OF SAN LEANDRO**

Chris Zapata, City Manager

Attest:

---

Tamika Greenwood, City Clerk

Approved as to Fiscal Authority:

---

David Baum, Finance Director

Account Number

Approved as to Form:

---

Richard D. Pio Roda, City Attorney

Per Section 10.7:

☐ Form 700 Not Required
☐ Form 700 Required

---

Keith R. Cooke
Engineering and Transportation Department

1969630.2 (2015)
EXHIBIT A

SCOPE OF SERVICES
Attachment A

EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES
INDEMNIFICATION

A. Consultant shall, to the extent permitted by law, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant’s work under this Agreement.

B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant.

C. Consultant’s obligation under this section does not extend to that portion of a claim caused in whole or in part by the active negligence or willful misconduct of the City.

D. Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant’s services under this Agreement.
INDEMNIFICATION EXHIBIT VERSION 2, TECHNICAL CONSULTANT
USE THIS LANGUAGE FOR ALL OTHER TECHNICAL AND LICENSED CONSULTANTS THAT ARE NOT LICENSED ARCHITECTS, LANDSCAPE ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS. IF THIS VERSION 2 IS USED, DELETE VERSION 1 ON THE PREVIOUS PAGE.]

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the active negligence or willful misconduct of City.

Notwithstanding the forgoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant’s obligation to defend and indemnify shall not be excused because of the Consultant’s inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.
Guidelines for Compliance with the Living Wage Ordinance (LWO)

Service Providers

For Profit Service Providers
Affects for-profit entities that provide services to the City valued at $25,000 or greater within the City’s fiscal year; and which has six (6) or more employees.

Any employee working on City services under contract with the City is covered by the LWO for the time spent performing said services.

Non-Profit Service Providers
Affects non-profit entities that provide services to the City valued at $100,000 or more within the City’s fiscal year; and which has six (6) or more employees

Any employee working more than 25% of their time on the City-contracted services being procured by the City under the contract with the employer is subject to.

Lessees
Affects lessee’s of public property, licensees, concessionaires and franchises that generate $350,000 or more in annual (calendar) gross receipts.

Any employee who spends more than 25% of their working time on the leased property or engaged in work directly related to the license, concession or franchise is subject to.

Financial Aid Recipients
Affects any entity receiving more than $100,000 in City grants, loans, or other cash/non-cash assistance within the City’s fiscal year. Compliance is required for the duration of one year for each $100,000 of assistance, pro-rated up to a maximum duration of five (5) years after receiving said aide.

Any employees who spend more than 25% of their working time engaged in work directly related to the purposes for which the City’s aid was provided are subject to.
Attachment B

Subcontractors/Sub-Lessees
Affects both for-profit and non-profit employers that enter into a subcontract with the primary employer/contractor and assumes some of the obligations of the primary employer/contractor.
Subcontractor’s and sub-lessee’s are also subject to the same living wage provisions and requirements as the primary employer or lessee. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate.

Compensation
Covered businesses are required to pay no less than $15.28 per hour or $13.78 with health benefits valued at least $1.50 per hour, subject to annual CPI adjustment.

Reporting and Compliance
Covered businesses self-verify compliance and are subject to periodic re-verification and audit of living wage related records.
Frequently Asked Questions

1. What is the City of San Leandro’s Living Wage Ordinance?

“Living wage” is an hourly wage level that sets wages at a level higher than the Federal or State minimum wage. The City of San Leandro Ordinance specifies that an hourly wage and a health benefit dollar level be applied to certain contracts, agreements and leases between the City and for-profit and non-profit entities. It does not apply to every business in the City.

2. When does the Living Wage take effect and when do businesses have to start complying and provide higher wages to their employees?

September 1, 2007 is the effective date. Applicable businesses must comply with the Ordinance when they enter into a lease, contract or concessionaire or other agreement with the City of San Leandro, or when an existing agreement is amended to benefit the business.

For example, if a lease contract expires in two years, compliance would not be required for the two years the lease remains in effect and unchanged. New contracts entered into or amended thereto affecting financial aid or expending the term after the effective date are subject to the Ordinance. Covered employees would be entitled to the higher wage on the effective date of the new or modified contract or agreement.

All contracts and agreements with the City of San Leandro will include the requirement that the Living Wage Ordinance shall be complied with.

3. What is the required Living Wage rate?

Covered businesses are required to pay no less than $15.28 per hour, which includes wages and employer health benefits. Health benefits must be valued at $1.50 per hour in order to be counted towards the requirement. In other words, an employee not receiving any employer health benefits would receive an hourly wage of at least $15.28, while one receiving health benefits would receive an hourly wage of at least $13.78.

The living wage rate will be adjusted annually in July to reflect the consumer price index.

4. Are there any other required employee benefits specified?

Yes. It specifies that employees must receive at least 22 days off per year (calendar) for sick leave, vacation, holiday, or personal necessity. At least 12 of the required days off shall be compensated at the same rate as regular compensation while 10 of the required 22 days may be uncompensated days off. Part-time employees shall be entitled to accrue compensated days off in increments proportional to that accrued by full-time employees.

Employees shall be eligible to use accrued days off after the first 6 months of satisfactory employment or in accordance with the employer’s policy, whichever is sooner.
5. **What types of employee’s are covered by the Ordinance? And does it cover full-time and part-time employees?**

Employees spending at least 25% of their work time on a City of San Leandro contract are covered, as long as they work for a business applicable under the terms of a covered agreement or contract. Both part-time and full-time employees are covered if they meet those criteria. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate.

Please see “Guidelines for Compliance” for additional detail.

6. **What types of businesses are covered by the San Leandro Living Wage Ordinance?**

The Living Wage Ordinance applies to entities providing services to the City of San Leandro via contract or agreement, lessees of the City and recipients of City financial aide. Please see “Guidelines for Compliance” for the thresholds and criteria for each type of employer, lessee, financial aid recipient, or subcontractor and lessee.

7. **Does the Living Wage Ordinance apply to sub-contractors or sub-lessees?**

Subcontractor’s and sub-lessee’s are also subject to the same living wage provisions and requirements as the primary employer or lessee. Employees who are or would be covered under the state prevailing wage rate requirement would only be covered by the Ordinance if their current prevailing wage rate was lower than the living wage rate. For example, employees of a firm hired to do building improvements for the contractor would be subject to the prevailing wage requirements under state law.

8. **Does the Living Wage Rate affect tenants of a financial aid recipient?**

It depends on the circumstances, for example, if a developer receives a $500,000 city loan to rehab a commercial building and the tenants pay the market rate, they would not be subject to the LWO. However, the benefitting developer or business (and successors) would be subject to the LWO.

9. **What types of employees are exempt?**

The Ordinance shall not be applicable to employees under 18 years of age, volunteers, qualified temporary employees working for the City of San Leandro, other government employees, employees that participate in a job training program, qualified disabled employees covered by a sub-minimum wage certificate or equivalent, interns or employees receiving academic credit through a job training program, employees already subject to the State’s prevailing wage requirement (if living wage rate is higher than the prevailing wage rate, then the living wage rate would apply), employees while working stand-by or on-call duty, and any other employee where the application of the Ordinance would be prohibited by State or Federal law.
10. Are any exemptions or waivers allowed for a business?

Following City Manager review and recommendation, the City Council may approve waivers with or without conditions to any of the Living Wage provisions, upon determination that such action is in the best interest of the City.

11. What other types of businesses are not covered by the City of San Leandro Living Wage Ordinance?

Commodity suppliers and suppliers of goods (paper, office supplies, equipment, etc.) and their employees are not covered.

12. What steps are in place to prevent discrimination or employer retaliation against the provisions of the Ordinance?

Retaliation and discrimination against any person on account of having inquired into or having claimed a violation of the Ordinance is unlawful. Any employee who alleges violation of any of the Living Wage requirements may report such acts to the City. The City may investigate such complaints and take appropriate action to enforce the Ordinance.

13. How do the worker retention provisions of the Ordinance work?

Briefly, any business that replaces another business in a lease, contract, subcontract, etc. is required to offer employment to the employees of the prior tenant or contractor for a period of 90 days. If the new business already has its own employees, then employment must be offered on the basis of seniority to its own and the prior employees. Managerial, supervisory, professional, paraprofessional, and confidential and office employees are exempted from this provision.

14. How is the Living Wage Ordinance enforced? Are there penalties against businesses found not to be complying?

Employers self-verify compliance. The City may also periodically require employer re-verification and review the businesses living wage related records. Each business is required to allow access to its workforce and living wage related records by authorized City of San Leandro representatives to ensure compliance. Violations of the Living Wage Ordinance are subject to fines of up to $5,000, and/or the City may terminate the violator’s agreement. Any person may bring action against a business in the Superior Court of California to enforce the measure.

15. Who can answer more questions about the Ordinance; and where can I get a copy of it?

The Finance Department of the City currently administers the Living Wage Ordinance. Please contact the department at 510-577-3376 if you have any questions. You may obtain a copy of the Ordinance from the Finance Department; or it is available on the City’s website at: http://www.sanleandro.org/depts/finance/livwage/default.asp
CITY OF SAN LEANDRO  
Living Wage Ordinance Self Verification Form for Providers of Personal Services  

TO BE COMPLETED BY ALL PERSONS OR ENTITIES ENGAGING IN A CONTRACT FOR SERVICES WITH THE CITY OF SAN LEANDRO.

The San Leandro Municipal Code Title 1, Chapter 6, San Leandro's Living Wage Ordinance (LWO), provides that contractors who engage in a specified amount of business with the City (except where specifically exempted) under contracts which furnish services to or for the City during the City's fiscal year shall comply with all provisions of this ordinance. The LWO requires a City contractor to provide City mandated minimum compensation to all eligible employees, as defined in the Ordinance. In order to determine whether this contract is subject to the terms of the LWO, please respond to the questions below. Please note that the LWO applies to those contracts where the contractor has achieved a cumulative dollar contracting amount with the City. Therefore, even if the LWO is inapplicable to this contract, change orders to this contract or the entering into of subsequent contracts may make them subject to compliance with the LWO. Furthermore, the contract may become subject to the LWO if the status of the Contractor’s employees change (i.e. additional employees are hired) so that Contractor falls within the scope of the Ordinance.

SECTION I

1. IF YOU ARE A FOR-PROFIT BUSINESS, PLEASE ANSWER THE FOLLOWING QUESTIONS  
a. During the period of July 1 -June 30 of the current city fiscal year, have you entered into contracts, including the present contract, bid, or proposal, with the City of San Leandro for a cumulative amount of $25,000.00 or more? 
YES ____ NO ____  
If no, this contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 1(b). 

b. Do you have six (6) or more employees?  
YES ____ NO ____  
If you have answered, “YES” to questions 1(a) and 1(b) this contract IS subject to the LWO. If you responded "NO" to 1(b) this contract IS NOT subject to the LWO. Please continue to Section II.

2. IF YOU ARE A NON-PROFIT BUSINESS, AS DEFINED BY SECTION 501(C) OF THE INTERNAL REVENUE CODE OF 1954, PLEASE ANSWER THE FOLLOWING QUESTIONS.  
a. During the period of July 1 -June 30 of the current city fiscal year, have you entered into contracts, including the present contract, bid, or proposal, with the City of San Leandro for a cumulative amount of $100,000.00 or more?  
YES ____ NO ____  
If no, this Contract is NOT subject to the requirements of the LWO, and you may continue to Section II. If yes, please continue to question 2(b). 

b. Do you have six (6) or more employees?  
YES ____ NO ____  
If you have answered, “YES” to questions 2(a) and 2(b) this contract IS subject to the LWO. If you responded "NO" to 2(b) this contract IS NOT subject to the LWO. Please continue to Section II on the following page.
SECTION II

Please read, complete, and sign the following:

THIS CONTRACT IS SUBJECT TO THE LIVING WAGE ORDINANCE. □

THIS CONTRACT IS NOT SUBJECT TO THE LIVING WAGE ORDINANCE. □

The undersigned, on behalf of himself or herself individually and on behalf of his or her business or organization, hereby certifies that he or she is fully aware of San Leandro’s Living Wage Ordinance, and the applicability of the Living Wage Ordinance, and the applicability of the subject contract, as determined herein. The undersigned further agrees to be bound by all of the terms of the Living Wage Ordinance, as mandated in the San Leandro Municipal Code, Title 1, Chapter 6.

If, at any time during the term of the contract, the answers to the questions posed herein change so that Contractor would be subject to the LWO, Contractor will promptly notify the City Manager in writing. Contractor further understands and agrees that the failure to comply with the LWO, this verification, or the terms of the Contract as it applies to the LWO, shall constitute a default of the Contract and the City Manager may terminate the contract and pursue any other legal remedies available to the city, including debarment. If the contractor is a for-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees engaged in work directly related to the contract with the City. If the contractor is a non-profit business and the LWO is applicable to this contract, the contractor must pay a living wage to all employees who spend 25% or more of their compensated time engaged in work directly related to the contract with the City.

These statements are made under penalty of perjury under the laws of the state of California.

Printed Name: ____________________________________________ Title: ____________________________________________

Signature: ____________________________________________ Date: ____________________________________________

Business Entity: __________________________________________________________________________________________

Contract Description/Specification No: __________________________________________________________

SECTION III

* * * FOR ADMINISTRATIVE USE ONLY -- PLEASE PRINT CLEARLY * * *

I have reviewed this Living Wage Ordinance Self Verification form, in addition to verifying Contractor’s total dollar amount contract commitments with the City in the past twelve (12) months, and determined that this Contract IS / IS NOT (circle one) subject to San Leandro’s Living Wage Ordinance.

Department Name _____________________ Department Representative ___________________