



County of San Mateo
Department of Public Works
Facilities Planning, Design and Construction – Capital Projects

NOTICE IS HEREBY GIVEN that the County of San Mateo, State of California, is issuing a

REQUEST FOR QUALIFICATIONS AND PROPOSALS

For

**Civil, Electrical, Geotechnical, Mechanical, and Structural
Engineering Services – Capital Projects Program**

* * *

Proposals must be submitted to:

County of San Mateo
Department of Public Works
Facilities Planning, Design and Construction – Capital Projects

Attn: Guido Misculin
555 County Center 5th Floor
Redwood City, CA 94063

By 4:00 P.M. PDT on

MARCH 28, 2014

PROPOSALS WILL NOT BE ACCEPTED AFTER THIS DATE AND TIME

Complete documentation can be found at:
<http://www.co.sanmateo.ca.us/portal/site/publicworks/>

under “Projects Out to Bid”

REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR

Civil, Electrical, Geotechnical, Mechanical, and Structural Engineering Services – Capital Projects Program

Note regarding the Public Records Act:

Government Code Sections 6550 *et seq.*, the California Public Record Act, defines a public record as any writing containing information relating to the conduct of the public business. The Public Record Act provides that public records shall be disclosed upon written request and that any citizen has a right to inspect any public record unless the document is exempted from disclosure.

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

(RFQP template rev. 3/12)

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SECTION I - GENERAL INFORMATION

STATEMENT OF INTENT

This Request for Qualifications and Proposals (RFQP) seeks submittals for professional civil, electrical, geotechnical, mechanical, and structural engineering services. These services include consulting needs as necessary for development of County capital projects. Refer to Section IV for full Scope of Work description. The County is considering entering into multiple consultant agreements to provide one or more of the types of engineering services listed above for a term of three years, each with a maximum fiscal obligation not to exceed \$500,000 (five hundred thousand dollars). The target commencement date for the proposed services is **May 2014**.

BACKGROUND

The Facilities Planning, Design and Construction group of the County's Department of Public Works ("DPW" or the "Department") plans, designs, and manages the construction and delivery of capital projects, as well as remodels of its existing facilities to ensure the safe, accessible and efficient use of the workplace environment, in accordance with established County Master Plan and Space Standards.

THE REQUEST FOR QUALIFICATIONS AND PROPOSALS PROCESS

This RFQP seeks submission from any and all interested and qualified firms to provide the listed services in a manner that maximizes the quality of services and value to the County and, by extension, its residents. Proposals must document the resources and capability for performing the services requested. Such evidence includes, but is not limited to, the respondents' demonstrated competency and experience in delivering services of a similar scope and type, and local availability of personnel and resources.

SECTION II - RFQP PROCESS

A. TENTATIVE SCHEDULE OF EVENTS

EVENT	TARGET DATE
1. RFQP Release Date	February 28, 2014
2. Deadline to Submit Written Questions	March 14, 2014
3. Release of Responses to Written Questions	March 21, 2014
4. RFQP Deadline – Proposals Must be <u>RECEIVED</u> by 4:00 p.m. on this date	March 28, 2014
5. Recommendation to Board of Supervisors	April 16, 2014

B. SUBMISSION OF QUALIFICATIONS AND PROPOSALS

One original and three copies must be received by the Department no later than **4:00 p.m. on March 28, 2014** per SCHEDULE OF EVENTS above. There will be no public opening of proposals. All proposals shall be firm offers, and will be so considered even as the County reserves the right to negotiate terms upon evaluation of the proposals. Proposals shall remain valid for a period of ninety days following the close of the RFQP.

By submitting a proposal, each proposer certifies that its submission is not the result of collusion, or any other activity which would tend to directly or indirectly influence the selection process. The proposal will be used to determine the proposer's capability of rendering the services to be provided. The failure of a proposer to comply fully with the instructions in this RFQP may eliminate its proposal from further evaluation by the Department, which reserves the sole right to evaluate the contents of all proposals submitted, and to selecting contractor(s), if any.

Late proposals will not be opened or given any consideration unless doing so is deemed to be in the best interest of the County, as determined in the sole discretion of the Department.

All proposals must be delivered in separate envelopes marked:

REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR

Civil, Electrical, Geotechnical, Mechanical, and Structural Engineering Services – Capital Projects Program

*Note: Identify only the specific discipline(s) being proposed -
submit a separate envelope for each*

and as otherwise required by Section V-A , addressed to:

COUNTY OF SAN MATEO
Department of Public Works
Attn: Guido Misculin
555 County Center 5th Floor
Redwood City, CA 94063

C. CONFIDENTIALITY OF PROPOSALS

California Government Code Sections 6250 *et seq.* (the “California Public Records Act” or the “Act”) defines a public record as any writing containing information relating to the conduct of the public business. The Act provides that public records shall be disclosed upon written request and that any citizen has a right to inspect any public record unless

the document is exempted from disclosure. The Department, which is part of the County of San Mateo, is subject to the California Public Records Act.

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

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

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

D. QUALIFICATIONS AND PROPOSAL EVALUATION

All proposals received will be evaluated by an RFQP Evaluation Committee. During the evaluation process, the County may require a proposer's representative to answer specific questions orally and/or in writing. The County may also require a visit to the proposer's offices, other field visits or observations by County representatives, or demonstrations as part of the overall RFQP evaluation. Once a finalist or group of finalists is selected, additional interactions or information may be required. The most qualified proposal(s) will be recommended to the Department and/or County management by the RFQP Evaluation Committee based on the overall strength of each proposal, and the evaluation is not restricted to considerations of any single factor such as cost. Execution of an agreement has been tentatively scheduled for June –July 2014.

Responses to this RFQP must adhere to the format for proposals detailed in **Section V – QUALIFICATIONS AND PROPOSAL SUBMISSION REQUIREMENTS**. The criteria used as a guideline in the evaluation will include, but not be limited to, the following:

1. Firm's qualifications and experience (of particular relevance are participation in various methods of project delivery, practice in LEAN process, BIM, REVIT®, LEED®, etc.)

2. List of projects completed in the last five years
3. Proposed project team and curricula
4. Professional costs
5. References
6. Compliance with County RFQP & contractual requirements

The County may consider any other criteria it deems relevant, and the Evaluation Committee is free to make any recommendations it deems to be in the best interest of the Department and/or the County. Inaccuracy of any information supplied within a proposal or other errors constitute grounds for rejection of the proposal. However, the County may, in its sole discretion, correct errors or contact a proposer for clarification.

The County reserves the right to evaluate proposals solely based on each vendor's written submission. In relation to written materials, evaluation will be performed only on the material included directly in the proposal itself, unless otherwise indicated or requested by the County. The evaluation team will not access company web sites or read sales brochures, marketing materials, or white papers in evaluating vendor experience or proposed methodology, unless doing so is in the County's best interest.

The County reserves the right to accept and evaluate proposals regardless of the lowest apparent cost, and to negotiate with proposers on a fair and equal basis when the best interests of the County are served by doing so.

E. QUALIFICATIONS AND PROPOSAL RECOMMENDATION

The Evaluation Committee will recommend consultant(s) to Department management, or may recommend that a proposal(s) be rejected. Department management will decide as to whether to accept or reject the Evaluations Committee's recommendations. Ultimate acceptance or rejection of the recommended proposal and execution of a contractual agreement is the independent prerogative of the Department and/or the County, notwithstanding any recommendations made by the Evaluation Committee.

F. NOTICE TO PROPOSERS

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

G. PROTEST PROCESS

If a proposer desires to protest the selection(s) made, the proposer must submit a written protest within five (5) business days after the delivery or publication of the selection notice. Written protest should be submitted to the Department of Public Works as outlined below. Protests received after the deadline will not be accepted. Protests must be in writing, must include the name and address of the Proposer and the Request for Proposals numbers, and must state all the specific ground(s) for the protest. A

protest that merely addresses a single aspect of the selected proposal (for example, comparing the cost of the selected proposal in relation to the non-selected proposal) is not sufficient to support a protest. A successful protest will include sufficient evidence and analysis to support a conclusion that the selected proposal, taken as a whole, is an inferior proposal.

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

Guido Misculin
Senior Capital Projects Manager
gmisculin@smcgov.org
Facsimile: 650-312-5556

SECTION III – GENERAL TERMS AND CONDITIONS

1. **Read all Instructions.** Please read the entire RFQP and all enclosures before preparing proposal.
2. **Proposal Includes the RFQP.** This RFQP constitutes part of each proposal and includes the explanation of the Department's needs, which must be met in their entirety.
3. **Proposal Costs.** Costs for developing proposals are entirely the responsibility of the proposer and shall not be charged to the Department or otherwise reimbursed by the County.
4. **Proposal Becomes County Property.** The RFQP and all materials submitted in response to this RFQP will become the property of the County.
5. **Clarification Process.** Submit all questions relating to this RFQP by either:

E-mail to: gmisculin@smcgov.org

Fax to: 650/312-5556 Attn: Guido Misculin

All questions must be received no later than 4:00 p.m. on March 14, 2014

All clarifications will be posted on the Department website at
<http://www.co.sanmateo.ca.us/portal/site/publicworks>

The Department may, at its option, email prospective proposers with clarifications in addition to posting them on the website listed above.

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

6. **Alteration of Terms and Clarifications.** No alteration or variations of the terms of this RFQP are valid unless made or confirmed in writing by the County. Likewise, oral understandings or agreements not incorporated into the final contract are not binding.

If a proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFQP, the proposer must immediately notify the County of such error in writing and request modification or clarification of the document. If a proposer fails to notify the Department of an error in the RFQP prior to the date fixed for submission, the proposer shall submit a response at his/her own risk, and if the proposer enters into a contract, the proposer shall not be entitled to additional compensation or time extension by reason of the error or its later correction.

7. **Selection of Consultant(s).** The selection of a consultant will be memorialized in the form of an "Agreement with Independent Contractor" (see the sample template at Section VI, Enclosures 1-6, below), authorized by a resolution of the County Board of Supervisors and signed by both parties.

The County reserves the right to reject any or all proposals. The County's waiver of an immaterial deviation in the proposal shall in no way modify the RFQP documents or excuse the proposer from full compliance with the specifications once the proposer enters into an agreement.

Once vendor is selected, the Agreement with that vendor will be finalized and submitted to the San Mateo County Board of Supervisors for approval, but there will be no contractual agreement between the selected vendor unless and until the Board of Supervisors accepts and signs the Agreement. Selection of a proposal for negotiation of contract terms and eventual submission to County leadership of an Agreement does not constitute an offer, and proposers acknowledge by submission of a proposal that no agreement is final unless and until approved by the Board of Supervisors.

8. **Equal Benefits.** With respect to the provision on employee benefits, Contractor/vendor must comply with the County Ordinance prohibiting discrimination in the provision of employee benefits between a full-time employee with a registered domestic partner and one with a spouse.
9. **Jury Duty.** The contractor must comply with the County Ordinance requiring that the contractor have and adhere to a written policy that provides its full-time employees who live in San Mateo County with no fewer than five days of regular

pay for actual jury service in San Mateo County. This policy may provide that employees deposit any fees received for such jury service with the contractor or that the contractor deduct the from the employee's regular pay the fees received for jury service. See Section VI, Enclosure 5 Chapter 2.85, Contractor Employee Jury Duty. If the proposer has no employees that qualify for jury duty in San Mateo County, the proposer may satisfy this requirement by providing the County with written confirmation of the fact that (1) it has no such employees and (2) its policy is to comply with the jury duty pay ordinance with respect to any future qualifying employees.

10. **Insurance.** The County has certain insurance requirements that must be met. In most situations those requirements include the following: the contractor must carry \$1,000,000 or more in comprehensive general liability insurance; the contractor must carry motor vehicle liability insurance, and if travel by car is a part of the services being requested, the amount of such coverage must be at least \$1,000,000; if the contractor has two or more employees, the contractor must carry the statutory limit for workers' compensation insurance; if the contractor or its employees maintains a license to perform professional services (e.g., engineering, legal, medical, psychological, etc.), the contractor must carry professional liability insurance; and generally the contractor must name the County and its officers, agents, employees, and servants as additional insured on any such policies (except workers compensation). Depending on the nature of the work being performed, additional requirements may need to be met.
11. **Incomplete Proposals May be Rejected.** If a proposer fails to satisfy any of the requirements identified in this RFQP, the proposer may be considered non-responsive and the proposal may be rejected.
12. **Contact with County/Department Employees.** As of the issuance date of this RFQP and continuing until the final date for submission of proposals, all proposers are specifically directed not to hold meetings, conferences, or technical discussions with any County employee for purposes of responding to this RFQP except as otherwise permitted by this RFQP. Any proposer found to be acting in any way contrary to this directive may be disqualified from entering into any contract that may result from this RFQP.

Proposers should submit questions or concerns about the process as outlined in Section III.5, above. The proposer should not otherwise ask any County/Department employees questions about the RFQP or related issues, either orally or by written communication, unless invited to do so.

13. **Group Purchasing Organization Participation.** Proposers should keep in mind that the County is a participant in more than one Group Purchasing Organization (GPO), and this RFQP is open to those who provide services under a GPO. Proposers should ensure their proposals are as competitive as possible while also providing the highest quality services in order to be considered a viable vendor for the listed services. The County reserves the right to use a GPO

vendor if doing so is in the County's best interest, as determined solely by the Department, even if that vendor does not submit a proposal in response to this RFQP.

14. **Travel Costs.** If the services being requested will require travel to the Bay Area, and if the Department opts to permit travel expenses to be reimbursed, there are some general guidelines regarding reimbursement rates that will apply. In general, the following restrictions should be kept in mind: reimbursement for the actual cost of lodging, meals, and incidental expenses ("LM&I Expenses") is limited to the then-current Continental United States ("CONUS") rate for the location of the work being done (San Mateo / Foster City / Belmont, California), as set forth in the Code of Federal Regulations and as listed by the website of the U.S. General Services Administration (available online by searching www.gsa.gov for the term 'CONUS'); airline and car rental travel expenses ("Air & Car Expenses") are limited to reasonable rates obtained through a cost-competitive travel service (for example, a travel or car-rental website), with air travel restricted to coach fares and car rental rates restricted to the mid-level size range or below; and certain other reasonable travel expenses ("Other Expenses") such as taxi fares, parking costs, train or subway costs, etc. may be reimbursable on an actual-cost basis. It should not be assumed that the Department will permit travel from the Bay Area to be reimbursed, and your proposal should include such travel costs if applicable. Travel costs should be minimized or eliminated in order for a proposal to be competitive.
15. **Miscellaneous.** This RFQP is not a commitment or contract of any kind. The County reserves the right to pursue any and/or all ideas generated by this RFQP. The County reserves the right to reject any and all proposals and/or terminate the RFQP process if deemed in the best interest of the County. Further, while every effort has been made to ensure the information presented in this RFQP is accurate and thorough, the County assumes no liability for any unintentional errors or omissions in this document. The County reserves the right to waive or modify any requirements of this RFQP when it determines that doing so is in the best interest of the County.

SECTION IV – SCOPE OF WORK

Description: The County of San Mateo Department of Public Works (DPW) is seeking professional Engineering services for projects with a focus on additions and alterations to existing facilities, including but not limited to: office buildings, court facilities, detention centers, maintenance buildings, health care centers and clinics, and property and site work, each subject to their appropriate review and/or permitting jurisdiction(s). Proposals will be considered only from Consultants who can demonstrate the following minimum qualifications:

1. Consulting firm is licensed in the State of California to practice the specific engineering discipline proposed, and is able to effectively provide the required professional services.
2. The individual or individuals who will be assigned the responsibility to manage projects shall have significant experience in design and construction consulting within the last five years in the State of California.
3. Consultant and staff shall be knowledgeable of all applicable building codes, American with Disabilities Act, federal, state and local by-laws as applicable, including sustainability, conservation and practice of LEED principles and certification processes.
4. Firms shall be cable of meeting the schedule set by County of San Mateo Department of Public Works.

Length of Agreement: The anticipated duration of the agreement will be three years.

Additional Requirements/ Considerations: Within the County's property portfolio, there are secured facilities which will require security background checks for facility access.

SECTION V – PROPOSAL SUBMISSION REQUIREMENTS

The proposal should be submitted in the following format:

A. General Instructions

Submit one complete electronic version on portable digital storage media (e.g. CD, DVD), as well as one printed original and three copies in bound sets. Whenever possible, all printing shall be double-sided (duplex).

All proposals should be typewritten or printed and have consecutively numbered pages, including any exhibits, charts, or other attachments.

All proposals should adhere to the specified content and sequence of information described by this RFQP.

All proposers shall list on the submitting envelop and cover letter which engineering service(s) they are proposing to provide.

B. Cover Letter

Provide a one page cover letter on company letterhead which includes the address, voice and fax numbers, e-mail address of the contact person, and indicating authorized representative(s) for clarifications and/or negotiation.

Unless the proposer is an individual, all proposals must be signed with a firm/company/partnership/ entity name and by a responsible officer or employee indicating that officer or employee's authorization to commit the proposer to the terms of the proposal. Obligations assumed by such signature must be fulfilled.

C. Specified Content and Detailed Sequence of Information in the RFQP

Each proposal should include sections addressing the following information in the listed order. The proposer should be sure to include all information that it feels will enable the Evaluation Committee and, ultimately, the Department to make a decision. Failure of the proposer to provide specific, detailed information may result in its proposal being rejected in favor of a sufficiently-detailed proposal. Any necessary exhibits or other information, including information not specifically requested by this RFQP but deemed relevant, should be attached to the end of the proposal. The party submitting the materials should keep in mind the limitations on confidential information described by Section II.C, above.

D. Tabbing of Sections

Ensure proposal is properly tabbed using the following sections:

TAB 1 Firm Qualifications and Experience:

Provide a statement of qualifications for the organization, including an organization chart, a statement of the size of firm, a description of services provided by the company, and experience/history providing the services requested by this RFQP.

TAB 2 Project Team:

List the qualifications of the individual, or individuals, that would be assigned to provide services requested by this RFQP, including date and school of any applicable degrees, additional applicable training, and any professional certifications/licensing. In lieu of listing this information, submit a resume or curriculum vitae for each such individual if the resume/CV includes all the requested information.

TAB 3 Project Experience:

Prospective consultants shall provide the County with a listing of relevant projects completed by the firm in the past five years. The list should include:

- Title of project;
- Name of the entity;
- Brief description of the project.

TAB 4 Professional Cost:

The proposal should include a schedule of fees, including the classification of personnel assigned to projects, and the hourly rate for each classification.

TAB 5 References:

List at least three professional client references for which you have recently provided similar services. Include contact names and phone numbers.

TAB 6 Statement of Compliance with County Contractual Requirements:

A sample of the County's standard contract (including Exhibits A and B) is attached to this RFQP. Each proposal must include a statement of the proposer's commitment and ability to comply with each of the terms of the County's standard contract, including but not limited to the following:

- The County non-discrimination policy;
- The County equal employment opportunity requirements;
- County requirements regarding employee benefits;
- The County jury duty ordinance;
- The Hold Harmless Provision;
- County insurance requirements;
- The requirements of Exhibit E (if attached); and
- All other provisions of the standard contract.

In addition, the proposer should include a statement that it will agree to have any contractual disputes venued in San Mateo County or the Northern District of California.

Proposals must advise County of any objections to any terms in the County's contract template and provide an explanation for the inability to comply with the required term(s). If no objections are stated, County will assume the proposer is prepared to sign the County agreement as-is.

TAB 7 Legal Standing

Firms submitting for this RFQP shall disclose pertinent and relevant information concerning their current or recent participation as a party to litigation related to the services being offered and, if any, the resulting case disposition.

PLEASE NOTE: The sample standard contract attached to this RFQP is a template and does not constitute the final agreement to be entered into. Please do not modify or complete the attached sample. The Department will work with the selected vendor to draft a specific agreement using the template. However, each proposal should address the general terms of the standard contract as outlined in this section.

SECTION VI - ENCLOSURES

- Enclosure 1. Standard County Agreement
- Enclosure 2. Contractors Declaration
- Enclosure 3. Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended
- Enclosure 4. Chapters 2.84 and 2.85 of the Ordinance Code of San Mateo County
- Enclosure 5. Intellectual Property

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

THIS AGREEMENT, entered into this _____ day of _____, 20____, by and between the COUNTY OF SAN MATEO, hereinafter called "County," and [Contractor name here], hereinafter called "Contractor";

W I T N E S S E T H:

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

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

NOW, THEREFORE, IT IS HEREBY AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Exhibits and Attachments

The following exhibits and attachments are included hereto and incorporated by reference herein:

Exhibit A—Services

Exhibit B—Payments and rates

Attachment I—§504 Compliance

Attachment IP – Intellectual Property *(**if the IP Attachment does not apply to this contract then delete this line**)*

2. Services to be performed by Contractor

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

3. Payments

In consideration of the services provided by Contractor in accordance with all terms, conditions and specifications set forth herein and in Exhibit "A," County shall make payment to Contractor based on the rates and in the manner specified in Exhibit "B." The County reserves the right to withhold payment if the County determines that the quantity or quality of the work performed is unacceptable. In no event shall the County’s total fiscal obligation under this Agreement exceed [Write out amount], [\$Amount].

4. Term and Termination

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

This Agreement may be terminated by Contractor, the [Name of County Department

Head] or his/her designee at any time without a requirement of good cause upon thirty (30) days' written notice to the other party.

In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports, and materials (hereafter referred to as materials) prepared by Contractor under this Agreement shall become the property of the County and shall be promptly delivered to the County. Upon termination, the Contractor may make and retain a copy of such materials. Subject to availability of funding, Contractor shall be entitled to receive payment for work/services provided prior to termination of the Agreement. Such payment shall be that portion of the full payment which is determined by comparing the work/services completed to the work/services required by the Agreement.

5. Availability of Funds

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

6. Relationship of Parties

Contractor agrees and understands that the work/services performed under this Agreement are performed as an independent Contractor and not as an employee of the County and that Contractor acquires none of the rights, privileges, powers, or advantages of County employees.

7. Hold Harmless

Contractor shall indemnify and save harmless County, its officers, agents, employees, and servants from all claims, suits, or actions of every name, kind, and description, brought for, or on account of: (A) injuries to or death of any person, including Contractor, or (B) damage to any property of any kind whatsoever and to whomsoever belonging, (C) any sanctions, penalties, or claims of damages resulting from Contractor's failure to comply with the requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, or (D) any other loss or cost, including but not limited to that caused by the concurrent active or passive negligence of County, its officers, agents, employees, or servants, resulting from the performance of any work required of Contractor or payments made pursuant to this Agreement, provided that this shall not apply to injuries or damage for which County has been found in a court of competent jurisdiction to be solely liable by reason of its own negligence or willful misconduct.

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

8. Assignability and Subcontracting

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

9. Insurance

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

- (1) **Worker's Compensation and Employer's Liability Insurance** The Contractor shall have in effect during the entire life of this Agreement Workers' Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, the Contractor certifies, as required by Section 1861 of the California Labor Code, that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.
- (2) **Liability Insurance** The Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance as shall protect him/her while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from contractors operations under this Agreement, whether such operations be by himself/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence and shall be not less than the amount specified below.

Such insurance shall include:

(a) Comprehensive General Liability	\$1,000,000
(b) Motor Vehicle Liability Insurance	\$1,000,000
(c) Professional Liability	\$1,000,000

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

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

10. Compliance with laws; payment of Permits/Licenses

All services to be performed by Contractor pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, County, and municipal laws, including, but not limited to, Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all Federal regulations promulgated thereunder, as amended, and the Americans with Disabilities Act of 1990, as amended, and Section 504 of the Rehabilitation Act of 1973, as amended and attached hereto and incorporated by reference herein as Attachment "I," which prohibits discrimination on the basis of handicap in programs and activities receiving any Federal or County financial assistance. Such services shall also be performed in accordance with all applicable ordinances and regulations, including, but not limited to, appropriate licensure, certification regulations, provisions pertaining to confidentiality of records, and applicable quality assurance regulations. Further, Contractor certifies that the Contractor and all of its subcontractors will adhere to all applicable provisions of Chapter 4.106 of the San Mateo County Ordinance Code, which regulates the use of disposable food service ware.

In the event of a conflict between the terms of this agreement and State, Federal, County, or municipal law or regulations, the requirements of the applicable law will take precedence over the requirements set forth in this Agreement.

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

11. Non-Discrimination and Other Requirements

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

- B. *General non-discrimination.* No person shall, on the grounds of race, color, religion, ancestry, gender, age (over 40), national origin, medical condition (cancer), physical or mental disability, sexual orientation, pregnancy, childbirth or related medical condition, marital status, or political affiliation be denied any benefits or subject to discrimination under this Agreement.
- C. *Equal employment opportunity.* Contractor shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Contractor's equal employment policies shall be made available to County of San Mateo upon request.
- D. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject the Contractor to penalties, to be determined by the County Manager, including but not limited to
 - i) termination of this Agreement;
 - ii) disqualification of the Contractor from bidding on or being awarded a County contract for a period of up to 3 years;
 - iii) liquidated damages of \$2,500 per violation;
 - iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.

To effectuate the provisions of this section, the County Manager shall have the authority to examine Contractor's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Contractor under the Contract or any other Contract between Contractor and County.

Contractor shall report to the County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Contractor that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Contractor shall provide County with a copy of their response to the Complaint when filed.

E. **Compliance with Equal Benefits Ordinance.** *With respect to the provision of employee benefits, Contractor shall comply with the County Ordinance which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse.*

F. *The Contractor shall comply fully with the non-discrimination requirements required by 41 CFR 60-741.5(a), which is incorporated herein as if fully set forth.*

12. Compliance with Contractor Employee Jury Service Ordinance

Contractor shall comply with the County Ordinance with respect to provision of jury duty pay to employees and have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service in San Mateo County. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employees' regular pay the fees received for jury service.

13. Retention of Records, Right to Monitor and Audit

(a) CONTRACTOR shall maintain all required records for three (3) years after the COUNTY makes final payment and all other pending matters are closed, and shall be subject to the examination and/or audit of the County, a Federal grantor agency, and the State of California.

(b) Reporting and Record Keeping: CONTRACTOR shall comply with all program and fiscal reporting requirements set forth by appropriate Federal, State and local agencies, and as required by the COUNTY.

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

14. Merger Clause

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

16. Controlling Law and Venue

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the parties hereunder, the interpretation, and performance of this Agreement shall be governed by the laws of the State of California. Any dispute arising out of this Agreement shall be venued either in the San Mateo County Superior Court or the United States District Court for the Northern District of California.

16. Notices

Any notice, request, demand, or other communication required or permitted hereunder

shall be deemed to be properly given when both (1) transmitted via facsimile to the telephone number listed below and (2) either deposited in the United States mail, postage prepaid, or when deposited for overnight delivery with an established overnight courier that provides a tracking number showing confirmation of receipt for transmittal, charges prepaid, addressed to:

In the case of County, to:

In the case of Contractor, to:

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: _____
President, Board of Supervisors, San Mateo County

Date: _____

ATTEST:

By: _____
Clerk of Said Board

[Contractor Name Here]

Contractor's Signature

Date: _____

Exhibit “A”

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

Exhibit “B”

In consideration of the services provided by Contractor in Exhibit “A”, County shall pay Contractor based on the following fee schedule:

**County of San Mateo
Contractor's Declaration Form**

I. CONTRACTOR INFORMATION

Contractor Name:		Phone:	
Contact Person:		Fax:	
Address:		Number of employees:	

II. EQUAL BENEFITS (check one or more boxes)

Contractors with contracts in excess of \$5,000 must treat spouses and domestic partners equally as to employee benefits.

- Contractor complies with the County's Equal Benefits Ordinance by:
 - offering equal benefits to employees with spouses and employees with domestic partners.
 - offering a cash equivalent payment to eligible employees in lieu of equal benefits.
- Contractor does not comply with the County's Equal Benefits Ordinance.
- Contractor is exempt from this requirement because:
 - Contractor has no employees, does not provide benefits to employees' spouses, or the contract is for \$5,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to offer equal benefits when said agreement expires.

III. NON-DISCRIMINATION (check appropriate box)

- Finding(s) of discrimination have been issued against Contractor within the past year by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. Please see attached sheet of paper explaining the outcome(s) or remedy for the discrimination.
- No finding of discrimination has been issued in the past year against the Contractor by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other entity.

IV. EMPLOYEE JURY SERVICE (check one or more boxes)

Contractors with original or amended contracts in excess of \$100,000 must have and adhere to a written policy that provides its employees living in San Mateo County up to five days regular pay for actual jury service in the County.

- Contractor complies with the County's Employee Jury Service Ordinance.
- Contractor does not comply with the County's Employee Jury Service Ordinance.
- Contractor is exempt from this requirement because:
 - the contract is for \$100,000 or less.
 - Contractor is a party to a collective bargaining agreement that began on _____ (date) and expires on _____ (date), and intends to comply when the collective bargaining agreement expires.
 - Contractor has no employees.
 - Contractor has no employees who live in San Mateo County.

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

Signature

Name

Date

Title

ATTACHMENT

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

a. Employs fewer than 15 persons.

b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Name of Contractor(s) - Type or Print

Street Address or P.O. Box

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible."

ATTACHMENT

Assurance of Compliance with Section 504 of the Rehabilitation Act of 1973, as Amended

The undersigned (hereinafter called the "Contractor(s)") hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended, all requirements imposed by the applicable DHHS regulation, and all guidelines and interpretations issued pursuant thereto.

The Contractor(s) gives/give this assurance in consideration of for the purpose of obtaining contracts after the date of this assurance. The Contractor(s) recognizes/recognize and agrees/agree that contracts will be extended in reliance on the representations and agreements made in this assurance. This assurance is binding on the Contractor(s), its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Contractor(s).

The Contractor(s): (Check a or b)

a. Employs fewer than 15 persons.

b. Employs 15 or more persons and, pursuant to section 84.7 (a) of the regulation (45 C.F.R. 84.7 (a)), has designated the following person(s) to coordinate its efforts to comply with the DHHS regulation.

Name of 504 Person - Type or Print

Name of Contractor(s) - Type or Print

Street Address or P.O. Box

City, State, Zip Code

I certify that the above information is complete and correct to the best of my knowledge.

Signature

Title of Authorized Official

Date

*Exception: DHHS regulations state that:

"If a recipient with fewer than 15 employees finds that, after consultation with a disabled person seeking its services, there is no method of complying with (the facility accessibility regulations) other than making a significant alteration in its existing facilities, the recipient may, as an alternative, refer the handicapped person to other providers of those services that are accessible.

