



**REQUEST FOR PROPOSAL**

RFP #55021

**COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM (CMMS)**

**FOR THE CITY OF SAN LEANDRO'S PUBLIC WORKS DEPARTMENT**

City of San Leandro

RFP Coordinator:

Tony Batalla

Information Technology Manager

**Proposals are Due to the Finance Department  
On Friday, October 2, 2015 at 3:00 PM**

**Contents**

INTRODUCTION ..... 5

- 1.1. Definitions ..... 5
- 1.2. Clarification and Interpretation of RFP ..... 5
- 1.3. Purpose ..... 5
- 1.4. RFP Number ..... 5
- 1.5. Contract Duration and Project Timeframe ..... 5
- 1.6. Projected Installation Date ..... 5
- 1.7. RFP Coordinator ..... 6
- 1.8. Communications Regarding the RFP ..... 6
- 1.9. RFP Calendar of Events ..... 6

RULES GOVERNING PROPOSALS ..... 7

- 1.10. Address and Deliver Bids to: ..... 7
- 1.11. Bid Deadline ..... 7
- 1.12. Nondiscrimination ..... 7
- 1.13. Electronic Form ..... 7
- 1.14. General Bidding Parameters ..... 8

INSTRUCTIONS TO BIDDERS ..... 10

- 1.15. Pre-Bid Conference ..... 10
- 1.16. Response Format ..... 11
- 1.17. Statement of Compliance ..... 11
- 1.18. Bid Submittal ..... 11
- 1.19. Key Evaluation Criteria ..... 12
- 1.20. Award Determination ..... 13
- 1.21. Bid Evaluation Process ..... 14
- 1.22. Force Majeure ..... 14
- 1.23. Assignment and Subcontracting ..... 14
- 1.24. Right to Refuse Personnel ..... 15
  - Joint Ventures and Partnering ..... 15
- 1.25. Supplemental Terms and Conditions/Modifications ..... 15
- 1.26. Standard Contract Information ..... 15
  - Contract Approval ..... 15
  - RFP and Bid Incorporated into Final Contract ..... 16

Contract Monitoring .....	16
Contract Amendment .....	17
Contract Award Process.....	17
Proposals, Public Information .....	18
Liquidated Damages.....	18
BIDDER PROFILE .....	18
1.27. Organizational Information.....	18
1.28. Sales Team Profile .....	19
1.29. Mandatory Bidder Qualifications.....	20
Bidder Certifications and Qualifications .....	20
PROJECT DESCRIPTION.....	21
1.30. General Overview .....	21
1.31. Work Areas In Scope .....	21
1.32. Requirements & Goals .....	21
Issue Work Order Requests (internally).....	21
Issue Work Order Requests (externally) .....	21
Workflow.....	22
GIS Integration .....	22
Preventative Maintenance Scheduling .....	22
Inspection Scheduling .....	22
Fixed Asset Replacement Scheduling.....	22
Inventory of Equipment and Assets.....	22
Track Maintenance Activities.....	22
Track Costs .....	22
Reporting.....	22
Client Devices.....	22
SCOPE OF SERVICES .....	23
1.33. Proposal Acceptance.....	23
1.34. Project Management .....	23
1.35. System Design .....	23
1.36. User Acceptance Testing.....	23
1.37. User Training .....	23
1.38. Documentation .....	23

1.39.	Computers & Client Devices .....	23
1.40.	Project Completion .....	24
1.41.	System Configuration.....	24
TECHNICAL SPECIFICATIONS .....		24
1.42.	System Platform.....	24
1.43.	Client Devices.....	24
1.44.	Geographic Systems Integration.....	24
1.45.	Warranty .....	24
1.46.	Authentication –OPTIONAL- .....	25
1.47.	Finance System –OPTIONAL- .....	25

## **INTRODUCTION**

The CITY OF SAN LEANDRO (hereinafter “the City”) hereby requests proposals for a COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM to be configured for use by the Public Works Department (hereinafter “the Project”). The City is seeking a cloud-based solution along with a professional services engagement to design, configure, implement, and test the system before it is launched.

This Request for Proposals (hereinafter “RFP”) describes the general rules for preparing and submitting proposals and the City’s requirements for the COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM.

### **1.1. Definitions**

For the purpose of this RFP references to “Bidder” in all instances shall mean the specific person or entity responding to this RFP; references to “Bid” in all instances shall mean the bidders’/contractors’ response to this Request.

### **1.2. Clarification and Interpretation of RFP**

The words “must” or “will” or “shall” in this RFP indicate mandatory requirements. Taking exception to any mandatory requirement may be grounds for rejection of the proposal.

The City wants to avoid any misunderstanding where it is assumed that a feature is included in the proposal and turns out to be an optional, extra cost feature. As such, any question answered with an indication of compliance will be considered included at no additional cost. Any service that is referred to in the body of this response (does not pertain to attachments and brochures) will be considered included in the basic offer.

### **1.3. Purpose**

The purpose of this RFP is to provide minimum requirements, solicit bids and gain adequate information from which the City may evaluate the Bidder’s products and services as they compare to other equipment providers and as they pertain to the needs of the City’s organization as defined in this document.

### **1.4. RFP Number**

The City has assigned the following RFP identification number that must be referenced in all communications regarding this RFP # 55021

### **1.5. Contract Duration and Project Timeframe**

The contract will be executed following approval by the City Council. This is expected to occur in November, 2015. Bidder must be present at the City Council meeting. The Project will commence thereafter and is expected to be completed within six (6) months’ time.

### **1.6. Projected Installation Date**

The selected Bidder will develop a project plan and timeline with the City upon award. The selected Bidder will make best efforts to meet the installation deadline. Installation shall be completed within six (6) months’ time.

**1.7. RFP Coordinator**

The following RFP Coordinator shall be the primary contact for this RFP and all correspondence or questions regarding this RFP should be directed in writing to his attention at:

RFP Coordinator:	Tony Batalla
Address:	835 E 14 <sup>th</sup> St, San Leandro, CA 94577
Phone:	510-577-3385
Email:	tbatalla@sanleandro.org

**1.8. Communications Regarding the RFP**

After release of this RFP, all Bidder communications concerning this procurement must be directed to the RFP Coordinator. Unauthorized contact regarding the RFP with other employees of the procuring City may result in disqualification.

All communications must be submitted in writing (email is acceptable) to the RFP Coordinator. Any oral communications shall not be binding to the City or considered official. Questions, requests and other types of written communication must cite the subject RFP number. The RFP Coordinator must receive these written requests by the deadline specified in the RFP Calendar of Events.

The RFP Coordinator shall respond in writing to all written communications. This response may constitute an amendment to the RFP. Only written responses to written communications shall be considered binding and official by the City. At its sole discretion, the City reserves the right to determine appropriate and adequate responses to written questions, comments and requests for clarification.

Any data or factual information provided by the City shall be deemed as informational purposes only. Bidders are invited to attend a Pre-Bid Conference (see Section 3.1) for the purpose of independently verifying the information and obtaining any additional details necessary to prepare a complete response to this RFP.

**1.9. RFP Calendar of Events**

The following RFP Schedule of Events represents the City’s best estimate of the schedule that shall be followed. Unless otherwise specified, the time of day for the following events shall be between 8:30 a.m. and 5:00 p.m., Pacific Standard Time. The City reserves the right, at its sole discretion, to adjust this schedule as it deems necessary. Notification of any adjustment to the RFP Calendar of Events shall be provided to all Bidders in the form of an addendum.

Activity	Date
RFP Released	9/1/2015
Pre-Bid Conference	9/15/15; 1:30-2:30
Final Question Submission Deadline	9/18/2015
Proposals Due Date ( <u>no later than 3:00 pm</u> )	10/2/2015
Proposal Evaluation Completion	10/23/2015
Recommendation to City Council	11/2/2015

## **RULES GOVERNING PROPOSALS**

### **1.10. Address and Deliver Bids to:**

Purchasing Agent: Sally Perez, Finance Department, 2<sup>nd</sup> Floor City Hall  
 Address: 835 East 14<sup>th</sup> Street, San Leandro, CA 94577  
 Phone: (510) 577-3377

### **1.11. Bid Deadline**

Bids shall be submitted no later than the Proposals Due Date detailed in the RFP Calendar of Events (see Section 1.9). Please note that the City’s internal mail delivery system can add 1-2 business days onto the timeline for receipt of items sent by U.S. Mail. It is the Bidder’s responsibility to ensure that proposals are received prior to the deadline noted in Section 1.9. Bidders shall respond to the written RFP and any exhibits, attachments, or amendments. A Bidder's failure to submit a bid by the deadline as required shall cause that bid to be disqualified. Bidders assume the risk of the method of dispatch chosen. The City assumes no responsibility for delays caused by any delivery service. Postmarking by the due date shall not substitute for actual bid receipt by the City. Late bids shall not be accepted nor shall additional time be granted to any Bidder. Bids may not be delivered orally, by facsimile transmission, or by other telecommunication or electronic means.

### **1.12. Nondiscrimination**

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in the City’s contracted programs or activities on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal or California State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with the City or in the employment practices of the City’s Bidders. Accordingly, all Bidders entering into contracts with the City shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

### **1.13. Electronic Form**

An electronic form of this RFP may be obtained from the City’s web site:  
[http://www.sanleandro.org/depts/finance/purchasing/quotes/current\\_rfps\\_rfqsasp.asp](http://www.sanleandro.org/depts/finance/purchasing/quotes/current_rfps_rfqsasp.asp)

#### **1.14. General Bidding Parameters**

**Contingencies** - Before submitting their bid, Bidders should make a careful examination of the scope of work and of the difficulties involved in its proper execution. Bidders should include in their bid all costs they deem proper and sufficient to cover all contingencies essential to the installation of the proposed system, notwithstanding that every item or contingency is not specifically mentioned herein.

**Insurance** - The selected Bidder shall comply with all the insurance requirements stipulated on the attached NPSA (Section 4) and provide all required insurance documents. Additionally, Bidder shall comply with the Indemnification and Contractor's Responsibilities (Section 5).

**Licensure** - Before a contract pursuant to this RFP is signed, the selected Bidder must hold all necessary and applicable business and professional licenses.

**Conflict of Interest and Bid Restrictions** - By submitting a bid, the Bidder certifies that no amount shall be paid directly or indirectly to an employee or official of the City as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Bidder in connection with the procurement under this RFP.

**RFP Amendment and Cancellation** - 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. Bidders shall respond to the final written RFP and any exhibits, attachments and amendments. All bidders shall verify if any addendum for this project has been issued by the City. It is the bidder's responsibility to ensure that all requirements of all contract addenda are included in the bidder's submittal.

**Right of Rejection** - Any bid received which does not meet the requirements of this RFP may be considered to be nonresponsive and the bid may be rejected. Bidders must comply with all of the terms of this RFP and all applicable State and County laws and regulations. The City may reject any bid that does not comply with all of the terms, conditions and performance requirements of this RFP.

The City reserves the right, at its sole discretion, to waive variances in technical bids provided such action is in the best interest of the City. Where the City waives minor variances in bids, such waiver does not modify the RFP requirements or excuse the Bidder from full compliance with the RFP. Notwithstanding any minor variance, the City may hold any Bidder to strict compliance with the RFP.

**Severability** - If any provision of this RFP is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and, the rights and obligations of the City and Bidders shall be construed and enforced as if the RFP did not contain the particular provision held to be invalid.

**Permits and Codes** - The selected Bidder 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. The selected Bidder is responsible for obtaining all necessary building permits (cost for permits to be paid by the City).



**Shipments** - All shipments and deliveries should be made to a City designated specific site for product staging and asset tagging. The City will provide Bidder a safe and secure location to store equipment, provided that Bidder has made arrangements to properly deliver, unload and store such deliveries to the City according to the City's requirements.

**Warranty and Maintenance** - A complete Warranty and Maintenance Agreement is required of this RFP. Please refer to Section 6.11.3 and Section 7.2 for specific details of such requirements.

**Pricing** - The price quoted will include a turn-key solution including hardware, software, installation, training, one (1) year maintenance support, data migration servicetax and acceptance testing of the Project. The City reserves the right to purchase all servers and network equipment. If the City chooses to purchase hardware, specifications will be provided by Bidder and the City will purchase based on the specifications or better.

Bidder must itemize all charges for individually identifiable components of the Project, including warranty. Professional Services, freight, taxes and training charges may be listed out separately as individual line items.

**Itemized List of Equipment** - Bidders must include an itemized list of all hardware, software, installation, training and professional services required for Bidder's proposed solution.

**Turn-Key Installation** - The price of the proposed solution must include all materials and professional services necessary to accomplish a turn-key installation.

**Bid Withdrawal** - To withdraw a bid, the Bidder must submit a written request signed by an authorized representative to the RFP Coordinator. After withdrawing a previously submitted bid, the Bidder may submit another bid at any time up to the deadline for submitting bids.

**Bid Amendment** - The City shall not accept any amendments, revisions, or alterations to bids after the deadline for bid submittal unless such is formally requested, in writing, by the City.

**Bid Errors** - Bidders are liable for all errors or omissions contained in their bids. Bidders shall not be allowed to alter bid documents after the deadline for submitting a bid.

**Incorrect Bid Information** - If the City determines that a Bidder has provided incorrect information which the Bidder knew or should have known was materially incorrect, that bid shall be determined non-responsive and the bid shall be rejected.

**Review Rights** - Proposals submitted may be reviewed and evaluated by any person(s) considered necessary to the decision-making process at the discretion of the City.

**Bid Preparation Costs** - The City shall not pay any costs associated with the preparation, submittal, or presentation of any bid.

**Bid Alternate Services** - Bids of alternate solutions, excepting the enhancements and additional value components called for (i.e., bids that offer something different from that requested by the RFP), shall be considered non-responsive and shall be rejected.

**Bid of Additional Services** - If a Bidder proposes an offer of services in addition to those required by and described in this RFP, these additional services may be added to the contract before contract signing at the sole discretion of the City.

**Independent Price Determination** - The Bidder is prohibited from submitting more than one bid. However, alternative solutions within Bidder's single response will be accepted. Submittal of more than one response shall result in the disqualification of the Bidder.

**Public Release of Information** - News releases, articles, brochures, advertisements, prepared speeches and other information releases concerning this RFP, or any subsequent contract or activity related thereto, may not be made without the prior written approval of the City.

**Liability and Reserved Rights** - The City reserves the right not to award a Contract to any of the Bidders solicited in this RFP. The City also reserves the right to make partial awards. This RFP may be withdrawn at any time without liability or responsibility for any damages or expenses incurred by Bidders.

**Public Disclosure** - All materials provided to the City by Bidders are subject to State and City public disclosure laws. Proposals shall become the property of the City of San Leandro. Once a final award is made, all bid responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records. The City shall not in any way be liable or responsibly for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act.

## **INSTRUCTIONS TO BIDDERS**

This section outlines specific instructions for proposal submission. Bidders not adhering to these instructions shall be disqualified without further consideration.

### **1.15. Pre-Bid Conference**

A Pre-Bid Conference for all potential Bidders is scheduled for Tuesday, September 15<sup>th</sup>, from 1:30-2:30 PM. The conference shall be held at the Public Works Service Center, 14200 Chapman Road, San

Leandro, California. The purpose of the conference is to provide prospective Bidders the opportunity to gather information for Bidders to prepare their responses to this RFP. Attendance at the Pre-Bid Conference is recommended, but is not required.

### **1.16. Response Format**

The intent of the RFP is to allow bidders the opportunity to fully explain their proposed solution. Please include complete information to enable the City to evaluate the Bidder's profile and ability to deliver a coherent and complete system. In the interest of consistency and to enable an efficient and fair evaluation process, proposal responses must conform to the following:

- Proposals shall mirror the format and sequence of the RFP.
- Proposals shall include full details where requested and where appropriate for each requirement within the RFP.
- Proposals shall provide a straightforward, concise description of the bidder's proposed solution.
- Proposals shall be self-contained and not rely on references to manuals or brochures.
- An executive summary must provide a top-level summary of the most important aspects of the Bidder's response. In addition, the response must include a contact name for bid clarification purposes.

Where applicable, Bidders will respond in line to the original RFP sections and will, for each individual statement of compliance, reply with one of the following:

- Compliant: Bidder's product or service completely satisfies the stated condition or need. Where appropriate, please provide additional details about how bidder complies.
- Partially Compliant: Bidder's product or service only partially satisfies the stated condition or need.
- Non-Compliant: Bidder's product does not satisfy any part of the stated condition or bidder does not or cannot provide the services needed.
- Noted: Where a statement/requirement provides only general information.

Bids should clearly provide a straightforward, concise description of the Bidder's capabilities to satisfy the requirements of this RFP. Emphasis should be on completeness and clarity of content.

### **1.17. Statement of Compliance**

By submission of a response to this RFP, Bidder acknowledges full compliance with required specifications and all terms and conditions as detailed in the RFP.

### **1.18. Bid Submittal**

The Bid and Proposed Scope of Work shall be submitted in two separate envelopes together in one package to the City. One original and four printed copies of the Proposed Scope of Service shall be submitted to the City in a sealed package along with a separate sealed folder with the Bid value, all clearly marked:

**“Bid in Response to RFP #55021 -- Do Not Open”**

All bids must be submitted to Sally Perez, Acting Purchasing Agent at City of San Leandro, City Hall, 835 East 14th Street, San Leandro, CA 94577 by the date and time identified as the Deadline for Submitting a Bid in the RFP Calendar of Events.

The complete proposal must include the proposal document with a response to the RFP and all other materials requested. Bidders may include any additional materials they feel could assist in the evaluation of the proposed system. However, each question must be responded to completely.

All equipment components, hardware, software, training, installation services and all other materials must be furnished for the complete installation of the new COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM specified. If the City chooses to purchase any of the hardware specified, minimum and ideal specifications will be negotiated as part of the contract. Any additional material or equipment necessary for the installation and operation of the new COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM not specified or described in this RFP will be deemed to be required as a part of these specifications.

**1.19. Key Evaluation Criteria**

All responses will be evaluated against the following criteria:

Responsiveness - A complete and concise response to the RFP that complies with the City's requirements.

Capacity and Ability - The feasibility of the proposal based upon the methodology of the proposed scope of services to meet the City's needs, the quality of services proposed, and the reasonableness of the total project costs and of the proposed time period over which the work will be completed.

Least Cost/Best Value - The proposal with the lowest price will not necessarily be selected; however, price is a component of the evaluation. The City will select the proposal that is most advantageous to the City and will award the Project to the most responsible bidder.

Experience - The City will evaluate the Bidder's experience in the design, implementation, integration and support of the Project and current technologies. The City has a vested interest in partnering with a Bidder who is recognized as a leader in the industry with a proven track record for solid services and financial resources. Extra weight will be given to those vendors who have a proven track record with other government agencies and experience with CMMS deployments.

References - A minimum of three similar solutions provided for other Bay Area Cities and/or other government agencies by the Bidder, Project Team and Manufacturer must be included. Current contact information for references must be provided.

Service Capabilities - Remote serviceability and technical support of the entire installation. Ability to provide timely support on an ongoing basis.

System Scalability - The City requires a modular, cost-effective growth in the system over the several years.

### 1.20. Award Determination

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, and any exceptions. Proposals without sufficient submittal data to provide a complete evaluation will be considered non-responsive. As part of the technical proposal, vendors must evaluate the City's proposal terms and conditions. Any exceptions taken to the proposal specifications must be listed as a separate item in the Exceptions to Specifications form (Attachment 4).

All proposals will be reviewed for compliance with specifications including documented capability to perform the prescribed work in a satisfactory manner. Proposals, which appear to be compliant, shall be evaluated on a point system (0-100 points, with 100 being the best possible score) in accordance with the following:

CRITERIA	MAXIMUM POINTS
1. Proposal Submission – quality and completeness of proposal and adherence to the requirements	10 points
2. Qualifications	25 points
3. Project and Implementation Plan	30 points
4. References	10 points
5. Bid Price	25 points

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. Proposers shall respond to the final written RFP and any exhibits, attachments and amendments. All proposers shall verify if any addendum for this project has been issued by the City. It is the proposer's responsibility to ensure that all requirements of contract addendum are included in the proposer's submittal.

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.

Evaluation of the proposals is expected to be completed within 45 days after their receipt. The lowest price proposal will not necessarily be selected, and technical components will be weighed more heavily than costs to insure that the City is procuring best value versus lowest price. Overall responsiveness to the Request for Proposals is an important factor in the evaluation process.

Once the evaluation team has completed their review and determined the proposal with the highest overall points, the City's Purchasing Agent will deliver a written Notice of Award to the successful Proposer, if the applicable insurance requirements are met.

***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 bids.***

### **1.21. Bid Evaluation Process**

All bids shall be reviewed by the RFP Coordinator to determine compliance with basic bid requirements as specified in this RFP. If the RFP Coordinator determines that a bid may be missing one or more such requirements, the Bid Evaluation Team shall review the bid to determine:

- if it meets requirements for further evaluation;
- if the City shall request clarification(s) or correction(s); or
- if the City shall determine the bid non-responsive and reject it.

The RFP Coordinator shall manage the bid evaluation process and maintain bid evaluation records. A Bid Evaluation Team made up of City employees shall be responsible for evaluating bids.

As part of the proposal process, and at its discretion, the City may interview up to 3 proposal teams. Oral presentations, including product demonstration, written questions for further clarifications and/or site visits to similar installations may be required.

The City reserves the right, at its sole discretion, to request clarifications of bids or to conduct discussions for the purpose of clarification with any or all Bidders. The purpose of any such discussions shall be to ensure full understanding of the bid. Discussions shall be limited to specific sections of the bid identified by the City and, if held, shall be after initial evaluation of Bids. If clarifications are made as a result of such discussion, the Bidder shall put such clarifications in writing.

### **1.22. Force Majeure**

The Bidder will have no liability for delays, failure in performance, or damages due to: Fire, explosion, lightning, pest damage, power surges or failures, strikes or labor disputes, water, acts of God, the elements, war, civil disturbances, acts of civil or military authorities or the public enemy, inability to secure raw materials, transportation facilities, fuel or energy shortages, acts or omissions of communications carriers, unauthorized use of the products, or other causes beyond Bidder's control whether or not similar to the foregoing.

### **1.23. Assignment and Subcontracting**

The Bidder may not subcontract, transfer, or assign any portion of the contract without prior, written approval from the City. Each subcontractor must be approved in writing by the City. The substitution of

one subcontractor for another may be made only at the discretion of the City and with prior written approval from the City.

If awarded a contract under this RFP, the Bidder, notwithstanding the use of approved subcontractors, shall be the Prime Bidder and shall be responsible for all work performed.

As part of response to this RFP, the Bidder must delineate the responsibility of any and all subcontractor(s) to be utilized for this project.

#### **1.24. Right to Refuse Personnel**

The City reserves the right to refuse, at its sole discretion, any subcontractors or any personnel provided by the Prime Bidder or its subcontractors for cause.

##### **Joint Ventures and Partnering**

**1.24.1.1.** Bids from joint ventures or entities partnering for a specific service must be designed to minimize any administrative burden on the City as a result of the participation of multiple entities.

**1.24.1.2.** The Bid shall clearly set forth the respective responsibilities and functions that each Principal of the joint venture or partnering entities would perform if awarded a contract pursuant to this RFP.

**1.24.1.3.** The Bid must include a copy of the joint venture or partnering agreements that identify the Principals involved as well as their rights and responsibilities regarding a contract pursuant to this RFP.

**1.24.1.4.** The bid transmittal letter must be signed by each Principal of the joint venture and include all required information.

#### **1.25. Supplemental Terms and Conditions/Modifications**

Supplemental terms and conditions and modifications will be made via the Contract document, which will be negotiated with the successful Bidder.

#### **1.26. Standard Contract Information**

##### **Contract Approval**

The RFP and the Bidder selection processes do not obligate the City and does not create rights, interests, or claims of entitlement in the apparent best-evaluated Bidder. Contract award and City obligations pursuant thereto shall commence only after the contract is signed by the successful Bidder and the head of the procuring City agency and after the contract is signed by all other City officials as required by City ordinances and regulations to establish a legally binding contract.

### **Contract Payments**

Contract payments shall be made in accordance with the Payment Terms and Conditions provision of the final contract. No payment shall be made until the contract is approved as required by City ordinances and regulations. Under no conditions shall the City be liable for payment of any type associated with the contract or responsible for any work done by the Bidder, even work done in good faith and even if the Bidder is orally directed to proceed with the delivery of services, if it occurs before the contract start date specified by the contract or before contract approval by City officials.

### **RFP and Bid Incorporated into Final Contract**

This RFP, the successful bid and the City's Consulting Service Agreement (CSA) shall be incorporated into the final contract. A blank copy of the CSA is included in the RFP as Exhibit B.

**NOTE:** The CSA incorporates insurance requirements, prevailing wage and/or living wage requirements, licensing requirements and other needed information in it. ***This is a prevailing wage job and will require current State of California Contractor licenses as required for the work to be provided.***

### **Contract Monitoring**

The successful Bidder shall be responsible for the completion of all work set out in the contract. All work is subject to inspection, evaluation and acceptance by the City. The City may employ all reasonable means to ensure that the work is progressing and being performed in compliance with the contract. At reasonable times, the City may inspect those areas of the Bidder's place of business that are related to the performance of the contract. If the City requires such an inspection, the Bidder shall provide reasonable access and assistance.



### **Contract Amendment**

During the course of this contract, the City may request the Bidder to perform additional work for which the Bidder would be compensated. That work shall be within the general scope of this RFP. In such instances, the City shall provide the Bidder a written description of the additional work and the Bidder shall submit a time schedule for accomplishing the additional work and a price for the additional work based on the rates included in the Bidder's Bid to this RFP. If the City and the Bidder reach an agreement regarding the work and associated compensation, said agreement shall become effective by means of a contract amendment. Any such amendment requiring additional work must be mutually agreed upon by the parties and signed by the Bidder and the head of the procuring City agency and must be approved by other City officials as required by City laws and regulations. The Bidder shall not commence additional work until the City has issued a written contract amendment and secured all required approvals.

### **Contract Award Process**

The RFP Coordinator shall forward results from the bid evaluation process to the City Selection Committee for consideration.

- 1.26.1.1.** The City reserves the right to make an award without further discussion of any bid submitted.
- 1.26.1.2.** The City reserves the right to request a best and final offer.
- 1.26.1.3.** The City reserves the right, at its sole discretion, to negotiate with the apparent best-evaluated Bidder subsequent to the award of bid.
- 1.26.1.4.** The apparent best-evaluated Bidder shall be prepared to enter into a contract with the City. If a Bidder fails to sign and return the contract drawn pursuant to this RFP and final contract negotiations within 14 days of its delivery to the Bidder, the City may determine, at its sole discretion that the Bidder is non-responsive to the terms of this RFP and reject the bid.
- 1.26.1.5.** Contract award shall be subject to the contract approval of all appropriate City officials in accordance with applicable City laws and regulations.
- 1.26.1.6.** The successful bidder shall furnish a Payment Bond in an amount equal to one hundred percent (10%) of the total amount of the contract.
- 1.26.1.7.** The successful Bidder shall furnish a Performance Bond in an amount equal to one hundred percent (10%) of the total amount of the contract.
- 1.26.1.8.** The Contractor shall be permitted to substitute securities for any monies withheld by the City to ensure performance under this contract, such substitution to be subject to the limitations and requirements of Public Contract Code Section 22300.

## **Proposals, Public Information**

Proposals are public records; each Bidder is hereby informed that, upon submittal of its proposal to the City in accordance with this RFP, the proposal is the property of the City.

**1.26.1.9.** Unless otherwise compelled by a court order, the City will not disclose any proposal while the City conducts its deliberative process in accordance with the procedures identified in this RFP. However, after the City either awards the project to a successful Bidder, or the City rejects all proposals, the City shall consider each proposal subject to the public disclosure requirements of the California Public Records Act (California Government Code sections 6250, *et seq.*), unless there is a legal exception to public disclosure.

**1.26.1.10.** If a Bidder believes that any portion of its proposal is subject to a legal exception to public disclosure, the Bidder shall: (1) clearly mark the relevant portions of its proposal “Confidential”; (2) identify, upon request from the City the legal basis for exception from disclosure under the California Public Records Act; and (3) defend, indemnify, and hold harmless the City regarding any claim by any third party for the public disclosure of the “Confidential” portion of the proposal.

## **Liquidated Damages**

Time is of the essence for this contract. Failure to start and complete all work specified within the time allowed shall constitute material breach of contract. The “time allowed” will be calculated *from the* date of the Purchase Order which serves as the Notice to Proceed through the “Maximum Completion date” indicated by the successful Bidder on his Bid form for the completion of work. Failure of the successful Bidder to complete the work within the time allowed will result in damages, and for each consecutive day in excess, the contractor shall pay to the City a sum of \$500 per calendar day. Such amount shall not be construed as a penalty, but as a minimum value of liquidated damages that may be deducted from payment due to the contractor if such delay occurs.

## **BIDDER PROFILE**

### **1.27. Organizational Information**

Bids shall provide the following information, in sequence, to evidence the Bidder’s experience in delivering services similar to those required by this RFP:

- a brief description of the Bidder’s background and organizational history; organization’s number of employees, longevity and sample client base;
- years in business;
- a brief statement of how long the Bidder has been performing the services required by this RFP;
- location of offices;

- whether there have been any mergers, acquisitions, or sales of the Bidder company within the last ten years (if so, an explanation providing relevant details);
- form of business (i.e., individual, sole proprietor, corporation, non-profit corporation, partnership, joint venture, limited liability company, et cetera);
- A statement as to whether there is any pending litigation against the Bidder; and if such litigation exists, attach an opinion of counsel as to whether the pending litigation will impair the Bidder's performance in a contract under this RFP.
- A statement regarding the Bidder's hardware solution that indicates:
  - 1.27.1.1.** Who manufactures the proposed system(s)? If not proposing Bidder, Manufacturer name and address.
  - 1.27.1.2.** Does the Bidder install the product or use business partners?
  - 1.27.1.3.** Does the Bidder use the proposed system to run their business?
  - 1.27.1.4.** Does the Bidder maintain the product or use business partners?
  - 1.27.1.5.** Does the Bidder maintain a customer support center for problems?
  - 1.27.1.6.** Does the Bidder maintain a web site for customers to access technical support and documentation?
  - 1.27.1.7.** Other than the manufacturer that you are proposing in this response, what other manufacturers do you represent? Please state why you feel that the system you are proposing is a better fit than the other systems you represent.

**1.28. Sales Team Profile**

Name of Primary Salesperson/Account Executive Assigned to the Project:

- Years of Experience:
- Years Employed by Bidder:
- Contact Information

Sales Manager Assigned to the Project:

- Years of Experience:
- Years Employed by Bidder:
- Contact Information

Technical Engineer Assigned to the Project:

- Years of Audiovisual Installation Experience:
- Years Employed by Bidder:
- Contact Information

## **1.29. Mandatory Bidder Qualifications**

### **Bidder Certifications and Qualifications**

**1.29.1.1.** Bids shall provide responses and documentation, as required, which indicate the Bidder has met the Mandatory Bidder Qualifications requirements. Any Bid that does not meet the Mandatory Bidder Qualifications requirements and provide all required documentation shall be considered non-responsive and the bid will be rejected.

**1.29.1.2.** Written confirmation is required stating that the Bidder shall comply with all of the provisions in this RFP. (NOTE: If the Bid fails to provide said confirmation without exception or qualification, the City, at its sole discretion, may determine the bid to be non-responsive and the bid may be rejected.)

## **PROJECT DESCRIPTION**

### **1.30. General Overview**

The City is seeking a Cloud-based COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM designed specifically for asset management and maintenance with automated workflow capabilities for work order creation, tracking, and completion. This system will be used by the City's Public Works Department.

This Project is structured into core functionality and optional functionality. Each optional item will have the text “**(OPTIONAL)**”, minus quotes, following the text description of the item. Depending on funding, optional functionality may become part of the core component of this RFP or will be postponed until funding becomes available.

The goals established for this Project include:

- Implement a work order system to be used by all parts of the Public Works Department.
- Complete asset maintenance management of all impacted areas, as listed below in Work Areas in Scope.
- 
- A public facing mobile application that can be integrated with the work order system and used by residents and Staff to report public works issues.
- The Bidder will propose the system and configuration that would best meet the City's stated goals.

### **1.31. Work Areas In Scope**

The new COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM would be used for management and maintenance of all assets in Public Works, including, but not limited to the following:

- Facilities
- Fleet
- City Trees
- Park and Open Spaces
- Public Right-of-Ways (street markings, lights and signals, signs, pavement/sidewalk repair)
- Water Pollution Control Plant (facilities and stationary equipment)
- Storm Systems (inlets, outfalls, and tidal gates)

### **1.32. Requirements & Goals**

#### **Issue Work Order Requests (internally)**

Internal users (Staff) from various City departments can report and track issues through email, website, mobile app and/or other methods.

#### **Issue Work Order Requests (externally)**

External users (general public, including residents and community members) can report and track issues through website, mobile app (e.g., SeeClickFix).

**Workflow**

Automated workflow and routing of work orders based on defined business rules of Public Works Department.

**GIS Integration**

The system is integrated with the City's GIS ESRI system, can work with our existing GIS layers, and can visually display locations on a digitized map.

**Preventative Maintenance Scheduling**

The system can identify when assets require maintenance based on a preset schedule.

**Inspection Scheduling**

The system can facilitate the scheduling of inspections.

**Fixed Asset Replacement Scheduling**

The system can identify when assets need to be replaced based on a preset schedule.

**Inventory of Equipment and Assets**

The system can maintain an accurate inventory list for the purpose of maintenance, replacement, and repair.

**Track Maintenance Activities**

The system can track duration of work order requests, when maintenance is performed, the results, and by whom.

**Track Costs**

The system can track the value/costs of assets by building or piece of equipment, etc.

**Reporting**

The system can generate detailed reports regarding activities/costs that can be used for presentations to City Council, other departments, etc. Reports are easily customizable.

**Client Devices**

Mobile devices (smartphones, tablets) and laptops can be used by Staff in the field and the system is designed/optimized for their use.

## **SCOPE OF SERVICES**

The scope of services is an outline of the services which the City anticipates the successful Bidder to perform. The outline in this section is presented for the primary purpose of allowing the City to compare proposals. The precise scope of services to be incorporated into the CSA will be based upon the submitted proposal and may be the subject of negotiations between the City and the successful Bidder. A copy of the City's standard CSA is attached as Exhibit B.

Based upon the City's outline of services, the Bidder shall prepare a complete description of the scope of services which the Bidder intends to perform in order to complete the Project. The Bidder may identify services in its proposal that differ from the outline of the services described in this RFP if the Bidder believes the changes will assist the City in more efficiently and effectively completing the Project.

The following is a high level outline of the scope of services for the Project.

### **1.33. Proposal Acceptance**

After the City's acceptance of the proposal, the selected Bidder shall submit technical specifications; installation/project timetables using Microsoft Project; and any and all specifications, designs, layouts, and other requirements related to the successful installation of the Project defined herein.

### **1.34. Project Management**

The selected Bidder shall provide a project manager to oversee the implementation of the system.

### **1.35. System Design**

The selected Bidder shall design the system according to the City's specifications and requirements.

### **1.36. User Acceptance Testing**

The selected Bidder shall test the system with the City's team in areas including but limited to: workflows, data migration, maps, work order creation, and mobile functionality to ensure it meets the City's requirements.

### **1.37. User Training**

The selected Bidder shall coordinate system training (onsite and remote, as needed) for all users, as specified by the City's project team.

### **1.38. Documentation**

The selected Bidder shall be responsible for provided detailed system documentation and training materials to the City for future use.

### **1.39. Computers & Client Devices**

The selected Bidder must provide information and configuration for the City's inventory of computers and client devices.

#### **1.40. Project Completion**

The selected Bidder shall substantially complete the requirements of this project by a date mutually agreed upon by the selected Bidder and the City. The selected Bidder shall provide a warranty on the entire system and work as indicated (see Section 7.2).

#### **1.41. System Configuration**

The Bidder shall provide system configuration, including programming, configuration, and building of items including but not limited to:

- Work order workflow routing based on City's defined business rules
- User account creation
- GIS integration
- Financial knowledge integration (budget account numbers, codes, etc.)
- Asset categories and collection
- Preventative maintenance schedules
- Mobile app and website integration
- Reporting and alerting
- Migration of any existing data, as specified by City's requirements.

### **TECHNICAL SPECIFICATIONS**

#### **1.42. System Platform**

The COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM should be cloud-based (Software as a Service) with minimal on premise installation requirements.

#### **1.43. Client Devices**

The COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM should be compatible with Windows 7 and above and Apple iPad and Android tablet devices and smartphones.

#### **1.44. Geographic Systems Integration**

The COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM should be compatible with ESRI ArcGIS, the City's standard GIS platform.

#### **1.45. Warranty**

The selected Bidder shall guarantee the entire system and all work for a minimum of one year from the date of City's acceptance. Component warranties shall be honored for the term established by the manufacturer, but not less than one year from the date of installation. Selected Bidder-modified equipment normally voids manufacturer's warranties – as such, the selected Bidder shall give the City a warranty equivalent to that of the original equipment, but not less than one year from the date of installation. For the first year of the installed system, the selected Bidder will include in the warranty quarterly site visits to check and adjust equipment to restore systems to original performance standards. The selected Bidder shall also propose an annual maintenance component for ongoing maintenance upon warranty expiration.



**1.46. Authentication –OPTIONAL-**

The COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM should use Single Sign On (SSO) based on SAML-authentication and integration with the City’s Active Directory server.

**1.47. Finance System –OPTIONAL-**

The COMPUTERIZED MAINTENANCE MANAGEMENT SYSTEM should be integrated with the City’s financial system if any financial data will be captured by it.

**NON-PROFESSIONAL SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
[NAME OF CONTRACTOR]  
FOR  
[NAME OF PROJECT]**

THIS AGREEMENT for \_\_\_\_\_ services is made by and between the City of San Leandro ("City") and \_\_\_\_\_ ("Contractor") (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, Contractor 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 Contractor 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 Contractor 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.** Contractor 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 Contractor is engaged.
- 1.3 **Assignment of Personnel.** Contractor 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, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor 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 Contractor's obligations hereunder.
- 1.5 **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-certification form and comply with the LWO if covered.
- 1.6 **Public Works Contractor Registration.** Contractor agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or

engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code Section 1725.5. Contractor agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**Section 2. COMPENSATION.** City hereby agrees to pay Contractor a sum not to exceed \_\_\_\_\_, notwithstanding any contrary indications that may be contained in Contractor’s proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Contractor’s proposal, attached as Exhibit B, regarding the amount of compensation, the Agreement shall prevail. City shall pay Contractor 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 Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

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

**[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT.]**

2.1 **Invoices.** Contractor 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;

- 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 Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;
- The Contractor's signature;
- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor 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 Contractor and City, if applicable.

**[NOTE TO STAFF: THE 800-HOUR LIMIT HAS BEEN ADDED BECAUSE OF RECENT COURT DECISIONS THAT INDICATE THAT INDEPENDENT CONTRACTORS MAY BECOME ELIGIBLE FOR PERS AFTER 1000 HOURS OF WORK FOR A CITY WITHIN A 12-MONTH PERIOD, ENTITLING THE CONTRACTOR TO AN EMPLOYER CONTRIBUTION FROM THE CITY.]**

- 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 Contractor.
- 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 Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor 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 Contractor 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 Contractor 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.** Contractor 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 Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Contractor 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.
- 2.10 **Liquidated Damages.** Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

**[NOTE TO STAFF: SECTION 3 MAY BE MODIFIED AS NECESSARY FOR THE TYPE OF WORK.]**

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Contractor 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 Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

**[NOTE TO STAFF: City list of facilities and equipment at Contractor's disposal]**

- 3.1 **Safety Requirements.** In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. **CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.**

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

**[NOTE TO STAFF: THE FOLLOWING PROVISIONS OF THIS SECTION MAY BE ALTERED AS NECESSARY TO FIT THE CIRCUMSTANCES OF A PARTICULAR AGREEMENT. PLEASE CONSULT WITH RISK MANAGEMENT.]**

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Contractor, 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 Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor 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. Contractor 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 Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor 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. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

**4.1 Workers' Compensation.**

**4.1.1 General Requirements.** Contractor 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 Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$ \_\_\_\_\_ [dollar amount to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required] per accident. In the alternative, Contractor 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 Contractor, its employees, agents, and subcontractors.

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Contractor 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.** Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$\_\_\_\_\_ and automobile liability insurance for the term of this Agreement in an amount not less than \$\_\_\_\_\_ [dollar amounts to be determined based on nature of the work—if no extenuating circumstances exist, \$1,000,000 is typically required] 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 Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
- c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor 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 Contractor'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 Contractor's insurance and shall not contribute with it.



4.2.4 **Submittal Requirements.** To comply with Subsection 4.2, Contractor 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 **All Policies Requirements.**

4.3.1 **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.

4.3.2 **Verification of Coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor 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 Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.3.3 **Deductibles and Self-Insured Retentions.** Contractor 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 Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.3.4 **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).

4.3.5 **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.

4.3.6 **Subcontractors.** Contractor 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.

4.4 **Remedies.** In addition to any other remedies City may have if Contractor 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 Contractor'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 Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

**Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES.** Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, 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 Contractor's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Contractor's obligation to defend and indemnify shall not be excused because of the Contractor's inability to evaluate Liability or because the Contractor evaluates Liability and determines that the Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor 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 Contractor 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 Contractor accepts or rejects the tender of defense, whichever occurs first.

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 Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

**Section 6. STATUS OF CONTRACTOR.**

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor'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 Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor 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 **Contractor Not an Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor 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.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor 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.** Contractor represents and warrants to City that Contractor 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. Contractor represents and warrants to City that Contractor 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, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Contractor 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 Contractor under this Agreement. Contractor 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 Contractor thereby.

Contractor 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 Contractor.

Contractor 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, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor 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. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor 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 Contractor 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 Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor'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 Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor 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 Contractor shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be 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 Contractor pursuant to this Agreement;
  - 8.6.3 Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or
  - 8.6.4 Charge Contractor 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 Contractor pursuant to Section 2 if Contractor had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 **Records Created as Part of Contractor'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 Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor 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 Contractor 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 **Contractor's Books and Records.** Contractor 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 Contractor to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Contractor 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 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor 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.*

Contractor 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 Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor 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.

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

10.8 **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.

10.9 **Notices.** Any written notice to Contractor 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 Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

10.10 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, [and C] [ENSURE THAT THE CORRECT EXHIBITS ARE LISTED] represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services

Exhibit B Compensation Schedule & Reimbursable Expenses

Exhibit C California Labor Code Section 1720 Information [DELETE IF NOT APPLICABLE]

10.11 **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.

10.12 **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 Contractor's signature below Contractor certifies

that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor 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

[NAME OF CONTRACTOR]

\_\_\_\_\_  
Chris Zapata, City Manager

\_\_\_\_\_  
[NAME, TITLE]

Attest:

\_\_\_\_\_  
Contractor's DIR Registration Number

\_\_\_\_\_  
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

1957063.2 (2015)

EXHIBIT A  
SCOPE OF SERVICES

EXHIBIT B

COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

## EXHIBIT C

### PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

#### HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Contractor and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Contractor and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services or work.
- B. In accordance with California Labor Code Section 1775, the Contractor and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes penalties per day for each worker engaged in the performance of the services described in Exhibit A that the Contractor or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Contractor or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Contractor or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Contractor or subcontractor had knowledge of their

obligations under the California Labor Code. The Contractor or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Contractor is not liable for any penalties therefore unless the Contractor had knowledge of that failure or unless the Contractor fails to comply with all of the following requirements:

1. The contract executed between the Contractor and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Contractor shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
  4. Prior to making final payment to the subcontractor, the Contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Contractor and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.

The payroll records required pursuant to California Labor Code Section 1776 shall be certified and sent directly to the Labor Commissioner, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Contractor, on behalf of the Contractor and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- E. In case it becomes necessary for the Contractor or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.