

**REQUEST FOR PROPOSALS (RFP)
PLANNING AND DESIGN SERVICES FOR SAUSALITO FERRY LANDSIDE
IMPROVEMENTS PROJECT**

**City of Sausalito
Marin County, California
June 7, 2019**

Proposals for Package A and/or Package B Due: June 28, 2019 by 4:00 p.m.



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Request for Proposals

1. INTRODUCTION

A. **Overview.** The City of Sausalito (“City”) is seeking proposals (“Proposals”) from qualified professional engineering, architecture, and planning firms or consultant teams (“Proposers”) to provide visioning, and design services for improvements to the landside of the Sausalito Ferry Landing. The Project location is shown on **Attachment 1, Location Map (“Project”)**. The City owns, operates, and maintains the landside of the Sausalito Ferry Landing. To compliment improvements to the adjacent waterside facilities being delivered separately by the Golden Gate Bridge, Highway and Transportation District (“District”) and better delineate areas for vehicle, pedestrian and other uses and improve circulation in this highly congested area, the City plans to develop plans for, permit and construct improvements to the landside of the Sausalito Ferry Landing. The Project is intended to enhance the pedestrian spaces for residents and visitors including improved passenger staging and ticket vending areas. The Project will result in a safer and more efficient ferry passenger experience and provide incidental benefits to non-passengers.

B. **Packages.** The purpose of this Request for Proposals (“RFP”) is to invite Proposals for one of both of the following scopes of services: (1) Package A, which includes visioning, and schematic design (30%) for the Project (“**Package A**”) and/or (2) Package B, which includes visioning, and full (100%) design for the Project (“**Package B**”). Proposers may submit a Proposal for one or both packages, which may lead to award of a professional services agreement (“**Agreement**”), based on the form attached as **Attachment 6, Professional Services Agreement**, for the package determined to be in the best interests of the City, if any. If the City decides to award the Agreement pursuant to this RFP, it will only award the Agreement for one package. **Note: Pursuant to Government Code section 1090, to the extent that the City decides to award the Agreement for Package A, the Proposer awarded the Agreement for Package A services will be precluded from performing any further design services, beyond those included in the scope of services for Package A, for the Project.**

2. PROPOSALS

A. **Proposer’s Obligations.** Each Proposer is responsible for reviewing and understanding all terms of this RFP, including all attachments, and for conducting its own background research of the Project, as further explained in Section 3, Project Background, below.

B. **Pre-Proposal Meeting.** A pre-proposal meeting will be held **June 18, 2019, at 2:00 p.m.**, in the City Conference room located at 420 Litho Street, Sausalito, California.

Attendance at the pre-proposal meeting is not mandatory, but is strongly recommended. City staff will be available to discuss the scope of services for each package and answer questions from attendees. This will be the only face-to-face opportunity for Proposers to seek clarification and ask questions regarding the RFP and the services with City staff.

C. Proposal Submission.

To submit a Proposal for Package A, the Proposal must be submitted in a sealed envelope or box marked **“PLANNING AND DESIGN SERVICES FOR SAUSALITO FERRY LANDSIDE IMPROVEMENTS PROJECT – PACKAGE A.”**

To submit a Proposal for Package B, the Proposal must be submitted in a sealed envelope or box marked **“PLANNING AND DESIGN SERVICES FOR SAUSALITO FERRY LANDSIDE IMPROVEMENTS PROJECT – PACKAGE B.”**

For Proposers that wish to submit a Proposal for both Package A and Package B, each Proposal must be submitted separately, in accordance with the above requirements. Each sealed envelope or box must be plainly endorsed with Proposer’s name and address and contain three hard copies and one electronic copy (on either CD or flash drive) of the Proposal. Sealed Proposals must be received by the City by **June 28, 2019, no later than 4:00 p.m. (“Proposal Deadline”)**, at:

**Office of the City Engineer
City of Sausalito
420 Litho Street
Sausalito, CA 94965-1933**

All proposals should include the resumes of key personnel.

The City is not responsible for delayed deliveries due to any reason, including mailing or traffic congestion. Submission of a Proposal will constitute a firm offer to the City for 120 days from the Proposal Deadline. Proposals may not be modified after the Proposal Deadline.

D. City’s Reservation of Rights. Neither the issuance of this RFP nor the acceptance of Proposals commits the City to award or enter into the Agreement for either Package A or Package B. The City reserves the unfettered right to reject any or all Proposals, at any time, and to seek new Proposals when in the best interest of the City. The City reserves the right to cancel, modify, or postpone this RFP or the Project, at any time, and to waive any irregularities or informalities in any RFP procedures. Each Proposer is solely responsible for the expenses it incurs to respond to this RFP. City expressly disclaims responsibility for any assumptions a Proposer might draw from the presence or absence of information provided by the City in any form.

E. **Addenda.** The City, in its sole discretion, may amend this RFP by issuing written addenda to the RFP. Such addenda will be posted on City's website at <http://www.sausalito.gov>. It is the responsibility of each Proposer to monitor the City's website for any addenda that may be issued related to this RFP. A Proposer wishing to receive an email notification of any issued addenda must email its request for notification and email address to mlockett@sausalito.gov.

F. **Questions.** Questions regarding this RFP or the Project may only be submitted in writing to Andrew Davidson, the City's Senior Engineer, via e-mail at adavidson@sausalito.gov, attention "Planning and Design Services for Sausalito Ferry Landside Improvements Project," by June 24, 2019. No oral statements by any City employee or representative will be binding against the City.

3. PROJECT BACKGROUND

The City and the District jointly funded a project performed by The Cecil Group in 2012 to scope the planning and design of the Project. With the approval of the District's plans for improvements to its float and other waterside improvements, the need for design and construction of complimentary improvements on the landside has been established by the City, the District, and the San Francisco Bay Conservation and Development Commission ("BCDC"). Proposers are responsible for conducting background research on the Project from the record of information available from the City's website (<http://www.sausalito.gov/city-government/hot-topics/ferry-landing>), as well as District and BCDC records.

4. FEDERAL FUNDING

The services to be performed for this Project are subject to financial assistance from the U.S. Department of Transportation ("DOT") and must comply with all applicable federal laws and regulations, including, but not limited to, the uniform federal award procurement requirements set forth in 2 CFR §§ 200.318-200.326, as may be amended from time to time; the Federal Transit Law at 49 U.S.C. Chapter 53; Federal Transit Administration regulations contained in 49 CFR Parts 601-699; and DOT regulations contained in 49 CFR Parts 1-99. Proposer must complete **Attachment 8, Lobbying Certification**, and further disclose any lobbying activities using Standard Form-LLL, "Disclosure Form to Report Lobbying," if necessary. Proposers must certify that they have not been suspended or debarred from participating in federally funded contracts by completing **Attachment 9, Debarment, Suspension, Ineligibility and Voluntary Exclusion Certification**.

Additionally, this Project is subject to 49 CFR Part 26, entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs." Proposers must take all necessary and reasonable steps to ensure that Disadvantaged Business Enterprises ("DBE") subconsultants have an opportunity to augment the Proposers team. The

City has established a DBE Goal of 16.3%. Proposers responding to the RFP will be required to meet this goal or document that a good faith effort was made to meet the goal prior to award of the Agreement. Proposers are encouraged to attend the pre-proposal meeting to better understand the applicable DBE requirements. For further information related to the DBE requirements, see Section 10 of this RFP, **Attachment 6, Professional Services Agreement**, and **Attachment 7, Consultant Proposal DBE Commitment** to this RFP. For additional DBE assistance, email Andrew Davidson at adavidson@sausalito.gov.

Full compliance with all applicable Safety and Health Standards, DBE requirements, Equal Employment Opportunity, and Americans with Disabilities Act laws and regulations will be required of the successful Proposer.

5. ADMINISTRATION AND COORDINATION

The City, as the owner of the real property involved, is the lead environmental agency for this Project. The City is responsible for the procurement process and award and administration of the Agreement, in accordance with the City's contracting policies and procedures and those contained in a Pass-Through Agreement between the City and the District, including applicable federal requirements.

6. TIME FOR COMPLETION OF SERVICES

The Proposer shall complete the services as outlined in Section 8, Anticipated Project Schedule, below.

7. SCOPE OF SERVICES

The Proposer awarded the Agreement, if any, for Package A or Package B ("**Consultant**"), must complete the services listed below, and set forth in **Attachment 6, Professional Services Agreement**, which specifies requirements regarding the scope of design services.

A. **Package A.** If Package A is awarded, Consultant must complete the following services:

Project History

Review the Project history, including available reports, studies, and historical documents including, but not limited to:

- Information available from the City's website (<http://www.sausalito.gov/city-government/hot-topics/ferry-landing>), including The Cecil Group's Memorandum dated December 26, 2012 and Landside Planning Issues PowerPoint dated May 2, 2013, as well as District and BCDC records
- District plans, specifications, cost estimates and permits for its waterside project

Visioning

- Public outreach, community workshops, and coordination with affected agencies
- Prepare Needs Assessment for Ferry Landing Landside and Parking Lot 1
- Facilitate Communications and assist with Permit Submittals with Joint Aquatic Resources Permit Agency and other relevant Agencies
- Assist City in programming phase and development of scope of work for Project, including circulation, landscape and hardscape design requirements
- Prepare presentations and participate in public meetings to gather and present information to and from stakeholders on the Ferry Landing and Lot 1 needs and alternatives. (Multiple meetings required)
- Prepare presentations and participate in City Council meetings to provide information on the Ferry Landing and Lot 1 needs and alternatives
- Assist City in development of preliminary schedule and cost estimates

Deliverables: Public outreach plan, needs assessment, permit submittals, scope of work; City Council presentations and staff reports, preliminary schedule and cost estimates.

Meetings

The City shall assemble a Project team under the City Engineer (or his designee) to manage Consultant's efforts and delivery of the Project. Meetings shall be held at City offices or the offices of one of the Project team.

Deliverables: All meeting materials including agendas, presentations, hand-outs, documents, etc.

Quarterly Reports

Prepare quarterly reports, which include updates on status of the work, accomplishments, progress and budget.

Deliverables: Quarterly reports for distribution and discussion at team meetings.

Public Outreach and Coordination

This work will require comprehensive public outreach as well as presentations to City boards and commissions, other agencies and the City Council. Consultant must coordinate and implement a robust public outreach effort (including agency coordination and community workshops) to solicit input on the given Project alternatives and work towards consensus in the community. This work includes preparation and development of meeting schedules, meeting and presentation materials, securing meeting locations, and other related tasks.

Deliverables: Meeting presentations, notices, and all other documents and materials necessary to perform outreach and coordination.

Final Report

Prepare a comprehensive final report documenting all work and activities undertaken through the course of this work.

Deliverables: Comprehensive Final Report.

Schematic Design

Based on the Preferred Alternative and in consultation with the City Project team, prepare schematic design (30%) plans, specifications, and estimates for the Project per City conventions. The plans must locate and consider existing utilities and structures. Utility conflicts must be identified and relocation/removal plans must be coordinated with the appropriate utility companies/agencies. The Consultant must conduct an initial site(s) assessment to determine the potential for hazardous materials. Consultant must identify any Right of Way needs, utility conflicts, required demolitions, provide a geotechnical analysis where necessary, coordinate with regulatory agencies, and provide all services necessary to develop the 30% schematic design plans.

All geotechnical investigation services necessary for the design must be provided by the Consultant, including a detailed soils report. A preliminary drainage report will be required for the City Project team's review. The Consultant must provide detailed monthly progress reports to the City throughout the duration of the schematic design.

At the completion of the schematic design phase, Consultant must provide the City with hard copies of four (4) half-size sets of review plans, specifications, and the Engineer's Estimate. An electronic copy of the drawings in PDF format, and the specifications and Engineer's Estimate in Microsoft Word must also be provided.

Deliverables: Schematic (30%) design documents including areas and features that will require accessibility improvements, specifications, and preliminary engineer estimates.

B. **Package B.** If Package B is awarded, Consultant must complete all of the services listed for Package A in addition to the following:

Design Development Documents

Based on the approved Schematic Design Documents and within the time specified in the approved Project Schedule, prepare for the City's review and approval the Design Development Documents.

The Design Development Documents must further define the Project, including drawings and outline specifications fixing and describing the Project size, character and site relationships, and other appropriate elements describing the structural, engineering, mechanical and electrical systems, as applicable.

The Design Development Documents must include, as applicable, the following: plans, sections and elevations; criteria and sizing of major components; equipment sizes, capacities, and approximate layouts, including required spaces and clearances; typical details; materials selections and general quality levels.

When submitting the Design Development Documents for the City's approval, identify in writing all material changes and deviations, if any, that have taken place since approval of the Schematic Design Documents, including, but not limited to, changes to the last updated cost estimate and the approved Project Schedule.

Deliverables: Site development plans at 1"=20' scale at 60% completion, sections at a scale sufficient to illustrate the features of the improvements, all similar to the Schematic Design submittal plus the following (at a minimum):

- Details of conform conditions
- Traffic flow plan
- Parking layout
- Accessibility improvement details
- Existing and proposed elevations
- Lighting layouts
- Utility layout
- Draft storm management plan

Construction Documents

Based on the approved Design Development Documents and within the time specified in the approved Project Schedule, prepare for the City's review and approval, and any required governmental agency approval(s), two printed sets and one reproducible set of Construction Documents, along with an updated cost estimate.

The Construction Documents must set forth in detail the quality levels of and the requirements for construction of the Project.

The Construction Documents must include drawings and technical specifications that comply with applicable laws in effect at the time of preparation at the location of the Project, and as further specified in the RFP; and all necessary bid and contract documents, including general and special conditions, using the City's approved **template**.

When submitting the Construction Documents for the City's approval, identify in writing all material changes and deviations, if any, that have taken place since approval of the Design Development Documents including, but not limited to, changes to the last updated cost estimate and the approved Project Schedule.

Deliverables: A full and complete set of Contract Documents including Plans and Specifications, a Bid Form and Bid Schedule listing the description of the items of work and their estimated quantities, and a detailed Engineer's Estimate for the items of work listed in the Bid Schedule, all engineering calculations, an update of the total project cost estimate, an update of the overall project schedule, and a final value engineering review of reducing time of construction, reducing expenses, and improving product quality.

Bidding Phase Services

Assist the City during the bidding phase, including, if applicable, prequalification of contractors; reproduction and dissemination of approved plans, specifications, and contract documents; advertising for bids; conducting pre-bid meetings or site walks; issuance of addenda; bid review; and review of bid protests.

If the lowest responsive bid exceeds the final approved construction cost estimate by twenty-five percent (25%) or more, and the City, acting in its sole discretion decides to reject all bids and re-bid the Project, at no additional cost to the City, work with the City to make the modifications to the Construction Documents to reduce the cost of construction so as not to exceed the previously approved construction cost estimate by more than the stated additional percentage.

Deliverables: As noted above

Construction Phase Services

During the Construction Phase must provide the following services to the City:

Oversee general administration of the Construction Contract. Responsibilities include, but are not limited to, the following:

- Review and advice to the Project Manager as to the accuracy and sufficiency of Contractor's schedule of values;
- Coordination of the Project Schedule with the Contractor's the City-approved Work schedule;
- Provision of prompt and complete responses to Contractor's requests for information; and
- Coordination of efforts with the City and its Project Manager to ensure the Project is completed in a timely, cost-effective manner, consistent with the City's requirements.

Provide ongoing design services as needed, including, but not limited to the following:

- Interpretation and clarification of the drawings and specifications;
- Preparation of design documents for Change Orders as needed for the proper execution and progress of the Work, and consistent with the intent of the approved Construction Documents.

Timely review Contractor's submittals, including shop drawings, product data and samples. Issue written approvals of and/or recommendations to the City within ten days of receipt of each such submittal, unless additional time is required based on the nature of the submittal, in which case the review must be completed as soon as practicable under the circumstances. Check the submittals for conformance with the design and scope of the Project, and for compliance with the approved Construction Documents. The review must not extend to the Contractor's means, methods, techniques, sequences, or procedures, unless such have previously been specified in the Construction Documents.

Deliverables: A package of all documentation arising throughout the course of construction each month (see Reports Section below), including but not limited to Contractor's submittals, shop drawings, data sheets, requests for information (RFI's) requests for quotations (RFQ's), contract change orders (CCO's), and as-built drawings.

Change Orders

Assist the Project Manager in evaluating, processing, and determining whether to recommend approval of requests for changes in the Work, and, if applicable, prepare and submit proposed Change Orders.

Site Visits

Visit the Project site at intervals sufficient to monitor the progress and quality of the Work and to determine whether the Work is proceeding in conformance with the Construction Contract. Following each Project site visit, promptly provide the Project Manager with a written report of observations and recommendations, if any.

Provide prompt notice to the Project Manager of any defects or deficiencies in the Work, followed by written confirmation of that notice.

If it is believed that special testing or inspection of the Work is needed, recommend appropriate procedures and consultants to the City.

Payment Applications

Assist the City in processing the Contractor's payment applications in accordance with the provisions of the Construction Contract.

Meetings

Attend meetings with the Project Manager or the Contractor(s) on a weekly basis.

Reports

Prepare and submit written reports on the progress or status of the Work to the Project Manager on a monthly basis. The reports should coincide with the Consultant's review of the Contractor's payment applications. Three copies of the reports should be submitted to the City Engineer, and should include a detailed summary of all project activities that occurred during the prior month.

Inspections

Conduct inspections reasonably necessary to determine whether Contractor has achieved final completion of the Work in accordance with the Construction Contract, and must prepare a list of items to be completed or corrected (the "punch list"), including estimates of the cost for the City to correct or complete the punch list items, as well as required final submittals (e.g., warranties, manuals, as-built drawings, etc.) in order to achieve final completion.

Close Out and Post-Construction Services

If Architect is required to provide close out and post construction design services pursuant to Attachment A, Architect must do the following:

1. Promptly perform all tasks reasonably necessary for Project close out;
2. Provide the City with a color schedule of all finished materials incorporated into the Project;
3. If requested, make up to six (6) visits to the Project site during the warranty period to advise the City on the need for warranty work;

8. ANTICIPATED PROJECT SCHEDULE

The following schedule sets forth the City's anticipated timeline for the services included in both Package A and Package B and is subject to modification by the City:

Action/Task	Anticipated Completion
Issue Notice to Proceed	July 18, 2019
Package A and Package B	
Identify and assess long-term alternatives, and a no-build alternative	July 18, 2019 – Sep. 30, 2019
Community Workshop #1, solicitation of public input	Mid Oct., 2019
City and Community presentations	Dec. 2019 – Feb., 2020
Identification of a Preferred Alternative	Mar., 2020
Vetting of Preferred Alternative and initiation of environmental documentation (EA/ES)	Mar., 2020 – Jul., 2020
Community Workshop #2, Presentation of Preferred Alternative	Aug., 2020
Schematic design	Aug., 2020
Completion of schematic design documents	Oct., 2020
Package B Only	
Design Development	Oct., 2020
Construction Documents	Feb., 2021
Bidding	Mar., 2021
Construction	Apr., 2021 – Jan., 2022

9. PROPOSER/CONSULTANT’S TEAM

Proposers’ attention is directed to **Attachment 6, Professional Services Agreement**, for requirements regarding the expertise and qualifications of Consultant’s personnel assigned to perform services under the Agreement. The City, in its sole discretion, may consider other evidence of the qualifications and capabilities of the Proposer’s team members to offset minor shortfalls in meeting the minimum experience requirements.

10. NONDISCRIMINATION, EQUAL OPPORTUNITY AND DBE REQUIREMENTS

A. **Nondiscrimination.** The City hereby notifies all Proposers that it is the policy of the City to ensure nondiscrimination on the basis of race, color, national origin, or sex in the award and administration of contracts. Proposers are directed to carefully review Section 12.4, Equal Opportunity, and Section 12.5, Disadvantaged Business Enterprises,

of **Attachment 6, Professional Services Agreement**, which sets forth the equal opportunity and DBE requirements for this Project. By submitting Proposals, Proposers certify to the assurances set forth therein and agree to be bound by their terms.

B. Small and Minority Businesses. This Project is funded in whole or in part by the federal government. The selected Proposer, if any, must comply with all applicable federal requirements as further specified in the Agreement, and when procuring subconsultants, must take all necessary affirmative steps pursuant to 2 CFR § 200.321(b), subject to the limitations of law, to ensure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists.
- Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources.
- Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises.
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises.
- Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

C. Disadvantaged Business Enterprises (DBE). A DBE contract-specific goal of 16.3% has been established for this Agreement. Failure of Proposer to meet this goal, or document its good faith efforts in an attempt to meet this goal, by the Proposal Deadline, may render its Proposal non-responsive.

(1) **DBE Opportunities.** Proposers are advised that the City has analyzed the data regarding the portions of the services that could be subcontracted out to DBEs, and whether DBEs are available to perform those types of services. The subconsulting opportunities include, but are not limited to traffic engineering/transportation analysis and preliminary engineering design. Proposers are provided this information to facilitate consideration of DBEs for subcontracting opportunities.

(2) **Good Faith Efforts.** If Proposer is unable to meet the participation goal set forth above, the City will consider the Proposer's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the City will consider as part of the Proposer's good faith efforts include, but are not limited to, the following:

- Documented communications with the City related to the DBE requirements
- Pre-proposal meeting attendance
- Proposer’s own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation
- Written notification to DBEs encouraging participation
- Efforts made to identify specific portions of the services that might be performed by DBEs

Within five business days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, the Proposer may request administrative reconsideration. The Proposer should make this request in writing to the City’s Senior Engineer at adavidson@sausalito.gov. He will forward the Proposer’s request to a reconsideration official who will not have played any role in the original determination that the Proposer did not document sufficient good faith efforts. As part of this reconsideration, the Proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Proposer will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will send the Proposer a written decision on its reconsideration, explaining the basis for finding that the Proposer did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

(3) **Reservation of Rights.** The City reserves the right to request further information or clarifications with regard to any of the information required for DBE compliance. , Submittals that fail to document the solicitation of DBE participation may be rejected as nonresponsive.

11. PROPOSAL REQUIREMENTS

Each Proposal must be submitted in compliance with the requirements of this RFP. The City may, acting in its sole discretion, elect to reject any Proposal that it determines to be nonresponsive. It reserves the right, but not the obligation, to waive any immaterial irregularities.

Proposers may submit a Proposal for one or both packages. To the extent that Proposer submits a Proposal for both packages, each Proposal must be submitted separately and contain all of the items set forth in this Section.

Each Proposal must include the following:

A. **Cover Letter.** Proposer must submit a cover letter containing a summary of the Proposal. The cover letter must include the names, titles, work addresses, telephone numbers, and email addresses of individuals with the authority to contractually bind the Proposer. The letter must confirm that the Proposer does not have any interest that would present a conflict of interest as described in Section 11, Consultant Conflict of Interest, of **Attachment 6, Professional Services Agreement**, and that the Proposer will comply with City's conflict of interest requirements. Proposer must submit similar letters from all subconsultants.

B. **Executive Summary.** In the Executive Summary, Proposer must explain key provisions of its Proposal, including the following:

- Location of the local San Francisco Bay Area office responsible for administering the Agreement with City;
- Detailed description of the approach and methodology to be used to provide the required services and to obtain the required environmental clearances;
- Management, quality and cost control methods utilized by the Proposer to fulfill the obligations under the Agreement, including knowledge of public agencies and experience in coordination of services with public agencies, such as the FTA, the District, and relevant utilities including PG&E, the Marin Municipal Water District and the Sausalito-Marín City Sanitary District;
- A list of work tasks necessary to complete the services and their descriptions;
- A list of the permits, authorizations, and notifications required for completion of the services;
- An outline of all deliverables and services to be rendered;
- A Gantt chart schedule for completion of services;
- Time commitment and availability of the assigned personnel; and
- Any other information that Proposer considers pertinent to evaluating its approach to the scope of services and/or Proposer's qualifications.

C. **Cost Proposal.** Proposer must submit a cost proposal using the form attached to this RFP as **Attachment 2, Cost Proposal**. Proposals for Package A must set forth a lump sum amount for the services identified in Section 7(A) of this RFP. Proposals for Package B must set forth a schedule of hourly rates with a not-to-exceed amount for the services identified in Section 7(B) of this RFP. Proposer's subconsultants must submit cost proposals in the same format as Proposer's cost proposal. The cost proposals of Proposer's subconsultants must be depicted as a line item on Proposer's cost proposal.

D. **Statement of Qualifications.** Proposer must submit information substantiating its recent experience in successfully providing analysis and design of facilities similar to size, complexity, and nature of the services required under the Agreement, including a minimum of three client references with contact information.

E. **Proposer's Team.** Proposer must identify its Project Manager, Lead Engineer, Team Leader, and all other key technical personnel and submit an organizational chart showing the relationship between all proposed personnel and support staff. The organizational chart must be accompanied by a description of the proposed responsibilities of each person identified on the chart and their resumes. Proposer must also provide a minimum of three client references for the Project Manager, Lead Engineer, and Outreach Facilitator with current contact information.

F. **Completed Forms/Attachments.** Proposer must complete and submit the following forms, which are attached to this Agreement, with its Proposal:

- **Attachment 3, Acknowledgement of Addenda**, if any addenda are issued
- **Attachment 4, Acknowledgement of Insurance Requirements**
- **Attachment 5, Certification of Consultant Commissions and Fees**
- **Attachment 7, Consultant Proposal DBE Commitment**
- **Attachment 8, Lobbying Certification**
- **Attachment 9, Debarment, Suspension, Ineligibility and Voluntary Exclusion Certification**

G. **Modifications to Agreement.** The Agreement for the Project will be in substantially similar form to the agreement attached as **Attachment 6, Professional Services Agreement**, to this RFP. If Proposer desires any modifications to the form of the Agreement, the proposed modifications must be submitted for consideration with the Proposal. Otherwise, the Proposer will be deemed to have accepted the form of Agreement, attached as **Attachment 6**, which is subject to minor modifications by City.

12. EVALUATION PROCEDURE

A. **Anticipated Evaluation Schedule.** The anticipated schedule for this RFP set forth below is for general planning purposes. It may be modified at the discretion of the City, including by issuance of addenda.

<u>MILESTONE</u>	<u>DUE DATE</u>
Pre-Proposal Meeting	June 18, 2019
Deadline for Submitting Questions	June 21, 2019
Proposal Submission Deadline	June 28, 2019
Optional: Proposer Interviews (if requested by City)	Week of June 30, 2019
Notice of Intent to Award	Week of July 7, 2019
City Council Authorizes Award	July 16, 2019
Execute Agreement	July 18, 2019
Notice to Proceed	July 18, 2019

B. **Evaluation of Proposals for Package A and Package B.** City will separately

evaluate Proposals for Package A and Proposals for Package B in accordance with this Section.

C. **Selection Process.** Depending on the number and quality of Proposals received for each package, City may select a single Proposer or to shortlist two to three. Shortlisted Proposers may be asked to meet with the City to present their Proposals to the decision team and answer any outstanding questions.

D. **Selection Criteria.** In evaluating responsive Proposals, the City will consider:

- the proposed price for the services;
- Proposer’s qualifications and experience, including the qualifications and experience of the Proposer’s Project Manager, Lead Engineer, Team Leader and the entire team relevant to the scope of services, demonstrated capability and experience of Proposer’s personnel on similar or related projects, organization of the team in relation to the various services, time commitment (availability) of the personnel proposed for the Project, recent experience in successfully providing analysis, design, urban design/architecture, and environmental review of facilities of similar size and complexity as the Sausalito Ferry Landside, capability of providing qualified personnel and to accommodate changing project requirements, management and scheduling abilities, and quality and cost control methods;
- Proposer’s approach to the services, including its understanding and methodology of providing analysis and design services, understanding and knowledge of the critical aspects of the Project and challenges of balancing Project objectives with priorities of affected agencies, effectiveness of the proposed plan for coordinating the work, and knowledge of public agencies and utilities on the federal, state, regional, and local levels and experience and coordination of services and concurrent projects among various agencies; and
- Proposer’s interview, if requested by City.

E. **Scoring/Ranking.** The City will evaluate responsive Proposals for each package according to the evaluation criteria listed above in order to determine which Proposal provides the best value and is the most advantageous for the City. Points will be awarded based on the information provided in the Proposal and relative to meeting the City’s best interests. Selection will be based on the total number of points awarded by the evaluation committee.

- | | |
|---|---------------|
| • Proposed Price | 0 - 35 points |
| • Proposer’s Qualifications and Experience | 0 - 25 points |
| • Proposer’s Approach to the Services | 0 - 25 points |
| • Optional: Interviews with shortlisted Proposers | 0 - 15 points |

City may elect to conduct interviews with certain Proposers to ask questions about or to

obtain more detail on their submitted Proposals. City reserves the right to seek supplemental information from any Proposer at any time after this RFP is issued and before award of any Agreement.

F. **Award.** The City will award the Agreement, if at all, for the package that it determines, acting in its sole discretion, is in the best interests of the City, and to the Proposer whose Proposal is determined by the City, acting in its sole discretion, to provide the best value and be the most advantageous to City based on the criteria set forth above.

G. **Execution of Agreement.** The selected Proposer will be notified by City staff of intent to recommend that the City Council award the Agreement to Proposer for either Package A or Package B. Within ten days of that notification, the selected Proposer must submit the executed Agreement and submit the required insurance certifications and endorsements to the City. (See **Attachment 4, Acknowledgement of Insurance Requirements**, of this RFP; Section 9 of the Agreement for insurance requirements.) City may, at any time, reject the Proposal of any selected Proposer that fails to comply with these requirements, and may offer the Agreement to the next highest ranked Proposer.

13. PROPOSAL PROTEST PROCEDURES

It is the policy of City to consider fully and adjudicate promptly protests filed by prospective Proposers to City's evaluation procedure, RFP requirements or award of Agreement. Protests will be processed in accordance with City's written protest procedures provided in detail below. Proposer's failure to follow these written protest procedures may result in rejection of the protest by City.

Protests based upon restrictive RFP requirements or alleged improprieties in the evaluation procedure or RFP requirements that are apparent or reasonably should have been discovered prior to the Proposal Deadline must be submitted via email to David Bracken at dbracken@sausalito.gov no later than five calendar days before the Proposal Deadline. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Protests based upon City staff's recommendation for award of the Agreement must be submitted in writing to the City Clerk within 48 hours of receipt of notice of the staff recommendation for award. The protest must clearly specify in writing the grounds and evidence on which the protest is based.

Because some of the services to be performed under an Agreement awarded pursuant to this RFP may be federally funded, the City's final determination of protests may also be appealed to the FTA in accordance with the procedures set forth in FTA Circular 4220.1F, as may be periodically updated. FTA's review will be limited to protests alleging that the City failed to have or follow its written protest procedures, failed to review a complaint or protest, or violated a federal law or regulation. The protest must be received by the FTA within five

working days of the date the protester learned or should have learned of an adverse decision by the City.

14. CONFIDENTIALITY

The California Public Records Act (Cal. Govt. Code section 6250, *et seq.*) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to this RFP, or any other written communication between City and Proposer will be available to the public once the agenda has been posted for the City Council meeting during which the Agreement may be formally awarded.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer must request that City withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire Proposal as confidential.

If Proposer requests that City withhold from disclosure information identified as confidential and City complies with the Proposer's request, Proposer must assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless City from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all cost and expenses related to withholding Proposer information. Proposer must not make a claim, sue or maintain any legal action against City or its directors, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If the Proposer does not request that City withhold from disclosure information identified as confidential, City has no obligation to withhold the information from disclosure and may release the information sought without liability to City.

15. EX PARTE COMMUNICATION

In the context of this RFP, an "ex parte communication" is any communication between a Proposer (or the Proposer's representative) and City's Manager, Councilmember, or any City officer or employee, regardless of who initiates the communication, other than as part of the formal procurement process specified herein, before City issues a Notice to Proceed. Proposers and Proposers' representatives may not communicate, orally, via email, or in writing, with an officer, director, employee or agent of City, with the exception of the City Engineer or City Clerk regarding this RFP until after a Notice to Proceed has been issued by City. Proposers and their representatives are not prohibited, however, from making oral statements or presentations in public to one or more representatives of City during a public meeting.

16. ATTACHMENTS

- Attachment 1: Location Map
- Attachment 2: Cost Proposal
- Attachment 3: Acknowledgement of Addenda
- Attachment 4: Acknowledgement of Insurance Requirements
- Attachment 5: Certification of Consultant, Commissions and Fees
- Attachment 6: Professional Services Agreement
- Attachment 7: Consultant Proposal DBE Commitment
- Attachment 8: Lobbying Certification
- Attachment 9: Debarment, Suspension, Ineligibility and Voluntary Exclusion Certification

Attachment 1: Location Map

Figure 1 - Location Map



Attachment 2: Cost Proposal

The following Cost Proposal form must be submitted in a separate sealed envelope.

Consultant shall use the cost proposal forms found in the Caltrans Local Assistance Procedurals Manual Exhibit 10-H1;

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10h.pdf>

Attachment 3: Acknowledgement of Addenda

The undersigned Proposer acknowledges receipt of the following Addenda, if issued, to the RFP Documents. If none received, write "None Received."

Addendum No._____, dated _____

Addendum No._____, dated _____

Addendum No._____, dated _____

Signature Date

Print Name Title

Firm

Attachment 4: Acknowledgement of Insurance Requirements

Included in the Cost Proposal is full compensation for the requirements of the Insurance Provisions of the Professional Services Agreement.

Workers' Compensation Insurance as per statutory requirements. By signing below, Proposer is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provision of that code, and if awarded a Contract, Proposer will comply with such provisions before commencing the performance of the work of this Contract.

Employer's Liability Insurance of not less than limits of

ONE MILLION DOLLARS (\$1,000,000) per accident and
ONE MILLION DOLLARS (\$1,000,000) each employee by disease.

Commercial General Liability, including but not limited to Personal Injury and Property Damage Liability Insurance with limits of

ONE MILLION DOLLARS (\$1,000,000) per occurrence and TWO MILLION DOLLARS (\$2,000,000) in the annual aggregate.

Automobile Liability Insurance of not less than limits of

ONE MILLION DOLLARS (\$1,000,000) per occurrence/accident and

Professional Liability Insurance of not less than limits of

TWO MILLION DOLLARS (\$2,000,000) per claim.

The insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" ratings of A- and with minimum policyholder surplus of Fifty Million Dollars (\$50,000,000) or a company acceptable to City in its sole discretion. Workers' Compensation coverage requirements may be met with the California State Compensation Fund. All policies shall be issued in a form satisfactory to the City and shall be issued specifically as primary insurance over and above any insurance that City may carry. The insurer shall agree that its policy is Primary Insurance and that it shall be liable under its policy for the full amount of any loss up to and including the total limit of liability without right of contribution from any other insurance affected by City.

Signature of Proposer/Title Date

Attachment 5: Certification of Consultant, Commissions and Fees

I HEREBY CERTIFY that I am the _____ and duly authorized representative of the firm of _____ whose address is _____

and that, except as hereby expressly stated, neither I nor the above firm that I represent have:

- employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement; nor
- agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the agreement; nor
- paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the agreement.

I acknowledge that this Certificate is subject to applicable State and Federal laws, both criminal and civil.

Signature

Date

Attachment 6: Professional Services Agreement

**CITY OF SAUSALITO
PROFESSIONAL SERVICES AGREEMENT**

This Professional Services Agreement (“**Agreement**”) is made and entered into this _____ day of _____, 2019 (“**Effective Date**”), by and between the City of Sausalito (“**City**”) and _____ (“**Consultant**”) having its principal place of business at _____, for the Sausalito Ferry Landside Improvements Project (the “**Project**”).

In consideration of the mutual promises contained herein, the parties hereto agree as follows:

Section 1. Scope of Services

Consultant will provide City with the services described in **Exhibit A** which is attached hereto and incorporated herein by this reference as though set forth in full, and summarized as: visioning, environmental review and compliance, and design services for the Project (the “**Services**”), as further described in the Request for Proposals for Environmental Consulting, Planning and Design Services for the Sausalito Ferry Landside Improvements Project issued by City on _____, 2019 (“**RFP**”).

Section 2. Responsible Individual.

The individual directly responsible for the performance of the duties of Consultant is _____. Consultant represents and warrants that the execution of this Agreement has been approved by Consultant and that person executing this Agreement on behalf of Consultant has the full authority to do so. Consultant shall submit any proposed changes to the individual identified in this Section 2 to the City in writing for City’s approval which can be given by the City’s City Manager or his designee and which approval shall not be unreasonably withheld.

Section 3. Schedule.

Consultant must be available to work as many hours as required to complete the Services immediately upon receipt of the Notice to Proceed issued by the City and must complete each task in a timely manner as specified. Consultant will not be held responsible for delays caused beyond its reasonable control.

Section 4. Compensation.

In consideration of the performance of the Services described in Section 1 pursuant to the schedule set forth in Section 3, Consultant will be compensated based on the rates set forth in Attachment 2 to the Request for Proposals, which includes Consultant’s reimbursable expenses and markup and must not be exceeded without the express approval of the City as provided for in Section 5 below. Consultant acknowledges and agrees that the compensation to be paid to Consultant under this Section 4 represents the full amount due and owing to Consultant in connection with performance of the Services. Consultant will be paid in monthly increments based on the portion

of the Services provided during the preceding calendar month as documented in an invoice submitted in accordance with City requirements.

Section 5. Amendments.

In the event City desires to retain Consultant for the performance of additional services, or wishes to delete any Services in connection with this Agreement, specifications of such changes and adjustments to compensation due Consultant therefor will be made only by written and signed amendment to this Agreement.

Section 6. Independent Contractor - Subcontractors.

It is specifically understood and agreed that in the making and performance of this Agreement, Consultant is an independent contractor and is not and will not be construed to be an employee, common law employee, agent or servant of City. Consultant will be solely liable and responsible to pay all required taxes and other obligations, including, but not limited to, withholding and Social Security. Consultant acknowledges and agrees that he/she is not entitled to the benefits of civil service status and/or the rights and privileges enjoyed by civil service employees and Consultant hereby waives any and all claims to such rights and/or privileges.

Section 7. Consultant's Responsibility, Subconsultants.

It is understood and agreed that Consultant has the professional skills necessary to perform the Services, and that City relies upon the professional skills of the Consultant to do and perform the Services in a skillful and professional manner in accordance with the standards of the profession. Consultant thus agrees to so perform the Services.

Consultant shall be responsible for submitting all required forms to show compliance with the City's Disadvantaged Business Enterprise (DBE) goal including without limitation CalTrans Local Assistance Procedures Manual Exhibit 10-O2 upon execution of this Agreement and Exhibit 17-F upon completion of the project or sooner as required.

City shall approve the use of any sub-consultants in writing which approval can be given by the City's City Manager or his designee and which approval shall not be unreasonably withheld. Consultant shall pay to each subconsultant design professional the amount due him or her from the payment received hereunder, not later than 10 days after receipt of each progress payment or final retention payment. If Consultant disputes in good faith any portion of the amount due to a subconsultant, he or she may withhold from the payment an amount not to exceed 150 percent of the disputed amount. Verification of prompt and full payment to subconsultants is required and shall be provided utilizing Caltrans Local Procedure Manual Exhibit 9-F, Monthly Prompt Payment.

Consultant acknowledges and agrees that utilization of certain subconsultants during the construction phase, such as testing inspectors and or surveyors, and/or any other covered subconsultant will be subject to regulation by the California Department of Industrial Relations (DIR) and Consultants shall submit certified payroll records in accordance with DIR regulations.

Acceptance by City of the Services, in whole or in part, does not operate as a release of the

Consultant from such professional responsibility. It is further understood and agreed that Consultant has reviewed in detail the scope of the Services to be performed under this Agreement and agrees that in its professional judgment, the Services can and will be completed for a fee within the amounts set forth in Section 4 of this Agreement.

If the Services, or any portion of them, are subject to prevailing wage requirements under the California Labor Code, Consultant must pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article

2. The applicable wage determinations are available at the State of California Department of Industrial Relations at <http://www.dir.ca.gov/dlsr/pwd/index.htm>.

Section 8. Hold Harmless and Indemnification.

Consultant must, to the fullest extent permitted by law, but subject to the limitations set forth in Civil Code section 2782 and 2782.8, hold harmless, defend (with counsel approved by the City), and indemnify City and its officers, elected and appointed officials, employees, contractors, agents, and volunteers from and against any and all liability, claims, suits, actions, damages and/or causes of action of any kind (“**Claims**”) to the extent that the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant and its employees, agents, and subconsultants. The cost to defend City charged to Consultant will not exceed Consultant’s proportionate percentage of fault. However, notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, Consultant must meet and confer with other parties regarding unpaid defense costs. The provisions of this Section survive completion of the Services or the termination of this Agreement. The provisions of this Section are not limited by the provisions of Section 9 relating to insurance.

Section 9. Insurance.

Before providing any Services under this Agreement, Consultant must procure and provide proof of the insurance coverage required by this Section in the form of certificates and endorsements. The required insurance must cover the activities of Consultant and its employees or subconsultants relating to or arising from the performance of Services under this Agreement, and must remain in full force and effect at all times during the term of this Agreement.

9.1 Types of Insurance:

A. Workers’ Compensation and Employer’s Liability Insurance

- 1) Consultant shall procure and maintain at all times during the performance of such work Workers’ Compensation Insurance in conformance with the laws of the State of California and federal laws where applicable. Employer’s Liability Insurance shall not be less than One Million Dollars (\$1,000,000) for each accident and One Million Dollars (\$1,000,000) for each disease.
- 2) The policy shall contain a waiver of subrogation in favor of City and its elected and appointed officials, officers, employees, volunteers and agents while acting in such capacity and their successors and assignees as they now or as they may hereafter be

constituted, singly, jointly or severally.

B. Commercial General and Automobile Liability Insurance

- 1) **Commercial General Liability Insurance.** Consultant shall, at its own cost and expense, also procure and maintain at all times during the performance of this Agreement Commercial General Liability Insurance providing bodily injury and property damage coverage with a combined single limit of at least One Million Dollars (\$1,000,000) each occurrence or claim and an annual aggregate limit of at least Two Million Dollars (\$2,000,000). This insurance shall include but not be limited to premises and operations, contractual liability covering the indemnity provisions contained in this Agreement, personal injury, products and completed operations, and broad form property damage, and include a Cross Liability endorsement.
- 2) **Business Automobile Liability.** Consultant shall, at its own cost and expense, procure and maintain at all times during the performance of this Agreement Business Automobile Liability Insurance providing bodily injury and property damage with a general liability limit of at least One Million Dollars (\$1,000,000) per occurrence for all owned, non-owned and hired automobiles. This insurance shall provide contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

C. Professional Liability Insurance. Consultant shall maintain Professional Liability Insurance covering Consultant's performance of services under this Agreement with a limit of liability of at least One Million Dollars (\$1,000,000) for any one claim and One Million Dollars (\$1,000,000) annual aggregate. This insurance shall be applicable to claims arising from the Services performed under this Agreement. The insurance shall not include any prior acts exclusion.

9.2 General Insurance Requirements

A. Evidence of Insurance. Prior to commencing work or entering onto the property, Consultant shall file a Certificate of Insurance with City evidencing the foregoing coverages with respect to the insurance, including the following endorsements:

- 1) That the insurance company(ies) issuing such policy(ies) shall provide at least thirty (30) days' prior to notice of cancellation or nonrenewal.
- 2) That the policy(ies) in Section 9.1.B above is(are) Primary Insurance and the insurance company(ies) providing such policy(ies) shall be liable thereunder for the full amount of any loss or claim that Consultant is liable for under this Section, up to and including the total limit of liability, without right of contribution from any other insurance effected or which may be effected by the City.
- 3) That, with respect to coverages described in Section 9.1.B above, such insurance shall include as additional insured the City and its respective elected and appointed officials, officers, employees and agents while acting in such capacity, and their successors or assignees, as they now or as they may hereafter be constituted, singly, jointly or severally.
- 4) That, with respect to coverages described in Section 9.1.B above, the policies shall

also contain either a cross liability endorsement or severability of interests clause and stipulate that inclusion of the City as additional named insured shall not in any way affect its rights either as respects any claim, demand, suit or judgment made, brought or recovered against Consultant. Said policy shall protect Consultant and District in the same manner as though a separate policy had been issued to each, but nothing in said policy shall operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

- 5) City will not be responsible for any premiums of assessments on such policies
- B. **Acceptable Insurance.** All policies shall be issued by insurers acceptable to City. This insurance shall be issued by an insurance company or companies authorized to do business in the State of California with minimum "Best's" rating of A- and with minimum policyholder surplus of \$50,000,000 or a company acceptable to City in its sole discretion. All policies shall be issued in a form satisfactory to the City Manager or his designee. Consultant's policies shall be considered primary insurance with respect to the services performed under this Agreement.
 - C. **Failure to Procure or Maintain Insurance.** The failure to procure or maintain required insurance and/or an adequately funded self-insurance program acceptable to City will constitute a material breach of this Agreement.
 - D. **Terms of Policies.** All insurance specified above shall remain in force for at least three (3) years and until all work to be performed is satisfactorily completed, unless as indicated otherwise in this Agreement.
 - E. Consultant shall not violate or permit to be violated any conditions or provisions of said policies of insurance, and at all times shall satisfy requirements of the insurer for the purpose of maintaining said insurance in effect.
 - F. If any claim is made by any third person against Consultant on account of any incident related to this Agreement, Consultant shall promptly report the fact in writing to City, giving full details of the claim.
 - G. Consultant shall promptly notify City of all professional liability claims asserted against Consultant that have an estimated settlement value in excess of the policy. If the amount of professional liability insurance is reduced by other claims, Consultant shall procure such additional insurance to restate the limits as required under this Agreement.
 - H. **Claims-Made Insurance.** If any insurance specified in Section 9.1 is provided on a claims-made basis, then in addition to the specified coverage requirements, such policy shall provide that:
 - 1) Policy retroactive date coincides with or precedes Consultant's start of work (including subsequent policies purchased as renewals or replacements).

2) Consultant will make every effort to maintain similar insurance for at least three (3) years following project completion, including any applicable requirement of including all additional insureds.

3) If insurance is terminated for any reason, Consultant agrees to purchase an extended reporting provision of at least three (3) years to report claims arising from work performed in connection with this Agreement.

4) Policy allows for reporting of circumstances or incidents that might give rise to future claims.

I. Consultant agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the Agreement, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of City. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, City may, in addition to any other remedies it may have, terminate this Agreement upon occurrence of such event.

Section 10. City Personnel Conflict of Interest.

No officers, member, or employee of City and no member of the City Council who exercises any functions or responsibilities in the review, approval of the undertaking or carrying out of the Project, will participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is, directly or indirectly interested; nor will any such officer, member or employee of City have any interest, direct or indirect, in this Agreement or the proceeds thereof.

Section 11. Consultant Conflict of Interest.

Consultant covenants that it presently has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Consultant further covenants that in the performance of this Agreement, no persons having any such interest will be employed.

Section 12. Federal Contract Requirements.

This Project is funded in whole or in part by federal funds from the U.S. Department of Transportation (“DOT”), and therefore must comply with all applicable federal laws and regulations, including, but not limited to, the uniform federal award procurement requirements set forth in 2 CFR §§ 200.318-200.326, as may be amended from time to time; the Federal Transit Law at 49 U.S.C. Chapter 53; Federal Transit Administration regulations contained in 49 CFR Parts 601-699; and DOT regulations contained in 49 CFR Parts 1-99. The Project is also subject to the following federal requirements under the terms of the funding agreement(s) between City

and the federal agency or agencies providing federal funds, which are fully incorporated by this reference and made part of this Agreement. Copies of any funding agreement between City and a funding agency will be made available upon request.

12.1 Access to Records and Reports.

(A) **Record Retention.** Consultant will retain, and will require its subconsultants of all tiers to retain, complete and readily accessible records related in whole or in part to the Agreement, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

(B) **Retention Period.** Consultant agrees to comply with the record retention requirements in accordance with 2 CFR § 200.333. Consultant must maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case records will be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

(C) **Access to Records.** Consultant agrees to provide sufficient access to the Federal Transit Administration (“FTA”) and its contractors to inspect and audit records and information related to performance of this Agreement as reasonably may be required.

(D) **Access to the Sites of Performance.** Consultant agrees to permit FTA and its contractors access to the sites of performance under this Agreement as reasonably may be required.

12.2 Clean Air Act. If the Agreement is for an amount in excess of \$150,000, Consultant and each subconsultant must comply with the requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401-7671q), which are fully incorporated into this Agreement by this reference, including requirements for reporting violations to the awarding agency and the applicable Regional Office for the Environmental Protection Agency. Consultant and subconsultants must insert this requirement into subcontracts of any tier in excess of \$150,000.

12.3 Federal Water Pollution Control Act. If the Agreement is for an amount in excess of \$150,000, the requirements of the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387) apply to this Agreement and are fully incorporated into this Agreement by this reference, including requirements for reporting violations to the awarding agency and the applicable Regional Office for the Environmental Protection Agency requirements for reporting violations. Consultant and subconsultants must insert this requirement into subcontracts of any tier in excess of \$150,000.

12.4 Equal Opportunity. During the performance of this Agreement, the Consultant agrees as follows:

(A) Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability. Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability. Such action will include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(B) Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

(C) Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision will not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(D) Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the labor union or workers' representatives of the Consultant's commitments under this section, and will post copies of the notice in conspicuous places available to employees and applicants for employment.

(E) Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the United States Secretary of Labor.

(F) Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the United States Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(G) In the event of the Consultant's noncompliance with the nondiscrimination

clauses of this Agreement or with any of the rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further federal government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.

(H) Consultant will include the portion of the sentence immediately preceding paragraph (A) and the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the United States Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subconsultant or vendor. Consultant will take such action with respect to any subcontract or purchase order as the City or funding agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: *Provided*, however, that in the event a Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the City or funding agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

12.5 Disadvantaged Business Enterprises (“DBEs”). This Agreement must comply with the requirements of 49 CFR Part 26, relating to DBE participation, which are fully incorporated into this Agreement by this reference.

(A) Compliance with DBE Program Requirements. Consultant and any subconsultants must not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant must carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying Consultant from future bidding as non-responsible. (See 49 C.F.R. § 26.13(b).)

(B) Payment Requirements. Pursuant to 49 CFR § 26.29(a), Consultant must pay subconsultants or subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment City makes to Consultant.

(C) Listed DBEs. Unless Consultant obtains City’s prior written consent, Consultant must use the DBEs listed in its proposal and will not be entitled to payment for any Services or material unless it is performed or supplied by DBEs listed in its proposal. (See 49 CFR § 26.53(f)(1).)

(D) Termination of DBE Subcontractor. Consultant will not terminate the DBE subconsultant(s) listed in the DBE Participation Schedule without the City’s

prior written consent. City may provide such written consent only if the Consultant has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Consultant must give notice in writing to the DBE subconsultant of its intent to terminate and the reason for the request. Consultant must give the DBE subconsultant five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subconsultant is terminated or fails to complete its services for any reason, Consultant must make good faith efforts to find another DBE subconsultant to substitute for the original DBE and immediately notify the City in writing of its efforts to replace the original DBE. These good faith efforts must be directed at finding another DBE to perform at least the same amount of work under the Agreement as the DBE that was terminated, to the extent needed to meet the Agreement goal established for this procurement. Consultant may be subject to sanctions for failure to comply with these requirements.

(E) Continued Compliance. The City will monitor the Consultant's DBE compliance throughout the term of the Agreement. If the term exceeds 90 days, Consultant must submit quarterly written reports to the City that summarize the total DBE value for this Agreement. Quarterly reports must be submitted until final payment is issued or until DBE participation is completed. The reports must include the following details: DBE utilization established for the Agreement, total value of expenditures with DBE firms for the quarter, the value of expenditures with each DBE firm for the quarter by race and gender, total value of expenditures with DBE firms from inception of the Agreement, and the value of expenditures with each DBE firm from the inception of the Agreement by race and gender. Consultant must allow the City to have access to necessary records for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contracts between Consultant and DBEs during the term of this Agreement. Consultant must allow the City, U.S. Department of Transportation, and the Comptroller General of the United States, to inspect and audit all data and records of Consultant relating to its performance under the DBE program requirements.

(F) Sanctions for Violations. If City believes that Consultant is in violation of its obligations under this Agreement or has otherwise failed to comply with the DBE requirements, the City may, in addition to pursuing other available legal remedies, commence proceedings, which may include but are not limited to, the following: suspension of any payment or part due Consultant until such time as the issues concerning Consultant's compliance are resolved; and termination or cancellation of the Agreement, in whole or in part, unless Consultant is able to demonstrate within a reasonable time that it is in compliance with the DBE requirements.

12.6 Davis-Bacon Act. For all prime construction, alteration or repair contracts in excess of \$2,000, Consultant must comply with the Davis-Bacon Act. Consultant will pay wages to laborers and mechanics, not less than once a week, and at a rate not less than the current federal prevailing wages specified in the Davis-Bacon Act Wage Determination attached hereto and incorporated herein. By entering into this Agreement, Consultant accepts the attached Wage Determination.

12.7 Copeland “Anti-Kickback” Act. For all prime construction, alteration or repair contracts in excess of \$2,000, Consultant must comply with the Copeland “Anti-Kickback” Act. Consultant must comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 CFR Part 3 as may be applicable, which are incorporated by reference into this Agreement. Consultant and subconsultants must insert this requirement into subcontracts of any tier. Consultant is responsible for compliance with these requirements by each subconsultant of any tier.

12.8 Contract Work Hours and Safety Standards Act. Consultant and each subconsultant must comply with the requirements of the federal Contract Work Hours and Safety Standards Act, as set forth in 40 U.S.C. 3701-3708, as supplemented by the regulations set forth in 29 CFR Part 5, as may be amended from time to time, which are fully incorporated herein, including:

(A) No Consultant or subconsultant will require or permit any laborer or mechanic performing Services for the Project to work in excess of 40 hours in a work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours during that work week.

(B) If Consultant or a subconsultant violates this requirement, the Consultant and any responsible subconsultant will be liable for the unpaid wages. In addition, the Consultant and subconsultant will be liable to the United States for liquidated damages. The liquidated damages will be computed with respect to each individual worker as specified under federal law.

(C) Consultant and subconsultants must insert this requirement into subcontracts of any tier. Consultant is responsible for compliance with these requirements by each subconsultant of any tier.

12.9 Energy Conservation. Consultant agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

12.10 Suspension and Debarment. Consultant is required to verify that neither it, nor its principals, as defined at 2 CFR § 180.995, or its affiliates, as defined at 2 CFR § 180.905, are excluded or disqualified, as defined at 2 CFR §§ 180.935 and 180.940. Consultant must comply with 2 CFR Part 180, subpart C, 2 CFR Part 3000, subpart C, and U.S. DOT regulations at 2 CFR Part 1200, and must include a provision requiring compliance with these regulations in any subcontract of any tier. If it is later determined that the Consultant did not comply with the applicable subparts, the Federal Government may pursue available remedies, including, but not limited to, suspension and/or debarment. By submitting a proposal and entering into this Agreement, Consultant agrees to comply with these requirements.

12.11 Byrd Anti-Lobbying Amendment. If the Agreement is for an amount in excess of \$100,000, Consultant must comply with the Byrd Anti-Lobbying Amendment (31

U.S.C. § 1352) and file the certification provided at 44 CFR Part 18, Appendix A, and any disclosures, with the applicable federal agency. Each tier certifies to the tier above that it will not and has not used federal-appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier will also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures will be forwarded from tier to tier up to the recipient.

12.12 No Federal Government Obligation to Third Parties. Consultant acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and will not be subject to any obligations or liabilities to Consultant or any other party pertaining to any matter resulting from the underlying Agreement. Consultant agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause will not be modified, except to identify the subconsultant who will be subject to its provisions.

12.13 Rights to Inventions. If the federal funding for this Agreement meets the definition of “funding agreement” under 37 CFR § 401.2(a) and constitutes an agreement between the City and a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency, will apply to this Agreement and are fully incorporated into the Agreement by this reference. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and must, at a minimum, include the following restrictions: Except for its own internal use, the Consultant may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Consultant authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this Agreement, the term “subject data” means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Agreement. Examples of “subject data” include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

(A) The Federal Government reserves a royalty-free, non-exclusive and

irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for “Federal Government Purposes,” any subject data developed under the Agreement, whether or not a copyright has been obtained; and any rights of copyright purchased by Consultant using Federal assistance in whole or in part by the FTA. For “Federal Government Purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.

(B) Unless FTA determines otherwise, the Consultant performing experimental, developmental, or research work required as part of this Agreement agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of the Agreement, or a copy of the subject data first produced under the Agreement for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Agreement, is not completed for any reason whatsoever, all data developed under the Agreement will become subject data as defined herein and will be delivered as the Federal Government may direct.

(C) Unless prohibited by state law, upon request by the Federal Government, Consultant agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Consultant of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Consultant will be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(D) Nothing contained in this clause on rights in data will imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(E) Data developed by the Consultant and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into the Services required by the underlying Agreement is exempt from the requirements herein, provided that Consultant identifies those data in writing at the time of delivery of the Services.

(F) Consultant agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

12.14 Program Fraud and False or Fraudulent Statements and Related Acts.

Consultant acknowledges that the provisions of the Program Fraud Civil Remedies

Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, Consultant certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the Project. In addition to other penalties that may be applicable, Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Consultant to the extent the Federal Government deems appropriate. Consultant also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Consultant, to the extent the Federal Government deems appropriate. Consultant agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses will not be modified, except to identify the subconsultant who will be subject to the provisions.

12.15 Procurement of Recovered Materials. The requirements of § 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962, apply to this Agreement and are fully incorporated into the Agreement by this reference. For individual purchases of \$10,000 or more, Consultant will make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired (A) competitively within the Agreement schedule, (B) in conformance with Agreement performance requirements, or (C) at a reasonable price. Information on this requirement, including a list of EPA-designated items, is available at the EPA's Comprehensive Procurement Guidelines website: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

12.16 Safe Operation of Motor Vehicles.

(A) Seat Belt Use. Consultant is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Consultant or the City.

(B) Distracted Driving. Consultant agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Consultant owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

Section 13. Termination.

City may terminate this Agreement in whole or in part, for the City's convenience or because of the failure of the Consultant to fulfill the its obligations under the Agreement. City will exercise its right to terminate this Agreement by delivering to the Consultant a notice of termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, Consultant must (1) immediately discontinue all Services (unless the notice directs otherwise), and (2) deliver to the City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process, which will be the property of City, as further set forth in Section 21, Ownership of Documents. If the termination is for the convenience of the City, the City will make an equitable adjustment in the Consultant's compensation but will not allow anticipated profit on unperformed Services. If the termination is for failure of Consultant to fulfill the Agreement obligations, the City may complete the Services by contract or otherwise and the Consultant will be liable for any damages incurred by the City following termination. Any such damages incurred by City following termination may be charged as an offset against any payment due to Consultant. If, after termination for failure to fulfill its obligations under this Agreement, it is determined that the Consultant was not in default, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of City.

Section 14. Rights and Remedies; Venue.

In the event that Consultant fails to perform any of the Services described in this Agreement or otherwise breaches the Agreement, City will have the right to pursue all remedies provided by law and equity. Neither payment by the City nor performance by Consultant will be construed as a waiver of either party's rights or remedies against the other. Failure to require full and timely performance of any provision, at any time, will not waive or reduce the right to insist upon complete and timely performance of such provisions thereafter. Any litigation involving this Agreement or relating to the Services must be brought in Marin County, and Consultant hereby waives the removal provisions of Code of Civil Procedure § 394. In the event of any suit or action or proceeding brought by either party for breach of any term of this Agreement or to enforce any provision of this Agreement, the prevailing party will be entitled to recover its reasonable attorney's fees.

Section 15. Assignment and Successors.

Consultant may not assign its rights or obligations under this Agreement, in part or in whole, without City's written consent. This Agreement is binding on Consultant's and City's lawful heirs, successors and permitted assigns.

Section 16. Third Party Beneficiaries.

There are no intended third party beneficiaries to this Agreement.

Section 17. Severability.

If any provision of this Agreement is determined to be illegal, invalid, or unenforceable, in part

or in whole, the remaining provisions, or portions of the Agreement shall remain in full force and effect.

Section 18. Provisions Deemed Inserted.

Every provision of law required to be inserted in this Agreement is deemed to be inserted, and the Agreement will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Agreement will be deemed amended accordingly.

Section 19. Entire Agreement.

This Agreement constitutes the final, complete, and exclusive statement of the terms of the agreement between the parties regarding the subject matter of this Agreement and supersedes all prior written or oral understandings or agreements of the parties.

Section 20. Authorization.

Each individual executing this Agreement warrants that he or she is authorized to do so by the party that he or she represents, and that this Agreement is legally binding on that party. If Consultant is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code section 313.

Section 21. Ownership of Documents.

All original drawings, plans, reports, specifications, calculations, other documents and copyright interests (including all copyrightable interests arising under the 1990 Architectural Works Copyright Protection Act) developed, prepared or discovered by Consultant (including its employees and subconsultants) for this Agreement (collectively “work product”), whether complete or in progress, are the property of the City, and must be given to the City at the completion of Consultant’s services, or upon demand by the City. Consultant will have a right to make and keep copies of the work product. Consultant must not reveal the work product, or make it available, to any third party without the prior written consent of the City.

City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of Services and that the Consultant makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of Services. The right of the City to modify and reuse the work product for purposes other than that contemplated by the scope of Services is subject to the provisions of California Business and Professions Code section 5536.25, 6735, 6735.3 or 6735.4, whichever is applicable.

Section 22. Notice.

Any notice, billing, or payment required by this Agreement must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

City:

Address: 420 Litho Street

City/State/Zip: Sausalito, CA 94965

Phone: <_____>

Attn: <_____>

Email: <_____>

Copy to: <_____>

Consultant:

Name: _____

Address: _____

City/State/Zip: _____

Phone: _____

Attn: _____

Email: _____

Copy to: _____

[Signatures are on the following page.]

In Witness Whereof, City and Consultant have executed this Agreement as of the Effective Date.

City of Sausalito

Consultant

By: Adam W. Politzer
Its: City Manager _____

By: _____
Its: _____

Approved as to Form:

By: Mary Anne Wagner, Esq.
Its: City Attorney

Exhibit A: Scope of Services and Cost Proposal

EXHIBIT A

SCOPE OF SERVICES

The Proposer awarded the Agreement, if any, for Package A or Package B (“**Consultant**”), must complete the services listed below.

A. **Package A.** If Package A is awarded, Consultant must complete the following services:

Project History

Review the Project history, including available reports, studies, and historical documents including, but not limited to:

- Information available from the City's website (<http://www.sausalito.gov/city-government/hot-topics/ferry-landing>), including The Cecil Group’s Memorandum dated December 26, 2012 and Landside Planning Issues PowerPoint dated May 2, 2013, as well as District and BCDC records
- District plans, specifications, cost estimates and permits for its waterside project

Visioning

- Public outreach, community workshops, and coordination with affected agencies
- Prepare Needs Assessment for Ferry Landing Landside and Parking Lot 1
- Facilitate Communications and assist with Permit Submittals with Joint Aquatic Resources Permit Agency and other relevant Agencies
- Assist City in programming phase and development of scope of work for Project, including circulation, landscape and hardscape design requirements
- Prepare presentations and participate in public meetings to gather and present information to and from stakeholders on the Ferry Landing and Lot 1 needs and alternatives. (Multiple meetings required)
- Prepare presentations and participate in City Council meetings to provide information on the Ferry Landing and Lot 1 needs and alternatives
- Assist City in development of preliminary schedule and cost estimates

Deliverables: Public outreach plan, needs assessment, permit submittals, scope of work; City Council presentations and staff reports, preliminary schedule and cost estimates.

Meetings

The City shall assemble a Project team under the City Engineer (or his designee) to manage Consultant's efforts and delivery of the Project. Meetings shall be held at City offices or the offices of one of the Project team.

Deliverables: All meeting materials including agendas, presentations, hand-outs, documents, etc.

Quarterly Reports

Prepare quarterly reports, which include updates on status of the work, accomplishments, progress and budget.

Deliverables: Quarterly reports for distribution and discussion at team meetings.

Public Outreach and Coordination

This work will require comprehensive public outreach as well as presentations to City boards and commissions, other agencies and the City Council. Consultant must coordinate and implement a robust public outreach effort (including agency coordination and community workshops) to solicit input on the given Project alternatives and work towards consensus in the community. This work includes preparation and development of meeting schedules, meeting and presentation materials, securing meeting locations, and other related tasks.

Deliverables: Meeting presentations, notices, and all other documents and materials necessary to perform outreach and coordination.

Final Report

Prepare a comprehensive final report documenting all work and activities undertaken through the course of this work.

Deliverables: Comprehensive Final Report.

Schematic Design

ased on the Preferred Alternative and in consultation with the City Project team, prepare schematic design (30%) plans, specifications, and estimates for the Project per City conventions. The plans must locate and consider existing utilities and structures. Utility conflicts must be identified and relocation/removal plans must be coordinated with the appropriate utility companies/agencies. The Consultant must conduct an initial site(s) assessment to determine the potential for hazardous materials. Consultant must identify any Right of Way needs, utility conflicts, required demolitions, provide a geotechnical analysis where necessary, coordinate with regulatory agencies, and provide all services necessary to develop the 30% schematic design plans.

All geotechnical investigation services necessary for the design must be provided by the Consultant, including a detailed soils report. A preliminary drainage report will be

required for the City Project team's review. The Consultant must provide detailed monthly progress reports to the City throughout the duration of the schematic design.

At the completion of the schematic design phase, Consultant must provide the City with hard copies of four (4) half-size sets of review plans, specifications, and the Engineer's Estimate. An electronic copy of the drawings in PDF format, and the specifications and Engineer's Estimate in Microsoft Word must also be provided.

Deliverables: Schematic (30%) design documents including areas and features that will require accessibility improvements, specifications, and preliminary engineer estimates.

B. **Package B.** If Package B is awarded, Consultant must complete all of the services listed for Package A in addition to the following:

Design Development Documents

Based on the approved Schematic Design Documents and within the time specified in the approved Project Schedule, prepare for the City's review and approval the Design Development Documents.

The Design Development Documents must further define the Project, including drawings and outline specifications fixing and describing the Project size, character and site relationships, and other appropriate elements describing the structural, engineering, mechanical and electrical systems, as applicable.

The Design Development Documents must include, as applicable, the following: plans, sections and elevations; criteria and sizing of major components; equipment sizes, capacities, and approximate layouts, including required spaces and clearances; typical details; materials selections and general quality levels.

When submitting the Design Development Documents for the City's approval, identify in writing all material changes and deviations, if any, that have taken place since approval of the Schematic Design Documents, including, but not limited to, changes to the last updated cost estimate and the approved Project Schedule.

Deliverables: Site development plans at 1"=20' scale at 60% completion, sections at a scale sufficient to illustrate the features of the improvements, all similar to the Schematic Design submittal plus the following (at a minimum):

- Details of conform conditions
- Traffic flow plan
- Parking layout
- Accessibility improvement details
- Existing and proposed elevations

- Lighting layouts
- Utility layout
- Draft storm management plan

Construction Documents

Based on the approved Design Development Documents and within the time specified in the approved Project Schedule, prepare for the City's review and approval, and any required governmental agency approval(s), two printed sets and one reproducible set of Construction Documents, along with an updated cost estimate.

The Construction Documents must set forth in detail the quality levels of and the requirements for construction of the Project.

The Construction Documents must include drawings and technical specifications that comply with applicable laws in effect at the time of preparation at the location of the Project, and as further specified in the RFP; and all necessary bid and contract documents, including general and special conditions, using the City's approved **template**.

When submitting the Construction Documents for the City's approval, identify in writing all material changes and deviations, if any, that have taken place since approval of the Design Development Documents including, but not limited to, changes to the last updated cost estimate and the approved Project Schedule.

Deliverables: A full and complete set of Contract Documents including Plans and Specifications, a Bid Form and Bid Schedule listing the description of the items of work and their estimated quantities, and a detailed Engineer's Estimate for the items of work listed in the Bid Schedule, all engineering calculations, an update of the total project cost estimate, an update of the overall project schedule, and a final value engineering review of reducing time of construction, reducing expenses, and improving product quality.

Bidding Phase Services

Assist the City during the bidding phase, including, if applicable, prequalification of contractors; reproduction and dissemination of approved plans, specifications, and contract documents; advertising for bids; conducting pre-bid meetings or site walks; issuance of addenda; bid review; and review of bid protests.

If the lowest responsive bid exceeds the final approved construction cost estimate by twenty-five percent (25%) or more, and the City, acting in its sole discretion decides to reject all bids and re-bid the Project, at no additional cost to the City, work with the City to make the modifications to the Construction Documents to reduce the cost of construction so as not to exceed the previously approved construction cost estimate by more than the stated additional percentage.

Deliverables: As noted above

Construction Phase Services

During the Construction Phase must provide the following services to the City:

Oversee general administration of the Construction Contract. Responsibilities include, but are not limited to, the following:

- Review and advice to the Project Manager as to the accuracy and sufficiency of Contractor's schedule of values;
- Coordination of the Project Schedule with the Contractor's the City-approved Work schedule;
- Provision of prompt and complete responses to Contractor's requests for information; and
- Coordination of efforts with the City and its Project Manager to ensure the Project is completed in a timely, cost-effective manner, consistent with the City's requirements.

Provide ongoing design services as needed, including, but not limited to the following:

- Interpretation and clarification of the drawings and specifications;
- Preparation of design documents for Change Orders as needed for the proper execution and progress of the Work, and consistent with the intent of the approved Construction Documents.

Timely review Contractor's submittals, including shop drawings, product data and samples. Issue written approvals of and/or recommendations to the City within ten days of receipt of each such submittal, unless additional time is required based on the nature of the submittal, in which case the review must be completed as soon as practicable under the circumstances. Check the submittals for conformance with the design and scope of the Project, and for compliance with the approved Construction Documents. The review must not extend to the Contractor's means, methods, techniques, sequences, or procedures, unless such have previously been specified in the Construction Documents.

Deliverables: A package of all documentation arising throughout the course of construction each month (see Reports Section below), including but not limited to Contractor's submittals, shop drawings, data sheets, requests for information (RFI's) requests for quotations (RFQ's), contract change orders (CCO's), and as-built drawings.

Change Orders

Assist the Project Manager in evaluating, processing, and determining whether to recommend approval of requests for changes in the Work, and, if applicable, prepare and submit proposed Change Orders.

Site Visits

Visit the Project site at intervals sufficient to monitor the progress and quality of the Work and to determine whether the Work is proceeding in conformance with the Construction Contract. Following each Project site visit, promptly provide the Project Manager with a written report of observations and recommendations, if any.

Provide prompt notice to the Project Manager of any defects or deficiencies in the Work, followed by written confirmation of that notice.

If it is believed that special testing or inspection of the Work is needed, recommend appropriate procedures and consultants to the City.

Payment Applications

Assist the City in processing the Contractor's payment applications in accordance with the provisions of the Construction Contract.

Meetings

Attend meetings with the Project Manager or the Contractor(s) on a weekly basis.

Reports

Prepare and submit written reports on the progress or status of the Work to the Project Manager on a monthly basis. The reports should coincide with the Consultant's review of the Contractor's payment applications. Three copies of the reports should be submitted to the City Engineer, and should include a detailed summary of all project activities that occurred during the prior month.

Inspections

Conduct inspections reasonably necessary to determine whether Contractor has achieved final completion of the Work in accordance with the Construction Contract, and must prepare a list of items to be completed or corrected (the "punch list"), including estimates of the cost for the City to correct or complete the punch list items, as well as required final submittals (e.g., warranties, manuals, as-built drawings, etc.) in order to achieve final completion.

Close Out and Post-Construction Services

If Architect is required to provide close out and post construction design services pursuant to Attachment A, Architect must do the following:

1. Promptly perform all tasks reasonably necessary for Project close out;
2. Provide the City with a color schedule of all finished materials incorporated into the

Project;

3. If requested, make up to six (6) visits to the Project site during the warranty period to advise the City on the need for warranty work;

Attachment 7: Consultant Proposal DBE Commitment

The Consultant shall attach a completed Consultant Proposal DBE Commitment form found in the Caltrans Local Assistance Procedures Manual, Exhibit 10-O1:

<http://www.dot.ca.gov/hq/LocalPrograms/lam/forms/chapter10/10o1>

Attachment 8: Lobbying Certification

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

_____ Signature of Consultant's Authorized Official

_____ Name and Title of Consultant's Authorized Official

_____ Date

Please note: Standard Form-LLL, "Disclosure Form to Report Lobbying," is available online at <https://www.gsa.gov/forms-library/disclosure-lobbying-activities>.

Attachment 9: Debarment, Suspension, Ineligibility and Voluntary Exclusion Certification

Consultant must comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Consultant must verify that its principals, affiliates, and subconsultants or subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted award;
- b) Suspended from participation in any federally assisted award;
- c) Proposed for debarment from participation in any federally assisted award;
- d) Declared ineligible to participate in any federally assisted award;
- e) Voluntarily excluded from participation in any federally assisted award; or
- f) Disqualified from participation in ay federally assisted award.

By signing and submitting its proposal, the Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the City. If it is later determined by the AGENCY that the Proposer knowingly rendered an erroneous certification, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 CFR part 180, subpart C, as supplemented by 2 CFR part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date