

September 1, 2015

To: Interested Engineering and Professional Consulting Firms

**Re: Request for Proposals for On-Call Engineering and Professional Services**

Dear Sir/Madam:

Your firm is invited to submit a proposal to provide on-call engineering and professional services for the Utilities-Flood Control-Watershed Protection Section of the County of San Mateo Department of Public Works (County).

The proposals from all firms will be reviewed by our staff for completeness based on the requirements outlined in the Request for Proposals attached hereto. Based on the review, multiple firms may be invited to participate in an oral interview process. The County may select the best qualified contractor(s) based on the written proposals alone without further interview.

Should you decide to respond, please submit three (3) copies of your proposal by 5:00 p.m., September 30, 2015, to:

**JAMES C. PORTER, DIRECTOR OF PUBLIC WORKS  
COUNTY OF SAN MATEO  
555 COUNTY CENTER 5<sup>TH</sup> FLOOR  
REDWOOD CITY, CA 94063-1665**

**ATTENTION: MARK CHOW, PRINCIPAL CIVIL ENGINEER**

Firms responding to this Request for Proposals will be notified of receipt of their materials, and of a prospective date when the review is to be complete. The County reserves the right to reject any firms without any explanations.

Questions regarding this Request for Proposals should be directed to Kristen Lau and Edelzar Garcia, of my staff, via email at:

[klau@smcgov.org](mailto:klau@smcgov.org)  
[egarcia@smcgov.org](mailto:egarcia@smcgov.org)



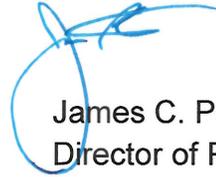
Interested Engineering and Professional Consulting Firms

**Re: Request for Proposals for On-Call Engineering and Professional Services**

September 1, 2015

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Very truly yours,



James C. Porter  
Director of Public Works

JCP:AMS:MC:EVG:kl

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Attachment: Request for Proposals

cc: Ann M. Stillman, P.E., Deputy Director, Engineering and Resource Protection  
Mark Chow, P.E., Principal Civil Engineer, Utilities-Flood Control-Watershed Protection  
Edelzar V. Garcia, P.E., Senior Civil Engineer, Utilities-Flood Control-Watershed Protection  
Kristen Lau, P.E., Associate Civil Engineer, Utilities-Flood Control-Watershed Protection

**COUNTY OF SAN MATEO**  
DEPARTMENT OF PUBLIC WORKS



Utilities-Flood Control-Watershed Protection Section

REQUEST FOR PROPOSALS

for

On-Call Engineering and Professional Services for  
Public Works Projects within the County of San Mateo  
Issued September 1, 2015

Deadline for Proposals

September 30, 2015 at 5:00 PM

James C. Porter, Director  
Department of Public Works  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, California 94063-1665

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**1. Introduction**

The County of San Mateo (County) is inviting interested and qualified consultants to submit proposals for on-call engineering and professional services. Services would be provided for the Utilities-Flood Control-Watershed Protection Section of the Department of Public Works (Department).

The Utilities-Flood Control-Watershed Protection Section (Section) is responsible for managing 10 sewer districts, 11 street lighting districts, 3 county service areas (2 for the delivery of drinking water & 1 for street lighting), 3 flood control zones, 8 drainage maintenance districts, cable television and garbage collection service franchises, 2 closed landfill sites, and watershed protection and environmental permitting activities. More information regarding the services provided by the Section can be obtained by visiting the Department's web site at <http://publicworks.smcgov.org/utilities>.

The Section wishes to expedite the delivery of projects by utilizing qualified consultants on an on-call basis. The projects vary greatly in size and complexity and may be funded by a variety of sources.

**2. The Request for Proposals Process**

This RFP seeks the submission of proposals to provide services from any and all interested and qualified proposers. The Department, which is a part of the government of the County of San Mateo, seeks by way of this RFP to obtain the listed services in a manner that maximizes the quality of services while also maximizing value to the County and, by extension, the citizens of the County. Proposers must be able to show that they are capable of performing the services requested. Such evidence includes, but is not limited to, the respondent's demonstrated competency and experience in delivering services of a similar scope and type and local availability of the proposer's personnel and equipment resources.

The consultant shall assure the County that it will comply with the requirements of the County's Equal Benefits Compliance Ordinance No. 04026 – Chapter 2.93 and Contractor Employee Jury Service Ordinance No. 04269 – Chapter 2.94 (Attachments B and C, respectively).

**3. Background**

The Section is seeking engineering and professional services in the following general categories:

1. Flood Control and Drainage System Study and Design
2. Water Supply and Distribution System Study and Design
3. Sanitary Sewer System Study and Design
4. Streetlight System Study and Design
5. Environmental Permitting and Compliance

6. Closed Landfill Management and Monitoring
7. Construction Management and Inspection (CM)

The consultants shall provide services to include, but not limited to: topographic and bathymetric surveys, hydraulic and hydrologic studies, geotechnical studies, landfill management and monitoring, civil engineering design, utilities undergrounding design, environmental permitting, project management, construction management and other various professional services. Consultants may submit for and qualify to provide services in more than one category or they may limit their submittal to one of the above categories. Indicate in your transmittal letter the categories for which you are submitting.

The County may qualify multiple consultants per category to provide engineering and professional services and negotiate agreements with firms. The County may use the selected consultants for a period of three years. When requested, the consultant will develop a brief proposal providing a scope of work, a schedule for the work, and a fee proposal for the work. The scope of work, schedule, and fee will then be negotiated. Being selected does not guarantee that a consultant will be requested to submit on any project nor that the consultant will receive any assignments. Consultants should note that future work assignments would be based on the quality of work product produced, timely submittal of deliverables, and the consultants' ability to meet staff's expectations. The number of projects is unknown, as the volume of work assigned to consultants is dependent on the County staff workload and funding availability.

Each proposal should also contain the resumes of at least three proposed project managers as well as other personnel critical to providing the desired services. Changes in Project Manager and/or subconsultants will be subject to review and approval by County prior to execution of any final task orders under this agreement.

Fee proposals shall include hourly rates for normal business hours (Monday through Friday, 8:00 a.m. through 5:00 p.m.), and hourly rates for after hours (Monday through Friday, 5:00 p.m. through 8:00 a.m., Saturdays and Sundays).

The not to exceed amount for each agreement may range from \$300,000 to \$500,000, depending on the types and complexity of the projects within the categories.

The consultants selected to provide services shall use the County of San Mateo's Agreement. A copy of this agreement is attached as Attachment E. **By submitting a proposal for the work, the consultant agrees to utilize the County standard agreement form for the contract. Modifications may not be made except when provision(s) is or are determined by County Counsel to be in violation or inconsistent with State Public Contract Code or County policies.** Section 11 of the agreement indicates the insurance requirements that consultants must meet and the documentation necessary to support the requirements.

**4. Description of Projects and Services**

This section provides a sampling of the potential types of work and project descriptions for specific projects which have been identified. This Request for Proposal (RFP) is not limited to only these projects and the types of projects have been separated into the seven Categories of Work. Please note that the anticipated costs listed for the sample projects may not reflect actual costs.

**Category 1 – Flood Control and Drainage System Study and Design**

These projects are related to flood control and storm drainage facilities (existing channels and pump stations). Services can vary including the following types of studies:

- 1. Hydraulic modeling and analysis
- 2. Hydrologic modeling and analysis
- 3. System analysis and planning (Master Plans)
- 4. Condition assessment
- 5. Geographic information system assessments
- 6. Computerized maintenance management system assessments
- 7. Pump station analysis

Services may include the following types of design:

- 1. Channel wall repair
- 2. Channel floodwalls
- 3. Culverts/Channel widening
- 4. Storm drain facilities
- 5. Storm water best management practices
- 6. Tide gates
- 7. Pump station upgrades
- 8. Trash capture devices

Sample anticipated projects:

<u>Project</u>	<u>Anticipated Cost</u>
1. Flood Control Channel Trash Boom or Full Capture Devices	\$100,000
2. Colma Creek Channel Side Walls (Utah Avenue to Bay)	\$2,000,000
3. Colma Creek Channel Wall Repair (Produce Avenue to US 101)	\$1,000,000

**Category 2 – Water Supply and Distribution System Study and Design**

These projects are related to water supply and distribution systems for two small rural water systems that rely on surface water or groundwater. Services can vary including the following types of studies:

1. Water system hydraulic modeling
2. System analysis and planning
3. Condition assessment
4. Rate studies
5. Aquifer analysis
6. Sanitary survey

Services may include the following types of design:

1. Wells
2. Tanks
3. Treatment plant upgrades
4. Fire hydrants
5. Pump stations
6. Flow control devices
7. Pipes (new, rehabilitation, replacement)

Sample anticipated projects:

<u>Project</u>	<u>Anticipated Cost</u>
1. County Service Area No. 7 Distribution System Improvements	\$3,000,000
2. County Service Area No. 7 Storage Tank Replacement and Treatment Plant Repairs	\$250,000
3. County Service Area No. 11 New Well and Storage Tank (Prop. 84 Integrated Regional Water Management Plan Grant)	\$700,000

### **Category 3 – Sanitary Sewer System Study and Design**

These projects are related to sanitary sewer systems. The Department administers ten sewer and sanitation districts ranging in size from 14 connections to 7,099 connections. The Geographic Information System (GIS) and a Computerized Maintenance Management System (CMMS) are in place and being used daily by staff. Services can vary including the following types of studies:

1. Sanitary sewer system hydraulic modeling
2. System analysis and planning (Master Plans)
3. Condition assessment
4. Geographic information system assessments
5. Computerized maintenance management system assessments
6. Sewer System Management Plan (SSMP) updates
7. Rate studies
8. State Revolving Fund Loan Applications

Services may include the following types of design:

1. Pipes (new, rehabilitation, replacement)
2. Manholes (new, rehabilitation, replacement)
3. Flow meters
4. Trenchless technology
5. Information technology improvements
6. Geographic information system improvements
7. Computerized maintenance management system improvements

Sample anticipated projects:

<u>Project</u>	<u>Anticipated Cost</u>
1. Burlingame Hills Sewer Maintenance District Capacity Improvements	\$2,000,000
2. Burlingame Hills Sewer Maintenance District Sewer Repair (Slide)	\$300,000
3. Crystal Springs County Sanitation District Lift Station	\$600,000
4. Devonshire County Sanitation District Master Plan CIP	\$900,000
5. Emerald Lake Heights Sewer Maintenance District Master Plan CIP	\$440,000
6. Emerald Lake Heights Sewer Maintenance District Sewer Repair	\$500,000
7. Fair Oaks Sewer Maintenance District Master Plan CIP	\$2,500,000
8. Fair Oaks Sewer Maintenance District Access Road Repairs	\$500,000
9. Harbor Industrial Sewer Maintenance District Master Plan CIP	\$110,000
10. Kensington Square Sewer Maintenance District Master Plan CIP	\$260,000
11. Oak Knoll Sewer Maintenance District Master Plan CIP	\$140,000
12. Scenic Heights County Sanitation District Master Plan CIP	\$65,000
13. Sanitary Sewer Rehabilitation at Various Locations (Annual)	\$100,000
14. Sanitary Sewer Point Repair and Manhole Rehabilitation (Annual)	\$100,000
15. Sanitary Sewer Closed Circuit Television Inspections (Annual)	\$350,000

#### **Category 4 – Street Light System Study and Design**

These projects are related to street light systems. The Department administers eleven streetlight districts and one County Service Area ranging in size from 29 streetlights to 584 streetlights. The Geographic Information System (GIS) and a Computerized Maintenance Management System (CMMS) are in place and being used daily by staff. Services can vary including the following types of studies:

1. Under-grounding street lights
2. System analysis and planning (Master Plans)
3. Condition assessment
4. Geographic information system assessments
5. Computer maintenance management system assessments
6. Conversion to LED

Services may include the following types of design:

1. Conduits (new, rehabilitation, replacement)
2. Poles (new, rehabilitation, replacement)
3. Lighting fixtures (new, rehabilitation, replacement, conversion)
4. Information technology improvements
5. Geographic information system improvements
6. Computer maintenance management system improvements

Sample anticipated projects:

<u>Project</u>	<u>Anticipated Cost</u>
1. Middlefield Road Underground Utility District – Phase II (includes roadway improvements and utilities undergrounding)	\$2,000,000
2. County Service Area No. 6 Pole Replacement and Conduit Repair	TBD

### **Category 5 – Environmental Permitting and Compliance**

Services can vary depending on the types of permitting documents required, including the following:

1. CEQA/NEPA compliance
2. Initial Study/Negative Declaration
3. Environmental Impact Statement/Environmental Impact Report
4. Biological assessment
5. Regulatory agency permits (i.e. Army Corps of Engineers Nationwide Permit, State Regional Water Board 401 Water Quality Certification, California Department of Fish and Wildlife Streambed Alteration Agreement, Programmatic Permits, etc.)
6. Wetlands delineation
7. Habitat restoration design, implementation, and monitoring
8. Mitigation design, implementation, and monitoring
9. Construction biological monitoring
10. NPDES Municipal Regional Permit compliance
11. Area of Special Biological Significance Special Protections compliance

### **Category 6 – Closed Landfill Management and Monitoring**

Services can vary including the following types of projects:

1. Closed landfill water quality and gas monitoring and reporting
2. Groundwater monitoring well and gas monitoring probe design and construction
3. Landfill cap stability evaluation, monitoring, and survey

### **Category 7 – Construction Management and Inspection (CM)**

Services can vary including the following types of construction projects:

1. Sanitary sewer system improvements
2. Water supply and distribution system improvements
3. Street light system improvements
4. Flood control system improvements
5. Inactive landfill repairs
6. Habitat restoration and mitigation implementation construction projects

**5. Proposal Submittals**

Proposals should be limited to specific discussion of the elements outlined in this RFP. The intent of this RFP is to encourage responses, which allow the County to understand your firm's experience and qualifications for **each Category of Work**. Consultant submittals shall be brief and concise, containing no more than the number of pages of material specified below. Submittals in excess of the specified number of pages may be considered to be non-responsive.

**Mandatory Submittal Layout**

The organization of the proposal shall follow the general outline below:

**Sections B. through F. should be adequately addressed for each work category.** Consultants are asked to submit separate proposals for each work category. A sample Table of Contents is as follows:

A. Transmittal Letter

Category 1

- B1. Introduction for Category 1
- C1. Project Understanding for Category 1
- D1. Consultant and Subconsultant Staff for Category 1
- E1. Consultant Qualifications, Relevant Work Experience and References for Category 1
- F1. Team Resumes for Category 1

Category 2

- B2. Introduction for Category 2
- C2. Project Understanding for Category 2
- D2. Consultant and Subconsultant Staff for Category 2
- E2. Consultant Qualifications, Relevant Work Experience and References for Category 2
- F2. Team Resumes for Category 2

Category 3

- B3. Introduction for Category 3
- C3. Project Understanding for Category 3
- D3. Consultant and Subconsultant Staff for Category 3

E3. Consultant Qualifications, Relevant Work Experience and References for Category 3

F3. Team Resumes for Category 3

Category 4

B4. Introduction for Category 4

C4. Project Understanding for Category 4

D4. Consultant and Subconsultant Staff for Category 4

E4. Consultant Qualifications, Relevant Work Experience and References for Category 4

F4. Team Resumes for Category 4

Category 5

B5. Introduction for Category 5

C5. Project Understanding for Category 5

D5. Consultant and Subconsultant Staff for Category 5

E5. Consultant Qualifications, Relevant Work Experience and References for Category 5

F5. Team Resumes for Category 5

Category 6

B6. Introduction for Category 6

C6. Project Understanding for Category 6

D6. Consultant and Subconsultant Staff for Category 6

E6. Consultant Qualifications, Relevant Work Experience and References for Category 6

F6. Team Resumes for Category 6

Category 7

B7. Introduction for Category 7

C7. Project Understanding for Category 7

D7. Consultant and Subconsultant Staff for Category 7

E7. Consultant Qualifications, Relevant Work Experience and References for Category 7

F7. Team Resumes for Category 7

Section A – Transmittal Letter

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consulting firm, and who may be contacted during the period of proposal evaluation. **Also, indicate which Category(s) of Work your firm is responding.**

Section B – Introduction (up to 1 page per category)

The proposer should demonstrate an overview of their firm's experience with the variety of potential types of projects that may be performed and an understanding of the role and relationships of firm's staff in the development of these potential projects.

Section C – Project Understanding (up to 3 pages per category)

This section should include a brief statement to show your firm's experience in the categories of potential projects, including key issues of previous projects of a similar nature and experience in dealing with those issues that you feel sets your firm apart.

Section D – Consultant and Subconsultant Staff (up to 3 pages per category)

This section should describe the qualifications and experience of each professional staff member who will participate in the project. An overall project manager must be designated, but the County understands that key staff will vary depending upon the services provided. Separate project managers for the various types of work are acceptable.

Additionally, provide an organizational chart(s) showing the project manager and project staff. If separate teams/staff are utilized for the different work categories, please include an organizational chart for each category. If a subconsultant will be used, the organizational chart should indicate their role.

In this section, Consultants also may choose to include a list of the names of probable subconsultants they would use. However, the County recognizes that possible changes in circumstances may prevent a consultant from ultimately using a particular subconsultant or subconsultants indicated on this list. Accordingly, the County will allow substitutions to be made if and when a consultant is engaged for future work.

Section E – Consultant Qualifications, Relevant Work Experience, and References (up to 5 pages per category)

This section should describe the nature and outcome of projects previously conducted by the consultant related to the category of work described within the RFP. Descriptions should include client contact names, address, phone numbers, descriptions of the type of work performed, approximate dates for which the work was completed, and proposed team members who performed the work. Corporate marketing literature may be inserted to satisfy this requirement, provided it includes the specified information. If submitted, it will be counted in the total page count.

The consultant(s) for this work shall have qualifications that, in the County's judgment, establish them to be the best qualified to accomplish the work described herein. The consultant(s) shall provide the following as part of their proposal.

a. Elements of Qualifying Project Experience

- i. Work performed within last five (5) years involving study, design and construction management, particularly any work performed for government agencies of similar nature.
  - ii. Support services available, such as testing and special inspection, which would be required for complex construction projects.
- b. Format of the Qualifications Submittal
- i. Submit a list of the qualifying work your firm has performed within the last five (5) years. Include:
    - 1) The names, addresses and telephone numbers of key client personnel that could be contacted.
    - 2) A description of the project scope, location, and construction cost.
    - 3) Names of the principal individuals responsible for the work.
    - 4) Other information about the projects that, in your opinion, could be of interest in the County's review.
  - ii. Submit a list of names of the firm's present personnel who could be involved with the work along with their education, background and qualifying project experience.
  - iii. If your firm requires the services of other subconsultants for some of the qualifying elements, please indicate and ask the subconsultants to submit the same information in support of their qualifying experience for that particular element. Include that information with the proposal.

#### Section F – Team Resumes

Include a 1-page (maximum) resume for each of the key project team members.

Each proposal should contain the resumes of personnel critical to providing the desired services. Changes in Project Manager and/or subconsultants will be subject to review and approval by County.

#### Section H – Fees

A proposed hourly rate schedule for your firm and that of each subconsultant shall be submitted in a sealed envelope with each proposal. The envelope will be opened after the competing firm(s) have been ranked according to the proposal evaluation rating criteria and selection interviews.

Submittal

Three (3) copies of the proposal must be submitted. Sealed proposals, with the title of "Utilities-Flood Control-Watershed Protection On-Call Services Proposal" clearly marked on the outside of the envelope, will be received at the office of the Director of Public Works, County of San Mateo Department of Public Works. Address proposals to:

James C. Porter, Director of Public Works  
County of San Mateo  
555 County Center, 5<sup>th</sup> Floor  
Redwood City, CA 94063-1665

Attention: Mark Chow, Principal Civil Engineer

**Deadline for submitting Proposals is 5:00 p.m. on September 30, 2015.  
Electronic, faxed or late proposals will not be considered.**

The County reserves the right to reject all proposals, to request additional information concerning any statement for purposes of clarification, to accept or negotiate any modification to any statement following the deadline for receipt of all statements, and to waive any irregularities if such would serve the best interest of the County.

All inquiries regarding the Request for Proposals should be directed to Kristen Lau, Edelzar Garcia or Mark Chow by email at [klau@smcgov.org](mailto:klau@smcgov.org), [egarcia@smcgov.org](mailto:egarcia@smcgov.org) or [mchow@smcgov.org](mailto:mchow@smcgov.org).

All questions must be received no later than 4:00 p.m. on Wednesday, September 16, 2015. All questions and answers will be posted by September 23, 2015 on the Department website at <http://publicworks.smcgov.org/projects-out-bid>.

As of the issuance date of this RFP and continuing until the final date for submission of proposals, all proposers are specifically directed not to hold meetings, conferences, or technical discussions with any County employee for purposes of responding to this RFP except as otherwise permitted by this RFP. Any proposer found to be acting in any way contrary to this directive may be disqualified from entering into any contract that may result from this RFP.

If changes to the RFP are warranted, they will be made in writing, clearly marked as addenda to the RFP, and posted to the website. It is the responsibility of each proposer to check the website listed above for changes and/or clarifications to the RFP prior to submitting a response, and a proposer's failure to do so will not provide a ground for protest.

The County assumes no responsibility for delays caused by delivery service. Postmarking by the due date will not substitute for actual receipt.

All submitted proposals and information included therein or attached thereto shall become public records upon their delivery to the County. California Government Code Sections 6250 *et seq.* (the "California Public Record Act" or the "Act") defines a public record as any writing containing information relating to the conduct of the public business. The Act provides that public records shall be disclosed upon written request and that any citizen has a right to inspect any public record unless the document is exempted from disclosure. The Department, which is part of the County of San Mateo, is subject to the California Public Records Act.

Be advised that any contract that eventually arises from this RFP is a public record in its entirety. Also, all information submitted in response to this RFP is itself a public record without exception. Submission of any materials in response to this RFP constitutes a waiver by the submitting party of any claim that the information is protected from disclosure. By submitting materials, (1) you are consenting to release of such materials by the County if requested under the Public Records Act without further notice to you and (2) you agree to indemnify and hold harmless the County for release of such information.

If the County/Department receives a request for any portion of a document submitted in response to this RFP, the County will not assert any privileges that may exist on behalf of the person or entity submitting the proposal, and the County reserves the right to disclose the requested materials without notice to the party who originally submitted the requested material. To the extent consistent with the Public Records Act and applicable case law interpreting those provisions, the County/Department and/or its officers, agents, and employees retain discretion to release or withhold any information submitted in response to this RFP.

Submission of a proposal constitutes a complete waiver of any claims whatsoever against the County and/or its officers, agents, or employees that the County has violated a proposer's right to privacy, disclosed trade secrets, or caused any damage by allowing the proposal to be inspected

All costs incurred during proposal preparation or in any way associated with the consultant's preparations, submission, presentation, or oral interview shall be the sole responsibility of the consultant.

If awarded a contract, the consultant shall maintain insurance coverage, including errors and omissions and worker's compensation, reflecting the minimum amounts and conditions specified by the County.

Consultants are liable for all errors or omissions contained in their proposals.

## **6. Supplementary Information**

Submitted proposals shall be reviewed by County staff to select a list of the consultants that are determined, by the County, to be best qualified to provide these services. Once the list of potential consultants is prepared, the County may interview the prospective consultants before a final decision is made. If an interview is made, a time and location for an interview shall be established. The interview shall be conducted by a panel designated by County staff. The County may select the best qualified consultant(s) based on the written proposal alone without further interview.

Once the form of Agreement has been approved by all parties, it shall be signed by the consultant and transmitted to the County Board of Supervisors for execution. The Agreement is not valid until executed by the Board of Supervisors.

If you believe additional information is required in order that the proposal may be completed, contact the San Mateo County Department of Public Works in order to determine if the information is available. Additional information about the County, the Department of Public Works and the Utilities-Flood Control-Watershed Protection Section can be found on-line at: <http://publicworks.smcgov.org/utilities>.

A copy of the County's Administrative Policy for Selection of Independent Contractors is included herewith as Attachment A.

The Department routinely receives communications from consultants expressing interest in performing services of various sorts for the County. This notice is being sent to firms listed in Attachment F, has been posted to the Department's website, and is being advertised in a newspaper of major circulation in the area.

The County retains sole discretion to evaluate proposals and may make an award to the consultant the County deems to have the most responsive proposal. Receipt of proposals in response to its RFP does not obligate the County in any way to engage any consultant and the County reserves the right to reject any or all proposals, wholly or in part, at any time, without penalty. The County shall retain the right to abandon the proposal process at any time prior to the actual execution of a contract with a consultant, and the County shall bear no financial or other responsibility in the event of such abandonment. The County reserves the right to negotiate all final terms and conditions of any agreements entered into.

## **7. Tentative Schedule for Proposal Process**

<u>Date:</u>	<u>Action:</u>
September 1, 2015	County issues RFP
September 16, 2015	Deadline to Submit Written Questions
September 23, 2015	Release of Responses to Written Questions
September 30, 2015	Deadline for proposal submittal
October 16, 2015	County completes proposal reviews, schedules interviews
October 26, 2015	Interviews with top-ranked firm(s)/individual(s), if necessary

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October 30, 2015      Notification of selected firm(s)/individual(s), commence agreement negotiations  
November 17, 2015      Board of Supervisors approval of agreements

**8.      Notice to Proposers**

The Department is not required to give notice to proposers in any specific format or on any particular timeline. At some point prior to execution of a final agreement for the requested services, the Department will notify those who submitted proposals of their non-selection. Proposers may be notified at different times depending on the needs of the Department.

**9.      Protest Process**

If a proposer desires to protest the selection decision, the proposer must submit by facsimile or email a written protest within five (5) business days after the posting of the notice about the decision on the Department's website. The written protest should be submitted to the Director of Public Works as outlined below. Protests received after the deadline will not be accepted. Protests must be in writing, must include the name and address of the Proposer and the Request for Proposals, and must state all the specific ground(s) for the protest. A protest that merely addresses a single aspect of the selected proposal (for example, comparing the cost of the selected proposal in relation to the non-selected proposal) is not sufficient to support a protest. A successful protest will include sufficient evidence and analysis to support a conclusion that the selected proposal, taken as a whole, is an inferior proposal.

The Director of Public Works will respond to a protest within ten (10) business days of receiving it, and the Department may, at its election, set up a meeting with the proposer to discuss the concerns raised by the protest. The decision of the Director of Public Works will be final. The protest letter must be sent by facsimile and email to:

**James C. Porter**  
**Director of Public Works**  
[jporter@smcgov.org](mailto:jporter@smcgov.org)  
**Fax: (650) 361-8220**

## ATTACHMENT A

### Administrative Memorandum – Selection of Independent Contractors



**ADMINISTRATIVE MEMORANDUM**  
**COUNTY OF SAN MATEO**

**NUMBER: B-1**

**SUBJECT: Selection of Independent Contractors**

**RESPONSIBLE DEPARTMENT:** Human Resources Department

**APPROVED:**

John L. Maltbie, County Manager

**DATE:** 04/27/2015

**PURPOSE**

This Administrative Memorandum rescinds and replaces Administrative Memorandum B-1 dated September 24, 2012. This revision adds a new Section IV. Waiving a Contract Process for Small Dollar Service Transactions. This new section allows department heads and designees to waive a contract process for some types of small dollar service transactions. There is no change to service provider selection processes even when a contract is waived. This revision also removes references to “long form” and “short form” contract templates as there is now a Single Contract Template, which is used for agreements with independent contractors for any dollar amount.

The purpose of this memo is to establish policies and procedures for the selection of independent contractors to perform services for the County, and for the preparation and processing of agreements for their services. This memo covers the acquisition of services (including services with goods), and does not apply to contracts solely to acquire items, whether by purchase, lease, or lease-purchase, which are covered separately in Chapter 2.84 of the Ordinance Code. For step-by-step instructions for the selection of independent contractors and for the preparation of contracts, see the “County Contract Handbook” on the County’s intranet.

Contracts for physicians and Behavioral Health and Recovery Services contracts involving “any qualified provider” are exempt from the RFP process as described in Section IV. Physician contracts also have different insurance requirements.

For additional requirements regarding construction contracts, see Administrative Memorandum B-21, “Selection of Construction Contractors.”

**I. GENERAL PROVISIONS FOR ALL CONTRACTS WITH INDEPENDENT CONTRACTORS**

A. Local Preference in the Selection of Independent Contractors: When the combination of price, quality and terms and conditions are substantially equal, the County shall give preference in purchasing to San Mateo County-based goods, services and suppliers.

B. Solicitation of Independent Contractors: Departments must establish procedures that will ensure their consideration of the broadest possible range of service providers in the independent contractor selection process. Departments should exercise their best efforts to obtain quotes or request proposals from all qualified independent contractors. The selection process should be extensive and encourage the largest number of independent contractors possible to submit proposals. Where possible, specific efforts should be made to solicit proposals from small businesses, women and minority owned businesses.

C. Term of Contract:

1. If the contract is for a specified project, the completion of which determines the end of the work, the contract is a "lump sum contract." The term of the contract and the schedule of payments should be related to the completion of the project. The contract should specify the time within which the independent contractor should finish the project required by the contract.
2. If the contract is for work that will continue for a specified period of time, the term of the contract should be the period of time for which the services are needed, but no longer than three years.
3. The Contract Compliance Committee must approve all contracts that are longer than three years, whatever the total amount.

D. Insurance Requirements: All independent contractors must have a minimum of \$1 million general liability insurance, \$1 million auto insurance if travel is part of providing services and statutory limits (including \$1 million in Employer's Liability) for workers' compensation insurance if the provider has two or more employees. In addition, special circumstances may require higher limits. If there is any variance or questions, consult with Risk Management. Independent contractors must provide original Certificates of Insurance evidencing their insurance coverage for the term of the contract. Any waiver or modification of these insurance requirements must be approved by Risk Management. A copy of the insurance certification checklist must be included with all contracts. In most instances, the County must be named as an additional insured on the independent contractor's general liability policy with an endorsement from the insurance carrier.

E. Equal Benefits Requirements (Ordinance Code Chapter 2.84): All independent contractors entering into an agreement with the County for consulting or other services in excess of \$5,000 must offer equal benefits to their employees (meaning they must not discriminate in the provision of benefits between an employee with a registered domestic partner and an employee with a spouse). If the independent contractor does not provide equal benefits, the contract administrator must submit a waiver request to the Department Head or designee after County Counsel review and prior to the execution of the contract. Waiver or modification of these requirements may be granted by the Department Head or designee for contracts less than \$100,000 and only by the

Board of Supervisors for contracts above \$100,000. Waiver or modification will be granted only when doing so is in the best interest of the County.

F. Non-Discrimination: All independent contractors entering into an agreement with the County must comply with federal, state and local laws, directives and executive orders regarding non-discrimination for all employees and subcontractors under the agreement. All contracts must include the enforcement of non-discrimination language that is reflected in Board of Supervisors Resolution No. 64225 (the required language is already included in County contract templates). Any modifications or exceptions must be approved by the Department Head or designee after County Counsel review, prior to the execution of the contract, whatever the total amount. Waivers or modifications will be granted by the Department Head or designee only when it is in the best interest of the County.

G. Jury Service Pay Requirement (Ordinance Code Chapter 2.85): All independent contractors entering into an agreement with the County for consulting or other services in excess of \$100,000 shall have and adhere to a written policy that provides that its full-time employees shall receive from the contractor, on an annual basis, no fewer than five days of regular pay for actual jury service (actual time served on a trial) in San Mateo County. (If the employee serves four days on a jury, she should be paid for four days; if the employee serves six days, she should be paid for at least five days of jury service.) The policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct from the employee's regular pay the fees received for jury service. Note: this Ordinance only applies to a contractor with an employee(s) residing in San Mateo County (i.e., a contractor would not need to comply unless one or more of its employees are residents of San Mateo County, and it only need provide jury pay for jury service in San Mateo County). Any request for waiver or modification of these requirements must be reviewed by the Department Head or designee after County Counsel review, and only the Board of Supervisors may waive or alter the jury service pay requirement. (Note that this requirement applies only to contracts valued at \$100,000 or above.)

H. Contract Administration: The Department Head is ultimately responsible for contract administration and for monitoring contract performance and payment schedule, in order to ensure full compliance with the terms and conditions of the contract.

I. County as Independent Contractor (Reverse Agreements) (Ordinance Code Section 2.83.150): When the County receives financial compensation or other consideration from a third party for the County's provision of services, Department Heads or designees are authorized to approve and execute agreements \$100,000 and below. All contracts in which the County receives more than \$100,000 must be approved and executed by the Board of Supervisors.

J. Overview of Reviewing/Approving Authorities:

1. Board of Supervisors
  - Approves contracts over \$100,000
  - Approves waiver of RFP process

- Approves waiver or modification of equal benefits and/or jury service pay requirements for contracts over \$100,000
2. Department Head or Designee
    - Approves contracts up to \$100,000
    - Approves waivers or modification of non-discrimination requirement regardless of contract amount after County Counsel review
    - Approves waiver or modification of equal benefits requirement for contracts up to \$100,000
    - Reviews waiver or modification requests regarding equal benefits and/or jury service pay requirements for contracts over \$100,000 prior to submission to Board of Supervisors
  3. Contract Compliance Committee
    - Conducts periodic compliance reviews of all contracts
    - Approves contract extensions over three years regardless of contract amount
  4. Risk Management
    - Approves waiver or modification of insurance requirements
  5. Real Property Services
    - Reviews contracts involving the acquisition or disposition of real property, a loan or grant of funds controlled by the County for the acquisition, disposition or improvement of real property, use by County staff of real property owned or leased by others, use by others of County-owned real property, or use by others of facilities leased by the County
  6. Information Services Department
    - Reviews contracts that involve information technology related items to ensure compliance with County IT standards
    - Reviews contracts affecting phone and data network infrastructure in County owned facilities
  7. County Counsel
    - Reviews contracts up to \$100,000 that are modified from standard templates
    - Reviews all contracts above \$100,000
    - Reviews all contracts that do not use the County template
    - Reviews amendments to contracts that bring the contract amount above \$100,000 or that modify any standard contract template language
    - Reviews all RFPs for work anticipated to be above \$500,000, and may review any other RFPs at the department's request
  8. Public Works
    - Reviews contracts involving work on County-owned facilities
    - Reviews and administers certain public construction contracts per Administrative Memorandum B-21, "Selection of Construction Contractors."

K. Contract Form:

1. Departments shall use the standard County of San Mateo Single Contract Template for all agreements with independent contractors regardless of dollar amount. The Single Contract Template can be found in the County's on-line "Contract

Handbook.” Other agreement templates, maintained by the Health System, are used for physician contracts.

2. Exhibits A and B must, at a minimum, include a detailed scope of work and a description of the deliverables, due dates, payment amount, payment rates, payment process and schedule. These items should contain sufficient detail to allow someone not affiliated with the department to understand the full scope of work and financial obligations.

3. The contract must contain the (1) payee name, (2) contract term, and (3) payment/contract amount, and (4) agreement number to allow the Controller to validate such information that will subsequently be recorded in the County's accounting system (IFAS).

L. Amendments: If an existing contract needs to be amended, the requirements of the contracting process described in this memo apply to the amendment. If an amendment raises the contract's total amount above \$100,000, all requirements for contracts above \$100,000 (including jury service pay) must be met. And County Counsel must review and approve all amendments that bring the contract amount above \$100,000, that modify any standard contract template language, or that modify any contract that is not on the County's contract template. County Counsel may but does not need to review an amendment to the County's contract template that only (1) increases an agreement's term (duration) up to three years total, (2) increases the contract's amount up to a total of \$100,000, or (3) modifies Exhibit A without increasing the term beyond three years or the amount above \$100,000.

## **II. CONTRACTS \$100,000 and BELOW**

A. Selection Process: Departments are not required to complete a formal Request for Proposal (RFP) process to select an independent contractor if the total amount of the contract is \$100,000 or below. Departments must establish internal procedures that are consistent with County policies and ensure that the selection process is fair, that the independent contractor is qualified and that the cost is competitive. The results of another public agency's competitive process may be used. Departments must document how and why each independent contractor was selected on the Recommendation for Execution of an Agreement with Independent Contractor form.

B. Approval Process: Contracts of \$100,000 and below must be approved and signed by the Department Head or designee. Department Heads or designees are responsible for ensuring a selection process has been followed, obtaining Certificates of Insurance or a written waiver of insurance requirements from Risk Management and that services that are more than \$100,000 are not being split into smaller contracts to circumvent the approval requirements. The completed Contractor's Declaration Form must be included. If a waiver or modification of the equal benefits or non-discrimination requirements has been granted by the Department Head or designee, the waiver form must be included. If a department chooses not to use the standard agreement form or changes any language on the form, County Counsel must review and approve the language. Contract documents will be reviewed periodically by the Contract Compliance Committee and the Controller's Office Internal Audit Division to ensure compliance. The jury duty pay requirement does not apply to agreements up to \$100,000.

C. Agreement Numbering, Distribution, and Archiving: Departments are responsible for assigning an agreement number in the format XXXXX-XX-DXXX that begins with the five-digit IFAS organization number of the department, division or budget unit, followed by a two-digit number for the fiscal year in which the agreement begins (using the second portion of the fiscal year, such as “12” for the 2011-12 fiscal year), and the letter “D” followed by a three-digit sequential number beginning with “001” that resets at the start of a new fiscal year. For example, the Sheriff’s Office could track agreements at the department level (30000-12-D001) or division level (30100-12-D001, 30500-12-D001). Other examples of contract numbering:

Contract Start Date	Contract End Date	Contract begins in this fiscal year	Contract ends in this fiscal year	Contract Numbering
January 1, 2011	June 30, 2011	FY 2010-11	FY 2010-11	30000-11-D000
March 1, 2011	June 30, 2013	FY 2010-11	FY 2012-13	30000-11-D000
July 1, 2011	June 30, 2012	FY 2011-12	FY 2011-12	30000-12-D000
September 1, 2011	September 1, 2012	FY 2011-12	FY 2012-13	30000-12-D000
June 15, 2012	December 31, 2012	FY 2011-12	FY 2012-13	30000-12-D000
July 1, 2012	March 31, 2013	FY 2012-13	FY 2012-13	30000-13-D000
July 1, 2012	December 31, 2014	FY 2012-13	FY 2014-15	30000-13-D000
<i>Fiscal Years begin July 1 of each year and end June 30 the following year</i>				

When a contract is submitted to the Department Head or designee for approval, contract administrators must include the Recommendation for Execution of an Agreement with Independent Contractor form, copies of Certificates of Insurance with the completed Insurance Certification Checklist, and the Contractor’s Declaration Form. If a waiver of the equal benefits or non-discrimination requirements has been granted, the waiver form must be included. Review by the Information Services Department is also required for all information technology related items.

Departments will assign agreement numbers for all contracts under \$100,000 according to the standard naming convention. Once an agreement is executed, the Department will file the original contract in a central location and forward copies (via scanned PDF) to the Controller’s Office at [pocontracts@smcgov.org](mailto:pocontracts@smcgov.org). It is the responsibility of the department to provide the independent contractor with a copy of the fully executed agreement. A signed W-9 form must be provided to the Controller’s Office for all new independent contractors.

### **III. CONTRACTS \$100,001 and ABOVE**

Contracts of \$100,001 and above must be approved and signed by the Board of Supervisors.

A. Selection Process (Requests For Proposals): Departments must conduct a formal RFP process to select any independent contractor when the contract amount is expected to exceed \$100,000. The RFP is a solicitation for proposals from potential

independent contractors. The results of another public agency's competitive process may be used.

The primary purpose of using an RFP is to ensure that that the County receives the best value in obtaining services. The determination of "best value" is not based solely on the lowest price or the highest quality. It involves a subjective weighing of efficiency, quality, and economy, and a recommendation as to how the services might best be provided. The RFP is not a bid, in which the contract is awarded to the lowest bidder and the bid dictates the terms of the contract. Rather, it is a mechanism for exploring the expense and potential methodologies that could be used for dealing with the project for which the proposal is solicited. The outcome of the evaluation of proposals should be regarded as the recommendation of the independent contractor with whom negotiations will be initiated regarding the work and the terms of the contract.

Another purpose of an RFP is to encourage competition for public contracts and to ensure that all qualified independent contractors are given an opportunity to be considered for providing services to the County. Each RFP should be publicly advertised and distributed to the qualified firms and/or individuals identified by the department.

To ensure that the proposals are responsive to the County's needs, the RFP should describe the known requirements for the work. The RFP should include all information necessary to enable a potential independent contractor to describe how the independent contractor would perform the job and propose a price. The RFP should explain how to prepare and submit a proposal.

The RFP should include at a minimum the following:

- Complete description of the scope of the work, including the department's objectives
- Methodology to be used to accomplish the scope of work or an inquiry as to what methodology the submitting independent contractor would use
- Process to be used in reviewing the proposals, identification of selection criteria and time frames
- Any relevant information known to the department that would affect the performance or cost of the work
- Required contract terms
- A statement regarding the County's right to reject all proposals, and not to enter into any contract for the services described in the RFP
- A statement that the submitted proposals are public records, and a description of the process that will be followed in the event of a request for copies of the proposals
- A statement of the process and authority for approval of the contract
- The method, if any, by which potential independent contractors may protest the recommendation of the RFP review committee

The criteria for choosing the independent contractor should include whatever particular criteria are important and appropriate to the project, as well as the following:

- Experience of firm and specific staff assigned to complete the work, including description of experience with similar projects

- References from similar projects
- Independent contractor's proposed methodology, work plan and time line to complete the scope of work
- Proposed cost to complete the work

Departments must complete the RFP Matrix form describing the selection process used and include this form in the Board packet.

The RFP process for contracts above \$100,000 may be waived only by the Board of Supervisors by resolution when it is determined to be in the best interest of the County. If an RFP waiver is requested, the resolution authorizing execution of the contract should also include a waiver of the RFP process. The reasons why the waiver is in the best interest of the County should be stated in one of the "Whereas Clauses" of the resolution, and the actual approval of the waiver of the RFP process should be stated in the "Now Therefore It Is Hereby Determined And Ordered" section of the resolution. Situations in which an RFP may be waived include, but are not limited to, emergency situations or those in which an independent contractor is the "sole source" of a particular service.

Contracts for physicians and Behavioral Health and Recovery Services contracts with "any qualified provider" are exempt from the RFP process. Services included in the "any qualified provider" category include:

- Long-term locked facilities without specialized treatment programs;
- Individual private psychiatrists, psychologists, therapists and group practices;
- Psychiatric inpatient hospital services;
- Housing services and related supports;
- Services required for specific clients placed in out-of-county facilities by other agencies;
- School-linked services in which mental health services are a component of services in a school placement made by the school district and parents through the Individualized Education Program process.

RFPs for contracts that are expected to exceed \$500,000 must be reviewed by County Counsel prior to distribution, and RFPs for contracts below that amount may be sent for County Counsel review at the department's discretion.

B. Approval Process: All contracts above \$100,000 should be prepared using the standard County of San Mateo Single Contract Template with Independent Contractor and must be reviewed and approved by the County Counsel's Office prior to submission to the Clerk of the Board for Board of Supervisors approval. Review by the Information Services Department is also required for all information technology related items to ensure compliance with County IT standards prior to distribution. The Clerk of the Board will assign a resolution number to contracts above \$100,000.

Contracts at this amount must include one or two quality or outcome performance measures in the cover memorandum submitted to the Board of Supervisors. If the independent contractor does not comply with the County's non-discrimination requirement, the Department Head or designee may approve a waiver. The contract

administrator must submit a request waiving the language to the Department Head or designee prior to the execution of the contract. The department must include mention of the waiver in the Board memo.

If the independent contractor does not comply with or requests modification to the County's equal benefits and jury service pay requirements, the contract administrator must submit a request waiving or modifying the language to the Department Head or designee for review, the Board memo must mention the request for waiver or modification, the reasons why the waiver or modification is in the best interest of the County should be stated in one of the "Whereas Clauses" of the resolution, and the actual approval of the waiver or modification of the requirement should be stated in the "Now Therefore It Is Hereby Determined And Ordered" section of the resolution. Situations in which these requirements may be waived or modified include, but are not limited to, emergency situations, those in which an independent contractor is the "sole source" of a particular service, or those in which no compliant contractors are capable of providing services that respond to the County's requirements.

Departments may request from the Board authorization for the Department Head or designee to execute contract amendments that modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate), and to modify the contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions. A copy of the amendment (using the "Contract Amendment Above \$100,001 Template" in the Contract Handbook) must be completed and filed in the department in a central location when the department makes any change to the contract. Additional information for preparing contracts requiring Board approval can be found in Administrative Memorandum B-4: Board Agenda Procedures.

C. Agreement Numbering, Distribution and Archiving: The Clerk of the Board will assign a resolution number to contracts above \$100,000. When recording the agreement number in the County's accounting system (IFAS), refer to Section II-C of this memo for the agreement number format; however, for contracts over \$100,000 the resolution number will be used in the numbering sequence and the letter "R" will precede the resolution number. For example, the contract number in IFAS for a one-year FY 2011-12 Sheriff's Office contract with a Board resolution number of 012345 would be 30000-12-**R**012345.

#### **IV. WAIVING A CONTRACT PROCESS FOR SMALL DOLLAR SERVICE TRANSACTIONS**

Departments must first review the **County Contract Handbook** to determine if a purchase transaction is a service or a good and if the purchase should be made by contract or by purchase order. This section applies to purchases for service. Departments must follow County policies and procedures for selection processes for small dollar services prior to the purchase of services, including but not limited to obtaining three firm quotes even when following the process outlined in this section. Departments must follow review procedures when the service transaction involves work on County-owned facilities, acquisition, disposition or use of real property, or information technology either with a contract or when a contract is waived.

Payment of Invoices for Services without Executing an Independent Contract:

If the purchase is for a service, where a contract would normally be required, there are some situations in which the department may pay a service invoice without executing a formal service contract. This includes instances when:

- The cost of a one-time service, within a specific Program (“P” level budget unit), is for less than \$5,000; or
- The cost of multiple instances for a service with the same service provider, within the same fiscal year, and within the same Program level is less than \$5,000.

Note: Departments may track the \$5,000 limit at a higher accounting organization level than the “P” budget unit level but not lower than the “P” budget unit level.

**AND** at least one of the following is true:

- The service is for an emergency (emergency is defined as a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services);
- The service is urgent, is for the well-being of a child, and is provided within department protocols;
- The service is considered low-risk (an example of a low-risk service would be the repair of a fax machine);
- The service provider is known to the department and/or has previously rendered services to the Program/Department/Agency without problem; and/or
- Services from this vendor could not be anticipated in advance.

All instances where the department wishes to forgo a service agreement for services under \$5,000 must still follow all internal department purchasing protocols, and departments have leeway to add to the conditions listed above.

Departments may **not** waive the contract process when **any** of the following is present:

- There are other County Administrative Memos or policies that supersede Administrative Memo B-1 in this regard, such as Administrative Memo B-21 and San Mateo County Ordinance Code Title 2, Chapter 2.55;
- The service involves children (unless it is urgent for the well-being of a child and is within department protocols);
- The service requires any type of clearance or authorization of the vendor such as fingerprinting or a background check;
- A contract is required by state or federal law;
- A contract is required as a condition of revenue or grant funding; or
- Except for automotive services, the services are professional services provided by anyone who is required to maintain a license by a state licensing agency (such as architectural, accounting, legal, or physician services)

If the above rules permit the service to be provided without a formal service contract, the Contract Administrator must complete an **Authorization to Waive a Contract** form and submit it to the department Purchasing Agent or designee before the purchase is made. Departments must file all **Authorization to Waive a Contract** forms electronically in a central location within the department. The Department Head may designate what positions within the department are authorized to sign the form. Designated signers on behalf of the Department Head must first be listed in the **Designated Signer** form which can be found in the **County Contract Handbook**.

Departments are responsible for monitoring and controlling payment of service invoices without a contract. The Controller's Office will include review of service invoice payments in its audit procedures. The Contract Compliance Committee will conduct periodic reviews to ensure that contract policy is followed.

## **ATTACHMENT B**

**Equal Benefits Compliance Ordinance No.  
04026, Chapter 2.93**

**EQUAL BENEFITS COMPLIANCE ORDINANCE NO. 04026**

**CHAPTER 2.93**

ORDINANCE NO     04026    

An Ordinance adding Chapter 2.93 to the San Mateo Ordinance Code to Provide for Non-Discrimination by County Contractors in the Provision of Employee Benefits

WHEREAS, employee benefits routinely comprise a significant proportion of total employee compensation; and

WHEREAS, discrimination in the provision of employee benefits between employees with domestic partners and employees with spouses results in unequal pay for equal work; and

WHEREAS, County of San Mateo law prohibits discrimination based on marital status and/or sexual orientation; and

WHEREAS, it is the County's intent, through the contracting practices outlined herein, to equalize the total compensation between similarly situated employees with spouses and employees with domestic partners;

NOW THEREFORE, BE IT ORDAINED BY THE COUNTY OF SAN MATEO AS FOLLOWS:

Section 1. There is hereby added to the Ordinance Code of the County of San Mateo a new Chapter 2. 93 to read as follows:

**Chapter 2. 93 County Contracts - Non-Discrimination in Benefits**

**2.93.010 Definitions.**

For the purposes of this chapter,

- A. "Contract" means a legal agreement between the County and a Contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment for which the consideration is in excess of \$5,000.
- B. "Contractor" means a party who enters into a Contract with the County.
- C. "Contract Awarding Authority" means the Board of Supervisors or the individual authorized by the Board of Supervisors to enter into Contracts on behalf of the County.
- D. "Domestic Partner" means any person who is registered as a domestic partner with the Secretary of State, State of California registry or the registry of the state in which the employee is a resident.

- E. "Employee Benefits" means the provision of any benefit other than pension and retirement benefits provided to spouses of employees or provided to an employee on account of the employee's having a spouse, including but not limited to bereavement leave; disability, life, and other types of insurance; family medical leave; health benefits; membership or membership discounts; moving expenses; vacation; travel benefits; and any other benefits given to employees, provided that it does not include benefits to the extent that the application of the requirements of this chapter to such benefits may be preempted by federal or state law.

**2.93.020 Discrimination in the provision of benefits prohibited.**

(a) No Contractor on a County Contract shall discriminate in the provision of Employee Benefits between an employee with a domestic partner and an employee with a spouse, subject to the following conditions:

1. In the event that the Contractor's actual cost of providing a particular benefit for the domestic partner of an employee exceeds that of providing it for the spouse of an employee, or the Contractor's actual cost of providing a particular benefit to the spouse of an employee exceeds that of providing it for the domestic partner of an employee, the Contractor shall not be deemed to discriminate in the provision of Employee Benefits if the Contractor conditions providing such benefit upon the employee's agreement to pay the excess costs.
2. The Contractor shall not be deemed to discriminate in the provision of Employee Benefits if, despite taking reasonable measures to do so, the Contractor is unable to extend a particular employee benefit to domestic partners, so long as the Contractor provides the employee with a cash payment equal to the Contractor's cost of providing the benefit to an employee's spouse.

(b) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County. The County Manager may waive the requirements of this chapter for Contracts not needing the approval of the Board of Supervisors where waiver would be in the best interests of the County for such reasons as follows:

1. Award of a Contract or amendment is necessary to respond to an emergency;
2. The Contractor is a sole source;
3. No compliant Contractors are capable of providing goods or services that respond to the County's requirements;
4. The requirements are inconsistent with a grant, subvention or agreement with a public agency;
5. The County is purchasing through a cooperative or joint purchasing agreement;

(c) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Awarding Authority for that Contract, or in the case of Contracts approved by the Board, the County Manager.

(d) The Contract Awarding Authority, or in the case of Contracts approved by the Board, the County Manager, may reject an entity's bid or proposals, or terminate a Contract, if the Contract Awarding Authority determines that the entity was set up, or is being used, for the purpose of evading the intent of this Chapter.

(e) No Contract Awarding Authority shall execute a Contract with a Contractor unless such Contractor has agreed that the Contractor will not discriminate in the provision of Employee Benefits as provided for in this Chapter.

### **2.93.030 Application of Chapter.**

The requirements of this Chapter shall only apply to those portions of a Contractor's operations that occur (i) within the County; (ii) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the Contractor's presence at that location is connected to a Contract with the County; and (iii) elsewhere in the United States where work related to a County Contract is being performed. The requirements of this Chapter shall not apply to subcontracts or subcontractors of any contract or Contractor.

### **2.93.040 Powers and duties of the County Manager.**

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - 1. Disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 5 years; and
  - 2. Contractual remedies, including, but not limited to termination of contract.
  - 3. Liquidated damages in the amount of \$2,500.
- (d) Examine Contractors' benefit programs covered by this chapter;
- (e) Impose other appropriate contractual and civil remedies and sanctions for violations of this chapter;
- (f) Allow for remedial action after a finding of non-compliance, as specified by rule;

(g) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

**2.93.050 Date of Application.**

The provisions of this Chapter shall apply to any Contract awarded or amended on or after July 01, 2001, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

Section 2. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 3. This ordinance shall take effect and be in force 30 days after its enactment.

COUNTY OF SAN MATEO  
**Equal Benefits Compliance Declaration Form**  
(To Be Submitted with Proposal)

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**I Vendor Identification**

Name of Contractor: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

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**II Employees**

Does the Contractor have any employees? \_\_\_\_\_ Yes \_\_\_\_\_ No

Does the Contractor provide benefits to spouses of employees? \_\_\_\_\_ Yes \_\_\_\_\_ No

\*If the answer to one or both of the above is no, please skip to Section IV. \*

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**III Equal Benefits Compliance (Check One)**

Yes, the Contractor complies by offering equal benefits, as defined by Chapter 2.93, to its employees with spouses and its employees with domestic partners.

Yes, the Contractor complies by offering a cash equivalent payment to eligible employees in lieu of equal benefits.

No, the Contractor does not comply.

The Contractor is under a collective bargaining agreement which began on or before **July 1, 2001** and expires on \_\_\_\_\_ (date). (Section 2.93.050)

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**IV Declaration**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor Tax Identification Number

## **ATTACHMENT C**

**Contractor Employee Jury Service  
Ordinance No. 04269, Chapter 2.94**

**CONTRACTOR EMPLOYEE JURY SERVICE ORDINANCE NO. 04269**

**CHAPTER 2.94**

ORDINANCE NO     04269    

**AN ORDINANCE REQUIRING SPECIFIED COUNTY CONTRACTORS TO PROVIDE  
PAID JURY SERVICE TO FULL-TIME EMPLOYEES**

The Board of Supervisors of the County of San Mateo, State of California, **ORDAINS** as follows:

**SECTION 1.** Chapter 2.94 shall be added to the San Mateo County Ordinance Code to read as follows: **CONTRACTOR EMPLOYEE JURY SERVICE**

2.94.010 Definitions

For the purposes of this Chapter,

- (a) "Contract" means a legal agreement between the County and a contractor for public works, consulting, or other services, or for purchase of supplies, material or equipment.
- (b) "Contractor" means a party who enters into a Contract with the County for which the Contractor receives consideration of \$100,000 or more.
- (c) "Contract Authority" means the Board of Supervisors or the head of the department or agency presenting the proposed contract to the Board of Supervisors.
- (d) "Employee " means any California resident who is a full-time employee of a contractor under the laws of California.
- (e) "Full time " means 40 hours or more worked per week, or a lesser number of hours if (1) the lesser number is a recognized industry standard as determined by the County Manager, or (2) the Contractor has a long standing practice that defines the lesser number of hours as full time.

2.94.020 Contractor Jury Service Policy

- (a) A Contractor shall have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.
- (b) At the time of seeking a Contract, a Contractor shall certify to the County that it has and adheres to a policy consistent with this Chapter or will have and adhere to such a policy prior to award of the Contract.
- (c) The Board of Supervisors may waive the requirements of this Chapter when it determines that it is in the best interests of the County for such reasons as follows:

- (1) Award of a contract or amendment is necessary to respond to an emergency;
  - (2) The contractor is a sole source;
  - (3) No compliant contractors are capable of providing goods or services that respond to the County's requirements;
  - (4) The requirements are inconsistent with a grant, subvention or agreement with a public agency;
  - (5) The County is purchasing through a cooperative or joint purchasing agreement.
- (d) Contractors should submit requests for waivers of the terms of this Chapter to the Contract Authority or the County Manager.
  - (e) The County Manager may reject a Contractor's bid or proposal, or terminate a Contract, if he determines that the Contractor is in violation of the requirements of this Chapter or was established, or is being used, for the purpose of evading the intent of this Chapter.
  - (f) No Contract shall be executed with a Contractor unless such Contractor is in compliance with this Chapter.

2.94.030 Powers and Duties of the County Manager

The County Manager's office shall have the authority to:

- (a) Adopt rules and regulations, in accordance with this Chapter and the Ordinance Code of the County of San Mateo, establishing standards and procedures for effectively carrying out this Chapter.
- (b) Receive notification from employees of Contractors regarding violations of this Chapter.
- (c) Determine and recommend to the Board of Supervisors for final decision the imposition of appropriate sanctions for violation of this Chapter by Contractors including, but not limited to:
  - (1) Disqualification of the Contractor from bidding on or being awarded a County Contract for a period of up to 5 years; and
  - (2) Contractual remedies, including, but not limited to termination of Contract.
- (d) Impose other appropriate contractual sanctions for violations of this Chapter;
- (e) Allow for remedial action after a finding of non-compliance;
- (f) Perform such other duties as may be required or which are necessary to implement the purposes of this Chapter.

2.93.030 Date of Application

The provisions of this Chapter shall apply to any contract awarded or amended on or after September 01, 2005, provided that if the Contractor is then signatory to a collective bargaining agreement, this Chapter shall only apply to any Contract with that Contractor which is awarded or amended after the effective date of the next collective bargaining agreement.

**Section 2.** This Ordinance shall be effective thirty (30) days from the passage date thereof.

COUNTY OF SAN MATEO  
**Employee Jury Service Compliance Declaration Form**  
(To Be Submitted with Proposal)

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**I Vendor Identification**

Name of Contractor: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

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**II Employees**

Does the Contractor have any employees? \_\_\_\_\_ Yes \_\_\_\_\_ No

\*If the answer to the above is no, please skip to Section IV. \*

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**III Contractor Employee Jury Service Compliance (Check One)**

- Yes, the Contractor complies by offering paid employee jury service, as defined by Chapter 2.94, to its employees.
- The Contractor will have and adhere to, prior to award of the Contract, a policy that complies by offering paid employee jury service, as defined by Chapter 2.94, to its employees.
- No, the Contractor does not comply.
- The Contractor is under a collective bargaining agreement which began on or before **September 1, 2005** and expires on \_\_\_\_\_ (date). (Section 2.93.050)

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**IV Declaration**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am authorized to bind this entity contractually.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ at \_\_\_\_\_, \_\_\_\_\_.  
(City) (State)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Please Print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Contractor Tax Identification Number

## **ATTACHMENT D**

### **Consultant Evaluation Rating Criteria**

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**CONSULTANT EVALUATION**

**RATING CRITERIA**

1. **Comparable Firm Experience** - Firm's experience which is similar or relevant to the requirements of this project.
2. **Quality of Firm** - Demonstration of firm's capability of providing services required, performing on schedule and in controlling costs.
3. **Quality of Experience of Key Staff** - Qualifications and previous experience of key staff in the extent applicable to this project.
4. **Quality of Experience of Lead Personnel** - Qualifications and previous experience of project manager in the extent applicable to this project.
5. **Understanding of Scope of Services Requirements** - Demonstration of an understanding of Scope of Services, parameters and applicable guidelines or regulations.
6. **Project Management** - Demonstration of a well-organized project management and work team with clear and concise descriptions of individual work assignments; also includes subconsultants.
7. **Budget/Financial Controls** - Firm's experience and methods used for budgeting and financial controls.
8. **Schedules/Timing** - Discussion of tasks necessary to complete all phases of work and staff resources allocated to key tasks.

EVALUATION FORM FOR: \_\_\_\_\_  
 (Consultant Name)

REVIEWER INITIALS: \_\_\_\_\_

DATE: \_\_\_\_\_

INSTRUCTIONS: Provide comments in the spaces provided.

EVALUATION CRITERIA	COMMENTS
<p><b>Comparable Firm Experience</b>            Does the firm have a significant amount of experience in:</p> <ol style="list-style-type: none"> <li>1) Completing projects of similar scope and size?</li> <li>2) Contracting with local government agencies?</li> <li>3) Working with regulatory agencies?</li> </ol>	
<p><b>Quality of Firm</b>            Does the firm employ creative strategies for meeting clients' goals and objectives?            Does the proposal thoroughly address the requirements stated in the RFP?            Does the proposal include methodologies for completing the tasks listed in the RFP?</p>	
<p><b>Quality of Experience of Key Staff</b>            Do the Key Staff possess qualifications and experience in the areas of:</p> <ol style="list-style-type: none"> <li>1) Project Management?</li> <li>2) Design Engineering in flood control facilities?              drainage systems?              water supply and distribution systems?              sanitary sewer system improvement?              street light system improvement?</li> <li>3) Environmental Study and Permit Document Preparation?</li> <li>4) Closed Landfill Management and Monitoring?</li> <li>5) Construction Management and Inspection?</li> <li>6) GIS and CMMS Development and Implementation?</li> <li>7) Certifications, licenses?</li> </ol>	

EVALUATION FORM FOR: \_\_\_\_\_  
 (Consultant Name)

REVIEWER INITIALS: \_\_\_\_\_

DATE: \_\_\_\_\_

INSTRUCTIONS: Provide comments in the spaces provided.

EVALUATION CRITERIA	COMMENTS
<p><b>Quality of Experience of Lead Personnel</b>            Does the Project Manager have a significant amount of experience:            1) Managing projects of similar scope and size?            2) Working with community groups with diverse interests?</p>	
<p><b>Understanding of Project Requirements</b>            Does the proposal reveal that the consultant thoroughly understands and employs:            1) Requirements of public agency construction?            2) Cost containment principles?            3) Adherence to project schedules/time lines?            4) Appropriate documentation practices?</p>	
<p><b>Project Management</b>            Does the consultant demonstrate a well-organized project management and work team with clear descriptions of assignments? (Includes sub-contractors.)</p>	
<p><b>Budget/Financial Controls</b>            Does the proposal demonstrate consideration of appropriate cost controls?</p>	

EVALUATION FORM FOR: \_\_\_\_\_  
 (Consultant Name)

REVIEWER INITIALS: \_\_\_\_\_  
 DATE: \_\_\_\_\_

INSTRUCTIONS: Provide comments in the spaces provided.

EVALUATION CRITERIA	COMMENTS
<p><b>Schedules/Timing</b>            Does the proposal indicate flexibility in meeting client's scheduling needs? Are key staff dedicated to County, or substituted by firm? Will firm location influence schedules?</p>	
<p><b>Overall Quality of Proposal</b></p>	
<p><b>Location of Firm</b>            Is the prime consultant located in San Mateo County?            Are the subconsultants located in San Mateo County?</p>	

# ATTACHMENT E

## Sample Agreement

# AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND [Contractor name]

\*\*\*\*\*REMOVE ALL INSTRUCTIONAL NOTES IN RED **BEFORE** SENDING CONTRACT TO SERVICE PROVIDER)

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the County of San Mateo, a political subdivision of the state of California, hereinafter called "County," and [Insert contractor legal name here], hereinafter called "Contractor."

\* \* \*

Whereas, pursuant to Section 31000 of the California Government Code, County may contract with independent contractors for the furnishing of such services to or for County or any Department thereof; and

Whereas, it is necessary and desirable that Contractor be retained for the purpose of [Enter information here].

**Now, therefore, it is agreed by the parties to this Agreement as follows:**

## **1. Exhibits and Attachments**

The following exhibits and attachments are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A—Services

Exhibit B—Payments and Rates

Attachment H—HIPAA Business Associate Requirements *(Complete HIPAA checklist if unsure about Business Associate or Non Business Associate; delete this if not needed; contact County Counsel with questions)*

Attachment I—§ 504 Compliance *(Delete this if not needed)*

Attachment IP – Intellectual Property *(Complete IP Questionnaire if unsure/delete this if not needed)*

## **2. Services to be performed by Contractor**

In consideration of the payments set forth in this Agreement and in Exhibit B, Contractor shall perform services for County in accordance with the terms, conditions, and specifications set forth in this Agreement and in Exhibit A.

## **3. Payments**

In consideration of the services provided by Contractor in accordance with all terms, conditions, and specifications set forth in this Agreement and in Exhibit A, County shall make payment to Contractor based on the rates and in the manner specified in Exhibit B. County reserves the right to withhold payment if County determines that the quantity or quality of the work performed is unacceptable. In no event shall County's total fiscal obligation under this Agreement exceed [write out amount] (\$Amount). In the event that the County makes any advance payments, Contractor agrees to refund any amounts in excess of the amount owed by the County at the time of contract termination or expiration.

## **4. Term**

Subject to compliance with all terms and conditions, the term of this Agreement shall be from [Month and day], 20[last 2 digits of start year], through [Month and day], 20[last 2 digits of end year].

## **5. Termination; Availability of Funds**

This Agreement may be terminated by Contractor or by the [Title of County Department Head] or his/her designee at any time without a requirement of good cause upon thirty (30) days' advance written notice to the other party. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that prorated portion of the full payment determined by comparing the work/services actually completed to the work/services required by the Agreement.

County may terminate this Agreement or a portion of the services referenced in the Attachments and Exhibits based upon the unavailability of Federal, State, or County funds by providing written notice to Contractor as soon as is reasonably possible after County learns of said unavailability of outside funding.

## **6. Contract Materials**

At the end of this Agreement, or in the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and other written materials (collectively referred to as "contract materials") prepared by Contractor under this Agreement shall become the property of County and shall be promptly delivered to County. Upon termination, Contractor may make and retain a copy of such contract materials if permitted by law.

## **7. Relationship of Parties**

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent contractor and not as an employee of County and that neither Contractor nor its employees acquire any of the rights, privileges, powers, or advantages of County employees.

## **8. Hold Harmless**

### **a. General Hold Harmless**

Contractor shall indemnify and save harmless County and its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description resulting from this Agreement, the performance of any work or services required of Contractor under this Agreement, or payments made pursuant to this Agreement brought for, or on account of, any of the following:

- (A) injuries to or death of any person, including Contractor or its employees/officers/agents;
- (B) damage to any property of any kind whatsoever and to whomsoever belonging;
- (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply, if applicable, with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended; or
- (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County and/or its officers, agents, employees, or servants. However, Contractor's duty to indemnify and save harmless under this Section shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**b. Intellectual Property Indemnification** *(You may delete entire IP Indemnification section if not relevant – County Counsel review is not required if section is deleted)*

Contractor hereby certifies that it owns, controls, or licenses and retains all right, title, and interest in and to any intellectual property it uses in relation to this Agreement, including the design, look, feel, features, source code, content, and other technology relating to any part of the services it provides under this Agreement and including all related patents, inventions, trademarks, and copyrights, all applications therefor, and all trade names, service marks, know how, and trade secrets (collectively referred to as “IP Rights”) except as otherwise noted by this Agreement. Contractor warrants that the services it provides under this Agreement do not infringe, violate, trespass, or constitute the unauthorized use or misappropriation of any IP Rights of any third party. Contractor shall defend, indemnify, and hold harmless County from and against all liabilities, costs, damages, losses, and expenses (including reasonable attorney fees) arising out of or related to any claim by a third party that the services provided under this Agreement infringe or violate any third-party’s IP Rights provided any such right is enforceable in the United States. Contractor’s duty to defend, indemnify, and hold harmless under this Section applies only provided that: (a) County notifies Contractor promptly in writing of any notice of any such third-party claim; (b) County cooperates with Contractor, at Contractor’s expense, in all reasonable respects in connection with the investigation and defense of any such third-party claim; (c) Contractor retains sole control of the defense of any action on any such claim and all negotiations for its settlement or compromise (provided Contractor shall not have the right to settle any criminal action, suit, or proceeding without County’s prior written consent, not to be unreasonably withheld, and provided further that any settlement permitted under this Section shall not impose any financial or other obligation on County, impair any right of County, or contain any stipulation, admission, or acknowledgement of wrongdoing on the part of County without County’s prior written consent, not to be unreasonably withheld); and (d) should services under this Agreement become, or in Contractor’s opinion be likely to become, the subject of such a claim, or in the event such a third party claim or threatened claim causes County’s reasonable use of the services under this Agreement to be seriously endangered or disrupted, Contractor shall, at Contractor’s option and expense, either: (i) procure for County the right to continue using the services without infringement or (ii) replace or modify the services so that they become non-infringing but remain functionally equivalent.

Notwithstanding anything in this Section to the contrary, Contractor will have no obligation or liability to County under this Section to the extent any otherwise covered claim is based upon: (a) any aspects of the services under this Agreement which have been modified by or for County (other than modification performed by, or at the direction of, Contractor) in such a way as to cause the alleged infringement at issue; and/or (b) any aspects of the services under this Agreement which have been used by County in a manner prohibited by this Agreement.

The duty of Contractor to indemnify and save harmless as set forth by this Section shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

**9. Assignability and Subcontracting**

Contractor shall not assign this Agreement or any portion of it to a third party or subcontract with a third party to provide services required by Contractor under this Agreement without the prior written consent of County. Any such assignment or subcontract without County’s prior written consent shall give County the right to automatically and immediately terminate this Agreement without penalty or advance notice.

**10. Payment of Permits/Licenses** *(If the contractor is not required to obtain a license, permit or approval from any other entity in order to perform the work/services under this agreement then you may delete this section without County Counsel review)*

Contractor bears responsibility to obtain any license, permit, or approval required from any agency for work/services to be performed under this Agreement at Contractor's own expense prior to commencement of said work/services. Failure to do so will result in forfeit of any right to compensation under this Agreement.

**11. Insurance**

**a. General Requirements**

Contractor shall not commence work or be required to commence work under this Agreement unless and until all insurance required under this Section has been obtained and such insurance has been approved by County's Risk Management, and Contractor shall use diligence to obtain such insurance and to obtain such approval. Contractor shall furnish County with certificates of insurance evidencing the required coverage, and there shall be a specific contractual liability endorsement extending Contractor's coverage to include the contractual liability assumed by Contractor pursuant to this Agreement. These certificates shall specify or be endorsed to provide that thirty (30) days' notice must be given, in writing, to County of any pending change in the limits of liability or of any cancellation or modification of the policy.

**b. Workers' Compensation and Employer's Liability Insurance**

Contractor shall have in effect during the entire term of this Agreement workers' compensation and employer's liability insurance providing full statutory coverage. In signing this Agreement, Contractor certifies, as required by Section 1861 of the California Labor Code, that (a) it is aware of the provisions of Section 3700 of the California Labor Code, which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the Labor Code, and (b) it will comply with such provisions before commencing the performance of work under this Agreement.

**c. Liability Insurance**

Contractor shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Contractor and all of its employees/officers/agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Contractor's operations under this Agreement, whether such operations be by Contractor, any subcontractor, anyone directly or indirectly employed by either of them, or an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall not be less than the amounts specified below:

Comprehensive General Liability... \$1,000,000

(Applies to all agreements)

Motor Vehicle Liability Insurance... \$1,000,000

(To be checked if motor vehicle used in performing services)

Professional Liability..... \$1,000,000

(To be checked if Contractor is a licensed professional)

County and its officers, agents, employees, and servants shall be named as additional insured on any such policies of insurance, which shall also contain a provision that (a) the insurance afforded thereby to County and its officers, agents, employees, and servants shall be primary insurance to the full limits of liability of the policy and (b) if the County or its officers, agents, employees, and servants have other insurance against the loss covered by such a policy, such other insurance shall be excess insurance only.

In the event of the breach of any provision of this Section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, County, at its option, may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work and payment pursuant to this Agreement.

**12. Compliance With Laws**

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, ordinances, and regulations, including but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Federal Regulations promulgated thereunder, as amended (if applicable), the Business Associate requirements set forth in Attachment H (if attached), the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including but not limited to appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. In the event of a conflict between the terms of this Agreement and any applicable State, Federal, County, or municipal law or regulation, the requirements of the applicable law or regulation will take precedence over the requirements set forth in this Agreement.

Further, Contractor certifies that it and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware. Accordingly, Contractor shall not use any non-recyclable plastic disposable food service ware when providing prepared food on property owned or leased by the County and instead shall use biodegradable, compostable, reusable, or recyclable plastic food service ware on property owned or leased by the County. *(This paragraph may be deleted without County Counsel Review if not relevant to this agreement)*

Contractor will timely and accurately complete, sign, and submit all necessary documentation of compliance.

**13. Non-Discrimination and Other Requirements**

**a. General Non-discrimination**

No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.

**b. Equal Employment Opportunity**

Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County upon request.

**c. Section 504 of the Rehabilitation Act of 1973**

Contractor shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified individual with a disability shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of any services this Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

**d. Compliance with County's Equal Benefits Ordinance**

With respect to the provision of benefits to its employees, Contractor shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. In order to meet the requirements of Chapter 2.84, Contractor must certify which of the following statements is/are accurate:

- Contractor complies with Chapter 2.84 by offering the same benefits to its employees with spouses and its employees with domestic partners.
- Contractor complies with Chapter 2.84 by offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Contractor's cost of providing the benefit to an employee with a spouse.
- Contractor is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.
- Contractor does not comply with Chapter 2.84, and a waiver must be sought.

**e. Discrimination Against Individuals with Disabilities**

The nondiscrimination requirements of 41 C.F.R. 60-741.5(a) are incorporated into this Agreement as if fully set forth here, and Contractor and any subcontractor shall abide by the requirements of 41 C.F.R. 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.

**f. History of Discrimination**

Contractor must check one of the two following options, and by executing this Agreement, Contractor certifies that the option selected is accurate:

- No finding of discrimination has been issued in the past 365 days against Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.
- Finding(s) of discrimination have been issued against Contractor within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Contractor shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

**g. Reporting; Violation of Non-discrimination Provisions**

Contractor shall report to the County Manager the filing in any court or with any administrative agency of any complaint or allegation of discrimination on any of the bases prohibited by this Section of the Agreement or Section 12, above. Such duty shall include reporting of the filing of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation or adjudication of allegations covered by this subsection within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include a general description of the circumstances involved and a general description of the kind of discrimination alleged (for example, gender-, sexual orientation-, religion-, or race-based discrimination).

Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to the following:

- i. termination of this Agreement;
- ii. disqualification of the Contractor from being considered for or being awarded a County contract for a period of up to 3 years;
- iii. liquidated damages of \$2,500 per violation; and/or
- iv. imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this Section, the County Manager shall have the authority to offset all or any portion of the amount described in this Section against amounts due to Contractor under this Agreement or any other agreement between Contractor and County.

**14. Compliance with County Employee Jury Service Ordinance**

Contractor shall comply with Chapter 2.85 of the County's Ordinance Code, which states that Contractor shall have and adhere to a written policy providing that its employees, to the extent they are full-time employees and live in San Mateo County, shall receive from the Contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that the Contractor may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Contractor certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Contractor has no employees in San Mateo County, it is sufficient for Contractor to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Contractor certifies that it has no full-time employees who live in San Mateo County. To the extent that it hires any

such employees during the term of its Agreement with San Mateo County, Contractor shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code." The requirements of Chapter 2.85 do not apply if this Agreement's total value listed Section 3, above, is less than one-hundred thousand dollars (\$100,000), but Contractor acknowledges that Chapter 2.85's requirements will apply if this Agreement is amended such that its total value meets or exceeds that threshold amount.

**15. Retention of Records; Right to Monitor and Audit**

(a) Contractor shall maintain all required records relating to services provided under this Agreement for three (3) years after County makes final payment and all other pending matters are closed, and Contractor shall be subject to the examination and/or audit by County, a Federal grantor agency, and the State of California.

(b) Contractor shall comply with all program and fiscal reporting requirements set forth by applicable Federal, State, and local agencies and as required by County.

(c) Contractor agrees upon reasonable notice to provide to County, to any Federal or State department having monitoring or review authority, to County's authorized representative, and/or to any of their respective audit agencies access to and the right to examine all records and documents necessary to determine compliance with relevant Federal, State, and local statutes, rules, and regulations, to determine compliance with this Agreement, and to evaluate the quality, appropriateness, and timeliness of services performed.

**16. Merger Clause; Amendments**

This Agreement, including the Exhibits and Attachments attached to this Agreement and incorporated by reference, constitutes the sole Agreement of the parties to this Agreement and correctly states the rights, duties, and obligations of each party as of this document's date. In the event that any term, condition, provision, requirement, or specification set forth in the body of this Agreement conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit and/or Attachment to this Agreement, the provisions of the body of the Agreement shall prevail. Any prior agreement, promises, negotiations, or representations between the parties not expressly stated in this document are not binding. All subsequent modifications or amendments shall be in writing and signed by the parties.

**17. Controlling Law; Venue**

The validity of this Agreement and of its terms, the rights and duties of the parties under this Agreement, the interpretation of this Agreement, the performance of this Agreement, and any other dispute of any nature arising out of this Agreement shall be governed by the laws of the State of California without regard to its choice of law or conflict of law rules. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or in the United States District Court for the Northern District of California.

**18. Notices**

Any notice, request, demand, or other communication required or permitted under this Agreement shall be deemed to be properly given when both: (1) transmitted via facsimile to the telephone number listed below or transmitted via email to the email address listed below; and (2) sent to the physical address listed below by either being deposited in the United States mail, postage prepaid, or deposited for

overnight delivery, charges prepaid, with an established overnight courier that provides a tracking number showing confirmation of receipt.

In the case of County, to:

Name/Title: [insert]  
Address: [insert]  
Telephone: [insert]  
Facsimile: [insert]  
Email: [insert]

In the case of Contractor, to:

Name/Title: [insert]  
Address: [insert]  
Telephone: [insert]  
Facsimile: [insert]  
Email: [insert]

**19. Electronic Signature**

If both County and Contractor wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California law and County's Electronic Signature Administrative Memo, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing notice pursuant to this Agreement.

For County:  If this box is checked by County, County consents to the use of electronic signatures in relation to this Agreement.

For Contractor:  If this box is checked by Contractor, Contractor consents to the use of electronic signatures in relation to this Agreement.

\* \* \*

In witness of and in agreement with this Agreement's terms, the parties, by their duly authorized representatives, affix their respective signatures:

COUNTY OF SAN MATEO

By:

President, Board of Supervisors, San Mateo County

Date:

ATTEST:

By:

Clerk of Said Board

[Contractor Name Here]

Contractor's Signature

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*Template version – May 4, 2015*

Date:

*(April 1, 2015 CCC issued contract template version)*

**Exhibit A**

In consideration of the payments set forth in Exhibit B, Contractor shall provide the following services:

**Exhibit B**

In consideration of the services provided by Contractor described in Exhibit A and subject to the terms of the Agreement, County shall pay Contractor based on the following fee schedule and terms:

# ATTACHMENT F

## List of Consultants

Ramsey Hissen, Vice-President  
AECOM  
100 W. San Fernando Street, Suite 200  
San Jose, CA 95113

Peter Bekey, President  
KCA Engineers, Inc  
318 Brannan Street  
San Francisco, CA 94107

Jeff Peterson  
Wilsey Ham  
3130 La Selva Street  
San Mateo, CA 94403

Keith Halvorson, Director of Engineering  
McGill Martin Self, Inc.  
1200 Contra Costa Boulevard, Suite D  
Pleasant Hill, CA 94523

Daniel Chow  
Willdan  
1939 Harrison Street, Suite 430  
Oakland, CA 94612-3527

Michael Fisher  
Water Works Engineers  
1322 Blue Oaks Blvd., Suite 300  
Roseville, CA 95678

David Freyer  
Freyer & Laureta, Inc.  
144 N. San Mateo Drive  
San Mateo, CA 94401

Vern Phillips  
Harris & Associates  
1401 Willow Pass Road, Suite 500  
Concord, CA 94520

Robert Himes, President  
Mark Thomas and Company  
1960 Zanker Road  
San Jose, CA 95112

Kleinfelder  
6700 Koll Center Parkway, Suite 120  
Pleasanton, CA 94566

Ron Silva, Vice-President of Waste Water  
HDR Engineers, Inc  
8404 Indian Hills Dr.  
Omaha, NB 68114

Janine O'Flaherty, Vice President  
BKF Engineers  
255 Shoreline Drive, Suite 200  
Redwood City, CA 94065

Chris Peters  
Brown and Caldwell  
201 North Civic Drive, Suite 115  
Walnut Creek, CA 94596

April Hawkins  
A/E Consultants Information Network  
P.O. Box 417816  
Sacramento, CA 95681

Mike McNeely  
NV5  
2025 Gateway Place, Suite 156  
San Jose, CA 95110

HMH, Inc.  
1570 Oakland Road  
San Jose, CA 95131

Cathryn Rahan, Marketing Manager  
David Evans & Associates  
1544 Eureka Road, Suite 200  
Roseville, CA 95661

G. Robert Binkley, President  
Binkley Associates Consulting Engineers  
P.O. Box 70897  
Sunnyvale, CA 94086

Kimley-Horn and Associates, Inc.  
100 West San Fernando Street, Suite 250  
San Jose, CA 95113

Alex Johnson, Principal  
MatrixCM  
19400 Stevens Creek Boulevard, Suite 102  
Cupertino, CA 95014

Richard Haughey  
Golder Associates, Inc.  
425 Lakeside Drive  
Sunnyvale, CA 94085

Roger Fry, Associate  
Camp Dresser & McKee, Inc.  
100 Pringle Avenue, Suite 300  
Walnut Creek, CA 94596

Peter Smith, Vice President  
Charles W. Davidson Co.  
255 West Julian St., Suite 200  
San Jose, CA 95110

Tony McCants, Principal  
Kier & Wright  
2850 Collier Canyon Road  
Livermore, CA 94551

Jason Van Zwol  
Bay Area Geotechnical Group  
847 W. Maude Avenue  
Sunnyvale, CA 94085

Kenneth Shuey  
Kennedy/Jenks Consultants  
2191 E. Bayshore Road, Suite 200  
Palo Alto, CA 94303

Michelle McFee  
Kamman Hydrology & Engineering, Inc.  
101 Lucas Valley Road, Suite 120  
San Rafael, CA 94903

Gisa Ju  
RMC  
2290 N. 1<sup>st</sup> Street, Suite 212  
San Jose, CA 95131

Tom Hawbaker  
Questa Engineering Corp.  
1220 Brickyard Cove Rd., Suite 206  
Pt. Richmond, CA 94807

Carol Davidson  
Mesiti-Miller Engineering, Inc.  
224 Walnut Avenue, Suite B  
Santa Cruz, CA 95060

Curtis Lam  
HydroScience Engineers, Inc.  
741 Allston Way  
Berkeley, CA 94710

H. T. Harvey & Associates  
983 University Avenue, Building D  
Los Gatos, CA 95032

Brian Fletcher  
Callander Associates  
311 Seventh Avenue  
San Mateo, CA 94401

Denise Duffy  
Denise Duffy & Associates, Inc.  
947 Cass Street, Suite 5  
Monterey, CA 93940

Michael Baker International  
1 Kaiser Plaza, Suite 1150  
Oakland, CA 94612

John Schwarz  
David J. Powers & Associates, Inc.  
1871 The Alameda, Suite 200  
San Jose, CA 95126

Mitch Monroe  
Burns & McDonnell  
400 Oyster Point Boulevard, Suite 533  
South San Francisco, CA 94080

Bill Stagnaro  
BioMaAS  
333 Valencia Street, Suite #324  
San Francisco, CA 94103

Tom Hall  
EOA, Inc.  
1410 Jackson Street  
Oakland, CA 94612

Patricia Berryhill  
ESA  
225 Bush Street, Suite 1700  
San Francisco, CA 94104

Mark Vincent  
Geo-Logic Associates  
250 West First Street, Suite 228  
Claremont, CA 91711

Michael Stevenson  
Horizon Water and Environment  
1330 Broadway, Suite 600  
Oakland, CA 94612

Pete McKean  
Townsend Management, Inc.  
P.O. Box 24442  
San Francisco, CA 94124

Han-Bin Liang  
WRECO  
1243 Alpine Road, Suite 108  
Walnut Creek, CA 94596