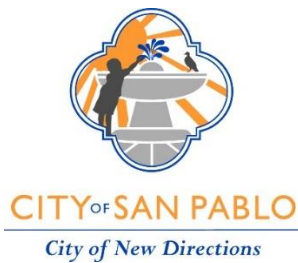


CITY OF SAN PABLO, CALIFORNIA

Date of Issuance: April 16, 2019



REQUEST FOR PROPOSAL (RFP)

Contract Services for enhanced social media network services for all City informational, marketing and promotional programs

Submission Deadline and Location:

Tuesday, April 30, 2019 @ 5:30p.m.

City Clerk's Office
City of San Pablo
13831 San Pablo Ave, Bldg. 1
San Pablo, CA 94806

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APPENDIX

- (A) FY 2019-20 Adopted City Council Priority Workplan (Effective March 1, 2019)
- (B) Master Consultant Agreement
- (C) San Pablo Local Economic Opportunity Policy

I. ABOUT SAN PABLO

San Pablo is located in West Contra Costa County off Interstate 80, minutes away from the Bay Area cultural centers of Berkeley, Oakland and San Francisco. Interstate 80 is the principal arterial route between the Bay Area and Sacramento. The City of San Pablo is nestled between the cities of Pinole and Richmond and by the neighboring cities of El Cerrito and Hercules. Historically one of the oldest Spanish settlements in the region, San Pablo has become a thriving residential and business community with a population of about 30,000 in an area of approximately two and one-half (2.5) square miles.



San Pablo is located less than 40 minutes away from international airports in Oakland and San Francisco. Access to the Bay Area Rapid Transit (BART) system and Amtrak passenger train service are closely located in the vicinity. AC Transit bus line service includes San Pablo in its route from Fremont to Pinole. Containerized shipping, ports and railway access are located in Richmond and Oakland. The City's Rumrill Boulevard serves as a major commercial/light industrial corridor and San Pablo Avenue is a major regional arterial in the East Bay region. Both corridors are both designated as major Priority Development Areas (PDAs) undergoing significant infrastructure and traffic improvement planning.

More importantly, San Pablo's diverse and multi-cultural community, housing affordability, and access to the entire Bay Area region are noted highlights of this small, urbanized Bay Area community. Currently, according to 2010 U.S. Census figures data, San Pablo has a population of nearly 63% between the ages of 18 and 64 years, with a significant population of nearly 28.3% under the age of 18 years. (Source: <http://www.bayareacensus.ca.gov/cities/SanPablo.htm>).

City Council Adopted Priority Workplan

On March 1, 2019, the City Council Adopted a Priority Workplan (Workplan) document for the FY 2019-21 period which contains a number of adopted policies and programs and supports five (5) major policy goals areas: **(1) Focus on Economic Development and Diversification; (2) Expand Housing Options, (3) Enhance Community Resilience, (4) Build a Healthy Community, and (5) Improve Public Safety.** Civic engagement is an adopted policy area related to the City Council's Workplan; and, therefore, community outreach programs on all City information, programs, projects and services are critically emphasized to inform and serve San Pablo's diverse, multi-cultural population (See Exhibit A)

II. INTRODUCTION

The City Manager is soliciting professional services from qualified individuals or firms to expand the City of San Pablo's (City) community outreach programs through the effective use of enhanced social media marketing and communications services on behalf of the City using the versatility of all current available social media network platforms. The successful candidate will propose a community outreach model that will maximize engagement and interaction with constituents throughout the community by employing multiple social media platforms; including the ability to measure engagement across all social media platforms.

III. SCOPE OF SERVICES BEING SOLICITED

At a minimum, the proposed community outreach model must be designed to enhance the City's current community outreach efforts, as follows:

- (i) Consolidate and use the City's infrastructure to disseminate information to the public to ensure that the messaging and implementation is effective to achieve desired outcome or set of outcomes; and
- (ii) Assist with content development for the City's website, City eNews, and all current City social media networks and platforms designed to inform San Pablo residents of important City initiatives and programs; and
- (iii) Allow for the creation of effective public information campaigns that focus exclusively upon a given outcome or set of outcomes; and
- (iv) Includes community outreach approaches to reach San Pablo's diverse and multi-cultural population.

Successful candidates should have a demonstrative record of accomplishment with community outreach programs geared toward local municipalities or similar public agencies in using creative development content of advertising and promotional programs via various mediums, including but not limited to the following: radio, television, print, digital; branding; marketing; promotions; video, and media support services.

IV. PROJECT BUDGET

Responders to the City's RFP should propose an annual cost that will encompass all annual costs and fees associated with providing the City with all said contracts services described

under Article III. *Scope of Services Being Solicited* under this RFP document. All contract costs should include meetings with all City officials, and to conduct and present at scheduled City Council meetings or community meetings/workshops to achieve and complete necessary tasks at direction of the City Manager. Once selected, the final professional services agreement will be executed in accordance with the City's Purchasing Ordinance requirements.

V. CONTRACT TERM DESIRED

It is the desire of the City to begin contract services by July 1, 2019. The City's attached Consulting Services Agreement contemplates, at the City's sole direction, the City Manager may exercise up to four (4) additional one-year options subject to funding availability authorized by the City Council in the applicable fiscal year, but in no event shall the term be longer than five (5) years from the original effective date.

VI. QUALIFICATIONS

Proposals will be accepted from individuals, organizations (for-profit or non-profit), or other collaborative arrangements that:

1. Are qualified to conduct business in the State of California, and the City of San Pablo. (A City issued business license will be required from the contract services provider selected prior to execution of services, effective July 1, 2019).
2. Are in a corporation or a limited liability corporation (LLC) that is in good standing with the State of California Secretary of State.

Proposers shall have substantial experience, including but not limited to, the following areas of professional expertise:

- Providing professional, effective communication services to a diverse, multi-cultural population
- Producing quality graphic design and/or copywriting
- Devising, implementing and coordinating social media networks marketing campaigns and promotions
- Developing, implementing, monitoring and adjusting media strategies while working within a modest budget to promote promotional programs, events, and facilities
- Coordinating with multiple parties to meet deadlines

VII. CONTENT AND FORMAT OF PROPOSALS

The proposal must contain the following information, at a minimum, in order to be formally considered:

A. Cover Letter: A one-page cover letter containing the following:

- Name of the person(s) authorized to represent the Proposer in negotiating and signing any agreement which may result from the proposal;
- Entity name and address;
- Phone, website and email address; and
- State certification number, if any, as a minority-owned, women-owned, disadvantaged, or emerging small business.

B. Staffing: Name and qualifications of the individuals who will provide the requested services and a current résumé for each, including a description of qualifications, skills, and responsibilities. The City is interested in professionals with experience serving small governmental entities and especially serving cities comparable in size and population to San Pablo.

C. Approach/Work Plan: Describe how you approach marketing and communications projects using social media platforms. How do you assist clients in using existing resources and leveraging the work you provide for them?

D. Experience/Work Samples: Provide previous work examples that demonstrate how you meet the experience requirements listed in Scope of Services. Submit one (1) or two (2) projects undertaken in the past three years (preferably for governmental clients of a size similar to the City) that involved services similar to the services listed in Scope of Services of this RFP. For each example, provide the following information:

- The scope and goals of the project and how success was measured
- A description of your role in the project or contractors if available
- Identify individuals who you identified under “Staffing” and who worked on the project and describe their role
- Provide a reference for the project – client’s name, title, email address and telephone number. If applicable, attach relevant work samples or a visual representation of the work (for example: a marketing publication; a URL for a website; a printed screenshot, etc.).

- E. **Cost/Budget:** Provide hourly rates or other fee structures for all said proposed services listed in Article III. *Scope of Services Being Solicited*, of this RFP.
- F. **Capacity:** Explain workload capacity and commensurate with the level of service required by the City.
- G. **Facilities:** Explain your facilities and availability of support staff.
- H. **Consulting Services Agreement including Insurance requirements:** Consultants must meet all contract and insurance requirements if selected to provide said services to City and will have deemed to have waived any exception to those terms if not raised with the written proposal, including but not limited to proof of \$2 million comprehensive and automobile liability insurance, as well as proof of coverage by Workers' Compensation Insurance or exemption, as described in greater detail in the attached Consulting Services Agreement.
- I. **Subconsultants:** A list of the tasks, responsibilities, and qualifications of any subconsultants proposed to be used on a routine basis.
- J. **Non-discrimination:** Written affirmation that the firm has a policy of nondiscrimination in employment because of race, age, color, sex, religion, national origin, mental or physical handicap, political affiliation, marital status or other protected class, and has a drug-free workplace policy.
- K. **Local Resources:** On February 20, 2018, the City Council of the City of San Pablo adopted a San Pablo Local Economic Opportunity Policy that encourages all contractors/consultants/grantees to consider local hiring and local contracting in the San Pablo community when spending City public funds. Describe your proposed use of local businesses in and around San Pablo to support local business and promote community involvement as well as the steps you would take if selected for this project.

VIII. INSTRUCTION'S FOR SUBMITTING PROPOSALS

- A. **Delivery of Proposals:** All proposals shall be typewritten and legibly in conformance with the "Instruction for Submitting Proposals", in accordance with above Content and Format of Proposals aforementioned. All proposals shall be submitted in a sealed envelope plainly marked on the outside: **"SEALED PROPOSAL FOR SAN PABLO- ENHANCED SOCIAL MEDIA SERVICES FOR CITY COMMUNITY OUTREACH PROGRAMS FOR FY 2019/20 – DO NOT OPEN WITH REGULAR MAIL"**

1. The Proposal shall be signed by an authorized agent of the Proposer; and
2. Electronic submittals are NOT accepted.

- B. Proposal Documents:** The Proposal Documents must comply with this RFP and must respond to all requested information. The Proposer shall be responsible for the prompt delivery of the proposal and must comply with the specific due date.
- C. Interpretation of the RFP:** The City shall not be responsible for any explanation of interpretation of the RFP other than by written notice. No oral interpretations of any provision in the RFP shall be binding upon the City.
- D. Review of Proposals:** After all proposals are received and opened by the City Clerk's Office, all proposals shall be reviewed and evaluated for responsiveness to the RFP in order to determine whether the Proposer possesses the professional qualifications necessary for the satisfactory performance of the services required. Qualifications of all Proposers to whom the contract services is contemplated will be investigated. An internal selection committee as determined by the City Manager will review all eligible proposals. Interviews may be scheduled for additional evaluation and review but NOT required for this process. It is anticipated that this review period will last approximately seven (7) to ten (10) business days.

In reviewing the proposals, the City will consider the following Evaluation criteria, but are not limited to, to the understanding of the proposed requirements as evidenced by the quality of the proposal response; Proposer's timely completion of similar projects within budget; qualifications of staff to be assigned; project understanding; compliance with the local economic opportunity policy, and proposal costs. The City may not necessarily select the lowest cost proposer.

Upon completion of the review period, Proposer's whose proposals will be considered for further evaluation will be notified. All Proposer's notified may be required to make presentations and negotiate in good faith.

The City reserves the right to reject any or all proposals, and to waive any irregularities. The award of the PSA, if made by the City, will be based upon a total review and analysis of each proposal and projected costs.

E. Award of Consulting Service Agreement (CSA):

1. Once a Proposer has been selected, the City will negotiate a final scope of services to include in the City's master consultant services agreement (Appendix B). The City

shall not be contractually obligated to any Proposer until duly authorized representatives of both the Proposer and the City sign an agreement.

IX. CONTACT INFORMATION

For additional questions on scope of services and proposal being solicited, please contact Mr. Matt Rodriguez, San Pablo City Manager at email: MattR@SanPabloCa.gov

X. PROPOSALS DUE

All proposals must be received by **5:30 p.m., Tuesday, April 30, 2019.**

**Office of the City Clerk
City of San Pablo
13831 San Pablo Ave. Bldg. #1
San Pablo, CA 94806**

XI. REQUEST FOR PROPOSAL TIMELINE

The City anticipates the following general timeline for its selection process. The City reserves the right to change this schedule at any time to meet operational deadlines as determined by the City Manager.

- | | |
|--|---|
| • RFP Advertised: | Week of April 15, 2019 |
| • Proposal Due Date (must be received by): | Tuesday, April 30, 2019 (by 5:30 p.m.) |
| • Selection Committee Evaluation Week: | May 1 - 14, 2019 |
| • Consultant Interviews (if needed): | Week of May 20, 2019 |
| • Contract Approval Date: | Monday, June 3, 2019 |
| • Commencement of Contract: | Monday, July 1, 2019 |
-

APPENDIX

- (A) FY 2019-21 Adopted City Council Priority Workplan (Effective March 1, 2019)
- (B) Master Consultant Services Agreement
- (C) San Pablo Local Economic Opportunity Policy (Adopted 02/20/18)

APPENDIX:

EXHIBIT A:

***FY 2019-21 Adopted City Council Priority Workplan (Effective
March 1, 2019)***



CITY_{OF} SAN PABLO

City of New Directions

FY 2019-21

**CITY OF SAN PABLO CITY COUNCIL PRIORITY
WORKPLAN**

Adopted/Effective: March 1, 2019

City Council Resolution No. #2019-029



San Pablo City Council

Priority Work Plan - Major Policy Goals



TOP CITY COUNCIL PRIORITIES (By Major Policy Goal)

(IN ALPHABETIC ORDER)

1. **100-199 BUILD A HEALTHY COMMUNITY**
2. **200-299 ENHANCE COMMUNITY RESILIENCE**
3. **300-399 EXPAND HOUSING OPTIONS**
4. **400-499 FOCUS ON ECONOMIC DEVELOPMENT AND DIVERSIFICATION**
5. **500-599 IMPROVE PUBLIC SAFETY**

MAJOR POLICY GOAL: BUILD A HEALTHY COMMUNITY:		
PRIORITIES	DEPARTMENT	FUNDING
100.1. BUILD OPPORTUNITY TO PARTICIPATE IN THE LOCAL ECONOMY	All	TBD
100.2. CONTINUE DEVELOPMENT OF MULTI-ETHNIC DIVERSITY AND AWARENESS IN CITY PROGRAMS AND SERVICES	CS, PD	GF
100.3. FOSTER COLLEGE AND CAREER READINESS, EDUCATION, YOUTH LEADERSHIP, AND CITY/CONTRA COSTA COLLEGE/WCCUSD PARTNERSHIPS	All	TBD
100.4. IMPROVE CONNECTIONS TO HEALTHY EATING AND ACTIVE LIVING	CS, CED & EDC	GF
100.5. FOSTER YOUTH LEADERSHIP/CULTIVATION OF THE NEXT GENERATION OF CIVIC LEADERS	CS	GF
100.6. EXPAND SAFE, FAMILY-FRIENDLY PARK SPACE	CS & PW	TBD
100.7. BUILD COMMUNITY-POLICE RELATIONSHIPS	PD	GF
100.8. TRANSIT-ORIENTED DEVELOPMENT POLICIES AND STRATEGIES	CM & CED	TBD
100.9. HEALTHY EATING ACTIVE LIVING CAMPAIGN	CITY-WIDE	GF
100.10. SUPPORT LIFELONG MEDICAL CARE, INC. IN PROVIDING ENHANCED MEDICAL SERVICES	CS	TBD
100.11. DEVELOP PUBLIC FACILITIES FOR ACTIVE LIVING (PARKS, OPEN SPACE, SIDEWALKS, TRAILS, BIKE LANES, ETC.)	PW	GRANTS
100.12. ADA TRANSITION PLAN (UPDATE/IMPLEMENTATION)	PW	GF; GRANTS
100.13. RH&S PROGRAM IMPROVEMENTS WITH INCREASED INSPECTIONS	CED	
100.14. SAN PABLO BEACON COMMUNITY SCHOOLS (FBSCS) INITIATIVE (ALL ELEMENTARY AND HELMS MIDDLE SCHOOLS)	CM & CS	MQ
100.15. UPDATE TO CITYWIDE LIQUOR ORDINANCE	CED, PD, & CA	GF
100.16. HISTORIC PRESERVATION PARK FOR CITY-OWNED BUILDINGS	CM & CED	GF
100.17. REVISE CITY LOGO TO "CITY OF HEALTHY LIVING"	CM	GF
MAJOR POLICY GOAL: ENHANCE COMMUNITY RESILIENCE		
PRIORITIES	DEPARTMENT	FUNDING
200. ESTABLISH EMERGENCY RESPONSE AND RECOVERY	PD	GF
201. CREATE COMMUNITY-INCLUSIVE EMERGENCY PREPAREDNESS PLANS	PD	GF
202. DEVELOP LONG-TERM ENVIRONMENTAL STEWARDSHIP GOALS	CED & PW	GF
203. ASSESS ENVIRONMENTAL IMPACTS OVER THE LONG-TERM	CED & PW	GF
204. VOLUNTEER SERVICE ACADEMY OR PROGRAMS	ALL	GF
205. CIVIC ENGAGEMENT	CM	GF
206. IMMIGRATION INTEGRATION LEGISLATION, PROJECTS & SERVICES	CM	GF
206.1. CALIFORNIA DREAM ACT OF 2011 (AB 120/131) IMPLEMENTATION	CM	GF
206.2. DEVELOPMENT OF IMMIGRANTS RESOURCE CENTER	CM	GF
206.3. GRANT ASSISTANCE FOR IMMIGRANT INTEGRATION PROJECTS OR SERVICES	CM	GF
206.4. IMMIGRANTS RIGHTS' ANNUAL EVENT	CM	GF
206.5. SECURE COMMUNITIES PROGRAM REFORM (AB 1081 - AMMIANO BILL)	CM	GF
206.6. SUPPORT FOR ANY NEW FEDERAL/STATE LEGISLATION	CM	GF
207. INFORMATION KIOSK AT CITY HALL	CM	TBD
208. CREEKSIDE SETBACK STUDY	PW	GF

MAJOR POLICY GOAL: EXPAND HOUSING OPTIONS		
PRIORITIES	DEPARTMENT	FUNDING
300. INCREASE HOMEOWNERSHIP	CED	TBD
301. EXPAND/EXPLORE AFFORDABLE HOUSING PROGRAMS (I.E. FIRST-TIME HOMEBUYER PROGRAM; TECHNICAL CAREERS, VETERANS, ETC.)	CED	LSA
302. DIVERSIFY AND IMPROVE THE QUALITY OF HOUSING STOCK	CED	LSA
303. ENHANCE RESIDENTIAL HEALTH AND SAFETY PROGRAM	CED	GF
304. EVALUATE ADOPTING A MICRO-HOUSING OR TINY HOUSE ORDINANCE (PROVIDING FOR APPROPRIATE SOCIAL SERVICES REFERRALS)	CM & CED	TBD
305. CONTRA COSTA COLLEGE TRANSIT CENTER/VILLAGE DEVELOPMENT	CM, CED, & PW	GF
MAJOR POLICY GOAL: ECONOMIC DEVELOPMENT AND DIVERSIFICATION		
PRIORITIES	DEPARTMENT	FUNDING
400. DIVERSIFY REVENUE STREAM	ADM, CED & EDC	TBD
401. SUPPORT THE SAN PABLO EDC EFFORTS	CM	GF
402. FIND CREATIVE WAYS OF ATTRACTING NEW BUSINESS AND DEVELOPMENT	CM, CED & EDC	TBD
403. CREATE A SUSTAINABLE ECONOMIC ECOSYSTEM	CM, CED & EDC	TBD
404. CITY LANDMARK SIGNAGE (ARCHWAY & HILLSIDE SIGN)	CM & CED	TBD
405. NEW REVENUE ENHANCEMENTS	CM	GF
406. CITY-WIDE G.I.S. MAPPING (UNDERUTILIZED & VACANT PROPERTIES)	CM, CED & PW	GF
407. 23RD STREET RE-NAMED TO CESAR CHAVEZ BOULEVARD	CC, CM & PW	TBD
408. MUNICIPAL BROADBAND WIRELESS PROJECT	CM, IT, CED, PW	GF, MISC
MAJOR POLICY GOAL: IMPROVE PUBLIC SAFETY		
PRIORITIES	DEPARTMENT	FUNDING
500. EMPLOY INTEGRATED EFFORTS TO REDUCE BLIGHT	ALL	TBD
501. STRENGTHEN TECHNOLOGICAL INFRASTRUCTURE	CM, ADM, CED	GF
502. PRIORITIZE PROGRESSIVE TRAINING	PD	GF
503. COMMUNITY POLICING	PD	GF
504. PRESERVE REGIONAL APPROACH	PD	TBD
505. KEEP SAN PABLO CLEAN LITTER CONTROL INITIATIVE	PW	TBD
506. ILLEGAL DUMPING/MULTI-FAMILY COMPLEXES (EDUCATION & ENFORCEMENT)	PW	GF
507. ESTABLISH PROFESSIONAL STANDARDS AND TRAINING UNIT	PD	GF
508. INCREASE AND PRIORITIZE GANG ENFORCEMENT AND PREVENTION	PD	GF
509. PRIORITY ORIENTED POLICING PROGRAM	PD	GF
510. TRAFFIC SAFETY PROGRAM	PD & PW	GF
511. HOMELESS SERVICES & ILLEGAL ENCAMPMENT ENFORCEMENT	PD & PW	GF
- END -		

KEY/SYMBOLS:

ADM	=	ADMINISTRATIVE SERVICES DEPARTMENT (FINANCE)
CA	=	CITY ATTORNEY
CED	=	COMMUNITY & ECONOMIC DEVELOPMENT
CM	=	CITY MANAGER
CS	=	COMMUNITY SERVICES
EDC	=	ECONOMIC DEVELOPMENT CORPORATION
GF	=	GENERAL FUND
IT	=	INFORMATION TECHNOLOGY (ADMIN. SVCS.)
MC	=	MEASURE C FUNDING
MJ	=	MEASURE J FUNDING
MQ	=	MEASURE Q FUNDING (CITY)
PW	=	PUBLIC WORKS
TBD	=	TO BE DETERMINED

APPENDIX:

EXHIBIT B:

City of San Pablo Master Consultant Services Agreement

CITY OF SAN PABLO
AGREEMENT FOR CONSULTING SERVICES
Project No. [REDACTED] / Agreement No. [REDACTED]

THIS AGREEMENT ("**Agreement**"), dated and effective this [REDACTED] day of [REDACTED], 20[REDACTED] ("**Effective Date**"), is by and between the City of San Pablo, a municipal corporation organized and existing under the laws of the State of California, ("**City**"), and [REDACTED], a [REDACTED], ("**Consultant**") (individually, a "**Party**," and collectively, the "**Parties**").

RECITALS

WHEREAS, the City desires to engage a consultant to provide [REDACTED] services to the City ("**Services**") as further set forth in this Agreement;

WHEREAS, the City desires to engage a consultant who will act at all times in the City's best interest will respect the trust and confidence placed in that consultant by the City; and

WHEREAS, Consultant has represented to City that Consultant has the special training, skill, competence and expertise necessary to provide the Services needed by the City; desires to enter into this Agreement with the City as an independent contractor; and is willing to provide the Services on the following terms and conditions.

NOW, THEREFORE, Consultant and the City agree as follows:

TERMS AND CONDITIONS

(1) Scope of Services.

A. **Scope of Services.** Consultant agrees to provide the Services to the City as specified in, collectively, the scope of services set forth in the City's Request for Proposals, dated [REDACTED] and any addenda thereto ("**RFP**"), attached as **Exhibit A** and incorporated herein, and the scope of services set forth in Consultant's proposal dated [REDACTED] ("**Proposal**"), attached as **Exhibit B** and incorporated herein. In the event of any conflict or inconsistency between any of the terms of the RFP, the Proposal, and this Agreement, the terms most favorable to the City will prevail. Any services not encompassed in this Section (1) are additional services ("**Additional Services**") subject to prior written authorization by the City, as further specified below in Section (3), "Additional Services."

B. **Quality of Performance.** Consultant will provide the Services and any authorized Additional Services in accordance with the standards of its profession; in accordance with the terms, conditions, and objectives of this Agreement; and in a manner satisfactory to the City Manager or his or her authorized delegee ("**City Manager**"). Consultant represents that it possesses the necessary skills, background, and licenses to perform the Services or Additional Services. Consultant is solely responsible for the quality and suitability of the Services it provides pursuant to this Agreement. If, during the course of this Agreement, the City Manager notifies Consultant that the Services are not satisfactory, in whole or in part, Consultant will promptly take the corrective action required by the City Manager, at no extra cost to the City. Failure to promptly take such corrective action constitutes a material breach of this Agreement and cause for termination in the City's discretion. This standard of care will not be construed to impose a mandatory duty on the City within the meaning of Government Code section 815.6. The City's

acceptance of Services performed under this Agreement will not operate to waive or release Consultant's obligation under this paragraph.

C. **Time is of the Essence.** In the performance of this Agreement, time is of the essence. Consultant must be available to begin providing the Services upon the Effective Date of this Agreement, and must complete the Services within the time specified in Section (4), "Effective Date and Term."

D. **Primary Service Provider.** The City has approved of _____ as Consultant's primary provider of the Services under this Agreement, and no other person will be accepted as the primary provider of the Services without the City's prior written consent.

(2) **Compensation.** As full compensation for the satisfactory and timely performance of the Services as specified in Section (1), "Scope of Services," and the attached exhibits, City hereby agrees to pay Consultant a sum not to exceed _____ Dollars <write out amount> (\$) as follows:

<Indicate any special payment arrangement, if applicable, e.g., hourly rates.>

Consultant will be paid all undisputed amounts within thirty (30) days of City's receipt of detailed invoices for Services provided to the City Manager's satisfaction during the preceding calendar month. Invoices must include all of the information contained in Section (6), "Billings," below. Each invoice must be signed by an authorized representative of Consultant, verifying that the invoiced Services have been performed. Consultant will not be entitled to compensation for Additional Services, as defined below in Section (3), unless authorized by City in writing in advance, and memorialized in an amendment to this Agreement executed by the authorized representatives of each Party. This Section (2) supersedes any conflicting or inconsistent provisions in the Proposal.

(3) **Additional Services.** In addition to the Services included in Section (1), "Scope of Services," the Parties may from time to time agree that Consultant will provide Additional Services for additional compensation, as authorized by the City Manager. The nature and scope of the Additional Services, including the time for performance and terms for mutually agreeable additional compensation must be memorialized in a writing, executed by both Parties, as further specified in Section (25), "Amendments," before Consultant may begin providing the Additional Services. Consultant will not be entitled to compensation for any Additional Services performed without a written amendment to include the Additional Services in this Agreement. If Consultant believes that services that it is directed to perform by City are not included in Section (1), "Scope of Services," Consultant will promptly notify the City in writing of the basis for this belief. If the City agrees that the subject services are not included in Section (1), "Scope of Services," the Parties will promptly execute a writing to authorize the services as Additional Services for mutually agreed-upon additional compensation. Except as otherwise specified in the written authorization, all Additional Services are subject to the same terms and conditions as all Services under this Agreement, including, billing, record-keeping, reporting, insurance, indemnity, and compliance with all applicable laws and standards.

(4) **Effective Date and Term.** The term of this Agreement ("Term") begins on the Effective Date set forth above, and expires on _____. If the Term expires later than the end of the City's fiscal year, the continuation of the Term into the next fiscal year will be contingent upon the City's lawful encumbrance or appropriation of new funds for the Agreement.

(5) **Assignment and Subcontracting.** A substantial inducement to City for entering into this Agreement was, and is, the reputation and competence of Consultant. The assignment or subcontracting of this Agreement by Consultant, or any interest therein, is prohibited without the prior written approval of the City Manager. The City has authorized Consultant to use the following Subconsultants/Subcontractors as specified:

<u>Subconsultant/Subcontractor Name</u>	<u>Subconsultant/Subcontractor Services</u>

(6) **Independent Contractor Status.** It is expressly understood and agreed by the Parties that Consultant, while providing Services pursuant to this Agreement, is an independent contractor and not an employee of the City. Consultant is solely responsible for the means and methods by which it provides the Services. Consultant is solely responsible for all matters relating to the payment of its employees, including compliance with social security, withholding tax and all other laws and regulations governing such matters. Consultant is solely responsible for its own acts and those of its agents and employees during the Term of this Agreement. Consultant will not represent, at any time or in any manner, that Consultant is an employee of the City. Consultant will exercise its judgment in recommending to City the methods by which to accomplish City's objectives and needs. Consultant acknowledges that the City will provide no training. Consultant will provide whatever tools and materials that are necessary to complete a client engagement. Consultant is free to accept, and has accepted in the past, other client engagements. Consultant is responsible for purchasing, bringing, providing, and controlling any and all equipment, tools, instruments, etc. needed for completion of the Services set forth herein, as well as for maintenance and use of such equipment. It is understood that Consultant is hired on a temporary basis only, and that if the City and/or Consultant desires to continue Consultant's services after expiration of the Term or termination of this Agreement, Consultant must enter into a new agreement.

(7) **Billings.** Consultant's invoices must include the following information: (a) a brief description of Services performed, including any Additional Services; (b) the date the Services were performed; (c) the number of hours spent and by whom; (d) the current Agreement not-to-exceed amount; (e) the amount previously billed; (f) the total paid to date; (g) the outstanding balance due, if any; (h) the current invoice amount; (i) total amount billed against the Agreement to date; (j) the remaining balance of the not-to-exceed amount; and (k) the Consultant's signature. Except as specifically authorized by City, Consultant will not bill City for duplicate Services performed by more than one person. Consultant may not submit any billing for an amount in excess of the maximum amount of compensation authorized in Sections (2) and (3), above. Consultant is solely responsible for its office and overhead costs, including furniture and equipment rental, supplies, salaries of employees, telephone calls, postage, advertising, and all other expenses incurred by Consultant in the performance of this Agreement.

(8) **Advice and Status Reporting.** Consultant will provide the City with timely reports, orally or in writing, of all significant developments arising during performance of its Services, and provide the City with information as is necessary to enable City to monitor the performance of this Agreement, including statements and data demonstrating the effectiveness of the Services provided in achieving the City's express goals and objectives. The City may withhold payments otherwise due to Consultant pending timely delivery of all such reports and information.

Consultant will promptly notify the City Manager of any matters that could adversely affect Consultant's ability or eligibility to continue to provide Services under this Agreement.

(9) **Retention of Records.** Consultant's complete files, including all records, employee time sheets, and correspondence pertaining to the Services will be available for review by the City upon request, and copies of pertinent reports and correspondence will be furnished for the City's files upon request by the City. Consultant will maintain adequate documentation to substantiate all charges for hours and materials charged to City under this Agreement. Consultant will maintain the records and any other records related to the Services or this Agreement and will allow City access to such records for a period of four years after the expiration of the Term or termination of the Agreement. At City's request, or upon expiration or termination of this Agreement, Consultant will return to City all plans, maps, cost estimates, project financial records, reports, and related documents. All research information, plans, diagrams, financial records, reports, cost estimates or other documents prepared or obtained under the terms of this Agreement will be delivered to and become the property of the City and all data prepared or obtained under this Agreement will be made available, upon request, to the City without restrictions or limitations on their use. This Section (8) will survive expiration of the Term or termination of the Agreement.

(10) **Written Reports and Documents.** In accordance with Government Code section 7550, if the total compensation paid to Consultant under this Agreement exceeds \$5,000, any document or written report prepared by Consultant for or under the direction of City will contain the numbers and dollar amounts of all contracts and subcontracts relating to the preparation of such document or written report. The contract and subcontract numbers and dollar amounts shall be contained in a separate section of such document or written report. When multiple documents or reports are the subject or product of this Agreement, the disclosure section may also contain a statement indicating that the total contract amount represents compensation for multiple documents or reports.

(11) **Record and Fiscal Control System.** Consultant will maintain its financial records and fiscal control systems in a commercially reasonable manner. Consultant will maintain personnel and payroll records to adequately identify the source and application of all received funds; withhold income taxes; pay employment taxes (including Social Security), unemployment compensation, worker's compensation and other taxes as may be due. Consultant will maintain an effective system of internal control to assure that funds provided through the City are used solely for authorized purposes.

(12) **Access to Records; Audits.** The City will have access at any time during normal business hours and as often as necessary to any bank account and books, records, documents, accounts, files, reports, and other property and papers of Consultant relating to the Services to be provided under this Agreement for the purpose of making an audit, review, survey, examination, excerpt or transcript.

(13) **Consultant's Testimony.** Unless the Services include serving as an expert witness, Consultant agrees to consult with City and testify at City's request at no additional cost other than normal witness fees if litigation is brought against City in connection with Consultant's Services. This Section (12) will survive expiration of the Term or termination of the Agreement.

(14) **Assignment of Personnel.** Consultant will only assign competent and qualified personnel to perform the Services. If City asks Consultant to remove a person assigned to the Services, Consultant agrees to do so immediately regardless of the reason, or the lack of a reason, for City's request.

(15) **Insurance.** Before it may begin performing Services under this Agreement, Consultant must procure and provide proof of the insurance coverage and endorsements required by this Section in the form of certificates and endorsements acceptable to City. The required insurance must cover the activities of Consultant and its subconsultants or subcontractors relating to or arising from the performance of the Services, and must remain in full force and effect at all times during the Term of the Agreement. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better. If Consultant fails to provide any of the required coverage in full compliance with the requirements of this Agreement, City may, at its sole discretion and in addition to any other remedies, purchase such coverage at Consultant's expense and deduct the cost from payments due to Consultant, suspend performance of the Services under the Agreement, or terminate Consultant for default. The procurement of the required insurance will not be construed to limit Consultant's liability under this Agreement or to fulfill Consultant's indemnification obligations under this Agreement. If coverage limits carried by Consultant exceed the minimum limits specified below, the higher limits will be deemed to be required by this Agreement.

A. **Policies and Limits.** Consultant must procure and maintain the following insurance policies and limits at all times during the Term of this Agreement:

1. **Commercial General Liability Insurance ("CGL"):** The CGL policy must be issued on an occurrence basis, written on a comprehensive general liability form (CG 00 01), and must include coverage for liability arising from the operations of Consultant or its subconsultants or subcontractors in the performance of the Services, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits of at least \$2,000,000.00 per occurrence. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein.
2. **Automobile Liability:** The automobile liability policy must provide coverage of at least \$1,000,000.00 combined single-limit per accident for bodily injury, death or property damage.
3. **Workers' Compensation Insurance and Employer's Liability:** The policy must comply with the requirements of the California Workers' Compensation Insurance and Safety Act, providing coverage of at least \$1,000,000.00, or as otherwise required by law.
4. **Professional Liability:** The professional liability insurance policy must insure against the Consultant's errors and omissions in the provision of Services under this Agreement, in an amount not less than \$1,000,000.00 combined single limit. Any deductible or self-insured retention may not exceed \$50,000. The professional liability policy must include prior acts coverage sufficient to cover all Services provided by the Consultant for this Agreement, and the coverage must continue in effect for five years following final payment to Consultant. The following provisions apply if the professional liability policy is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be on or before the Effective Date of the Agreement.
- b. The insurance must be maintained and evidence of insurance must be provided for a continuous period of at least five years following expiration of the Term or termination of the Agreement, whichever occurs first.
- c. If the coverage is canceled or not renewed and is not replaced with another claims-made policy form with a retroactive date that is on or before the Effective Date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five years following expiration of the Term or termination of the Agreement, whichever occurs first. The City has the right to procure, at Consultant's cost, any extended reporting provisions of the policy if the Consultant cancels or fails to renew the coverage.
- d. A copy of the claim reporting requirements must be submitted to the City before Consultant may begin performing Services under this Agreement.

B. **Required Endorsements.** The insurance provided by Consultant must include the following endorsements as specified below. The endorsements must be executed by a person authorized to bind the issuing insurer. The endorsements are to be provided on forms provided, specified, or approved by the City. As an alternative to the City's forms, the Consultant's insurer(s) may provide complete copies of all required insurance policies, including endorsements.

1. Additional Insured Endorsements: The General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions:

- a. The City, its officers, officials, employees, and volunteers ("**Additional Insureds**") will be covered as additional insureds with respect to all covered liability. This must be provided in the form of an additional insured endorsement to the Consultant's insurance policy, using form CG 20 10 11 85, forms CG 20 10 10 01 and GC 20 37 10 01, or equivalent approved by the City. For design professionals form CG 20 07 may be used. Alternatively, the additional insured endorsement may be provided as a separate owner's policy that complies with all of the requirements set forth in this Section 15.
- b. The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the policies will apply as though separate policies have been issued to each of the Additional Insureds.
- c. The insurance provided by the Consultant is primary and no insurance or self-insurance held or owned by any of the Additional Insureds may be called upon to contribute to a loss or defense.
- d. Any failure by Consultant to comply with the reporting requirements for a policy will not affect nor abridge the coverage provided for any Additional Insureds.
- e. The coverage or endorsement will not contain any limitations on the scope of protection available to the Additional Insureds.

2. **Notice:** Each insurance policy required by this clause must provide or be endorsed to state that coverage will not be reduced, canceled, or allowed to expire without at least 30 days written notice to the City, unless due to non-payment of premiums, in which case 10 days written notice is required.
3. **Waiver of Subrogation:** Each required policy must include an endorsement providing that the insurer will waive any right of subrogation it may have against the City. Consultant hereby agrees to waive subrogation which any insurer of Consultant may acquire from Consultant by virtue of the payment of any loss.

C. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions for the required insurance policies are subject to prior approval by the City Manager. Before beginning performance of the Services, Consultant must disclose the amounts of the deductibles and self-insured retentions that apply to the required policies. If the City Manager determines that the deductible or self-insured retention for any required policy is unacceptably high, at the option of City, (1) the insurer must reduce or eliminate the deductible or self-insured retention with respect to the Additional Insureds, or (2) the Consultant must provide a bond or financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses. During the Term of this Agreement, Consultant may not increase any deductibles or self-insured retentions with respect to the Additional Insureds, without the prior written consent of the City Manager. The City Manager may condition such consent upon the Consultant procuring a bond or financial guarantee that is satisfactory in form to the City, guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

D. **Subconsultants or Subcontractors.** Consultant must ensure that each subconsultant or subcontractor is required to maintain the same insurance coverage required for Consultant under this Section (15), with respect to its performance of Services, including the required endorsements. Consultant must confirm that each subconsultant or subcontractor has complied with these insurance requirements before the subconsultant or subcontractor is permitted to begin Services under this Agreement. Upon request by the City, Consultant must provide certificates and endorsements submitted by each subconsultant or subcontractor to prove compliance with this requirement. The insurance requirements for subconsultants or subcontractors do not replace or limit the Consultant insurance obligations.

(16) **Indemnification.** The terms and conditions set forth in subsection 16(A), below, are applicable to this Agreement if the Services to be provided by Consultant are not “design professional” services as used and defined in Civil Code section 2782.8 (architect, landscape architect, engineering, or land surveyor services). The terms and conditions set forth in subsection 16(B), below, are applicable to this Agreement if the Services to be provided by Consultant are “design professional” services as used and defined in Civil Code section 2782.8 (architect, landscape architect, engineering, or land surveyor services).

A. **Indemnification by Non-Design Professionals.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with counsel acceptable to the City) and hold harmless City, and its employees, officials, volunteers and agents (“**Indemnified Parties**”) from and against any and all losses, claims, damages, costs and liability of every nature arising out of or resulting from the performance of this Agreement by Consultant, its officers, employees, agents, volunteers, subcontractors or sub-consultants, excepting only liability arising from the sole negligence, active negligence or willful misconduct of City. Liabilities subject to the duties to defend and indemnify include, without limitation, all claims, losses, damages, penalties, fines,

and judgments; associated investigation and administrative expenses; defense costs, including but not limited to reasonable attorneys' fees; court costs; and costs of alternative dispute resolution.

1. The duty to defend is a separate and distinct obligation from the Consultant's duty to indemnify. The Consultant shall be obligated to defend, in all legal, equitable, administrative, or special proceedings, with counsel approved by the City, the City and its directors, officers, and employees, immediately upon tender to the Consultant of the claim in any form or at any stage of an action or proceeding, whether or not liability is established. An allegation or determination of comparative active negligence or willful misconduct by an Indemnified Party does not relieve the Consultant from its separate and distinct obligation to defend City. The obligation to defend extends through final judgment, including exhaustion of any appeals. The defense obligation includes an obligation to provide independent defense counsel if the Consultant asserts that liability is caused in whole or in part by the negligence or willful misconduct of an Indemnified Party. If it is finally adjudicated that liability was caused by the sole active negligence or sole willful misconduct of an Indemnified Party, Consultant may submit a claim to the City for reimbursement of reasonable attorneys' fees and defense costs.

2. In the event that Consultant or any employee, agent, subconsultant or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("**PERS**") to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, subconsultants or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

3. The review, acceptance or approval of the Consultant's Services or work product by any Indemnified Party shall not affect, relieve or reduce the Consultant's indemnification or defense obligations. The provisions of this Section are not limited by and do not affect the provisions of this Agreement relating to insurance.

4. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

5. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

B. Indemnification by Design Professionals. Consistent with California Civil Code section 2782.8 ("**section 2782.8**"), when the Services to be provided under this Agreement are to be performed by a "design professional," as that term is defined under section 2782.8, Consultant shall, to the fullest extent permitted by law, indemnify, defend and hold harmless City, and its employees, officials, volunteers and agents ("**Indemnified Parties**") from and against any and all losses, claims, damages, costs and liability of every nature, including reasonable attorneys' fees and costs, to the extent caused in whole or in part by any negligence, recklessness, or willful misconduct of Consultant, its officers, employees, agents, subconsultants or subcontractors in performance of the Services under this Agreement, but excluding the sole or active negligence or willful misconduct of one or more of the Indemnified Parties. Defense costs

shall not exceed Consultant's proportionate percentage of fault, except as set forth in section 2782.8.

1. In the event that Consultant or any employee, agent, subconsultant or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System ("**PERS**") to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, subconsultants or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

2. The review, acceptance or approval of the Consultant's Services or work product by any Indemnified Party shall not affect, relieve or reduce the Consultant's indemnification or defense obligations. The provisions of this Section are not limited by and do not affect the provisions of this Agreement relating to insurance.

3. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply.

4. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration, and that these provisions survive the termination of this Agreement.

(17) Licenses. If a license of any kind, which term is intended to include evidence of registration, is required of Consultant, its employees, agents, or subcontractors by federal or state law, Consultant warrants that such license has been obtained, is valid and in good standing, and Consultant shall keep it in effect at all times during the term of this Agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations. Consultant, its subconsultants, and subcontractors, will obtain and maintain a City of San Pablo Business License at all times during the Term of this Agreement.

(18) Employment Practices.

- A. **Employment of Local Residents.** Pursuant to the San Pablo Economic Opportunity Policy, the Consultant and any subcontractors shall contact the San Pablo Economic Development Corporation ("**EDC**") at info@sanpabloedc.org or 510-215-3200, at least ten business days prior to hiring or staffing for fulfillment of the Agreement, describing number, duties and qualifications needed for available positions, and shall fairly consider for employment any workers referred by the EDC within three business days. "**Local Resident**" means an individual having an adjusted household income of less than the Area Median Income for Contra Costa County, and domiciled in the City of San Pablo as of the relevant hiring date, with "domiciled" as defined by Section 349(b) of the California Election Code. Discrimination against Local Residents on the basis of their local status is prohibited.
- B. **Compliance With Law.** Consultant represents that it is an Equal Opportunity Employer and shall comply with applicable regulations governing equal opportunity employment. Consultant shall not discriminate in the employment of any person

because of race, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment and Housing Act. Consultant shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (“ADA”) in performing its obligations under this Agreement. Failure to comply with the provisions of the ADA shall be a material breach of, and grounds for the immediate termination of, this Agreement. In performing Services and providing services under this Agreement, Consultant shall, at its sole cost and expense, comply with all applicable laws of the United States and the State of California; the Ordinances of the City of San Pablo; and the rules, regulations, orders, and directions of their respective administrative agencies and the officers thereof.

(19) Local Subcontracting – Outreach. Consultant shall contact the EDC at info@sanpabloedc.org or 510-215-3200) at least two weeks prior to any subcontract award, providing notice and details regarding subcontracting opportunity. The EDC shall notify qualified local businesses of subcontracting opportunities, and provide technical assistance to qualified local businesses during the subcontracting bidding process.

(20) Termination.

A. City may terminate this Agreement at its sole discretion at any time prior to expiration of the Term or completion by the Consultant of the Services required hereunder. Notice of termination of this Agreement shall be given in writing to the Consultant, and shall be sufficient and complete when same is deposited in the United States Mail, postage prepaid and certified, address as set forth below in Section (21), “Notices.” The Agreement shall be terminated upon the date set forth in the City’s Notice of Termination. If the City terminates this Agreement, the Consultant shall be compensated for all Services satisfactorily performed prior to the time of receipt of cancellation notice, and shall be compensated for materials ordered by the Consultant or its employees, or services of others ordered by the Consultant or its employees, prior to receipt of notice of cancellation whether or not such materials or final instruments of service of others have actually been delivered, provided that the Consultant or its employees are not able to cancel such orders for materials or services of others. Compensation for the Consultant in the event of cancellation shall be determined by City in accordance with the percentage of Services completed and agreed to by the Consultant. In the event of cancellation, all notes, sketches, computations, drawings, and specifications or other data, whether complete or not, remain the property of the City. The City may make copies or extract information from any such notes, sketches, computations, drawings, and specifications, or other data whether complete or not.

B. Termination for Cause. City may terminate this Agreement for cause by providing Consultant with one day’s written notice of such termination if Consultant violates any of the terms and conditions of this Agreement. In City’s discretion and at City’s option, such termination for cause may alternatively be accomplished, where Consultant fails to perform any of the obligations required of Consultant within the time and in the manner provided for under the terms of this Agreement, within seven days after receipt of the notice of such default. Upon City’s termination of this Agreement for cause, City reserves the right to complete the Services by whatever means City deems expedient and the expense of completing such Services, as well as any and all damages to the extent caused by the negligent acts, intentional acts or errors or omissions of the Consultant, shall be charged to the Consultant.

C. Immediate Termination. City may terminate this Agreement immediately in any case where the Consultant engages in fraudulent or criminal activities while performing the

Services, or is otherwise determined to lack the necessary skills to accomplish the desired objectives.

(21) **Ownership of Materials.** Any and all documents, including draft documents where completed documents are unavailable, or materials prepared or caused to be prepared by Consultant pursuant to this Agreement shall be the property of the City at the moment of their completed preparation. All materials and records of a preliminary nature such as survey notes, sketches, preliminary plans, computations and other data, prepared or obtained in the performance of this Agreement, shall be made available, upon request, to City at no additional charge and without restriction or limitation on their use consistent with the intent of the original design.

(22) **Amendments.** This Agreement may be modified or amended only by a written document executed by both Consultant and City's City Manager and approved as to form by the City Attorney. Such document shall expressly state that it is intended by the Parties to amend the terms and conditions of this Agreement.

(23) **Abandonment by Consultant.** In the event the Consultant ceases performing Services under this Agreement or otherwise abandons the Agreement prior to completing all of the Services, Consultant shall, without delay, deliver to City all materials and records prepared or obtained in the performance of this Agreement, and shall be paid for the reasonable value of the Services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which City incurs as a result of such cessation or abandonment. Consultant agrees to be financially responsible and to compensate City for any costs incurred by City in retaining the services of another to replace Consultant, but only to the extent that the costs of retaining the replacement exceed what remaining amounts would have been paid to Consultant under the Agreement had Consultant completed the Services.

(24) **Waiver.** The waiver by either Party of a breach by the other of any provision of this Agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this Agreement.

(25) **No Third-Party Rights.** The Parties do not intend to create rights in, or to grant remedies to, any third party as a beneficiary of this Agreement or of any duty, covenant, obligation, or undertaking established herein.

(26) **Severability.** Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the Parties.

(27) **Compliance with Laws.** In the performance of this Agreement, Consultant shall abide by and conform to any and all applicable laws of the United States, the State of California, and City ordinances. Consultant warrants that all Services done under this Agreement will be in compliance with all applicable safety rules, laws, statutes and practices, including but not limited to Cal/OSHA regulations.

(28) **Controlling Law and Venue.** This Agreement and all matters relating to it shall be governed by the laws of the State of California, and venue for any legal action arising from or

relating to this Agreement will be in the Superior Court of Contra Costa County, and no other place. Consultant hereby waives the removal provisions of Code of Civil Procedure section 394.

(29) Breach. In the event that Consultant fails to perform any of the Services described in this Agreement or otherwise breaches the Agreement, City shall have the right to pursue all remedies provided by law and equity. Neither payment by the City nor performance by Consultant shall 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, shall not waive or reduce the right to insist upon complete and timely performance of such provision thereafter. In the event of any suit, action or proceeding brought by either party for breach of any term hereof or to enforce any provision hereof, the prevailing party shall be entitled to recover its reasonable attorney's fees.

(30) Inspection by Other Agencies. Authorized representatives of the Federal Government, the California Department of Transportation, or other government agencies which provide grant funding (if any) for this Agreement and the City may have the right to inspect Consultant's work product.

(31) Conflict of Interest. Consultant warrants and covenants that Consultant presently has no interest in, nor shall any interest be acquired in, any matter which will render the services required under the provisions of this Agreement a violation of any applicable state, local, or federal law. In the event that any conflict of interest should nevertheless arise, Consultant shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this Agreement. Consultant further warrants its compliance with the Political Reform Act (Gov. Code section 81000 et seq.) respecting this Agreement. Where City Manager determines, based on facts provided by City staff, that Consultant meets the criteria of section 18701 of the FPPC regulations, the individual providing services under this Agreement shall be considered a "designated employee" under the City's conflict of interest code, and shall be required to complete FPPC Form 700 regarding his or her economic interests in a timely manner.

(32) Copyright. Upon City's request, Consultant shall execute appropriate documents to assign to the City the copyright to work created pursuant to this Agreement. The issuance of a patent or copyright to Consultant or any other person shall not affect City's rights to the materials and records prepared or obtained in the performance of this Agreement. City reserves a license to use such materials and records without restriction or limitation consistent with the intent of the original design, and City shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by City shall continue for a period of fifty years from the Effective Date unless extended by operation of law or otherwise.

(33) Whole Agreement. This Agreement constitutes the entire understanding and agreement of the parties. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof.

(34) Multiple Copies of Agreement. Multiple copies of this Agreement may be executed but the parties agree that the Agreement on file in the office of the City Clerk is the version of the Agreement that shall take precedence should any differences exist among counterparts of the document.

(35) Notices. Notices required by this Agreement shall be personally delivered or mailed, postage prepaid, as follows:

To Consultant:
Name, Title

Address

To the City: City Manager
13831 San Pablo Avenue
San Pablo, CA 94806

Each Party shall provide the other Party with telephone and written notice of any change in address as soon as practicable. Notices given by personal delivery shall be effective immediately. Notices given by mail shall be deemed to have been delivered forty-eight hours after having been deposited in the United States mail.

(36) Federal Funding Requirements (if applicable). If this Agreement is subject to federal funding, in whole or in part, it must comply with the uniform federal award procurement requirements set forth in 2 CFR §§ 200.318 – 200.326, as may be amended from time to time, and contain the applicable provisions described in Appendix II to Part 200 – *Contract Provisions for non-Federal Entity Contracts Under Federal Awards*, which are attached to this Agreement as Exhibit C. In the event of a conflict or inconsistency between Exhibit C, Exhibit D, if applicable, and this Agreement, Exhibit C will control.

[Indicate whether the Agreement is subject to federal funding by marking the appropriate provision below.]

- ___ This Agreement is subject to federal funding. See Exhibit C.
___ This Agreement is not subject to federal funding.

(37) Caltrans Funding Requirements (if applicable). If this Agreement is for architectural and/or engineering services subject to reimbursement or funding, in whole or in part, by Caltrans and administered under the Local Assistance Procedures Manual (“LAPM”), it must include the provisions set forth in Exhibit D, *Mandatory Fiscal and Federal Provisions for Architectural and Engineering Consultant Contracts Subject to Caltrans Funding*. In the event of any conflict or inconsistency between Exhibit D and this Agreement, Exhibit D will control.

[Indicate whether the Agreement is subject to reimbursement or funding by Caltrans by marking the appropriate provision below. Be sure to check the **current** LAPM requirements.]

- ___ This Agreement is subject to funding by Caltrans. See Exhibit D.
___ This Agreement is not subject to funding by Caltrans.

IN WITNESS WHEREOF, Consultant has executed this Agreement, and the City, by its City Manager, who is authorized to do so, has executed this Agreement.

APPROVED AS TO FORM:

CITY OF SAN PABLO
A Municipal Corporation

By _____
Lynn Tracy Nerland, City Attorney

By _____
Matt Rodriguez, City Manager

[NAME OF CONSULTANT]

By _____
Consultant, **[Title]**

ATTEST:

By _____
Patricia Ponce, City Clerk

Dated _____

Attachments: Exhibit A: Request for Proposals, dated _____
 Exhibit B: Consultant's Proposal, dated _____
 Exhibit C (if applicable): Federal Contract Provisions
 Exhibit D (if applicable): Mandatory Fiscal and Federal Provisions for
 Architectural and Engineering Consultant Contracts Subject to Caltrans
 Funding

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Consultant Agreement Template 102418.dotx

APPENDIX:

EXHIBIT C:

***San Pablo Local Economic Opportunity Policy
(Adopted 02/20/18)***

RESOLUTION 2018-023

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN PABLO ADOPTING A “SAN PABLO LOCAL ECONOMIC OPPORTUNITY POLICY”

WHEREAS, the City Council’s Priority Workplans adopted in 2015 and 2017 included “Project Labor Ordinance & Local Hiring Provisions for Public Works Contracts”;

WHEREAS, local employment and local contracting policies encourage employment and contracting opportunities for local residents, especially those who are moderate or low income;

WHEREAS, the San Pablo Municipal Code already has an ordinance encouraging contracting with small, local businesses and giving local bidders on non-construction and non-professional services contracts a 5% preference;

WHEREAS, in 2016, the City Council appointed a temporary, Ad-hoc Council subcommittee to work with City staff to formulate a broader local employment and local contracting policy for City Council consideration;

WHEREAS, the goals in developing a “San Pablo Local Economic Opportunity Policy” were to: 1) strengthen existing City policies requiring efforts to promote local employment and contracting opportunities in various City-supported contracts and projects; 2) ensure that these policies are “top of mind” with City staff; and 3) leverage the efforts of the San Pablo Economic Development Corporation (“San Pablo EDC”) and its workforce training and small business support efforts that are already in place;

WHEREAS, the San Pablo EDC currently provides workforce development support efforts, including various job readiness classes, training in a variety of skills, and interview and resume assistance, and business resources, trainings and technical assistance, including, but not limited to, creating a business plan, marketing, cash flow, and hiring incentives as described in the staff report presented to the City Council;

WHEREAS, the proposed Local Economic Opportunity Policy (“Policy”) (attached as Exhibit 1 to the Resolution) is in the form of a matrix and shows the range of local contracting and enforcement requirements that would apply to various City contracts, grants, leases and sales of property, while maintaining flexibility for staff and City Council to tailor an approach best suited in a particular case;

WHEREAS, the Ad-Hoc Council Subcommittee of then Vice Mayor Calloway and Council Member Cruz reviewed the draft Policy matrix, made suggested revisions and approved bringing the Policy to the City Council for consideration;

WHEREAS, if the City Council approves the Policy, then staff intends to implement the Policy with Procedures that will serve more of the “step-by-step” manual for City staff

with template bidding/proposal and contract language with such Procedures to be revised and clarified administratively as implementation occurs; and

WHEREAS, the adoption of the Policy is not a project under the California Environmental Quality Act (CEQA) as it is not an activity that may cause a direct or reasonably foreseeable indirect physical environment change pursuant to Public Resources Code section 21080(a) and 14 California Code of Regulations section 15002(d). If deemed a project, it can be would be exempt as having no possible significant effect on the environment pursuant to 14 California Code of Regulations section 15061.

NOW THEREFORE, BE IT RESOLVED that the foregoing recitations are true and correct, and are included herein by reference as findings.

BE IT FURTHER RESOLVED that the City Council of the City of San Pablo hereby adopts the San Pablo Local Economic Opportunity Policy attached as Exhibit 1 and authorizes the City Manager to implement the Policy, including but not limited to the development of administrative procedures.

* * * * *

ADOPTED this 20th day of February 2018, by the following votes:

AYES:	COUNCILMEMBERS:	Valdez, Cruz, Kinney, Morris and Calloway
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None

ATTEST:

APPROVED:



Elizabeth Pabon-Alvarado, City Clerk



Genoveva Garcia Calloway, Mayor

San Pablo Economic Opportunity Policy

Exhibit 1 to Resolution No. 2018 - 023 2/20/18 – Page 1

Policy Goal	City Contracts for construction (e.g. roads, buildings and other facilities)	City Contracts for Consultant Services (e.g., engineers, planners, auditors)	City Contracts for Other Services (e.g., security, maintenance, janitorial)	Grants by City	Leasing City Property (e.g., library café space)	Selling City Property
Local Employment	-Construction contracts awarded by the City over \$3 million shall have Local Resident employment and/or apprentice goals with % dependent on type of project, trades involved, other factors as appropriate. Contractors must demonstrate good faith efforts to meet goals with own employees or subcontractor's employees -For all public works construction contracts: require outreach to EDC for vacancies	-Require outreach to EDC for vacancies	-Service contracts for over \$1 million shall have Local Resident employment goals as appropriate -For all service contracts, require outreach to EDC for vacancies	When soliciting competitive proposals for grant awards, City will require applicants to include proposed local employment approach	-City will negotiate outreach requirements or Local Resident employment goals into lease, if appropriate for project -When soliciting competitive proposals from prospective tenants, City will require proposers to include their proposed local employment approach	-City will negotiate outreach requirements or Local Resident employment goals into land sale agreement (such as Disposition and Development Agreement “DDA”), if appropriate for project -When soliciting competitive proposals, City will require proposers to include their local employment approach

Notes:

- City staff, in consultation with the City Attorney, will develop procedures and contract language to implement above requirement
- Local Resident” means a resident of San Pablo.
- “Local Business” means an entity operating a place of business in San Pablo, with a current business license.
- “Small Local Business” is a Local Business that has less than 50 employees or less than \$2M annual gross receipts.
- “EDC” means the San Pablo Economic Development Corporation.
- Certain policy elements above cannot be implemented on federally-funded projects.

San Pablo Economic Opportunity Policy

Exhibit 1 to Resolution No. 2018 - 023 2/20/18 – Page 2

Policy Goal	City Contracts for construction (e.g. roads, buildings and other facilities)	City Contracts for Consultant Services (e.g., engineers, planners, auditors)	City Contracts for Other Services (e.g., security, maintenance, janitorial)	Grants by City	Leasing City Property (e.g., library café space)	Selling City Property
Local Contracting – prime contracts over \$5K	-City staff notifies EDC of all construction contracts over \$5K that the City is awarding -EDC notifies Local Businesses of bidding opportunity and provides technical assistance	-SPMC §3.16.100 requires City to implement a 5% bid preference to Small Local Businesses in contract award, with amount of bid preference capped at \$5K	-SPMC §3.16.100 requires City to implement a 5% bid preference to Small Local Businesses in contract award, with amount of bid preference capped at \$5K	-When soliciting competitive proposals for grant awards, City will require applicants to include their proposed local contracting approach	-City will negotiate outreach requirements or local contracting goals in lease if appropriate for project. -When soliciting competitive proposals for prospective tenants, City will require proposers to include their proposed local contracting approach	-City will negotiate outreach requirements or local contracting goals in land sale agreement if appropriate for project (e.g. Disposition and Development Agmt “DDA”). -If competitive proposal process, City will require proposers to include their proposed local contracting approach
Local Contracting – Subcontracts (e.g. trucking, paving, Security)	-City construction contracts will include requirement that bidders and awardees contact EDC regarding subcontracting opportunities -EDC notifies Local Businesses of bidding opportunities and provides technical assistance	-City consulting contracts will include requirement that bidders and awardees contact EDC regarding subcontracting opportunities -EDC notifies Local Businesses of bidding opportunities and provides technical assistance	-City service contracts will include requirement that bidders and awardees contact EDC regarding subcontracting opportunities -EDC notifies Local Businesses of bidding opportunities and provides technical assistance	-If grantee may award contracts in course of performance, include requirement that grantee contact EDC. Staff may impose contracting goals for Small Local Business and as appropriate -EDC notifies Local Businesses of bidding opportunities and provides technical assistance	-If tenant may award contracts related to tenancy, City will negotiate outreach requirements or local contracting goals in lease if appropriate for project -When soliciting competitive proposals for prospective tenants, City will require proposers to include their proposed local subcontracting approach	-City will negotiate subcontracting outreach requirements or local subcontracting goals in land sale agreement if appropriate for project (e.g. Disposition and Development Agmt “DDA”) -If competitive proposal process, City will require proposers to include their proposed local subcontracting requirements for contracts they will award
Local Contracting– small prime contracts (under \$5K)	City to attempt to award construction contracts to Small Local Businesses, when award process is informal	SPMC §3.16.090 requires City to attempt to award consulting contracts to Small Local Businesses, when award process is informal	SPMC §3.16.090 requires City to attempt to award service contracts to Small Local Businesses, when award process is informal	When soliciting competitive proposals for grant awards, City will require applicants to include proposed Small Local Business approach	City will negotiate outreach requirements or Small Local Business goals in lease if appropriate for project	-City will negotiate outreach requirements or Small Local Business goals in land sale agreement if appropriate for project