

REQUEST FOR PROPOSALS

**CITYWIDE TRANSPORTATION SYSTEM
MANAGEMENT/TRANSPORTATION
DEMAND MANAGEMENT PLAN**

City of Alameda

Public Works Department

March 29, 2010

IMPORTANT DATES:

Proposal Due Date:	April 19, 2010
Selection Interviews:	Week of April 26, 2010
Award of Contract:	Week of May 10, 2010
Projected Contract Start Date:	Week of May 10, 2010

CONTACT:

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I. INTRODUCTION

The City of Alameda ("City") is requesting proposals from qualified Consultants to develop a Citywide Transportation System Management/Transportation Demand Management (TSM/TDM) Plan. The Plan will include a recommended policy framework, funding mechanism, and institutional structure to ensure that future development and redevelopment projects contribute their fair share of resources to account for their impacts on the City's transportation infrastructure. The City was awarded a Community Based Transportation Planning (CBTP) grant from Caltrans for this project.

A. Background.

The City of Alameda is a charter city with a population of over 75,000. The City has several significant redevelopment opportunities – such as Alameda Point and the Northern Waterfront – which, when built out, will have significant impacts on the transportation system. In particular, it is expected that travel into and out of Alameda will become further congested due to the limited number of entrance and egress points. To successfully pursue these redevelopment opportunities and maintain the quality of life for residents, the City has placed an increased emphasis on the enhancement and encouragement of alternatives to single occupant vehicle (SOV) travel. This Plan will support City policies designed to enhance existing traffic capacity using the existing transportation system, enhance the viability of alternative transportation modes, and support the City's emission reduction goals in accordance with the Climate Change Action Plan.

Currently, the City negotiates the TSM/TDM programs on a project-by-project basis. The purpose of this Plan is to develop a standardized methodology for calculating the contribution – both in terms of financial contribution and reduction in trips – for development and redevelopment projects. The Plan will also include methodologies for monitoring and enforcing compliance with vehicle trip reduction requirements.

There is demonstrable support for the use of alternative transportation modes in Alameda, in terms of the adopted policies, projects implemented to date, and the behavior of residents:

- The Transportation Element of Alameda's General Plan, updated in 2009, includes policies that support the development of a balanced multimodal transportation system, supported by the implementation of TSM and TDM measures.
- The Traffic Capacity Management Procedure (TCMP) requires projects located west of Grand Street to mitigate impacts on the Webster and Posey Tubes.
- The City has a well-developed network of bicycle facilities, including paths, bike lanes, and bicycle parking.
- Alternatives to driving are already used by Alameda residents, and this Plan would seek to build on this. According to the 2000 Census, approximately 37 percent of employed Alameda residents travel to work primarily using non-SOV transportation modes.

B. Purpose of the Request.

The City desires to obtain the services of an outside organization to prepare a Citywide TSM/TDM Plan. The selected organization will provide the transportation planning services required for this project, as described in more detail below and in Exhibit A.

II. SCOPE OF SERVICES

Attached as Exhibit A is a list of major work tasks that should be accomplished as part of the scope of work. The proposer is asked to define the approach and the specific scope of work and methodology to achieve the objectives presented in this RFP. The proposer should include a refined scope of work by developing a detailed description of all project tasks, both those tasks suggested in this scope of work and any changes, additions or recommendations proposed. The description of each project task should include specification of the task itself, the methodology or analytical process, scheduling, personnel, and costs. Note that the work scope in Exhibit A has been approved by Caltrans, the funding agency for this project; while it is possible to make changes to the scope, the proposer is asked to include changes only if they would significantly enhance the project to avoid administrative delays in the project schedule.

III. PROPOSAL FORMAT

All proposals shall include the following minimum information:

A. Approach.

A short discussion of the intended approach to the project that demonstrates the proposer's understanding of the issues and tasks and the proposer's ability to address them.

B. Description of Organization, Management and Team Members.

A description of the team/consultant organization, and a work plan that identifies the personnel to be assigned to each task. The organization description should clearly identify who will be the project manager and the day-to-day contact person for the job.

C. Organization Qualifications.

Provide an outline of the organization qualifications indicating relevant background experience and capabilities for this work. A list of major projects, both ongoing and planned, to which the organization is committed during the time frame of this project should also be provided. Include the staff resources devoted to those projects and the status of the projects.

D. Scope of Work.

The proposal should contain a description of each work task with an explanation of how the proposer plans to approach the tasks and the steps that will be taken to complete the task including analytical methods and tools. Proposers must demonstrate that they understand the magnitude and importance of each individual task. Tasks should be organized into phases constituting measurable deliverables.

E. Proposed Project Schedule.

Time is of the essence for this agreement. The proposal shall include a schedule to undertake the work program. The project is anticipated to start by May 2010 and be completed by June 2011.

F. Proposed Budget.

Indicate the costs and hours for the total project, on a task-by-task basis, and on a subconsultant basis, inclusive of reimbursables. Prices quoted must be binding for the life of project.

G. References, Related Experience and Examples of Work.

Client references with phone numbers for relevant work. Specify the client, location, consultant firm members and participating individuals and role on team (principal, project director, etc.), type of work, implementation results or status, examples of work, and other relevant information as needed.

IV. SELECTION PROCESS

A. Qualifications.

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

B. Selection Criteria.

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

1. Ability of the Lead Consultant to Design an Approach and Work Plan to Meet the Project Requirements.

An assessment of the overall quality of the proposal. Qualities and indicators that will receive consideration include the proposer's performance in converting the Scope of Services into a work plan; the detail and clarity of the discussion as to the proposer's approach to undertaking the project; the proposer's performance in identifying any special problems or concerns which may be associated with the project and preliminary ideas about how these obstacles should be addressed; the inclusion of any unique approaches which are designed to save time and money or increase the benefits or effectiveness of the proposed work; and the demonstrated ability to work with governmental bodies and a full understanding of applicable laws or regulations that relate to the project.

2. Ability of the Proposer to Carry Out and Manage the Proposed Project.

An assessment of the past experience of the organization in general. Qualities and indicators that will receive consideration include the number and types of projects the organization or its employees have completed; the variety of projects completed and a demonstration of the organization's ability to undertake this project, the general level of experience in the areas of supervision, observing and monitoring projects; the organization's ability to realize timetables and quality control objectives; and the demonstrated general ability to bring about a successful completion of the projects under the proposer's direction.

3. Capabilities of the Consultant Organization and/or Team.

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

4. Current Workload of the Consultant Organization and/or Team.

An assessment of the perceived ability of each organization to devote the necessary human resources and management attention to the project. Qualities and indicators that will receive consideration include the number and size of the projects presently being performed by each organization and the assigned staff; the status of existing projects; the past ability of the organization to deliver projects on a timely basis; and the nature of existing projects that are behind schedule or past the completion date.

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

The application of this criteria shall include an assessment of the geographic proximity to the project; the location of the office from which the proposed project will be administered; the perceived response time and general availability of the proposer's

management to be on site; the perceived effect that project management location will have on price and the ability of the project to be expedited on a timely basis; and the availability of special travel or communication plans which would effectively mitigate difficulties associated with location.

6. Willingness to Comply with the Proposed Agreement Terms.

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

7. Cost of Proposal

Cost, while not determinative, may be considered in the selection process.

C. Proposed Selection and Project Schedule.

Proposal Due Date:	April 19, 2010
Selection Interviews:	Week of April 26, 2010
Award of Contract:	Week of May 10, 2010
Project Completion:	June 2011

D. Award of Contract.

It is anticipated that any award of an agreement for services will be made by the City Manager on or before May 3, 2010.

V. PROPOSAL DUE DATE AND DELIVERY

Five (5) sealed copies of the proposal, clearly marked with the project description, should be submitted no later than:

5::00 p.m. April 19, 2010

to the address below. All copies received by that time will be date and time stamped. Proposals will not be accepted after this time. Proposals should be addressed to:

City of Alameda Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501
Attention: Barry Bergman

FAXed proposals will not be accepted. Hand carried proposals will be accepted at the above

address.

VI. CONDITIONS OF REQUEST

A. General Conditions.

The City reserves the right to cancel or reject all or a portion or portions of the request for proposals without notice. Further, the City makes no representations that any agreement will be awarded to any organization submitting a proposal. The City reserves the right to reject any and all proposals submitted in response to this request or any addenda thereto.

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

Any changes to the proposal requirements will be made by written addendum.

B. Liability of Costs and Responsibility.

The City shall not be liable for any costs incurred in response to this request for proposals. All costs shall be borne by the person or organization responding to the request. The person or organization responding to the request shall hold the City harmless from any and all liability, claim or expense whatsoever incurred by or on behalf of that person or organization. All submitted material becomes the property of the City of Alameda.

The selected lead consultant will be required to assume responsibility for all services offered in the proposal whether or not they possess them within their organization. The selected lead consultant will be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.

C. Validity.

The proposer agrees to be bound by its proposal for a period of ninety (90) days commencing April 19, 2010, during which time the City may request clarification or correction of the proposal for the purpose of evaluation. Amendments or clarifications shall not affect the remainder of the proposal, but only that portion so amended or clarified.

D. Standard Consultant Agreement.

A sample consultant agreement has been provided in the Appendix for the proposer's review and comment. If a proposer wishes to take exception to any of the terms and conditions contained in

the consultant agreement, these should be identified specifically; otherwise it will be assumed that the proposer is willing to enter into the agreement as it is written. Failure to identify contractual issues of dispute can later be the basis for the City disqualifying a proposer. Any exceptions to terms, conditions, or other requirements must be clearly stated. Otherwise, the City will consider that all items offered are in strict compliance with the RFP, and the successful proposer will be responsible

for compliance. The City will consider such exceptions as part of the evaluation process which may constitute grounds for rejection of the proposal. The consultant agreement will not be executed by the City without first being signed by the proposer.

E. Permits and Licenses.

Proposer, and all of proposer's sub-consultants, at its and/or their sole expense, shall obtain and maintain during the term of any agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License which will be required in connection with the performance of services hereunder.

F. Oral and Written Explanations.

The City will not be bound by oral explanations or instructions given at any time during the review process or after the award. Oral explanations given during the review process and after award become binding when confirmed in writing by an authorized City official. Written responses to question(s) asked by one proposer will be provided to all proposers who received Requests for Proposals.

G. Proposer's Representative.

The person signing the proposal must be a legal representative of the firm authorized to bind the firm to an agreement in the event of the award.

H. Deliverables.

Five (5) copies of administrative draft reports are required upon completion of each major part of the project. Following approval by the staff, ten (10) copies of each final report are required.

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

I. Restrictions on Lobbying.

The agreement will be subject to 24 CFR 87 which prohibits the payment of Federal funds to any person for influencing or attempting to influence, any public officer or employee in connection with that award, making, entering into, extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or agreement.

J. Insurance

General Liability, Automobile, Professional, Liability, and Worker's compensation insurance are required in the amount set forth in the attached sample consultant agreement.

VII. AVAILABILITY OF DOCUMENTS

The Transportation Element of the City of Alameda General Plan is available for review on the City of Alameda's web site at www.ci.alameda.ca.us/tmp/pdf/0903_te_final.pdf.

Exhibits

- A. Scope of Work
- B. Sample Consultant Contract

CITY OF ALAMEDA TSM/TDM PLAN SCOPE OF WORK

The TSM/TDM Plan will be managed by the City of Alameda Public Works Department staff using the following work scope. The citywide TSM/TDM Plan is a high priority for Alameda, as it will enable the City to continue to develop while preserving the quality of life for its residents, workers, and visitors.

Task 1 CONSULTANT SELECTION

A request for proposals will be issued. The consultant team will be selected from among the proposals received.

Deliverable

Consultant selection

Documentation

Consultant contract & scope of work

Task 2 PROJECT MANAGEMENT

At the kick-off meeting, the study team will perform the following key administration tasks:

Confirm the study's overall vision, goals and objectives.

Review work plan, timeline, and contents of all project deliverables; revise if necessary.

Discuss background information such as a base map, previous studies and traffic study data.

Following the kick-off meeting, project management will encompass on-going monitoring of the consultant work, review of various submittals, budget tracking, and performing general project management work.

Deliverable

Project management kickoff meeting

Documentation

Kickoff meeting summary

Task 3: REVIEW EXISTING STUDIES, CONTACTS AND RESOURCE DOCUMENTS

The purpose of this task is to compile and analyze background studies and best practices from other relevant projects in the City and other jurisdictions to better understand how to ensure a maximum use of alternative modes through the implementation of a TSM/TDM Plan. The study team will review the following resources

- Alameda Point Transportation Strategy (2009)
- Alameda Traffic Capacity Management Procedure (2000)
- Alameda West End TSM/TDM Plan (2003)

- Best Practices (at least 5 cities, which may include the following: San Francisco, Santa Cruz, Portland, Cambridge and Davis)
- City of Alameda Transportation Element – TSM/TDM Policies (January 2009)
- National Center for Transit Research TDM (<http://www.nctr.usf.edu/clearinghouse/tro.htm>)
- Victoria Transport Policy Institute TDM (<http://www.vtpi.org/tdm/tdm50.htm>)
- Alameda Citywide Development Fee Nexus Study (2001)
- Monitoring strategies
- Review of key legal considerations

Deliverable

Review of background studies
& best practices

Documentation

Background Studies Memo

Task 4: ANALYZE ALTERNATIVE TSM/TDM STRATEGIES

The purpose of this task is to develop a list of all TSM/TDM strategies to be explored and then to screen out strategies that do not meet the study's overall vision and goals. Potential evaluation criteria, which will be tied to the City's Transportation Element, could include the following items:

- Feasibility/acceptability
- Potential peak hour trip reduction through the tubes and bridges
- Applicability to new/existing development, employees/students, visitors/customers or residents
- Ability to quantify trip reduction impacts (will be basis for environmental documentation)
- Other non-transportation related benefits
- Costs (and savings) to developers/ tenants/employers/travelers
- Legal defensibility
- Ability to use existing transportation infrastructure
- Ability to monitor strategy effectiveness after implementation
- Timing of implementation (short-term versus long-term strategy)

The City currently is pursuing the following strategies, which the TSM/TDM Plan should consider as part of its recommended alternatives: group transit passes (AC Transit EasyPass), bicycling and pedestrian facilities, bus stop amenities, bus priority at traffic signals, incident management, NextBus signs, ridesharing, telecommuting, flexible work schedules, park-and-ride facilities, queue jump lanes for buses, traffic signal coordination, parking management, casual carpools, guaranteed ride home program and BART shuttles.

Deliverable

Analysis of TSM/TDM strategies
TSM/TDM Plan

Documentation

Strategy Analysis Memo
TSM/TDM-RFP.odt

Task 5: RECOMMEND PREFERRED TSM/TDM STRATEGIES

The purpose of this task is to recommend a list of TSM/TDM alternatives. This task will include macro-level traffic modeling and other techniques to estimate the potential to reduce single-occupant vehicle travel. The study team also will discuss anticipated costs, fee structures, and establishment of a nexus between a project and TSM/TDM requirements. This task will also include a recommended implementation process, including organizational structure, phasing strategies, schedule (short term versus long term), roles and responsibilities, program monitoring including performance thresholds, and program evaluation.

Deliverable

Identify preferred TSM/TDM strategies

Documentation

Preferred Strategies Memo

TASK 6: PUBLIC OUTREACH

The purpose of this task is to engage the key stakeholders and the general public on the TSM/TDM Plan elements. The implementation of the TSM/TDM Plan is envisioned as a public/private partnership, so this task will be critical in developing an acceptable approach. Translations to Spanish and Chinese will be available upon request.

Task 6.1: Engage Stakeholder Advisory Committee

An advisory committee consisting of a range of stakeholders will meet to discuss plan-related concerns, provide input and build consensus on recommended alternatives. At a minimum, the advisory committee will meet three times to discuss the project at key stages. The committee will include the following stakeholders:

Advocates: Alameda Transit Advocates, BikeAlameda and Pedestrian-friendly Alameda

Business associations and major employers: Will include Greater Alameda Business Association, Park Street Business Association, West Alameda Business Association, and Alameda Chamber of Commerce.

Task 6.2: Engage Technical Advisory Committee

A Technical Advisory Committee (TAC) consisting of a range of stakeholders will be formed to discuss the feasibility and potential benefits of various TSM and TDM strategies, provide input and build consensus on recommended alternatives. At a minimum, the TAC will meet three times to discuss the project at key stages. The TAC shall include representatives of the following at a minimum:

- **City Departments:** Community Development and Public Works

- **Transit providers:** AC Transit, BART and Water Emergency Transit Authority
- **Caltrans**

Task 6.3: Hold Focus Group Discussions

The study team will meet with key stakeholders such as representatives of the business community, developers, transit-dependent segments of the population and transportation advocacy groups, to identify their primary concerns and highest priorities. A minimum of two focus group meetings will be held.

Task 6.4: Conduct Survey

An on-line and hard copy survey will be distributed to collect input regarding the proposals in the TSM/TDM Plan. Input from individuals who commute outside the City of Alameda and who live and work in the City of Alameda will be critical to the success of the City's TSM/TDM Plan.

Task 6.5: Present Draft TSM/TDM Plan at Public Workshops and Hearings

The study team will present the Draft TSM/TDM Plan at a minimum of eight meetings:

- Community groups (three meetings)
- Economic Development Commission
- Planning Board
- Transportation Commission
- Alameda Point Task Force
- City Council

Task 6.6: Publicity

Through the following efforts, the study team will direct individuals to a web site devoted to the plan:

Flyer explaining the draft TSM/TDM Plan and ways to provide feedback. Outreach will be conducted to Chinese- and Spanish-speaking populations through distribution of flyers to local organizations.

- Email lists – City of Alameda transportation email list, AC Transit, Alameda Transit Advocates, BikeAlameda, Pedestrian Friendly Alameda, Business Associations
- Public access television station – Channel 15 in the City of Alameda
- Press releases – Alameda Journal

Deliverable

Engage Stakeholder and Technical
Advisory Committees

Hold Focus Group Discussions
Sheet

Conduct Survey
Results

Present Draft TSM/TDM Plan at Public
Workshops and Hearings

Publicity

Documentation

Advisory Committee Presentations and
Meeting Notes

Detailed Meeting Notes, Photo, sign-in

Questionnaire and Summary of Survey

Public Hearing PowerPoint and Meeting
Minutes

Publicity memo, print copy of web
site materials, flyer, press releases

TASK 7: DRAFT/FINAL TSM/TDM PLAN

Compilation of recommendations into Administrative Draft, Public Review Draft, Final Draft,
and Final Plan.

Deliverable

Draft/Final TSM/TDM Plan

Documentation

TSM/TDM Plan –
Administrative Draft, Public Review Draft,
Final Draft and Final

CONSULTANT AGREEMENT

THIS AGREEMENT, entered into this ____ day of _____, 200_, by and between CITY OF ALAMEDA, a municipal corporation (hereinafter referred to as "City"), and , a _____ (California corporation, partnership, sole proprietor, individual) whose address is _____ (hereinafter referred to as "Consultant"), is made with reference to the following:

RECITALS:

A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.

B. Consultant is specially trained, experienced and competent to perform the special services which will be required by this Agreement; and

C. Consultant possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

D. City and Consultant desire to enter into an agreement for Transportation System Management/Transportation Demand Management Plan upon the terms and conditions herein.

NOW, THEREFORE, it is mutually agreed by and between the undersigned parties as follows:

1. TERM:

The term of this Agreement shall commence on the ____ day of _____, 2010, and shall terminate on the ____ day of _____, 2010, unless terminated earlier as set forth herein.

This agreement may be mutually amended on a year-by-year basis, for up to four (4) additional years, based on satisfactory performance of all aspects of this contract. The Public Works Director may submit written notice that the contract is to be extended at the same terms and costs (plus an annual increase to the Consumer Price Index for the San Francisco Bay Area appropriate to the trades associated with the work as reported in the *Engineering News Record* (ENR), for the previous calendar year) as the existing contract, except as provided herein.

2. SERVICES TO BE PERFORMED:

Consultant shall perform each requested service set forth in the list of services detailed in Exhibit "A", as directed by the City, which is attached hereto and incorporated herein by this reference. The consultant acknowledges that the work plan included in Exhibit "A" is tentative

and does not commit the City to perform all task included therein.

3. COMPENSATION TO CONSULTANT:

Consultant shall be compensated for services performed pursuant to this Agreement in the amount set forth in Exhibit "B" which is attached hereto and incorporated herein by this reference. Payment shall be made by checks drawn on the treasury of the City, to be taken from the _____ fund.

Payment will be made by the City in the following manner: On the first day of each month, Consultant shall submit a written estimate of the total amount of work done the previous month. Payment will be for time and direct costs and are not to exceed budget. Pricing and accounting of charges are to be according to the fee schedule in Exhibit "B" unless mutually agreed upon in writing. Extra work must be approved to in writing by City prior to performance and shall be paid on a Time and Material basis using Exhibit "B" schedule.

Total compensation for identified work scope is \$XXX,XXX. In addition there is a 10% contingency resulting in a total not to exceed contract price of \$XXX,XXX. Use of contingency shall require prior written authorization by the City.

4. TIME IS OF THE ESSENCE:

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

5. STANDARD OF CARE:

Consultant agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City nor have any contractual relationship with City.

6. INDEPENDENT PARTIES:

City and Consultant intend that the relationship between them created by this Agreement is that of employer-independent contractor. The manner and means of conducting the work are under the control of Consultant, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Consultant's services. None of the benefits provided by City to its employees, including but not limited to, unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Consultant, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any fees due Consultant. Payments of the above items, if required, are the responsibility of Consultant.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Consultant assumes any and all responsibility for verifying the identity and employment authorization of all of his/her employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Consultant shall indemnify and hold City

harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Consultant.

8. NON-DISCRIMINATION:

Consistent with City's policy that harassment and discrimination are unacceptable employer/employee conduct, Consultant agrees that harassment or discrimination directed toward a job applicant, a City employee, or a citizen by Consultant or Consultant's employee or subcontractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Consultant agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

Indemnification:

Consultant shall indemnify, defend, and hold harmless City, its City Council, boards, commissions, officials, employees, and volunteers ("Indemnitees") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("Claims"), arising from or in any manner connected to Consultant's negligent act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence on behalf of the Consultant, Consultant shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence is not found on the part of Consultant. However, Consultant shall not be obligated to indemnify Indemnitees from Claims arising from the sole or active negligence or willful misconduct of Indemnitees.

Indemnification For Claims for Professional Liability:

As to Claims for professional liability only, Consultant's obligation to defend Indemnitees (as set forth above) is limited to the extent to which its professional liability insurance policy will provide such defense costs.

10. INSURANCE:

On or before the commencement of the term of this Agreement, Consultant shall furnish City with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with paragraphs 10A, B, C, D and E. Such certificates, which do not limit Consultant's indemnification, shall also contain substantially the following statement: "Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda by certified mail, Attention: Risk Manager." It is agreed that Consultant shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California. Endorsements naming the City as additional insured shall be submitted with the insurance certificates.

A. COVERAGE:

Consultant shall maintain the following insurance coverage:

(1) Workers' Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
	\$2,000,000 aggregate - all other

Property Damage:	\$1,000,000 each occurrence
	\$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$1,000,000 will be considered equivalent to the required minimum limits shown above.

(3) Automotive:

Comprehensive automotive liability coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence
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Property Damage:	\$1,000,000 each occurrence
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or

Combined Single Limit:	\$2,000,000 each occurrence
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(4) Professional Liability:

Professional liability insurance which includes coverage for the professional acts, errors and omissions of Consultant in the amount of at least \$2,000,000.

B. SUBROGATION WAIVER:

Consultant agrees that in the event of loss due to any of the perils for which he/she has agreed to provide comprehensive general and automotive liability insurance, Consultant shall look solely to his/her insurance for recovery. Consultant hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Consultant or City with respect to the services of Consultant herein, a waiver of any right to subrogation which any such insurer of said Consultant may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE:

If Consultant at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Consultant's name or as an agent of the Consultant and shall be compensated by the Consultant for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. ADDITIONAL INSURED:

City, its City Council, boards and commissions, officers, and employees shall be named as an additional insured under all insurance coverages, except any professional liability insurance, required by this Agreement. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. SUFFICIENCY OF INSURANCE:

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

11. CONFLICT OF INTEREST:

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

12. PROHIBITION AGAINST TRANSFERS:

Consultant shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of City. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money by Consultant from City under this Agreement may be assigned to a bank, trust company or other financial institution without prior written consent. Written notice of such assignment shall be promptly furnished to City by Consultant.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Consultant, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Consultant is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Consultant, shall be construed as an assignment of this Agreement. Control means fifty percent (50%) or more of the voting power of the corporation.

13. SUBCONTRACTOR APPROVAL:

Unless prior written consent from City is obtained, only those people and subcontractors whose names and resumes are attached to this Agreement shall be used in the performance of this Agreement.

In the event that Consultant employs subcontractors, such subcontractors shall be required to furnish proof of workers' compensation insurance and shall also be required to carry

general, automobile and professional liability insurance in reasonable conformity to the insurance carried by Consultant. In addition, any work or services subcontracted hereunder shall be subject to each provision of this Agreement.

14. PERMITS AND LICENSES:

Consultant, at his/her sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses including, but not limited to, a City Business License, that may be required in connection with the performance of services hereunder.

15. REPORTS:

A. Each and every report, draft, work product, map, record and other document, hereinafter collectively referred to as "Report", reproduced, prepared or caused to be prepared by Consultant pursuant to or in connection with this Agreement, shall be the exclusive property of City. Consultant shall not copyright any Report required by this Agreement and shall execute appropriate documents to assign to City the copyright to Reports created pursuant to this Agreement. Any Report, information and data acquired or required by this Agreement shall become the property of City, and all publication rights are reserved to City.

B. All Reports prepared by Consultant may be used by City in execution or implementation of:

- (1) The original Project for which Consultant was hired;
- (2) Completion of the original Project by others;
- (3) Subsequent additions to the original project; and/or
- (4) Other City projects as appropriate.

C. Consultant shall, at such time and in such form as City may require, furnish reports concerning the status of services required under this Agreement.

D. All Reports required to be provided by this Agreement shall be printed on recycled paper. All Reports shall be copied on both sides of the paper except for one original, which shall be single sided.

E. No Report, information or other data given to or prepared or assembled by Consultant pursuant to this Agreement shall be made available to any individual or organization by Consultant without prior approval by City.

16. RECORDS:

Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement.

Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to such books and records to the representatives of City or its designees at all proper times, and gives City the right to examine and audit same, and to make transcripts therefrom as necessary, and to allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting

documents, shall be kept separate from other documents and records and shall be maintained for a period of three (3) years after receipt of final payment.

If supplemental examination or audit of the records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of contract or failure to act in good faith, then Consultant shall reimburse City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered personally or on the second business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided.

All notices, demands, requests, or approvals from Consultant to City shall be addressed to City at:

City of Alameda
2263 Santa Clara Avenue
Alameda CA 94501
Attention: Barry Bergman

All notices, demands, requests, or approvals from City to Consultant shall be addressed to Consultant at:

18. TERMINATION:

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

City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Consultant as provided herein. Upon termination of this Agreement, each party shall pay to the other party that portion of

compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination.

19. PURCHASES OF MINED MATERIALS REQUIREMENT:

Consultant shall ensure that all purchases of mined materials such as construction aggregate, sand and gravel, crushed stone, road base, fill materials, and any other mineral materials must originate from a surface mining operation identified on the AB3098 List per the Surface Mining and Reclamation Act of 1975 (SMARA).

Within five days of award of contract, Consultant shall submit a report to City which lists the intended suppliers for the above materials and demonstrates that the suppliers are in compliance with the SMARA requirements. The AB3098 List is maintained by the Department of Conservation's Office of Mine Reclamation (OMR) and can be viewed at: www.conservation.ca.gov/OMR/ab_3098_list/index.htm. Note that the list changes periodically and should be reviewed accordingly.

20. COMPLIANCES:

Consultant shall comply with all state or federal laws and all ordinances, rules and regulations enacted or issued by City.

21. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California excepting any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities.)

Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

22. ADVERTISEMENT:

Consultant shall not post, exhibit, display or allow to be posted, exhibited, displayed any signs, advertising, show bills, lithographs, posters or cards of any kind pertaining to the services performed under this Agreement unless prior written approval has been secured from City to do otherwise.

23. WAIVER:

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

24. INTEGRATED CONTRACT:

This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Consultant.

25. INSERTED PROVISIONS:

Each provision and clause required by law to be inserted into the Agreement shall be deemed to be enacted herein, and the Agreement shall be read and enforced as though each were included herein. If through mistake or otherwise, any such provision is not inserted or is not correctly inserted, the Agreement shall be amended to make such insertion on application by either party.

26. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed on the day and year first above written.

CONSULTANT
A Municipal Corporation

CITY OF ALAMEDA

_____[Name of Consultant]_____
By _____
Title _____

Ann Marie Gallant
Interim City Manager

RECOMMENDED FOR APPROVAL:

Matthew T. Naclerio
Public Works Director

APPROVED AS TO FORM:
City Attorney

TSMTDM-RFP.odt

Laura Zagaroli
Deputy City Attorney

POLICY NUMBER:
CG 20 10 10 93

COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES or CONTRACTORS FORM B

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

City of Alameda
Public Works Department
Alameda Point, Building 1
950 West Mall Square, Room 110
Alameda, CA 94501-7558

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____
The City of Alameda, its City Council, boards and commissions, officers & employees are additional insured for work done on their behalf by the named insured.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

SEVERABILITY OF INTEREST:

IT IS AGREED THAT EXCEPT WITH RESPECT TO THE LIMIT OF INSURANCE, THIS COVERAGE SHALL APPLY AS IF EACH ADDITIONAL INSURED WERE THE ONLY INSURED AND SEPARATELY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT.

WAIVER OF SUBROGATION:

IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (\$), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

COMMERCIAL AUTO
CG 20 48 02 99

DESIGNATED INSURED

**BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM**

This endorsement identifies person(s) or organization(s) who are “insureds” under the Who Is An Insured Provisions of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Countersigned By:
Named Insured:	(Authorized Representative)

Name of Person or Organization:

City of Alameda
Public Works Department
950 West Mall Square, Room 110
Alameda, CA 94501-7558

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____
The City of Alameda, its City Council, boards and commissions, officers & employees are additional insured for work done on their behalf by the named insured.

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

