



City of Oakland

Steven Falk, Interim City Administrator

REQUEST FOR PROPOSALS
for
ARCHITECTURAL & ENGINEERING DESIGN SERVICES

For the development, design and construction of
LINCOLN RECREATION CENTER
RENOVATION/EXPANSION
(Project No. 1004857)

Oakland Public Works Department (OPW)

Bureau of Design and Construction

Project & Grant Management Division

250 Frank H. Ogawa Plaza, Suite 4314, Oakland, CA 94612

Telephone: (510) 238-3340

Project Manager: Henry Choi

MAY 2020

TABLE OF CONTENTS

SECTION

I	Project Information	
	A. REQUEST FOR PROPOSALS NOTICE	1
	B. INTRODUCTION, PROJECT DESCRIPTION, GOALS AND OBJECTIVES	3
	C. SCOPE OF SERVICES	7
	D. DELIVERABLES	11
	E. RFP TIMELINE	13
	F. ANTICIPATED PROJECT TIMELINE	13
II	Submittal Requirements	14
III	Selection Process	
	A. PROPOSAL EVALUATION	19
	B. INTERVIEW OF SHORT-LISTED FIRMS	22
	C. CONTRACT NEGOTIATIONS	22
	D. CONTRACT AWARD	23
IV	Mandatory Policies and Programs.....	24
V	Appendices	
	Appendix A: Required Documents	
	Appendix B: Sample Services Agreement	
	Appendix C: Schedule Q –Insurance Requirements	
VI	Addenda Issued Prior to Submittal due date	

SECTION I. Project Information

A. REQUEST FOR PROPOSALS (RFP) NOTICE

The City of Oakland (City) is soliciting qualified firms and proposals to provide full design & engineering services for the Lincoln Recreation Center Renovation/Expansion Project. A consultant team shall consist of: architect (lead consultant), landscape architect, structural engineer, mechanical engineer, civil engineer, electrical engineer surveyor, cost estimator, geotechnical engineer, Bay Friendly rater, and LEED coordinator to achieve the City's goals and design intent. The lead consultant must have a proven consensus-building record within diverse communities.

Voluntary Pre-Proposal Meeting: May 21, 2020 at 10:00 AM. Due to the County's shelter-in-place order, meetings will be conducted via a FreeConferenceCall.com web conference. **The toll-free dial in phone number is 515-604-9300. Access Code is 611015.**

Questions Due: May 27, 2020 by 2:00 PM by email to the OPW Project Manager. It is the Consultant's responsibility to ensure that the email has been received. Any addendum that materially changes the RFP solicitation shall be issued no less than 72 hours before the proposal/submittal deadline, unless the deadline is extended by said addendum.

Proposals Due: June 5, 2020 by 2:00 PM. Proposals may only be submitted electronically to the City's Project Manager and Contract Services Division listed below. Proposals not received by the deadline may not be accepted.

Oakland-certified Local Business Requirement: 50% minimum participation. Firms unable to participate in a voluntary pre-proposal meeting are encouraged to contact the assigned Contract Compliance Officer to review the City's Local and Small Local Business Enterprise (L/SLBE) program. See also Section IV.I. Prime consultants should verify the L/ SLBE status of their sub-consultants prior to submittal.

Estimated Construction Budget: \$11,000,000

Contact Information:

OPW Project Manager: Henry Choi at hchoi@oaklandca.gov or (510) 238-3340

Contract Services: Calvin Hao at chao@oaklandca.gov or (510) 238-7395

Contract Compliance Officer: Vivian Inman at vinman@oaklandca.gov or (510)238-6261

RFP/RFQ Documents and AB 2036 Compliance: RFP/RFQ documents are only available digitally and provided free of charge through two websites listed below.

1. iSupplier: <https://www.oaklandca.gov/services/active-closed-opportunities> OR

2. CIPList.com: <http://ciplist.com/plans/?Oakland/city/9392>.

Separate Plan Holder lists are maintained by each site. The Summary of Proposals Received is posted only to the CIPList.com site. It is the responsibility of each prospective proposer to download and print all RFP/RFQ documents, including any addenda, and to verify the completeness of their printed documents before submitting a proposal or qualifications. The City does not warrant, represent, or guarantee the accuracy or completeness of any bid documents and/or information retrieved from other sources. The City is not responsible for any loss or damage including, but not limited to, time, money, or goodwill arising from errors, inaccuracies or omissions in any RFP/RFQ documents and/or information obtained from other sources. It is each prospective proposer's responsibility to check these sites through to the submittal deadline for any applicable addenda or updates.

LaTonda Simmons, City Clerk and Clerk of the City Council

Newspaper publication date: May 15, 2020

B. INTRODUCTION, PROJECT DESCRIPTION, GOALS AND OBJECTIVES

Introduction

The City of Oakland, Public Works Department (OPW) Project & Grant Management Division (PGM) is soliciting proposals from qualified architectural design teams for the Lincoln Recreation Center Renovation/Expansion Project at 250 10th Street, Oakland, CA.

Lincoln Recreation Center is located within Lincoln Square Park, one of the City's original seven public squares designated in the 1860s located in Oakland Chinatown, occupies one corner of the 1.75-acre urban block park and is operated by the Oakland Parks, Recreation and Youth Development Department. It is the only public recreation center and park in Chinatown and Downtown that has park staff, public restrooms and active programming on-site. It serves a community of residents of all ages, income levels, and races. The recreation center is bustling from dawn to dusk with over 1,500 unique visitors each day, all day long, seven days a week.

Lincoln Recreation Center is in the heart of Oakland Chinatown adjacent to Lake Merritt in the east, Downtown Oakland and Old Oakland District in the west, Uptown District in the north, and Jack London Square in the south. The recreation center is surrounded by residential neighborhoods and commercial land use and is easily accessible by BART and AC transit lines. 11th Street and Harrison Street is under construction for a new AC Transit BRT (Bus Rapid Transit) stop.

Lincoln Recreation Center building was constructed in late 1970s, almost 50 years ago and was a 7,500-square foot structure. The Recreation Center hosted programs and classes year-round serving patrons from pre-school to seniors, and a thriving summer camp program.

Based on community input, the vision for the new expanded Recreation Center is to build a legacy and invest for the next generations. The recreation center will continue to play a central role to provide a welcoming, diverse, and thriving community that enriches the lives of all families. Lincoln Square has been the heart of the Chinatown neighborhood and a welcoming place for people from all over Oakland and beyond since the 1860s.

The community and the City has initiated efforts in gathering preliminary program information, however, the information requires further development.

Project Description

The prime consultant shall be a licensed architectural firm, licensed to practice in the State of California, whose team demonstrates a strong background and depth of experience in: planning, programming and design of recreation centers and community facilities; effectively integrating the new expanded/renovated building facilities within the existing park use and spaces; incorporating sustainable design and LEED; and working with diverse communities and public agencies through an inclusive and engaged design process. The design team will be responsible

for the project planning and refining program development, all phases of design, and construction administration services for the construction of the planned recreation center. The successful design team is expected to implement and maintain compliance with City's project requirements, maintain schedule, and assist/support funding efforts of any future funding sources, throughout the design of the building and site.

Professional services may include, but are not limited to, the following: site surveys and analysis, existing conditions evaluations including building systems, review of environmental site assessment information if required, community engagement, stakeholder meetings, program development, ADA and code analysis, sustainability program implementation, certification and conformance (including water quality best practices, Bay Friendly Landscaping, energy conservation programs, etc.), schematic design, design development, construction documents, construction support through project close out, provide cost estimates, facilitate and prepare Planning, Building Department and other permit applications, CEQA documentation, utility permits, and assist with coordinating other needed services such as telephone, internet or security systems. The team will assist the City in conforming with current and future funding or policy obligations necessary to complete the work, such as bonds and grants requirements, or City's programs.

The City will rank the firms in order of most-qualified and begin negotiation of scope and fee with the top ranked firm. If the City and the selected firm is unable to come to agreement for the project, the City will move on to the next ranked firm and continue the negotiation. City reserves the right to award all or a portion of the services or authorize scope of work in phases as necessary and/or in accordance with fund availability.

Goals and Objectives

The vision for the Lincoln Recreation Center Renovation/Expansion is to create a vibrant destination for civic, cultural, social, educational, and recreational activities serving the Chinatown community and citywide users. The Recreation Center must be inclusive of a diverse community of users, universally accessible, flexible in use, and thoughtfully designed. The new building must integrate thoughtfully within the park context, enhancing visibility, security and connectivity with adjacent uses, while preserving and protecting the urban park setting and popular recreation amenities that the park provides. The objective of the new building project is to result in a "state-of-the art" facility that will foster community, wellness, recreation and learning. The building will meet programming, life safety and accessibility requirements within an efficient footprint, to minimize negative impact to the park experience.

The project must incorporate sustainable design principles; giving consideration to renewable energy, materials and resource conservation, water efficiency, indoor environmental quality, and sustainable site planning. The design team is required to design the project to meet Energy Compliance requirements issued by the City's Environmental Services Division. In addition, the design team must support and provide services to meet City programs, such as LEED certification, Bay Friendly Landscaping, Stormwater programs, etc. Sustainability goals for the project are LEED Gold as the target.

The project is to reconstruct and expand the Recreation Center from 7,500 s.f. and rebuilt/expand with a new anticipated two-story facility of approximately 14,000 s. f. – 21,000 s.f. total. The building ground floor will minimally include the following spaces: new multi-purpose program rooms (divisible to two), a larger children’s program room with connected outdoor activity space, a community gathering/exhibit space called “Pioneer Pavilion”, culinary kitchen, a new gym doubling the original size for basketball and adding new indoor volleyball courts, an indoor-outdoor activity/patio space, outdoor badminton space, surrounding new landscaping and storm-water bio-filtration system, and associated supporting spaces. Additional program space envisioned includes teen spaces, technology/computer spaces, art programs, etc.

Community Engagement

Lincoln Recreation Center serves a diverse, passionate, and devoted community; and as such the project must be planned and developed through an inclusive community engagement process. The consultant will be expected to engage with community and City stakeholders throughout the design process.

Community Stakeholders for the recreation center include, but are not limited to:

- Chinatown community
- Friends of Lincoln Square Park (FOLSP)
- Oakland Parks and Recreation Foundation (OPRF)
- Oakland Chinatown Chamber of Commerce (OCCC)
- Lincoln Elementary School
- Oakland Chinatown Coalition (OCC)
- Chinatown Improvement Initiative (CII)
- East Bay Asian Local Development Corporation (EBALDC)
- Wa Sung Community Service Club (WSCSC)
- Asian Pacific Environmental Network (APEN)
- Asian Health Service (AHS)

It is anticipated that a Project Advisory Committee (PAC), composed of community representatives and City staff, will be involved with the project from consultant selection, programming through design phases. Participatory Community Workshops will engage the community early on in an inclusive design process. Oakland Public Works Department will lead the implementation of the project. Additionally, City of Oakland Parks, Recreation & Youth Development (OPRYD) liaisons are committed to assisting with facilitation of ongoing community engagement, and utilizing the process of design for the Recreation Center to build a long-term sense of community ownership, civic engagement and support for the Recreation Center.

Visioning, Programming and Site Master Plan Phase Goals

The purpose of the initial Visioning, Programming Concept Design Phase will be to refine the feasibility of options, and to clearly define programming needs and space requirements, for the required facilities and site improvements; in the context of an overall awareness and sensitivity

to shared and efficient use of space, while balancing the input of the community and requirements of the City.

The new Recreation Center will provide the following facility/program features to replace the existing space: kitchen, activity room, gymnasium/multi-purpose room, office, support spaces (restrooms, utility room, storage, etc.).

The consultant proposal shall include all consultant services required to complete the Programming phase, as well as known consultant services required through construction.

Additional Departmental, grant and other fund-raising may be required to complete the project budget. The consultant will be expected to determine the budget need and support the City's applications for additional funding.

C. SCOPE OF SERVICES

Provide professional Architectural, Structural Engineering, Mechanical, Electrical, Plumbing (MEP) engineering, Landscape Architectural, Geotechnical Engineering, etc. design services from public engagement, preliminary design through construction support services for Lincoln Recreation Center Renovation/Expansion meeting the above Project Goals and Objectives.

The consultant's services will be conducted under the direction of the respective project manager in Project & Grant Management Division of the Oakland Public Works Department – Bureau of Design & Construction. The selected consultant team shall be required to assist the City in the refinement of the project scope, according to priorities and needs resulting from meetings with City staff, community members, and other stake holders.

I. Pre-Design/Project Start-up:

1. Gather program information and data through review of existing available documents, conduct site visits and meetings with City staff.
2. Prepare existing site topographic and boundary survey and base plan
3. Conduct geo-technical investigation
4. Conduct Site and Building Evaluations by Architect, Landscape Architect, Mechanical, Electrical, Plumbing, Structural and Civil Engineers as well as other subconsultants as required
5. Consultations with City Staff and Other Appropriate Agencies
6. Conduct code research and determine permitting and approvals requirements
7. Work with PAC to develop the community engagement plan and initial programming options
8. Refine public engagement plan
9. Prepare preliminary Project schedule for City's review and approval

II. Visioning, Programming, Site Master Plan and Concept Design:

1. Based on existing community efforts conducted through the Friends of Lincoln Square Park and the defined program, work with the PAC to refine the program and develop three (3) facility concept plan alternatives, and prepare a preliminary order -of magnitude project cost estimates to meet programs for each concept. Present concepts to the PAC for review. Provide minimally site and floor plans & exterior elevations for each alternative. Provide general scaled, massing study models of the proposed alternatives to help convey design concepts and site context to the PAC, and identify pros and cons of each scheme. (Estimate a total of two meeting to develop and review alternatives.)
2. Conduct up to three (3) Community Engagement Design Workshops to review and discuss pros and cons of the alternatives and feasibility of implementation. Each workshop must be convened to target different user and demographic types. For

- example: youth and seniors; weekday evening and weekend options, etc.
3. Final meeting with the PAC and finalize alternative selection based on community feedback.
 4. Prepare and document all meetings. Complete and submit final program summary report and plans.
 5. Assist and develop communication materials for City's public relations use.
 6. Prepare and present the selected alternative at public meetings, Park and Recreation Advisory Commission, Planning Commission, Landmark Preservation Advisory Board, and City Council as required (estimate 5 meetings).

III. Schematic Design (35%):

1. Based on the finalized alternative selection from Task II, Visioning, Programming, and Concept Design, prepare and present Schematic Design and phasing strategy (if necessary) for improvements.
2. Develop Sustainability Strategy Recommendations and Energy Efficiency System options, evaluation and recommendations (LEED, Bay Friendly, Stormwater management, etc).
3. Develop general concepts for building and utility systems, outline specifications, minimally including civil plans, site plans, utility information, building elevations, preliminary building system floor plans (MEP), etc.
4. Incorporate/coordinate with Cultural Arts to include Public Art component
5. Update Project Schedule
6. Prepare and present Schematic Design to the PAC, Community, Planning Department, other City Department meetings (est. 3-4 meetings).
7. Attend and participate in all review meetings with city staff and stakeholders. Document design review and decisions.
8. Finalize 35% plans, Master Format outline specifications and probable construction cost estimates for final review and approval by City.

IV. Design Development (65%):

1. Prepare and Submit 65% Design Plans and Specification (in Master Format) based on final results and direction from Task III, Schematic Design Phase. Submittal to build upon previous submittal and include details, schedules, construction notes, etc.
2. Prepare and Submit Statement of Probable Costs.
3. Incorporate agreed Sustainability Strategy Design Implementation (e.g. LEED, Bay Friendly Landscape)
4. Incorporate agreed Energy Efficiency System Design Implementation and provide energy modeling as required (e.g. Title 24, systems life-cycle analysis, etc.)
5. Update Project Schedule
6. Prepare 3D Color Rendering of the Building, including significant site elements
7. Coordinate and identify Public Art opportunities and integrate component with design

8. Prepare Materials and color board depicting interior and exterior finishes
9. Present Design to Community, Parks & Recreation Advisory Commission, Planning Commission, Mayor's Office of Commission for Persons with Disabilities, etc. (4 estimate meetings)
10. Attend and participate in the review meetings with City Staff and Stakeholders. Document design review and decisions.

V. Construction Documents (Pre-final 95% and Final 100%):

1. Incorporate City review comments from Task IV, Design Development.
2. Prepare and submit 95% Plans.
3. Prepare and submit 95% Technical Specifications for constructability review (in Master Format) integrating/editing/updating City's Division 01 General Requirements and review/coordinate Bid boilerplate documents (such as Notice of Inviting Bids, Special Provisions).
4. Prepare and submit updated Statement of Probable Costs with detailed breakdown of cost categories/trades. Incorporate additive/deductive alternates as necessary.
5. Prepare, coordinate and manage utility plans and approvals
6. Prepare permit applications and submit (3) full-size sets stamped and signed plans and calculations required for Building Permit Review (can be the same set as described above).
7. Update Sustainability Strategy Implementation Plan and prepare Commissioning Plans
8. Final coordination with Public Art Program to incorporate Art element
9. Attend and participate in the review meetings with City Staff and Stakeholders. Document design review and decisions.
10. Respond to all comments including constructability review and integrate where appropriate.

VI. Bid and Award Support:

1. Prepare final approved Bid Package for City for use in obtaining bids
2. Provide prompt clarifications and responses to bidders on construction documents
3. Prepare addenda and drawing revisions
4. Assist the City in evaluation and analysis of bid results

VII. Construction Support:

1. Preparation of Proposal Request and Change Order Documents
2. Evaluation of Change Order Proposals
3. Prepare Clarifications to Construction Documents via RFI's
4. Prepare Engineer's Supplemental Instructions (ESI) if necessary
5. Review and approve submittals

6. Maintain submittal, RFI, Proposal Request, and Construction Change Order Log
7. Attend and participate in regular site observations and meetings, document observations, and provide meeting notes
8. Attend final walk through inspections and develop/prepare punch list
9. Review of close-out Documents such as as-builts, O&M Manuals, final reports, commissioning results, etc.
10. Coordinate with contractor and complete LEED commissioning certification
11. Prepare As-Built Drawings in AutoCAD from contractor's redlines and provide .tif files (or latest types of files that we use) and .pdf files for City's use.
12. Coordinate with other City consultants and contractors

VIII. Other tasks as assigned by City.

1. Set-up online Document and Project Photo Library:
2. Create shared online resource for design document ad photos with clear directory
3. Graphics and Website support:
4. Graphics support for staff presentations, public engagement, reports and grant applications.

D. DELIVERABLES

Deliverables listed below to be provided to the City according to a timeline agreed upon by City and Consultant.

- I. Pre-Design/Project Start-up (Minimum deliverables):**
 - Summary report of existing evaluation results by discipline
 - Code search results and understanding of approval processes
 - Public engagement plan
 - Project schedule

- II. Visioning, Programming, Site Master Plan and Concept Design (Minimum deliverables):**
 - Concept plan alternatives (3) – Site plans, single-line floor plans, massing elevation, simple rendering of exterior (bird's eye view or orthographic view acceptable) to express appearance/materials with few interior space views for each option
 - Program details and basis of design/concept
 - Summary program report and plans, including final selected option
 - Order of Magnitude costs
 - Communication materials for City's website and posting

- III. Schematic Design - 35% (Minimum deliverables):**
 - Schematic (35% design) plans, outline spec. & const. cost estimate

- IV. Design Development - 65% (Minimum deliverables):**
 - Design Development (65% design) plans, draft specifications & detailed construction cost estimate
 - Materials and color board
 - Design presentation materials as required for public meetings
 - Provide project update for City's public postings

- V. Construction Documents - Pre-final 95% and Final 100% (Minimum deliverables):**
 - Construction documents (95% and 100% submittals stamped and signed), specifications & construction cost estimate updated
 - Design presentation materials as required for public meetings
 - Provide project update for City's public postings

- VI. Bid and Award Support (Minimum deliverables)**
 - Prepare final approved Bid Package for City for use in obtaining bids
 - Prepare prompt clarifications and responses to bidders on construction documents
 - Prepare addenda and drawing revisions

- Assist the City in evaluation and analysis of bid results

VII. Construction Support:

- Preparation of Proposal Request and Change Order Documents
- Evaluation of Change Order Proposals
- Prepare Clarifications to Construction Documents via RFI's
- Prepare Engineer's Supplemental Instructions (ESI) if necessary
- Review and approve submittals
- Maintain submittal, RFI, Proposal Request, and Construction Change Order Log
- Attend and participate in regular site observations and meetings, document observations, and provide meeting notes
- Attend final walk through inspections and develop/prepare punch list
- Review of close-out Documents such as as-builts, O&M Manuals, final reports, commissioning results, etc.
- Coordinate with contractor and complete LEED commissioning certification
- Prepare As-Built Drawings in AutoCAD from contractor's redlines and provide .tif files (or latest types of files that we use) and .pdf files for City's use.
- Coordinate with other City consultants and contractors

VIII. Other tasks as assigned by City:

- Set-up online Document and Project Photo Library:
- Create shared online resource for design document and photos with clear directory
- Graphic and Website support:
- Graphics support for staff presentations, public engagement, reports and grant applications

E. RFP TIMELINE

These estimated timeframes are linear.

ACTIVITY	ESTIMATED TIMEFRAME
RFP Issued	Week 0
Proposals due	Week 4
Proposal evaluation	Week 4-7
Interviews conducted	Week 7-9
Negotiations concluded	Week 14
Council Approval	Week 20
Contract Execution	Week 24
Authorization to Proceed	Week 25

F. ANTICIPATED PROJECT TIMELINE

Project Start-Up	November 2020
Planning/Programming	November 2020 – March 2021
Design	March 2021 – December 2022
Bid/Award	December 2022 – August 2022
Construction	August 2022 – November 2023
Project Close Out	November 2023 – April 2024

SECTION II. Submittal Requirements

Submit **six (6)** bound copies and email a digital copy to:

Tamala Barnes
OPW-Contract Services
250 Frank H. Ogawa Plaza, Suite 4314
Oakland, CA 94612
tbarnes@oaklandca.gov

The proposal should be organized in the order in which the required elements are presented below. Elements to be included in the proposal are described below.

1. Transmittal Letter

- a. To the attention of: Mr. Henry Choi, Project Manager, Project & Grant Management Division, 250 Frank Ogawa Plaza, Suite 4314, Oakland, CA 94612.
- b. Signed by an office of the prime consultant. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign.
- c. Explain your team's approach to providing excellent service under the proposed contract and why you believe your team stands above the competition.
- d. **IMPORTANT: Include a statement of acknowledgement of having received all addenda, if any are issued.**

2. Project Team (Suggested Limit - 4 pages)

- a. The prime consultant shall be a valid State of California Licensed Architect.
- b. Project Teams must be able to demonstrate expertise, experience, and the ability to comprehensively handle the work described in Section I, "Introduction (Project Description, Goals & Objectives" and "Scope of Services" of this RFP. Additionally, the Project Team must reflect compliance with the City's Local and Small Local Business Enterprise Program, and a true intent to utilize the listed sub-consultants. At a minimum, teams shall complete and submit **Schedule E** as a summary sheet showing your project team.
- c. List prime firm and sub-consultants with individual addresses, telephone numbers, and areas of expertise. Briefly describe the project responsibility of each team member. Identify which consultants are Local Business Enterprises (LBE), Small Local Business Enterprise (SLBE), and Very Small Local Business Enterprise (VSLBE). Additionally, for LBEs/SLBE/VSLBEs, submit a copy of current business license and date established in Oakland. The copies of current business licenses are not counted toward the maximum page count of the proposal response.
- d. Provide an organizational chart of the firm and team, including principal-in-charge, project manager(s) and lead technical staff. The availability of the project

manager, lead technical staff and technical support staff to commit to this contract should be numerically expressed as a percentage of work hours for that employee on a yearly basis. Consider the City's Anticipated Schedule in your response.

3. Key Project Personnel (Suggested Limit – 1 page for Item 3.c, Items 3.a and 3.b Suggested Limit – 1 page per person, not counted toward the maximum page count of the proposal response)
 - a. Prime Consultant: Provide a detailed resume of the proposed principal-in-charge and the project architect and project manager(s), if applicable, who shall be a full-time employee of the prime consultant. Clearly identify experience relative to this type of project. All shall be an Architect currently licensed by the State of California. DO NOT SUBMIT OTHER RESUMES.
 - b. Sub-Consultants: Provide a detailed resume of the proposed project manager and/or engineer who shall be a full-time employee of each sub-consultant for this project. Clearly identify relevant experience. He/she shall be a professional currently licensed by the State of California, if applicable. DO NOT SUBMIT OTHER RESUMES.
 - c. Confirm that the key project personnel identified by the Prime Consultant and Sub-consultants shall not be substituted without approval of the City. The City must also approve any new, key team members.
4. Relevant Experience – Prime Consultant and Sub-Consultants (Items 4.a, 4.b and 4.c Suggested Limit – 3 pages)
 - a. Describe experience in providing comprehensive architectural services and project management of similar project size and scope described in Section I, "Project Description, Goals and Objectives" and "Scope of Services" of this RFP.
 - b. Describe experience and ability to work effectively with City staff, community groups, permitting/public entities, and other stakeholders in addressing the various interests in developing a successful project.
 - c. Highlight particular examples of innovative approaches to inclusive community engagement and building consensus on recreational facilities with diverse stakeholders.
 - d. Prime consultant shall provide project photos and/or graphic illustrations of five relevant/similar projects, completed within the past 10 years. Provide at a minimum, one example of a project illustrative rendering of a similar style and/or complexity as required for this project as described in Task IV, sub-task 6. For each project, provide the following information:
 - i. Project name and location.
 - ii. Project Area (Identify Existing and addition)

- iii. Brief description of the project scope.
- iv. Month and year construction commenced and was (or will be) completed.
- v. Initial Construction Budget and final Construction cost.
- vi. Firm's Initial and final Design Fee total
- vii. Firm's project responsibility listing the staff who worked on the project and their role.
- viii. Client name, address, contact person, and telephone number.

5. Project Approach and Organization (Suggested Limit – 3 pages)

- a. With reference to the "Project Description, Goals and Objectives" and "Scope of Services" of this RFP, present your approach and organization for providing services on this project. Indicate your understanding of the critical project elements, and what special approaches your team will feature to manage these elements.
- b. Describe how you intend to interface with City staff and the community. Identify strategies or ideas for inclusive community engagement, particularly during development of the Programming and for building consensus on the design.
- c. Describe the ability of the proposed team and approach to effectively foster communication among the diversity of Oakland residents, including language abilities, experience with community-based social marketing, and knowledge of Oakland and its residents.

6. 50% Local Business Enterprise Program Compliance

- a. Proposing firms or teams must demonstrate compliance with the City's Local and Small Local Business Enterprise Program. Submit a completed Schedule E to summarize the project team and submit a copy of any LBE, SLBE or VSLBE certifications, if applicable.
- b. If the Prime Firm is an Oakland-Certified local business (LBE, SLBE, VSLBE), it does not have to meet the 25% SLBE participation requirement. However, Schedule E (Project Consultant Team) needs to include the dollar amount and/or percentage of all participating firms and must always total 100%.
- c. If the Prime Firm is not an Oakland-Certified local business (LBE, SLBE, VSLBE) the firm must achieve a minimum of 25% SLBE or 12.50% VLSBE participation. The 50% L/SLBE requirement must be met. Further Schedule E (Project Consultant Team) needs to include the dollar amount and/or percentage of all participating firms and must always total 100.

7. References (Suggested Limit - 1 page)

- a. Prime Consultant and Sub-Consultants: Provide references and contact information of at least three recent (within the last 3 to 5 years) clients, preferably from representatives of public sector agencies; giving name, company, address, telephone number and business relationship to firm(s). Reference letters are not required, but may also be attached as appendices.

8. Cost Proposal and Hourly Billing Rates (Suggested Limit - 3 pages)

- a. The prime consultant shall provide a cost proposal to accomplish each deliverable and phased task. The prime consultant shall propose a not to exceed (time and materials) fee.
- b. The cost proposal is based on hourly rates in which the prime consultant and sub-consultants shall provide a complete list of all staff hourly rates of the positions that would be invoiced, i.e., Principal, Project Manager, Outreach Staff, Administrative Support, etc. Hourly rates shall be itemized and all-inclusive, i.e., base salary, fringe benefits, overhead, indirect cost surcharges, profit, etc.
- c. The prime consultant shall provide a monthly invoice with supporting documentation that shows the hours billed to specific tasks executed and services provided if the task is based on time and materials or reference to the deliverable completed if the task is based on a fixed price as determined in the scope of work.
- d. Mark-up on all reimbursable expenses, i.e. sub-consultant fee, printing, production costs, photography, equipment rental, mailing/postage, use of vehicle, software procurement, materials acquisition, etc., shall be individually negotiated and shall be subject to the City's approval, but may not in any case exceed 10%.
- e. Hourly rates will not be a factor in the evaluation. However, the City reserves the right, after the firms have been selected, to decline to enter into a contract with a firm whose rates are deemed to be unreasonable at the City's sole discretion.
- f. The contract amount will be billed on time and material with a maximum not-to-exceed contract amount. During the four (4) years contract term, there is no provision for hourly billing rate increases or adjustments. If an amendment to extend the contract expiration becomes necessary, hourly billing rate increases/adjustments will be permitted in accordance with the annual increase stipulated each July 1 by the City's Living Wage Ordinance (Chapter 2.28 of the Oakland Municipal Code).
- g. The cost proposal accounts for up to 5% of the total evaluation score. The City reserves the right to negotiate the final cost proposal with a prime consultant and to decline to enter into a contract if the total compensation is deemed unreasonable at the City's sole discretion.

9. Proposed Project Schedule

- a. Provide and submit a preliminary project schedule delineating anticipated time frame and project milestones to complete the project.

10. Required Schedules Due with Submittal

(see Appendix A for forms and Section IV for information)

- a. Schedule E - Project Consultant Team Listing
- b. Schedule O - Campaign Contribution Limits
- c. Schedule W – Border Wall Prohibition

11. Optional Schedule

(see Appendix A for form and Section IV.I.3 for information)

- a. Schedule E-2 – Oakland Workforce Verification

SECTION III. Selection Process

A. PROPOSAL EVALUATION

The following weighted criteria will be used in evaluating and rating the proposals submitted by consulting teams. A maximum of 12.5 preference points may be earned through the Local and Small Local Business Program described in Section IV.I.

The City has allocated 15 working days for the review and scoring of the proposals.

MAX POINTS	CRITERIA
30	<p>RELEVANT EXPERIENCE</p> <ul style="list-style-type: none"> • Evidence of past, recently completed, or on-going projects that substantiate relevant experience. • Prior experience and ability to work collaboratively with City staff and other agency stakeholders; addressing various interests to develop successful public works projects. • Evidence of experience with community engagement, facilitating consensus among diverse stakeholders, and strong communication ability.
25	<p>QUALIFICATIONS</p> <ul style="list-style-type: none"> • Level of specific expertise, professional background, and qualifications of team members and firm comprising the team in emergency and essential services facilities design. • Strength of the design/project lead. • Level of technological advancement and innovation. • Knowledge and experience with regulatory agencies and ability to identify and secure all necessary permits. • Experienced design and management processes.
20	<p>PROJECT APPROACH</p> <ul style="list-style-type: none"> • Understanding of the nature and extent of the services required. • Awareness of potential problems or challenges and possible solutions. • Demonstration of innovative approach to project solutions. • Demonstration of ability and innovative approaches to engage and develop consensus among the stakeholders.

10	ORGANIZATION <ul style="list-style-type: none"> • Available staff and specialized resources, if any. • Cohesiveness of the project team. • Proven cost and quality control procedures. • Presentation, completeness, clarity, organization, and responsiveness of proposals.
10	RESPONSIVENESS <ul style="list-style-type: none"> • Commitment and ability to perform on short notice and under time constraints. • Capacity and flexibility to meet schedules, including any unexpected work.
5	COST PROPOSAL <ul style="list-style-type: none"> • Submit detailed cost proposal for each stage of the project.
100	POSSIBLE RFP CRITERIA POINTS
12.5	POSSIBLE BONUS POINTS A maximum of 12.5 preference points may be earned through the Local and Small Local Business Program described in Section IV.I.
112.5	TOTAL POSSIBLE POINTS

B. INTERVIEW OF SHORT-LISTED FIRMS

The City will develop a “short list” of firms to be considered for further evaluation, possibly including oral interviews. References, including past performance on City projects completed by the firms, if applicable, may be considered in the evaluation process. The short-listed firms will be notified in writing whether interviews will be held and provided with information on the interview format.

The City reserves the right to select consultants based solely on the proposals, and not conduct oral interviews. If the City conducts oral interviews of the short listed firms the interviews will be weighted as 67% and proposals 33% of the overall ranking.

It is presently anticipated that the interviews will be conducted within ten (10) working days of notification. The interviews will last approximately 30 minutes, with 15 minutes allocated for the consultant's presentation and the remaining time for a question and answer period. Interviews will be held at a City office (exact location to be determined). The proposer will be required to provide all equipment necessary to make their presentation.

C. CONTRACT NEGOTIATIONS

1. All RFP responses become the property of the City.
2. The RFP does not commit the City to award an agreement or to pay any cost incurred in the preparation of the proposal.
3. The completion of the interview process will result in the firms being numerically ranked. The City will initiate contract negotiations in order of the ranking. Should the City and a firm not be able to reach an agreement as to contract terms within a reasonable time frame, the City may terminate negotiation at the City's sole discretion.
4. The City reserves the right to negotiate the final scope of services and will not be bound by the scope of services presented in the RFP nor by the scope of services in the consultant's proposal.
5. The City reserves the unqualified right without liability or commitment to any party, firm, or organization, whether or not minimum requirements are met:
 - a. to evaluate each proposal and to accept or reject any or all proposals received;
 - b. to modify, suspend, or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all consultant teams, and to waive any defects as to form or content of the RFP or any responses by any consultant teams obligation;

- c. to reject any or all proposals and to suggest that individual members of teams collaborate to form new consultant teams; and
 - d. to require a service provider to participate in negotiations and submit technical information or other revisions to the service provider's qualifications as may result from negotiations.
6. In finalizing the scope of services, the City may request that the consultant add, delete, or replace sub-consultants with those from other teams that submitted proposals. Such changes will be bound to the City's LBE/SLBE requirements.
7. The contract amount (including reimbursable expenses) will be a maximum not-to-exceed amount on the tasks described in Section I and the cost proposal or hourly rates submitted under Section II, or lesser rates mandated by the City. Reimbursable expenses are subject to prior approval of the City. The amount for such expenses will be included in the maximum not-to-exceed amount. ***Firms will be required to maintain their billing rates for this period. Should the term of the Agreement need to be extended, rate increases will be allowed at that time.***

D. CONTRACT AWARD

1. Upon successful completion of the negotiations, City staff will seek City Council authorization to award a professional services agreement to the selected consulting firm. Upon authorization to award the contract by the City Council and upon execution of the contract, the City shall issue an Authorization to Proceed to the selected consulting firms.
2. All documents and information submitted to the City of Oakland in response to an RFP are public records pursuant to California Government Code, Sections 6254, et seq. and City of Oakland Sunshine Ordinance, Oakland Municipal Code Chapter 2.20. The City shall disclose such documents and information upon request by any member of the public, absent a mandatory duty to withhold or a discretionary exemption that the City may choose to exercise. The City shall not in any way be liable or responsible for any disclosures of documents or information made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.
3. The selected consulting firm shall be required to maintain auditable records, documents, and papers for inspection by authorized local, state and federal representatives. Therefore, the consulting team may be required to undergo an evaluation to demonstrate that the firm uses recognized accounting and financial procedures.
4. Professional Services Agreement
Please review the sample services agreement included in the Appendices. The City strongly advises against requesting any modifications to its terms and conditions. Submittal of a proposal shall demonstrate the consultant's review, understanding and

acceptance of the terms of this agreement. Requests to modify agreement terms may result in rescission of contract offer.

5. Insurance Requirements

The awarded consultant will be required to provide proof of insurance in accordance with **Schedule Q** prior to execution of a contract. (see Appendices)

6. Business Tax Certificate

The consultant awarded this contract shall obtain or provide proof of having a current City of Oakland Business Tax Certificate prior to contract execution, and shall maintain a current tax certificate for the duration of the contract.

SECTION IV. Mandatory Policies and Programs

<<< Schedules E, O and W shall be submitted with the proposal. Schedule E-2 is optional. >>>

All other Schedules referenced below are not required with the proposal. These schedules will only be required of the contractor receiving the award and will be provided during the contract execution phase. These Schedules, policies, programs, and ordinances referenced in this section are available at:

<http://www2.oaklandca.gov/Government/o/CityAdministration/d/CP/s/FormsSchedules/index.htm>.

Please carefully review all the terms and conditions described below. The City shall award contracts only to firms that can achieve full compliance.

A. Definitions

- “contractor”, “consultant”, “firm”, “prime consultant”, “proposer”, and “vendor” are defined as a professional services consultant

B. Pre-Proposal Meeting Information

Section I.A. Request for Proposals Notice and legal advertisement will indicate whether a pre-proposal/pre-submittal meeting is scheduled, and if it is voluntary or mandatory. If mandatory, Prime Proposers who fail to attend the pre-proposal/pre-submittal meeting are disqualified from submitting a proposal/statement of qualifications. Topics discussed at the meeting may include, but are not limited to, general or technical project information, compliance requirements for programs such as the City’s Local/Small Local Business Enterprise Program, Disadvantaged Business Enterprise provisions, or supplemental HUD funding provisions, the Local Employment Program, the Oakland Apprenticeship Workforce Development Partnership System, Prompt Payment Ordinance, Equal Benefits Ordinance, Border Wall Prohibition, minimum wage ordinance, living wage ordinance, and prevailing wages.

C. Proposal Documents and Addenda

Proposal Documents and Addenda are available in digital format only and provided free of charge through two websites listed below. Sign-in sheets for pre-proposal/submittal meetings will also be uploaded to these two websites. Hard copies are NOT available for

purchase from the City. Courtesy notifications of contracting opportunities advertised in the newspaper are emailed only to vendors properly registered with either portal listed below.

1. **iSupplier System (City's official site):**

Registration in iSupplier, the City's payment and procurement system, is required in order to receive a contract, payments and notifications of contracting opportunities. New registrants can email iSupplier@oaklandca.gov for registration instructions. Allow three working days for approval to access bid documents through iSupplier. Without proper registration, your firm may not be receiving notifications from iSupplier regarding contracting opportunities. We recommend updating your firm's primary email contact regularly and confirming the "Products and Services" section of your profile is correctly filled out. For further information, refer to the following links for detailed iSupplier registration instructions.

<https://www.oaklandca.gov/services/contracts-and-compliance/register-with-isupplier>

The iSupplier system assigns a unique "Request for Quotation" number and a three page introductory document to each contracting opportunity (construction bid or RFP). These front-end documents from iSupplier are for reference only and need not be submitted at any time. CIPList.com does not assign any such tracking number and as such, bid or proposal documents downloaded from CIPList.com will not include this iSupplier document.

2. **CIPList.com (an alternate third-party site)**

<http://ciplist.com/plans/?Oakland/city/9392>

New registrants can register independently on the site for immediate access.

3. Please note that separate **Plan Holder lists** are maintained by each site.

4. Firms that are awarded a contract must eventually register in iSupplier in order to receive payments.

D. Rejection of Proposal Elements

A proposal RISKS BEING REJECTED for any of the following reasons:

- Proposal received after designated time and date.
- Proposal received at other than the designated location.
- Proposal not in compliance with the City of Oakland Local/Small Local Business Enterprise Program.
- Proposal not containing the required elements or exhibits, or not organized in the required format.
- Proposal containing excess or extraneous material not called for in the RFP.
- Proposal considered not fully responsive to this RFP.

E. Non-Discrimination/Equal Employment Practices

Consultant shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this contract, Consultant agrees as follows:

1. The consultant and its sub-consultants shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
2. The consultant and its sub-consultants shall state in all solicitations or advertisements for employees placed by or on behalf of the consultant that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
3. If applicable, the consultant will send to each labor union or representative of workers with whom consultant has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of consultant's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. All affirmative action efforts of contractors are subject to tracking by the City. The information or data shall be used for statistical purposes only. All consultants are required to provide data regarding the make-up of their subcontractors who will perform City contracts, including the race and gender of each employee and/or subcontractor and his or her job title or function and the methodology used by the contractor to hire and/or contract with the individual or entity in question.
5. In the recruitment of sub-consultants, the City requires all consultants to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's minority and women-owned business utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC), or disability.
6. The City will immediately report evidence or instances of apparent discrimination in City contracts to the appropriate State and Federal agencies, and will take action against consultants who are found to be engaging in discriminatory acts or practices

by an appropriate State or Federal agency or court of law, up to and including termination or debarment.

F. Violation Of Federal, State, City/Agency Laws, Programs Or Policies

The City may, in their sole discretion, consider violations of any programs and policies described or referenced in this section a material breach and may take enforcement action provided under the law, programs or policies, and/or terminate the contract, debar consultants from further contracts with City and/or take any other action or invoke any other remedy available under law or equity.

G. Conflict of Interest / Confidentiality

Consultant shall avoid all conflicts of interest and respect its relationship with the City by maintaining confidentiality of materials deemed confidential by law.

According to the City's Purchasing System (OMC 2.04.050.C), "No person, firm or corporation shall be allowed to make or file or be interested in more than one bid for the same supplies, services or both." To clarify, **a firm (including, but not limited to licensed contractors and professional service providers) may not submit a proposal as a prime consultant or contractor if they are being listed as a sub-consultant or subcontractor on another proposal or bid for the same solicitation.**

Exceptions include:

1. A firm may be listed on more than one proposal or bid if they are proposing under separate legal entities.
2. A firm, if not submitting as a prime consultant or contractor, may be listed as sub-consultant or subcontractor on more than one proposal or bid.
3. In the case of a specific On-Call RFQ with multiple tiers (e.g. On-Call Civil Engineering Services, Tiers 1 and 2), a firm may submit as a prime consultant or contractor for one tier and may be listed as sub-consultant or subcontractor for another tier.
4. No officer, director, employee or member of a Mentor-Protégé team, as defined by the LBE/SLBE Program, shall be allowed to bid or otherwise participate independently on a city contract where the mentor-protégé team is bidding or otherwise participating. Each party is prohibited from submitting multiple bids on a city contracts.

Consultant specifically agrees to the following:

1. Consultant covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of services required under this project. Without limitation, the consultant represents to and agrees with the City that no conflict of interest is created between providing the City services hereunder and any interest consultant may have with respect to any other person or entity (including but not limited to any federal or state regulatory

- agency) which has any interest adverse or potentially adverse to the City.
2. Consultant understands and agrees to successfully provide the services requested by the project. In addition, every communication between the consultant and the City or its special counsel shall be considered to be a confidential communication between client and lawyer (see California Evidence Code Section 952), and the confidential work product of the City Administrator, City Attorney and the City's special counsel, respectively, and therefore shall be held in strict confidence. All reports, analysis, maps, diagrams or any documents prepared or assisted in the preparation of or by the consultant, shall be considered to be prepared pursuant to said lawyer-client relationship. All of the above mentioned documents are also considered the work product of the City Administrator and shall not be communicated to any person except as specifically authorized in writing signed by the City Administrator and City Attorney.
 3. The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations may prohibit the City from contracting with a service provider if the service provider or an employee, officer or director of the service providers' firm, or any immediate family of the preceding, or any sub-consultant or consultant of the service provider, is serving as a public official, elected official, employee, board or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the selection of a consultant such as, but not limited to, involvement in the reasoning, planning and/or drafting of solicitations for bids and RFPs/RFQs, feasibility studies, master plans or preliminary discussions or negotiations.

H. Minimum Wage Ordinance

The City's Minimum Wage Ordinance, effective March 2, 2015, establishes a minimum hourly wage rate, requires paid sick leave, and requires payment of service charges to hospitality workers. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site.

Employers located in Oakland are subject to Oakland's Living Wage Ordinance (see Section S), as well as federal and state minimum wage laws. In the event of conflicting requirements, employers shall follow the stricter requirement by paying the higher rate. For further information, please refer to:

<https://www.oaklandca.gov/topics/minimum-wage-paid-leave-service-charges>

I. Local and Small Local Business Enterprise Program (L/SLBE)

This summary highlights provisions of the L/SLBE program for professional services agreements. The full program document is available at:

www2.oaklandca.gov/oakca1/groups/contracting/documents/form/oak029719.pdf

1. **Requirement:** All consultant agreements over \$50,000 shall satisfy the 50% L/SLBE minimum participation, unless otherwise reduced or waived if noted in the Request for Proposals Notice.
 - The prime consultant shall submit a completed Schedule E – “Consultant Team Listing” showing their firm and all anticipated subconsultant team members with anticipated percentage of work or contract dollar amount. Team listings that don’t meet the 50% minimum requirement may be found non-responsive. Prime consultant and sub-consultant status as an Oakland-certified local or small local business are used in the calculation.
 - Failure to complete the entire form may result in your proposal being found non-responsive.

2. **Participation Illustrations:**
 - The 50% requirement may be met through a combination of 25% LBE and 25% SLBE participation, where the 25% SLBE is the MINIMUM. Note that in this scenario, the prime is not necessarily either a certified LBE or SLBE firm provided that the subconsultants bring forth the L/SLBE participation.
 - For example, 15% LBE with 35% SLBE is allowed, whereas 35% LBE with 15% SLBE is not allowed.
 - Participation by a Very Small Local Business Enterprise (VSLBE) satisfies SLBE participation at a rate of 2 times.
 - For example, a team with a non-certified or non-local prime and 25% VSLBE in subconsultants is equivalent to 50% SLBE, which meets the minimum 50% requirement.
 - When the prime is a certified LBE or SLBE firm, the minimum 25% SLBE requirement is waived. When the prime is not a certified firm, or a non-local firm, the 25% SLBE requirement is not waived.

3. **Preference Points (for professional agreements only):** The RFP/RFQ consultant evaluation process allows for additional L/SLBE program preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP/RFQ. Preference points are awarded after the technical points. A maximum of twelve and a half (12.5) preference points are possible:
 - a. Achieving the minimum 50% L/SLBE participation requirement:
 - i. Two (2) points are earned for achieving the minimum requirement.
 - b. Exceeding the minimum 50% L/SLBE participation requirement:
 - i. Up to three (3) additional points may be earned at a rate of one (1)

point per additional 10% participation, up to 80% participation of the total contract dollars spent with L/SLBE firms.

- c. Status as a long-term certified business in Oakland regardless of size:
 - i. Up to two and a half (2.5) additional points.
 - d. Having an Oakland resident workforce:
 - i. Up to five (5) additional points.
 - ii. Prime consultants seeking workforce preference points shall submit Schedule E-2, Oakland Workforce Verification form and relevant supporting documents. **Submit the form and documents IN A SEALED ENVELOPE either *with* the Proposal submittal or *within 4 business days after the Proposal deadline to Contract Services*. See Section II for address.**
4. The Exit Report and Affidavit (ERA) – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the Schedule F, Exit Report and Affidavit for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.
 5. Joint Venture and Mentor Protégé Agreements. If a prime consultant is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the Joint Venture or Mentor-Protégé partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Department of Contracts and Compliance, prior to the project bid date for construction, and by Proposal due date for professional services. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
 6. Consultants shall submit information concerning the ownership and workforce composition of their firm as well as its sub-consultants, by completing **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**.
 7. All affirmative action efforts of consultants are subject to tracking by the City. This information or data shall be used for statistical purposes only. All prime consultants are required to provide data regarding the make-up of their sub-consultants and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by the consultant to hire and/or contract with the individual or entity in question.

In the recruitment, hiring and retention of employees or sub-consultants, the City of Oakland requires all prime consultants to undertake nondiscriminatory and equal outreach efforts, which

include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

J. Prompt Payment Ordinance - Oakland Municipal Code, Chapter 2.06.070

The Ordinance requires that consultant and its sub-consultants shall pay undisputed invoices of their sub-consultants for goods and/or services within twenty (20) business days of submission of invoices, unless specific exemptions apply, or unless the Consultant or its sub-consultants notify the City's Prompt Payment Liaison in writing within five (5) business days that there is a bona fide dispute between the consultant or its sub-consultant and claimant. In this case the Consultant or its sub-consultant may withhold the disputed amount but shall pay the undisputed amount.

Disputed payments are subject to investigation by the Liaison upon the filing of a compliant. Consultant or its sub-consultants opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Consultant or its sub-consultant fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Consultant and its sub-consultants shall not be allowed to retain monies from sub-consultant payments for goods as project retention, and are required to release sub-consultant project retention in proportion to the sub-consultant services rendered, for which payment is due and undisputed, within five (5) business days of payment. Consultant and its sub-consultants shall be required to pass on to and pay sub-consultants' mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, consultant and its sub-consultants, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, consultants are required to file an affidavit, under penalty of perjury, that he or she has paid all sub-consultants, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all sub-consultants and the amount paid to each.

Consultant and its sub-consultants shall include the same or similar provisions as those set forth above in this section in any contract with a consultant or sub-consultant that delivers goods and/or services pursuant to or in connection with a City of Oakland purchase contract. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandca.gov.

K. Arizona and Arizona-Based Businesses - Schedule B-1

In accordance with Resolution No. 82727 C.M.S., the consultant agrees that neither it nor any

of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

The consultant acknowledges its duty to notify Contracts and Compliance Division, Office of the City Administrator, if it's Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this contract or agreement.

L. Declaration of Compliance With the Americans With Disabilities Act – Schedule C-1

Private organizations that provide goods and services to the public have independent responsibilities under Title III of the Americans with Disabilities Act, regardless of their funding sources. This schedule provides a mechanism by which outside agencies acknowledge their general obligations under the ADA before providing goods or services to the City.

M. Ownership, Ethnicity and Gender Questionnaire – Schedule D

The consultant shall submit information concerning the ownership and workforce composition of its firm.

N. Project Consultant Team Listing – Schedule E

This preliminary project team shall reflect the prime consultant's understanding of the services required under this RFP or RFQ, and compliance with the City's Local and Small Local Business Enterprise Program. List the prime consultant and all sub-consultants along with the anticipated percentage of work distribution. Upon completion of contract negotiations, the awarded consultant shall update this project team and work distribution by submitting a final Schedule E upon request by the City.

O. Oakland Workforce Verification – Schedule E-2

Additional preference points may be earned for having an Oakland resident workforce. Only prime consultants seeking additional preference points need to submit Schedule E-2. Submit the completed form IN A SEALED ENVELOPE either with the Proposal submittal or within 4 business days after the Proposal due date and time.

P. Pending Dispute Disclosure Policy - Schedule K

All entities are required to disclose pending disputes with the City of Oakland when they submit bids, Proposals or applications for a City or Agency contract or transaction involving:

- the purchase of products, construction, non-professional or professional services;
- contracts with concessionaires, facility or program operators or managers;
- contracts with project developers, including Disposition and Development Agreements, Lease Disposition and Development Agreements and other participation agreements;

- loans and grants; or
- acquisition, sale, lease or other conveyance of real property, excluding licenses for rights of entry or use of city facilities for a term less than thirty (30) consecutive calendar days.

The disclosure requirement applies to pending disputes on other City contracts or projects that: (1) have resulted in a claim or lawsuit against the City of Oakland, (2) could result in a new claim or new lawsuit against the City of Oakland, or 3) could result in a cross-complaint or any other action to make the City of Oakland a party to an existing lawsuit. "Claim" includes, but is not limited to, a pending administrative claim or a claim or demand for additional compensation.

Entities required to disclose under this Disclosure Policy include (1) any principal owner or partner, (2) any business entity with principal owners or partners that are owners or partners in a business entity, or any affiliate of such a business entity, that is involved in a pending dispute against the City of Oakland.

Failure to timely disclose pending disputes required by this policy may result in (1) a determination that a bid is non-responsive and non-responsible for price-based awards, or (2) non-consideration of a bid or Proposal for a professional service contract or other qualification-based award. The City may elect to terminate contracts with entities that failed to timely disclose pending disputes and/or initiate debarment proceedings against such entities.

Q. Consultant Performance Evaluation – Schedule L1

At the end of the project, the City Project Manager will evaluate the consultant's performance in accordance with the Consultant Performance Evaluation form.

R. Independent Contractor (and Consultant) Questionnaire - Schedule M, Part A

Consultant represents that:

- Consultant has the Proposals and skills necessary to perform the services under this contract in a competent and professional manner without the advice or direction of the City; and
- the services will be performed in accordance with the generally accepted principles and practices applicable to consultant's trade or profession; and
- Consultant and its employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to performance of the services; and
- all services provided pursuant to this contract shall comply with all applicable laws and regulations; and

- Consultant will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program.
- This means Consultant is able to fulfill the requirements of this contract. Failure to perform all of the services required under this contract will constitute a material breach of the contract and may be cause for termination of the contract. Consultant has complete and sole discretion for the manner in which the work under this contract is performed.

S. Oakland Living Wage Ordinance – Schedule N

Design-Build, Construction Manager At-Risk, or other professional contracts for public works of improvement that involve services of licensed professionals, such as, but not limited to, architects and engineers, are subject to Oakland's Living Wage Ordinance, Oakland Municipal Code, Title 2, Chapter 2.28, where such services amount to or exceed \$25,000. The ordinance requires that, unless specific exemptions apply or a waiver is granted, all employers contracted to provide services amounting to or exceeding \$25,000, shall provide certain minimum hourly wages and health benefits to employees. The City determines and adjusts the rates annually using the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor as the index. Prime consultants will be required to execute Schedule N during the contract execution process certifying their intent to comply with the Living Wage Ordinance for agreements equal to or greater than \$25,000.

Oakland employers are also subject to the City of Oakland Minimum Wage law (see Section H) and must pay employees wages and provide benefits consistent with the Minimum Wage law or Oakland Living Wage Ordinance, whichever are greater.

T. Equal Benefits Ordinance - Schedule N-1

This contract is subject to the Equal Benefits Ordinance (OMC Chapter 2.32) and its implementing regulations. The Ordinance requires completion of Schedule N-1 and submittal of applicable employee benefits policies in order for compliance to be certified.

https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodetid=OAKLANDMUCO

The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City contractors between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. The requirements of this section shall not apply to subcontracts or subcontractors.

The following contractors are subject to the Ordinance:

- Entities which enter into a contract in an amount of twenty-five thousand dollars (\$25,000.00) or more for public works improvements, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of

- moneys deposited in the Treasury or out of trust moneys under the control of or collected by the City; and
- Entities which enter into a property contract pursuant to Chapter 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy:
 - (1) of real property owned or controlled by the City; or
 - (2) of real property owned by others for the City's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a contractor's operations that occur:

- Within the City; or
- On real property outside the City if the property is owned by the City or if the City has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the City; or
- Elsewhere in the United States where work related to a City contract is being performed.

U. City of Oakland Campaign Contribution Limits – Schedule O

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code. The Campaign Reform Act prohibits consultants that are doing business or seeking to do business with the City from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. All prime consultants must complete the Acknowledgment of Campaign Contribution Limits Form.

V. Nuclear Free Zone Disclosure - Schedule P

Consultant represents that consultant is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers.

W. Compliance Commitment Agreement – Schedule U

The consultant shall comply with the L/SLBE program.

X. Affidavit of Non-Disciplinary or Investigatory Action – Schedule V

The consultant shall certify that no disciplinary or investigatory action has been taken against its firm by the Equal Employment Opportunity Commission, Department of Fair Employment and Housing, or Office of Federal Contract Compliance Programs.

Y. Border Wall Prohibition – Schedule W

This contract is subject to the Border Wall Ordinance of Oakland Municipal Code Ordinance 13459 C.M.S. The ordinance mandates and directs the City Administrator, when there is no significant additional cost (to be defined in regulations) or conflict with law, to refrain from entering into new or amended contracts to purchase professional, technical, scientific or financial services, goods, construction labor and materials or other services, or supplies from

businesses that enter into contracts to provide such services, goods, materials or supplies to build the U.S. - Mexico border wall.

The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment, or information technology or cloud-based technology or services, to construct any part of the U.S. - Mexico border wall.

END OF RFP

SECTION V. Appendices

Appendix A:

Required Schedules

Due with Submittal

- Schedule E Consultant Team Listing
- Schedule O Campaign Contribution Limits
- Schedule W Border Wall Prohibition (from Prime)

Optional Documents due within four days of submittal - (see Section IV.1.3)

- Schedule E-2 Oakland Workforce Verification

Documents required during contract execution phase

- Combined City Schedules B-1, C-1, D, K, M, N, N-1, P,U, V
- Schedule W Border Wall Prohibition (from all subconsultants)

Documents required during close out of project

- Schedule L1 Consultant Evaluation

Appendix B:
Sample A&E Services Agreement

CITY OF OAKLAND SPECIALIZED SERVICE AGREEMENT

Whereas, the City Council has authorized the City Administrator to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met.

Now therefore the parties to this Agreement covenant as follows:

1. Parties

This Agreement is made and entered into as of (insert date) (*Contract Date*) by and between the CITY OF OAKLAND, a municipal corporation, (hereinafter referred to as “City”) and (CONSULTANT NAME IN ALL CAPS) (hereinafter referred to as “Consultant”) for (Project No. and Name, or of RFI/RFQ eg. On-Call Architectural Services 2019).

2. Period of Performance

The Agreement will become effective upon the date of the last signature or on [date] (*Effective Date*), whichever is later, and will expire on [date] (*Expiration Date*), unless terminated earlier or extended by amendment. The period from the Effective and Expiration Date is the Period of Performance for the Agreement. The City’s Project Manager shall issue an Authorization to Proceed to formally commence Consultant’s work.

3. Scope of Services

Consultant intends to perform (choose one: Architectural, Construction Management, Transportation Engineering, Landscape Architectural, etc.) services for the City. Consultant agrees to perform the services specified in **Exhibit A - Scope of Services**, attached to this Agreement and incorporated herein by reference. Consultant shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement.

4. Compensation and Method of Payment

Consultant will be paid for performance of the entire scope of services an amount that will be based upon actual costs but that will be “Capped” so as not to exceed (Enter dollar amount and 00/100 dollars (\$0.00)), based upon Exhibit A and the budget by deliverable task and billing rates in **Exhibit B – Billing Rates**. The maximum that will be charged for the entire scope of services will not exceed the Capped amount, even if the Consultant’s actual costs exceed the Capped amount. Invoices shall state a description of the deliverables completed

and the amount due. Payment shall be due upon completion and acceptance of the deliverables.

OR

Consultant will be paid for performance of the entire scope of services set forth in **Exhibit A** an amount not to exceed **(Enter dollar amount and 00/100 dollars (\$0.00))**, based upon the **fee(s) or lump sum(s)** for each of the **deliverables** stated in Exhibit A. Invoices shall state a description of the deliverables completed and the amount due. Payment shall be due upon completion and acceptance of each of the deliverables.

OR

Consultant will be paid for performance of the entire scope of services set forth in **Exhibit A** an amount not to exceed **(Enter dollar amount and 00/100 dollars (\$0.00))**, based upon the **rates** stated in **Exhibit B – Billing Rates**. Invoices shall state a description of the **services** completed and the amount due. Payment shall be due upon completion and acceptance of the services.

Keep this next paragraph:

Progress, or other payments, will be based on, at least equivalent services rendered, and will not be made in advance of services rendered. In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the consultant has earned during the period for which payment is being made based on the contract terms.

5. Oakland Business License

Consultant shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement. Consultant shall insert in each of its subcontracts a provision which requires its subconsultants to present proof that the subconsultant has obtained a current Oakland Business License during the term of this contract.

6. Time of the Essence

Time is of the essence in the performance of this Agreement.

7. Commencement, Completion and Close out

It shall be the responsibility of the Consultant to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Consultant to enable Consultant to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

Should the Consultant not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Consultant shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Consultant to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Consultant.

8. Conflict of Interest

a. Consultant

The following protections against conflict of interest will be upheld:

- i. Consultant certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Consultant certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Consultant shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Consultant.
- iv. Consultant warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Consultant shall exercise due diligence to ensure that no such official will receive such an interest.
- v. Consultant further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Consultant to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic

interest in Consultant or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Consultant agrees to promptly disclose to City in writing any information it may receive concerning any such potential conflict of interest. Consultant's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

- vi. Consultant understands that in some cases Consultant or persons associated with Consultant may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Consultant further understands that, as a public officer or official, Consultant or persons associated with Consultant may be disqualified from future City contracts to the extent that Consultant is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- vii. Consultant shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

b. No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Consultant understands and agrees that, if the City reasonably determines that Consultant has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Consultant to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Consultant is responsible for the conflict of interest situation.

9. Insurance

Unless a written waiver is obtained from the City's Risk Manager, Consultant must provide the insurance listed in **Schedule Q, Insurance Requirements**. Schedule Q is attached in Exhibit C and incorporated herein.

10. Indemnification

- a. Notwithstanding any other provision of this Agreement, Consultant will indemnify and hold harmless (and at City's request, defend) City, and each of their respective Councilmember's, officers, partners, agents, and employees (each of which persons and organizations are referred to collectively herein as "Indemnitees" or individually as "Indemnitees") from and against any and all liabilities, claims, lawsuits, losses, damages, demands, debts, liens, costs, judgments, obligations, administrative or regulatory fines or penalties, actions or causes of action, and expenses (including reasonable attorneys' fees) that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant.
- b. City will give Consultant prompt written notice of any such claim of loss or damage and will cooperate with Consultant, in the defense and all related settlement negotiations to the extent that cooperation does not conflict with City's interests.
- c. Notwithstanding the foregoing, City shall have the right if Consultant fails or refuses to defend City with Counsel acceptable to City to engage its own counsel for the purposes of participating in the defense. In addition, City shall have the right to withhold any payments due Consultant in the amount of anticipated defense costs plus additional reasonable amounts as security for Consultant's obligations under this Section 15. In no event shall Consultant agree to the settlement of any claim described herein without the prior written consent of City.
- d. Consultant acknowledges and agrees that it has an immediate and independent obligation to indemnify and defend Indemnitees from any actions or claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant, which obligation shall arise at the time any action or claim is tendered to Consultant by City and continues at all times thereafter, without regard to any alleged or actual contributory negligence of any Indemnitees.
- e. All of Consultant's obligations under this Section 15 are intended to apply to the fullest extent permitted by law (including, without limitation, California Civil Code Sections 2782 and 2782.8) and shall survive the expiration or sooner termination of this Agreement.
- f. The indemnity set forth in this Section 15 shall not be limited by the City's insurance requirements contained in Schedule Q hereof, or by any other provision of this Agreement. City's liability under this Agreement shall be limited to payment of Consultant in accord to the terms and conditions under this Agreement and shall exclude any liability whatsoever for consequential or indirect damages even if such damages are foreseeable.

11. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Consultant by reason of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Consultant.

12. Prompt Payment Ordinance

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S, passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Consultant and its subconsultants shall pay undisputed invoices of their subconsultants for goods and/or services within twenty (20) business days of submission of invoices unless the Consultant or its subconsultants notify the City of Oakland Liaison, Office of the City Administrator, Contracts and Compliance Unit, in writing within five (5) business days that there is a bona fide dispute between the Consultant or its subconsultant and claimant, in which case the Consultant or its subconsultant may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison upon the filing of a complaint. Consultant or its subconsultants opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Consultant or its subconsultant fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Consultant progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Consultant and its subconsultants shall not be allowed to retain monies from subconsultant payments for goods as project retention, and are required to release subconsultant project retention in proportion to the subconsultant services rendered, for which payment is due and undisputed within five (5) business days of payment. Consultant and its subconsultants shall be required to pass on to and pay subconsultants mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Consultant and its subconsultants, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Consultant is required to file an affidavit, under penalty of perjury, that he or she has paid all subconsultants, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subconsultants and the amount paid to each.

If any amount due by a prime consultant or subconsultant to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Consultant or subconsultant shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant

agrees to release the prime consultant or subconsultant from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Consultant and its subconsultants shall include the same or similar provisions as those set forth above in this section in any contract with another consultant or subconsultant that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and complaint forms are available from the City of Oakland's website: <https://www.oaklandca.gov/documents/contracting-policies-and-legislation>. Invoice and complaint inquiries should be directed to Vivian Inman, City of Oakland Prompt Payment Liaison, 510-238-6261 or email vinman@oaklandca.gov.

13. Audit

Consultant shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Consultant shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Consultant under this Agreement.

In addition to the above, Consultant agrees to comply with all audit, inspection, record-keeping and fiscal reporting requirements incorporated by reference.

14. Agents/Brokers

Consultant warrants that Consultant has not employed or retained any subconsultant, agent, company or person other than bona fide, full-time employees of Consultant working solely for Consultant, to solicit or secure this Agreement, and that Consultant has not paid or agreed to pay any subconsultant, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

15. Proprietary or Confidential Information of the City

Consultant understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third

parties may be damaging to the City. Consultant agrees that all information disclosed by the City to Consultant shall be held in confidence and used only in performance of the Agreement. Consultant shall exercise the same standard of care to protect such information, as a reasonably prudent consultant would use to protect its own proprietary data.

16. Ownership of Results

Any interest of Consultant or its Subconsultants, in specifications, studies, reports, memoranda, computation documents prepared by Consultant or its Subconsultants in drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Consultant may retain and use copies for reference and as documentation of its experience and capabilities.

17. Copyright

Consultant shall execute appropriate documents to assign to the City the copyright to works created pursuant to this Agreement.

18. Publicity

Any publicity generated by Consultant for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Consultant to assist Consultant in generating publicity for the project funded pursuant to this Agreement. Consultant further agrees to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

19. Title of Property

Title to all property, real and personal, acquired by the Consultant from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Consultant acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for the City during the term of the Agreement. The Consultant shall, upon expiration or termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Consultant shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with "Notice" section of this Agreement.

Consultant shall provide to the City Auditor all property-related audit and other reports required in Schedule S and under this Agreement. In the case of lost or stolen items or equipment, the Consultant shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with the "Notice" section of this Agreement.

Prior to the disposition or sale of any real or personal property acquired with City funds, Consultant shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120, Surplus supplies and equipment – Disposal or Destruction.

20. Arizona and Arizona-Based Businesses (Schedule B-1)

In accordance with Resolution No. 82727 C.M.S. neither this business entity nor any of its subsidiaries, affiliates or agents are headquartered in the State of Arizona or anticipates relocating to the State of Arizona duration for the life of its contract(s) with the City of Oakland or until Arizona rescinds SB 1070.

Consultant acknowledges its duty to notify the Office of the City Administrator, Contracts and Compliance Unit if it's Business Entity or any of its subsidiaries, affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

21. Non-Discrimination/Equal Employment Practices (Schedule C-1)

Consultant shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Consultant agrees as follows.

- a. Consultant and Consultant's subconsultants, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Consultant and Consultant's Subconsultants shall state in all solicitations or advertisements for employees placed by or on behalf of Consultant that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Consultant shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Consultant will send to each labor union or representative of workers with whom Consultant has a collective bargaining agreement or contract or understanding, a

notice advising the labor union or workers' representative of Consultant's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

22. Dispute Disclosure (Schedule K)

Consultants are required to disclose pending disputes with the City of Oakland when they submit bids, proposals or applications for a City or Agency contract or transaction involving professional services. This includes contract amendments. Consultant agrees to disclose, and has disclosed, any and all pending disputes to the City prior to execution of this agreement. The City will provide a form for such disclosure upon Consultant's request. Failure to disclose pending disputes prior to execution of this amendment shall be a basis for termination of this agreement.

23. Independent Contractor (Schedule M, Part A)

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Consultant shall be, and is, an independent contractor, and is not an employee of the City. Consultant has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Consultant in the performance of Consultant's services hereunder. Consultant shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Consultant's own acts and those of Consultant's subordinates and employees. Consultant will determine the method, details and means of performing the services described in **Exhibit A**.

b. Consultant's Qualifications

Consultant represents that Consultant has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. Consultant's services will be performed in accordance with the generally accepted principles and practices applicable to Consultant's trade or profession. The Consultant warrants that the Consultant, and the Consultant's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Consultant's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Consultant will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Consultant is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Consultant has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of

this agreement, Consultant shall complete **Schedule M, Part A, Independent Contractor Questionnaire, Part A**, attached hereto.

c. Payment of Income Taxes

Consultant is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Consultant for services under this Agreement. On request, Consultant will provide the City with proof of timely payment. Consultant agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Consultant's failure to comply with this provision.

d. Non-Exclusive Relationship

Consultant may perform services for, and contract with, as many additional clients, persons or companies as Consultant, in his or her sole discretion, sees fit.

e. Tools, Materials and Equipment

Consultant will supply all tools, materials and equipment required to perform the services under this Agreement.

f. Cooperation of the City

The City agrees to comply with all reasonable requests of Consultant necessary to the performance of Consultant's duties under this Agreement.

g. Extra Work

Consultant will do no extra work under this Agreement without first receiving prior written authorization from the City.

24. Minimum Wage Ordinance

Oakland employers are subject to Oakland's Minimum Wage Law whereby Oakland employees must be paid the current minimum wage. Employers must notify employees of the annually adjusted rates by each December 15th and prominently display notices at the job site. The law requires paid sick leave for employees and payment of service charges collected for their services. For further information, please refer to:

<http://www2.oaklandnet.com/Government/o/CityAdministration/d/MinimumWage/OAK051451>

25. Living Wage Ordinance (Schedule N) *n/a if under \$25,000 annually*

This Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service consultants (Consultants) of the City and employees of CFARs (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N, Declaration of Compliance – Living Wage**, and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the Consultant must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation - Effective July 1, 2018 to June 30, 2019, employees shall be paid a minimum initial **hourly wage rate of \$13.75 with health benefits or \$15.78 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, Consultant shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least **\$2.03 per hour**. Consultant shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full-time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) – To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you, including but not limited to: <http://www.irs.gov>.
- e. Consultant shall provide to all employees and to the Division of Contracts and Compliance, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Consultant shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Consultant shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Consultant shall provide a copy of said list to Contracts and Compliance Unit, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each

day that the list remains outstanding. Consultant shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.

- h. Consultant shall require subconsultants that provide services under or related to this Agreement to comply with the above Living Wage provisions. Consultant shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to Contracts and Compliance.

26. Equal Benefits Ordinance (Schedule N-1) *n/a if under \$25,000*

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.32.010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City consultants (Consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001).

The following consultants are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a consultant's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subconsultants of any contract or consultant

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1, Equal Benefits-Declaration of Nondiscrimination.**

27. City of Oakland Campaign Contribution Limits (Schedule O)

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits consultants that are doing business or seeking to do business with the City of Oakland from making campaign contributions to

Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Consultant must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**, Campaign Contributions.

28. Nuclear Free Zone Disclosure (Schedule P)

Consultant represents that it is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Consultant shall complete **Schedule P**, Nuclear Free Zone Disclosure Form, attached hereto.

29. Local and Small Local Business Enterprise Program (L/SLBE) (Schedules D, E, U)
Schedule U and the L/SLBE Program n/a if under \$50,000

- a. *Requirement* – For Professional Services, **50% Local and Small Local Business Enterprise Program (L/SLBE)**: there is a 50% minimum participation requirement for all professional services contracts over \$50,000. Consultant status as an Oakland certified local or small local firm and subcontractor/subconsultant status as an Oakland certified local or small local firm are taken into account in the calculation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant(s). A business must be certified by the City of Oakland in order to earn credit toward meeting the fifty percent requirement. The City has waived small local business enterprise (SLBE) subcontracting requirements for Oakland certified local businesses that apply for professional services contracts as the prime consultant with the City. The SLBE requirements still applies for non-certified LBEs and non-local business enterprises.
- b. *Good Faith Effort* – In light of the fifty percent requirement, good faith effort documentation is not necessary.
- c. *Preference Points* – Preference points are earned based on the level of participation proposed prior to the award of a contract. Upon satisfying the minimum fifty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to eighty percent participation of the total contract dollars spent with local Oakland certified firms.
- d. A firm may earn up to five (5) preference points for local Oakland business participation and additional preference points for being a long term certified business in Oakland regardless of size and for having an Oakland workforce.
- e. In those instances where VSLBE participation is evident, the level of participation will be double-counted towards meeting the requirement.

- f. Additional Preference Points. For Request for Proposal (RFP) and Request for Qualifications (RFQ), additional Preference Points may be earned for having an Oakland workforce on Non-Construction Contracts.
- g. Earning extra preference points for having an existing work force that includes Oakland residents is considered added value. The Request for Proposal “evaluation” process allows for additional preference points over and above the number of points earned for technical expertise. Typically 100 points may be earned for the technical elements of the RFP. Preference points are awarded over and above the potential 100 points.
- h. The Exit Report and Affidavit (ERA) – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the Exit Report and Affidavit (Schedule F) for, and have it executed by, each L/SLBE sub consultant and submitted to the Office of the City Administrator, Contracts and Compliance Unit, along with a *copy* of the final progress payment application.
- i. Joint Venture and Mentor Protégé Agreements. If a prime contractor or prime consultant is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Office of the City Administrator, Contracts and Compliance Unit, prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
- j. Contractor shall submit information concerning the ownership and workforce composition of Contractor’s firm as well as its subcontractors and suppliers, by completing **Schedule D**, Ownership, Ethnicity, and Gender Questionnaire, and **Schedule E**, Project Consultant Team, attached and incorporated herein and made a part of this Agreement.
- k. All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- l. In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. The City Administrator will track the City’s MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.

m. In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

30. Border Wall Prohibition (Schedule W)

This contract is subject to the Border Wall Ordinance of Oakland Municipal Code Ordinance 13459 C.M.S. The ordinance mandates and directs the City Administrator, when there is no significant additional cost (to be defined in regulations) or conflict with law, to refrain from entering into new or amended contracts to purchase professional, technical, scientific or financial services, goods, construction labor and materials or other services, or supplies from businesses that enter into contracts to provide such services, goods, materials or supplies to build the U.S. - Mexico border wall.

The City of Oakland shall be prohibited from entering into any contractual agreement for the purchase of services, goods, equipment, cyber network or cloud computing, internet, or cloud-based computer technology or services with any "BORDER WALL ENTITY" individual, firm, or financial institution who provides any services, goods, equipment, or information technology or cloud-based technology or services, to construct any part of the U.S. - Mexico border wall.

31. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

32. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

33. Termination on Notice

The City may terminate this Agreement immediately for cause or without cause upon giving (30) calendar days' written notice to Consultant.

34. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty- (30)-days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Consultant shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Consultant shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or

any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty-(30) days following submission of a final statement by Consultant.

Should the project or any portion thereof be abandoned, the City shall pay the Consultant for all services performed thereto in accordance with the terms of this Agreement.

35. Assignment

Consultant shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

36. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Consultant for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

37. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

38. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

39. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

CITY OF OAKLAND INFORMATION

(Name of Project Manager)
(select)
(address)
Oakland, CA

CONSULTANT INFORMATION

(Name of Consultant Project Manager)
(Name of Company)
(address)

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties' ten- (10) business days before the change is effective.

40. Governing Law

This Agreement shall be governed by the laws of the State of California.

41. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: i) approved by resolution of the City Council as required by the Oakland City Charter, Oakland Municipal Code Title 2.04 and Oakland City Council Rules of Procedure, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee.

BOILERPLATE MANDATORY TERMS

42. Inconsistency

If there is any inconsistency between the main agreement and the exhibits, the text of the main agreement shall prevail.

[CONSULTANT NAME in all CAPS]

DEPARTMENT DIRECTOR

[person's name] Date
[person's title]

[select] Date

Approved as to form and legality:

CITY OF OAKLAND
(a municipal corporation)

Office of the City Attorney Date

Office of the City Administrator Date

City Council Resolution No. _____
Oakland Business Tax Certificate No. _____
Contract Purchase Order No. _____
DIR Project ID No. _____

BOILERPLATE MANDATORY TERMS

EXHIBIT A – Scope of Services

(Attach Consultant's proposal. Proposal must clearly articulate Consultant's responsibilities, deliverables, schedule.)

BOILERPLATE MANDATORY TERMS

EXHIBIT B – Billing Rates

(City project manager must first define which Compensation Method will apply. If Time & Materials, attach Billing Rates.)

BOILERPLATE MANDATORY TERMS

EXHIBIT C – Insurance Requirements

(Insert Schedule Q from RFP or RFQ)

BOILERPLATE MANDATORY TERMS

Appendix C:

Schedule Q – A&E Services Insurance Requirements

Schedule Q

INSURANCE REQUIREMENTS

(Revised 09/12/2019)

a. General Liability, Automobile, Workers' Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. **Commercial General Liability insurance** shall cover bodily injury, property damage and personal injury liability for premises operations, independent contractors, products-completed operations personal & advertising injury and contractual liability. Coverage shall be on an occurrence basis and at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 00 01)

Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance for bodily injury and property damage liability with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be at least as broad as Insurance Services Office Form Number CA 0001.
- iii. **Workers' Compensation insurance** as required by the laws of the State of California, with statutory limits, and statutory coverage may include Employers' Liability coverage, with limits not less than \$1,000,000 each accident, \$1,000,000 policy limit bodily injury by disease, and \$1,000,000 each employee bodily injury by disease. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.

- iv. **Professional Liability/ Errors and Omissions insurance, if determined to be required by HRM/RMD**, appropriate to the contractor's profession with limits not less than \$2 Million each claim and \$2 Million aggregate. If the professional liability/errors and omissions insurance is written on a claims-made form:
- a. The retroactive date must be shown and must be before the date of the contract or the beginning of work.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
 - c. If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a retroactive date prior to the contract effective date, the contractor must purchase extended period coverage for a minimum of three (3) years after completion of work.
- v. **Contractor's Pollution Liability Insurance:** If the Contractor is engaged in: environmental remediation, emergency response, hazmat cleanup or pickup, liquid waste remediation, tank and pump cleaning, repair or installation, fire or water restoration or fuel storage dispensing, then for small jobs (projects less than \$500,000), the Contractor must maintain Contractor's Pollution Liability Insurance of at least \$500,000 for each occurrence and in the aggregate. If the Contractor is engaged in environmental sampling or underground testing, then Contractor must also maintain Errors and Omissions (Professional Liability) of \$500,000 per occurrence and in the aggregate.
- vi. **Sexual/Abuse insurance.** If Contractor will have contact with persons under the age of 18 years, or provides services to persons with Alzheimer's or Dementia, or provides Case Management services, or provides Housing services to vulnerable groups (i.e., homeless persons) Contractor shall maintain sexual/molestation/abuse insurance with a limit of not less than \$1,000,000 each occurrence and \$1,000,000 in the aggregate. Insurance must be maintained, and evidence of insurance must be provided for at least three (3) years after completion of the contract work.
- vii. **Technology Professional Liability (Errors and Omissions) OR Cyber Liability Insurance, if determined to be required by HRM/RMD**, *appropriate to the Consultant's profession, with limits not less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and*

penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status naming the City of Oakland, its Councilmembers, directors, officers, agents, employees and volunteers as insureds under the Commercial General Liability policy. General Liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 (11/85) or both CG 20 10 and CG 20 37 forms, if later revisions used). If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on an ISO form CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Coverage afforded on behalf of the City, Councilmembers, directors, officers, agents, employees and volunteers shall be primary insurance. Any other insurance available to the City Councilmembers, directors, officers, agents, employees and volunteers under any other policies shall be excess insurance (over the insurance required by this Agreement); and
- iii. Cancellation Notice: Each insurance policy required by this clause shall provide that coverage shall not be canceled, except with notice to the Entity; and
- iv. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the contractor, its employees, agents and subcontractors; and
- v. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and
- vi. Insurer shall carry insurance from admitted companies with an A.M. Best Rating of A VII, or better.

c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement,

and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if, and when, requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the project to verify compliance with requirements.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retention must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, 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.

h. Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors, employees and volunteers for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.

J. Higher Limits of Insurance

If the contractor maintains higher limits than the minimums shown above, The City shall be entitled to coverage for the higher limits maintained by the contractor.

SECTION VI. Addenda Issued Prior to Submittal due date