



REQUEST FOR PROPOSAL

RFP 09-10-OED-RRS

RFP NAME: RAPID RESPONSE STUDY

TIMELINE	
RFP release date:	April 29, 2010
Contact name: Address: Phone: Fax: E-mail address:	Amy Chan 1290 Parkmoor Ave. San Jose, CA 95126 (408) 794-1173 (408) 794-9052 Amy.Chan@sanjoseca.gov
Deadline for questions and objections:	May 5, 2010 @ 7am
RFP due date: Time: Location:	May 19, 2010 3pm (Pacific Standard Time) work2future 1290 Parkmoor Ave San Jose, CA 95126 Attn: Amy Chan

1 INTRODUCTION

work2future and the North Valley Job Training Consortium (NOVA), the two Local Workforce Investment Boards (LWIBs) that serve Santa Clara County, are soliciting proposals from qualified firms ("Proposers") to research, analyze, and recommend creative strategies to address large-scale layoffs in the Silicon Valley region. work2future and NOVA are interested in sponsoring research on Rapid Response best practices, constraints and opportunities in assisting local businesses during times in downsizing and closures in order to provide better service and to continue to add value to our One-Stop Partners.

This research project would involve both quantitative and qualitative approaches to gather the required information detailed below in Section 3. Whenever possible, existing data resources should be utilized to fulfill the required scope of services described below.

2 BACKGROUND

work2future and NOVA are nonprofit, federally funded employment and training agencies that provide customer-focused workforce development services. The agencies work closely with local businesses, educators and job seekers to ensure that our programs provide opportunities that build the knowledge, skills and attitudes necessary to address the workforce needs of Silicon Valley.

work2future, directed by the work2future Workforce Board (see <http://www.work2future.biz/>), is housed within the City of San Jose Office of Economic Development and functions as the local administrative arm of the Workforce Investment Act of 1998 (WIA). work2future operates three One-Stop Career Centers in the areas of San Jose, Campbell and South County. It also provides workforce development services for the cities of Los Gatos, Morgan Hill, Los Altos Hills, Saratoga, Monte Sereno, and the unincorporated areas of Santa Clara County. work2future is the lead agency regarding this RFP procurement process.

NOVA, directed by the NOVA Workforce Board (see <http://www.novawb.org/>), which works on behalf of a seven-city consortium composed of Cupertino, Los Altos, Milpitas, Mountain View, Palo Alto, Santa Clara and Sunnyvale. NOVA is administered by the City of Sunnyvale as a City department.

3 SCOPE OF WORK

3.1 RESEARCH TO BE COMPLETED BY AUGUST 30, 2010

3.1.1 Task 1 - Identify and index the most and least effective outreach methods and services.

Utilizing existing sources of information relevant to rapid response in California and the nation, the consultant shall (i) gather, synthesize and identify the most effective and least effective outreach methods regarding the delivery of rapid response services to businesses, (ii) conduct a review and analysis of underutilized partners and other external entities that could be incorporated into an effective rapid response operation, and (iii) review issues surrounding better coordination between rapid response and the One-Stop Career Centers, including approaches taken by others, and (iv) develop a set of recommendations for NOVA and work2future.

3.1.2 Task 2 – Early Warning Network

One of the first steps in effective small business retention strategies is the establishment of early warning systems to identify and track firms and industrial sectors that may be in trouble, or that might benefit from early economic development assistance. The consultant shall (i) determine the key indicators of companies that are at risk of downsizing or closure, (ii) develop a process to track businesses with these early warning indicators and businesses in need of rapid response assistance, (iii) develop a framework to prioritize rapid responses efforts, and (iv) recommend strategies for the development and implementation of an early warning response system. Potential recommendations could include developing a layoff aversion survey to assess pre-feasibility of small businesses that may need technical assistance.

Data collected through this effort will be utilized in a GIS/dashboard being developed by work2future. Data for companies/businesses should include the following: street address, Duns Number, NAICS Codes, and O'Net Occupational Codes affected. Consultant will interact with work2futures Project Manager and vendor to determine usage of data. work2future and NOVA will work with the consultant to develop a methodology and process to obtain and update publically available data annually.

3.1.3 Task 3 - Assessment

Organize facilitated focus groups including employers, Dislocated Workers, and other stakeholders using participants and questions approved by work2future.

Focus A – Qualitative Feedback from Target Businesses

Conduct at least four assessments with California businesses with over 50 employees that have been assisted by Rapid Response activities in the past to assess their level of satisfaction with the scope of services currently provided by NOVA and work2future and other rapid response teams. In addition, these businesses will be asked what they would like to see in the future from rapid response.

Focus B – Qualitative Feedback from Dislocated Workers

Conduct at least two focus groups and/or a series of one-on-one interviews with dislocated workers from a business with over 50 employees (group to include clients who have received a rapid response presentation as well as those that have not).

Focus C – Qualitative Feedback from Identified Stakeholders

Develop an inventory of the successes, needs and opportunities of existing stakeholders (e.g., WIA-funded and non-WIA funded One-Stop Partners, Rapid Response staff and outplacement agencies). This data will be collected via one-on-one interviews as well as possible focus groups.

3.1.4 Task 4 - Reporting

Identify state reporting requirements, compile relevant reporting data, and develop recommendations to streamline reporting systems.

3.2 DELIVERABLES TO BE COMPLETED BY AUGUST 30, 2010

3.2.1 Task 5 - Recommendations

The study will include appropriate recommendations to address the challenges, impediments and opportunities regarding Rapid Response services and provide suggestions to improve our rapid response policies and procedures. This component

will also include an examination of programs and other support provided by communities outside the San Jose-Silicon Valley area to assist in large layoffs.

Additionally, recommendations should include suggestions of how to implement the methodology and process to collect the data described in Task 2.

3.2.2 Task 6 - Final Report

Conclusions and final findings of the study will be presented to various groups and committees associated with the City of San Jose's Office of Economic Development. The selected consultant will provide a minimum of four presentations upon conclusion of the study to various organizations and entities such as the NOVA and work2future Board of Directors, relevant subcommittees, and the BusinessOwnerSpace.com (BOS) steering committee. The consultant will assist in distributing the study conclusions to focus group participants, relevant staff and other identified audiences. In some cases, the selected consultant will present the results of the study directly, and in other cases, the consultant will provide support while staff presents the information.

The consultant shall also include an executive summary (no more than four pages) summarizing the final report, key findings, and recommendations. The final report, summary, and presentation materials will need to be adaptable and available in a variety of formats (MS Word, MS Excel, MS PowerPoint, and Adobe PDF, for example).

4 STANDARD REQUIREMENTS

4.1 SINGLE POINT OF CONTACT

The successful proposer(s) will be able to complete the scope of work while providing consulting to enable work2future and NOVA staff to use the study to improve the business service delivery model. The selected proposer will be expected to provide a single point of contact to coordinate overall completion of the project. The proposer will also be expected to communicate and coordinate with work2future staff throughout the study process.

4.2 EXPERTISE

The successful proposer(s) will have experience in data analysis, market research, and ability to survey and related outreach methods. Additionally, successful proposer(s) will have experience in small businesses development and economic development strategies and programs. The successful proposer(s) will have experience in this field of study and will describe their area of expertise in the response documents listed in 10.1.

5 HOW TO OBTAIN THIS RFP

This RFP may be downloaded from the BidSync solicitation posting system. Proposers must register with BidSync at www.BidSync.com. If you have a problem registering online, contact BidSync directly toll-free at (800) 990-9339 or by email at www.BidSync.com.

All addenda and notices related to this procurement will be posted by the CITY on BidSync. In the event that this RFP is obtained through any means other than BidSync, the CITY will not be responsible for the completeness, accuracy, or timeliness of the final RFP document.

Prospective subcontractors should note that once registered with BidSync, they will be able to view all organizations (with name and contact information) downloading the RFP document.

6 TERM OF AGREEMENT

It is anticipated that the term of this agreement will be effective through August 30, 2010, assuming a contract start date of June 1, 2010.

7 COMPENSATION AND WORK HOURS

The proposal should include a not to exceed estimate for the entire scope of work by task, with detail showing estimated labor hours, hourly rates, and reimbursable expenses as indicated on Attachment B – Cost Form. Pricing for the signed agreement is to remain firm fixed for the contract period. The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall range between \$50,000 and \$75,000. All proposals will be evaluated upon the best value of the total project proposed. The rate and schedule of payment is set out in the “SCOPE OF WORK.”

8 PROCEDURE FOR SUBMITTING QUESTIONS AND INQUIRIES

All questions/inquiries must be made through the contact listed on the cover sheet of this document, via BidSync. Contact with representative(s) other than name listed in this RFP is grounds for disqualification. The City will provide a written response to all questions in the form of an Addendum.

9 OBJECTIONS

9.1 Any objections as to the structure, content or distribution of this RFP must be submitted in writing to the Contact listed on the cover sheet of this document. Objections must be as specific as possible, and identify the RFP section number and title, as well as a description and rationale for the objection.

9.2 All objections, questions and inquiries must be received by the deadline stated on the cover sheet.

10 PROPOSAL SUBMITTAL REQUIREMENTS

10.1 INSTRUCTIONS TO SUBMIT PROPOSALS

10.1.1 Packaging Instructions

10.1.1.1 You must respond to this RFP by the due date and time as stated on the cover sheet of this document in order for your proposal to be considered.

10.1.1.2 Proposals must be submitted and addressed to the attention of the contact listed on the cover sheet of this document, and clearly labeled RFP- RFP 09-10-OED-RRS.

10.1.1.3 The outside of the box or package and the cover or title page of each proposal shall be marked as follows: RFP 09-10-OED-RRS Proposal.

10.1.2 Printing Instructions for Hard Copy Proposals

10.1.2.1 Submit one (1) original and five (5) copies of the proposal.

10.1.2.2 The one original proposal should include original wet ink signatures and initials on respective Appendices and forms. Label this copy as the "Original."

10.1.2.3 Submit one (1) original and five (5) copies of the Cost Proposal (Attachment B) and the Budget Narrative in a separate sealed envelope clearly marked on the outside: RFP 09-10-OED-RRS Cost Proposal.

10.1.2.4 The 5 additional copies should include completed copies of Appendices and forms with signatures or initials.

10.1.2.5 Do not bind the 5 additional copies of the proposals using any staples, glue, spiral bindings, report covers, etc. You may separate out proposals using binder clips. All proposals will be inserted into a 3-ring binder for review. Original copy may be bound for formal presentation, but is not required.

10.1.2.6 Hole-punch the 5 additional copies so that the proposals may be easily inserted into a standard three-ring binders.

10.1.2.7 Print all proposals on double-sided paper.

10.1.2.8 Label all pages with page numbers.

10.1.3 Instructions for Electronic Copy of Proposals

10.1.3.1 Include a CD or DVD that includes a scanned copy of the original proposal (signatures included) and a scanned copy of the Cost Proposal and Budget Narrative. Label the CD and the files included on the CD respectively: "Company Name – RR Technical Proposal" and "Company Name – RR Cost Proposal".

10.2 REQUIRED RESPONSE DOCUMENTS

10.2.1 Cover Letter – Include a transmittal letter identifying the Contractor's firm and the proposal package being submitted. Include other important general information that is deemed significant enough to be highlighted. The letter shall provide the name, title, address, telephone number, and fax number of the individual authorized to contractually bind the firm and be signed by the authorized individual.

10.2.2 Table of Contents – Include a table of contents with corresponding page numbers.

10.2.3 Planned Approach – Describe your approach to this project. Provide a workplan for this project, including key milestones and dates that meet the timeline delineated in this Request for Proposals. Please provide a brief description of how you will obtain data sources and utilize existing data sources provided by work2future to complete the study. Describe how you will address each task listed in the Scope of Work including the development of an Early Warning Network. Describe how you will ensure active participation of work2future staff and key customer groups for the project. Describe any proposed subcontracts and why they are necessary in terms of expertise and accomplishing the scope of work. If using subcontractors, please explain the contractual agreement and oversight of subcontractors that is required to ensure timely completion of deliverables.

10.2.4 Statement of Experience – Describe your organization’s capability (and of any subcontractors) to provide the planned services, including expertise in labor market research and qualifications of staff proposed for this project. Please provide a description of any relevant experience; more specifically, experience in developing recommendations, implementing programs, and improving processes of local governments or other equivalent organizations. List and briefly describe three to five similar projects completed by your firm or currently in progress.

10.2.4.1 Resume – Include one-page resume for each of the Key Personnel that will be working on the project

10.2.4.2 Reference Letter(s) – Include one reference letter for each of the Key Personnel that will be working on the project

10.2.5 Proposal Budget – Provide in a separate envelope a proposal budget using Attachment B – Cost Form. All costs proposed to be charged to the contract must be necessary, reasonable, and allowable under the Workforce Investment Act. Describe the fee structure including the cost for each deliverable noted in the Scope of Work. Please specify any other costs, if any, which are not included in the Scope of Work.

10.2.5.1 Budget Narrative – Attach a brief justification for each line item of cost (e.g., hours and rate for salaries for each staff that will complete work). Please explain how these rates are determined and if these rates are negotiable. Provide a breakout of contractual service costs, if any.

10.3 REQUIRED ATTACHMENTS

10.3.1 Attachment A – Proposal Certification – Complete, sign, and date. Provide an original wet ink copy with original proposal. Please also make sure the 5 additional copies and the electronic copies of Attachment A are complete and include a copy of the signature.

10.3.2 Attachment B – Cost Form and Budget Narrative (Provide in a separate envelope, see instructions above)

10.3.3 Attachment C – City’s Terms and Conditions and Attachment D – Insurance Provisions

10.3.3.1 Selected consultant will be required to enter into an agreement with the City containing the terms and conditions set forth in Attachment C and insurance provisions set forth in Attachment D. If you have any exceptions to the standard terms and conditions you must note them in your proposal. If there are no exceptions, submit the first page of Attachment C stating “No Exceptions.”

10.3.4 Attachment E – Previous Customer Reference Worksheet - Include at least one reference that would substantiate the Contractor’s experience. References may not include the City of San Jose, work2future, or NOVA. Contacts should be individuals who can verify performance on projects of a similar scope and budget as this project. Please include this attachment in addition to the reference letters for each of the Key Personnel listed above.

10.3.5 Attachment F – Conflict of Interest Form – Each staff member working on this project must complete a Conflict of Interest Form. Please see Item 13 below for more details.

11 SELECTION PROCESS AND EVALUATION CRITERIA

11.1 SELECTION PROCESS

11.1.1 City staff will evaluate proposal submissions. The City reserves the right to interview prospective firms/individuals prior to making its selection. The City also reserves the right to rely on information from sources other than the information provided by the respondents.

11.1.2 Responses will be evaluated as outlined in this section.

11.1.3 Final award shall be contingent upon selected firm (Contractor) accepting Terms and Conditions in substantial conformity to the terms listed in Attachment C and D of this RFP.

11.1.4 City reserves the right to accept an offer in full, or in part, or to reject all offers.

11.2 EVALUATION CRITERIA

Description	Weight
Proposal Complete	Pass/Fail
Experience of Proposer	50%
Planned Approach/ Workplan	40%
Proposed Budget	10%

12 GROUND FOR DISQUALIFICATION

12.1 All Proposers are expected to have read and understood Council Policy 0-35 on Procurement and Contract Process Integrity and Conflict of Interest adopted on February 6, 2007. A complete copy of the policy can be found at:

http://www.sanjoseca.gov/clerk/cp_manual/CPM_0_35.pdf

12.2 Any Proposer who violates the Policy will be subject to disqualification. Generally, the grounds for disqualification include:

12.2.1 Contact regarding this procurement with any City official or employee or evaluation team member other than the Procurement Contact from the time of issuance of this solicitation until the end of the protest period.

12.2.2 Evidence of collusion, directly or indirectly, among Proposers in regard to the amount, terms, or conditions of this proposal.

12.2.3 Influencing any City staff member or evaluation team member throughout the solicitation process, including the development of specifications.

12.2.4 Evidence of submitting incorrect information in the response to a solicitation or misrepresentation or failure to disclose material facts during the evaluation process.

12.3 In addition to violations of Council Policy 0-35, the following conduct may also result in disqualification:

12.3.1 Offering gifts or souvenirs, even of minimal value, to City officers or employees.

12.3.2 Existence of any lawsuit, unresolved contractual claim or dispute between Proposer and the City.

12.3.3 Evidence of Proposer's inability to successfully complete the responsibilities and obligations of the proposal.

12.3.4 Proposer's default under any City agreement, resulting in termination of such Agreement.

13 CONFLICT OF INTEREST

13.1 In order to avoid a conflict of interest or the perception of a conflict of interest, Proposer(s) selected to provide services under this RFP will be subject to the following requirements:

13.2 The Proposer(s) selected under this RFP will be precluded from submitting proposals or bids as a prime contractor or subcontractor for any future procurement with the City if the specifications for such procurements were developed or influenced by the work performed under the agreement(s) resulting from this RFP.

13.3 Proposer(s) may not have any interest in any potential Proposer for future City procurements that may result from the work performed under the agreement resulting from this RFP.

13.4 In order to determine whether such interest may exist, all Proposers must complete the attached Conflict of Interest Form (Attachment F).

14 GENERAL INFORMATION

14.1 The successful Proposer will be required to demonstrate evidence of insurance in accordance with the insurance provisions listed in Attachment D.

14.2 All costs associated with responding to this request are to be borne by the Proposer.

14.3 It is the City's policy that the selected firm shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of City of San José contracts.

15 PUBLIC NATURE OF PROPOSAL MATERIAL

15.1 All correspondence with the City including responses to this RFP will become the exclusive property of the City and will become public records under the California Public Records Act (Cal. Government Code section 6250 et seq.) All documents that you send to the City will be subject to disclosure if requested by a member of the public. There are a very limited number of narrow exceptions to this disclosure requirement.

15.2 Therefore, any proposal which contains language purporting to render all or significant portions of their proposal “Confidential,” “Trade Secret” or “Proprietary,” or fails to provide the exemption information required as described below will be considered a public record in its entirety subject to the procedures in Section 15.5.

15.3 Do not mark your entire proposal as “confidential.”

15.4 The City will not disclose any part of any proposal before it announces a recommendation for award, on the ground that there is a substantial public interest in not disclosing proposals during the evaluation process. After the announcement of a recommended award, all proposals received in response to this RFP will be subject to public disclosure. If you believe that there are portion(s) of your proposal which are exempt from disclosure under the Public Records Act, you must mark it as such and state the specific provision in the Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if you submit trade secret information, you must plainly mark the information as “Trade Secret” and refer to the appropriate section of the Public records Act which provides the exemption as well as the factual basis for claiming the exemption.

15.5 Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of San José may not be in a position to establish that the information that a Proposer submits is a trade secret. If a request is made for information marked “Confidential,” “Trade Secret” or “Proprietary,” the City will provide Proposers who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

16 PROTESTS

16.1 If an unsuccessful Proposer wants to dispute the award recommendation, the Protest must be submitted in writing to Amy Chan no later than ten calendar days after announcement of the successful Proposer, detailing the grounds and factual basis, and providing all supporting information. Protests will not be considered for disputes of proposal requirements and specifications, which must be addressed in accordance with the above Section. Failure to submit a timely written Protest to the contact listed below will bar consideration of the Protest.

16.2 The address for submitting protests is:

work2future
1290 Parkmoor Ave.
San Jose, CA 95126
Attn: Amy Chan

**ATTACHMENT A
PROPOSAL CERTIFICATION**

Proposing Firm Name:		
Address:		
Telephone:		
Facsimile:		
Contact person name and title:		

PROPOSER REPRESENTATIONS

1. Proposer did not, in any way, collude, conspire or agree, directly or indirectly, with any person, firm, corporation or other Proposer in regard to the amount, terms, or conditions of this proposal.
2. Proposer additionally certifies that neither Proposer nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, any California State agency, or any local governmental agency.
3. Proposer acknowledges that all requests for deviations, exceptions, and approved equals are enclosed herein and that only those deviations, exceptions, and approved equals included in the RFP document or permitted by formal addenda are accepted by the City.
4. Proposer did not receive unauthorized information from any City staff member or City Consultant during the Proposal period except as provided for in the Request for Proposals package, formal addenda issued by the City, or the pre-proposal conference.
5. Proposer hereby certifies that the information contained in the proposal and all accompanying documents is true and correct.
6. Please check the appropriate box below:

☐ If the proposal is submitted by an individual, it shall be signed by him or her, and if he or she is doing business under a fictitious name, the proposal shall so state.

☐ If the proposal is submitted by a partnership, the full names and addresses of all members and the address of the partnership, the full names and addresses of all members and the addresses of the partnership shall be stated and the proposal shall be signed for all members by one or more members thereof.

☐ If the proposal is submitted by a corporation, it shall be signed in the corporate name by an authorized officer or officers.

☐ If the proposal is submitted by a limited liability company, it shall be signed in the corporate name by an authorized officer or officers.

☐ If the proposal is submitted by a joint venture, the full names and addresses of all members of the joint venture shall be stated and it shall be signed by each individual.

By signing below, the submission of a proposal with all accompanying documents shall be deemed a representation and certification by the Proposer that they have investigated all aspects of the RFP, that they are aware of the applicable facts pertaining to the RFP process, its procedures and requirements, and that they have read and understand the RFP.

Authorized Representative Name (sign name):	
Authorized Representative Signature (print name):	
Authorized Representative Title (print title):+	
Complete additional signatures below as required per # 6 above	
Authorized Representative Name (sign name):	
Authorized Representative Signature (print name):	
Authorized Representative Title (print title):+	
Authorized Representative Name (sign name):	
Authorized Representative Signature (print name):	
Authorized Representative Title (print title):+	

**ATTACHMENT B
COST FORM**

Submit the project charges for which you wish to be considered:

	Deliverable	Name of Each Staff* to Complete Deliverable	Average Cost Per Hour of Each Staff* to Complete	Number of Hours to Complete	Price
1	Index				\$
2	Early Warning Network				\$
2a	Cost of Data (for Annual Update)				\$
3	Assessment				\$
4	Reporting				\$
5	Recommendations				\$
6	Final Report				\$
7	Other Costs (if any and please specify below)				\$
				TOTAL COST	\$

*** Staff includes lead staff, partner staff, and subcontractors, if any.**

- NOTES: **1.** Pricing must be for total cost of project for which you are to be considered.
- 2.** All pricing is "firm fixed" for the contract period and must account for all costs, include all labor as well as any additional reimbursable expenses/ administrative costs required to complete each task. (Labor rates must be all inclusive)
- 3.** Only prices that appear on this City Cost Form will be considered. No other pages with prices and no attached price lists will be considered.
- 4.** Cost proposals shall be scored based Total Cost Proposal.

**ATTACHMENT C
CITY'S TERMS AND CONDITIONS**

**CITY OF SAN JOSE
CONSULTANT AGREEMENT
STANDARD TERMS AND CONDITIONS**

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from June 1, 2010 to August 30, 2010, inclusive, subject to the provisions of SECTION 11 of this AGREEMENT.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

SECTION 4. COMPENSATION.

The compensation to be paid to CONSULTANT, including both payment for professional services and reimbursable expenses, shall range between \$50,000 and \$75,000. All proposals will be evaluated upon the best value of the total project proposed. The rate and schedule of payment is set out in the "SCOPE OF WORK."

SECTION 5. METHOD OF PAYMENT.

Each month, CONSULTANT shall furnish to the CITY a statement of the work performed for compensation during the preceding month. Such statement shall also include a detailed record of the month's actual reimbursable expenditures.

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of CITY; and as an independent contractor, CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to CITY's employees, and CONSULTANT hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of CITY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. INDEMNIFICATION.

CONSULTANT shall defend, indemnify and hold harmless CITY, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents. The acceptance of said services and duties by CITY shall not operate as a waiver of such right of indemnification.

SECTION 9. INSURANCE REQUIREMENTS.

CONSULTANT agrees to have and maintain the policies set forth in ATTACHMENT D, entitled "INSURANCE," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Human Resources or the Director's authorized designee ("Risk Manager") of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide CITY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 10. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 11. TERMINATION.

A. CITY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days' written notice of termination.

B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, CITY may terminate this AGREEMENT immediately upon written notice.

C. CITY's contract manager is empowered to terminate this AGREEMENT on behalf of CITY.

D. In the event of termination, CONSULTANT shall deliver to CITY copies of all reports, documents, and other work performed by CONSULTANT under this AGREEMENT, and upon receipt thereof, CITY shall pay CONSULTANT for services performed and reimbursable expenses incurred to the date of termination.

SECTION 12. GOVERNING LAW.

CITY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 13. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 14. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by CITY, or as required by law.

SECTION 15. OWNERSHIP OF MATERIALS.

All reports, documents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of CITY without restriction or limitation upon their use.

SECTION 16. WAIVER.

CONSULTANT agrees that waiver by CITY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of the same or any other term or condition. The

acceptance by CITY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 17. CONSULTANT'S BOOKS AND RECORDS.

A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, cancelled checks, and other records or documents evidencing or relating to charges for services, or expenditures and disbursements charged to CITY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.

B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit at no cost to CITY, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to CITY for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

D. Where CITY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, CITY may, by written request by any of the above-named officers, require that custody of the records be given to CITY and that the records and documents be maintained in City Hall. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

SECTION 18. CONFLICT OF INTEREST.

CONSULTANT shall avoid all conflict of interest or appearance of conflict of interest in performance of this AGREEMENT. CONSULTANT shall file an Assuming Office Disclosure Statement of Economic Interests (Form 700) as specified in EXHIBIT F, entitled "DISCLOSURE STATEMENT", which is attached hereto and incorporated herein. Such statement shall be filed within thirty (30) days of the date of this AGREEMENT and annually thereafter by the first of April. Upon termination of this AGREEMENT, CONSULTANT shall file a Leaving Office Disclosure Statement of Economic Interest (Form 700).

SECTION 19. GIFTS.

A. CONSULTANT is familiar with CITY's prohibition against the acceptance of any gift by a CITY officer or designated employee, which prohibition is found in Chapter 12.08 of the San Jose Municipal Code.

B. CONSULTANT agrees not to offer any CITY officer or designated employee any gift prohibited by said Chapter.

C. The offer or giving of any gift prohibited by Chapter 12.08 shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies CITY may have in law or equity, CITY may terminate this AGREEMENT for such breach as provided in SECTION 11 of this AGREEMENT.

SECTION 20. DISQUALIFICATION OF FORMER EMPLOYEES.

CONSULTANT is familiar with the provisions relating to the disqualification of former officers and employees of CITY in matters which are connected with former duties or official responsibilities as set forth in Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance"). CONSULTANT shall not utilize either directly or indirectly any officer, employee, or agent of CONSULTANT to perform

services under this AGREEMENT, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

SECTION 21. SPECIAL PROVISIONS.

Special provisions, if any, to this AGREEMENT are specified in EXHIBIT F (or G, if applicable), entitled, "SPECIAL PROVISIONS", which is attached hereto and incorporated herein.

SECTION 22. NOTICES.

All notices and other communications required or permitted to be given under this AGREEMENT shall be in writing and shall be personally served or mailed, postage prepaid and return receipt requested, addressed to the respective parties as follows:

To CITY:

To CONSULTANT:

Notice shall be deemed effective on the date personally delivered or, if mailed, three (3) days after deposit in the mail.

SECTION 23. VENUE.

In the event that suit shall be brought by either party to this contract, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

SECTION 24. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may be modified only by a written amendment duly executed by the parties to this AGREEMENT.

ATTACHMENT D INSURANCE PROVISIONS

VENDOR, at VENDOR'S sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by VENDOR, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance

1. The coverage described in Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001 including products and completed operations; and
2. The coverage described in Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 "any auto", or Code 2 "owned autos" and Endorsement CA 0025. Coverage shall also include Code 8 "hired autos" and Code 9 "non-owned autos"; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance.
4. Professional Liability Errors & Omissions.

B. Minimum Limits of Insurance

VENDOR shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the California Labor and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 Aggregate Limit.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by CITY's Risk Manager. At the option of CITY, either; the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officer, employees, agents and contractors; or VENDOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the CITY's Risk Manager.

D. **Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages

- a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, VENDOR; products and completed operations of VENDOR; premises owned, leased or used by VENDOR; and automobiles owned, leased, hired or borrowed by VENDOR. The coverage shall contain no special limitations on the scope of protection afforded to CITY, its officers, employees, agents and contractors.
- b. VENDOR's insurance coverage shall be primary insurance as respects CITY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or contractors shall be excess of VENDOR's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies by VENDOR shall not affect coverage provided CITY, its officers, employees, agents, or contractors.
- d. Coverage shall state that VENDOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to CITY.

E. **Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to CITY's Risk Manager.

F. **Verification of Coverage**

VENDOR shall furnish CITY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

CITY OF SAN JOSE
Human Resources Department
Risk Management Division
200 E. Santa Clara Street, 2nd Wing
San Jose, CA 95113
PHONE: (408) 535-7063
FAX: (408) 286-6492

G. **Subcontractors**

VENDOR shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.

ATTACHMENT E
PREVIOUS CUSTOMER REFERENCE WORKSHEET

Provide reference information for the product you are quoting and used in a manner and environment similar in size and scope to the requirements of this project. Copy this form as appropriate.

Name of Customer:	
Customer Address:	
Customer Contact Name(s):	
Customer Contact Phone Number(s):	
Brief description of work performed for this client (use additional sheets if necessary):	

ATTACHMENT F CONFLICT OF INTEREST FORM

(To be completed by consultants making proposals)

NAME _____

DATE _____

PROPOSED ASSIGNMENT: _____

In order for the City to assess whether the personnel proposed to be assigned by the successful Proposer to work on the Proposed Assignment have a conflict of interest; this form must be completed by each person that the Proposer intends to assign.

Questions	Yes (Provide Details)	No
1. Personal Relationships (a) Do you currently have or have had any official, professional, financial, or personal relationships with any person or firm associated with this assignment? (b) If yes, describe the type and extent of the relationship. (c) In your opinion, might this affect your judgment or your ability to execute this assignment in a fair and impartial manner?		
2. Stock and Investments (a) Do you own any stock in any company likely to be affected by or involved in the Proposed Assignment? (b) Does your spouse or a dependent own any stock in company likely to be affected by or involved in the Proposed Assignment? (c) Do you hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment: (d) Does your spouse or a dependent hold any investments in any entity (e.g. partnership, limited liability company, or a trust) likely to be affected by or involved in the Proposed Assignment? If the answer is yes to any of the above questions, please provide the name of the company and the amount of the stock or investment.		
3. Employment & Consulting (a) Is your spouse or a dependent employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? (b) Has your spouse or dependent been previously employed/retained by anyone likely to be affected by or		

4. Payments or Gifts (d) Within the past 12 months, have you received any payments or gifts from anyone likely to be affected by or involved in the Proposed Assignment? (e) Within the past 12 months, has your spouse or a dependent received any payments or gifts from anyone likely to be affected by or involved in the Proposed Assignment? If the answer is yes, please provide the amount the payment or value of the gift, the name and position of the payor/donor and the date of receipt.		
5. Real Estate (a) Do you own real property that is likely to be affected by or involved in the Proposed Assignment? (b) Does your spouse or a dependent own real property that is likely to be affected by or involved in the Proposed Assignment? If the answer is yes, please provide the location of the property.		
6. Positions (a) Do you currently hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment? (b) Does your spouse or a dependent hold a position (e.g. member of a board of directors) of any entity (e.g. a company, partnership, association, nonprofit) that is likely to be affected by or involved in the Proposed Assignment? If the answer is yes, please provide the name of the entity, and the title of the position held.		
7. Are you aware of any facts or circumstance that might give someone the impression that your participation in this process would create a conflict of interest?		
involved in the Proposed Assignment? (c) Have you been employed/retained by anyone likely to be affected by or involved in the Proposed Assignment? If the answer is yes to any of the above questions, please provide name of employer, nature of services provided and if the dates employed or retained.		

If during the course of the assignment, any personal, external, or organizational impairments occur that may affect your ability to perform the work and report findings impartially, the undersigned will notify the respective Program Manager immediately.

Signature

Print Name

Date