

REQUEST FOR PROPOSALS

DEVELOPMENT OF A SOCIAL MEDIA STRATEGY



CITY OF OAKLAND
COMMUNITY AND ECONOMIC DEVELOPMENT AGENCY
REDEVELOPMENT DIVISION
CULTURAL ARTS AND MARKETING

AUGUST 2010

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I. INTRODUCTION

Through a Request for Proposals process, the Cultural Arts & Marketing within the Redevelopment Division of the City of Oakland's Community and Economic Development Agency (CEDA) seeks to identify a marketing communications firm with a proven track record of crafting and implementing successful social media strategies. Ideally, candidate firms will have solid experience harnessing the power of today's social media networks on behalf of national corporations and major public agency clients.

II. PROJECT DESCRIPTION

Working with CEDA Cultural Arts & Marketing, the overall purpose of the project is to establish a brand identity for Oakland through effective use of social media platforms. In crafting the strategy, it is expected that the chosen vendor will conduct research to devise a relevant and effective strategy. The research will define the most productive tactics in reaching and influencing our target audience. Based on this research, it is expected that the chosen vendor will provide a range of services to fully develop and implement the strategy, including messaging, design and production of marketing tools, testing and evaluation.

The intent of the social media strategy shall be to enhance the connection with our target audience(s) to cultivate a passionate, positive Oakland-centric online community. This community will support the City's broader marketing initiatives and help drive the City's overall branding and economic development marketing campaign. Collectively, these efforts will serve to improve Oakland's overall image and awareness as a desirable location for business, development and investment.

The anticipated budget for this project is not to exceed \$40,000.

The anticipated timeline is:

August 6	RFP let
August 26	Mandatory pre-proposal conference
September 13	Proposals due
Sept. 13 – Oct. 8	Submissions reviewed by Department of Contracting & Purchasing for compliance with City contracting requirements
Oct. 18 - 22	CEDA/CAM staff conducts interviews of those on approved list from Department of Contracting & Purchasing
October 29	Vendor selection

November 1 - 24 Professional Services Agreement negotiation and execution

December 1 Project commences

III. SCOPE OF SERVICES

Tasks that shall be covered in this budget include:

- Research
- Messaging
- Strategy Development & Execution
- Design & Production of Marketing Tools
- Testing
- Launch
- Evaluation

IV. THE PROPOSAL

A. GENERAL INFORMATION AND EXHIBITS

A mandatory pre-proposal conference is scheduled for:

**Thursday, August 26
2:00 pm
Hearing Room 3 (ground floor, south side)
City Hall
1 Frank H. Ogawa Plaza
Oakland, California**

Attending the pre-proposal conference will be considered a material term of every proposal. Proposals whose teams fail to attend the pre-proposal conference will be deemed non-responsive.

The pre-proposal conference will cover the following items:

- a. Project information.
- b. The City's Local Business Enterprise (LBE), and Small Local Business Enterprise (SLBE) program and the RFP's 20% Oakland-based participation requirement.
- c. The City's Living Wage Ordinance.
- d. The City's Equal Benefits Ordinance.

- e. State Labor Code’s Prevailing Wage requirement for some job classifications.
- f. Prompt Payment Ordinance and Forms.
- g. Proposal submittal requirements.
- h. Questions by attendees.

The team selected for this project shall obtain or provide proof of having a current City of Oakland Business Tax registration and be registered in the City’s iSupplier system.

The City Council reserves the right to reject any and all proposals.

The following schedules are required to be included in the proposal.

Schedule A	Scope of Work
Schedule B-2	Declaration of Compliance with the Arizona Resolution
Schedule C-P-U-V	Declaration of Compliance with Americans with Disabilities Act, Nuclear Free Zone Disclosure Form, Compliance Commitment Agreement, Affidavit of Non-Disciplinary or Investigatory Action
Schedule D	Ownership, Ethnicity and Gender of Prime and Employees
Schedule E	Project Consultant Team
Schedule M	Independent Consultant Questionnaire – Part A
Schedule N	Declaration of Compliance Living Wage Ordinance
Schedule N-1	Equal Benefits Declaration of Non-Discrimination
Schedule O	Campaign Contribution Limits
Schedule Q	Professional Services Insurance Requirements

1. The City’s Local and Small Local Business Enterprise Program - Exhibit A

The Local and Small Local Business Enterprise Program describes the objectives, goals and policies of the City regarding the participation of certified Local Business Enterprise/ Small Local Business Enterprise (LBE/SLBE) businesses in the City’s contracts.

While the budget for this contract is lower than the threshold which requires a twenty percent (20%) minimum certified Oakland LBE/SLBE participation, staff’s requirement is to award the contract to a team composed of twenty percent (20%) minimum Oakland-based businesses, certified or not.

Compliance may be achieved at a rate of ten percent (10%) local and ten percent (10%) small local certified business participation. The requirement may be satisfied by a certified prime and/or subcontractors (s) or a small local certified business may meet the 20 percent requirement. The City of Oakland’s Department of Contracting & Purchasing must certify a business in order to earn credit toward meeting the 20 percent requirement.

The 20 percent local business participation requirement will be considered a material

term of every proposal. Proposals that fail to meet the 20 percent minimum will be deemed non-responsive.

Teams located outside the City of Oakland are encouraged to either establish a joint venture or other consulting and sub consulting arrangements with Oakland-based firms. Joint ventures will be required to conform to the pertinent laws, which govern the creation of such business arrangements. If a contractor is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Department of Contracting & Purchasing **prior to** the project proposal date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.

For tracking purposes, the contractor team is asked to show the percentage and dollar amount of MBE/WBE participation on all subcontractor listings. Contractor teams are asked to provide data regarding the racial, ethnic, and gender makeup of listed subcontractors and be prepared to provide documentation that demonstrates the methodology used to select all subcontractors.

Furthermore, the City Administrator’s Office will track the City’s MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of racial, ethnicity or gender, and will make periodic reports to the City Council concerning such utilization. The City will report any discrimination in City contracts to the appropriate Federal and State agencies, and will take action against contractors that are found to be engaging in discriminatory acts or practices up to and including termination or debarment.

2. The City’s Living Wage Ordinance - **Exhibit B**

This Agreement is subject to the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service Contractors (contractors) of the City and employees of CFARs (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the contractor must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial hourly wage rate of \$11.15 with health benefits or \$12.82 without health benefits. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the

Bureau of Labor Statistics, U.S. Department of Labor.

- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.56 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. To inform employees that he or she may be eligible for Earned Income Credit (EITC) and shall provide forms to apply for advance EITC payments to eligible employees. There are several websites and other sources available to assist you. Websites include but are not limited to:
(1) <http://www.irs.gov> for current guidelines as prescribed by the Internal Revenue Service and (2) Earned Income Tax Outreach information <http://www.cbpp.org/research/index.cfm?fa=topic&id=27>.
- e. Contractor shall provide to all employees and to the Department of Contracting & Purchasing, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Department of Contracting & Purchasing, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list

within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.

- h. Contractor shall require sub Contractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Office of the City Administrator, Contract Compliance & Employment Services Division.

3. Sample Professional Service Agreement - Exhibit C

This Agreement is subject to the attached sample Professional Service Agreement. Please note that the City Attorney's Office is typically not inclined to make any revisions to the standard agreement.

4. Insurance Requirements - Exhibit D

The Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of the Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute grounds for rescission of the contract award.

The Contractor shall name the City of Oakland, its Council members, directors, officers, agents, employees and volunteers as additional insured in its Comprehensive Commercial General Liability and Automobile Liability policies. If Contractor submits the ACORD Insurance Certificate, the additional insured endorsement must be set forth on a CG20 10 11 85 form and/or CA 20 48 - Designated Insured Form (for business auto insurance). **A statement of additional insured endorsement on the ACORD insurance certificate is insufficient and will be rejected as proof of the additional insured requirement.**

Unless a written waiver is obtained from the City's Risk Manager, Contractors must provide the insurance listed in **Schedule Q**. **Schedule Q** is attached and incorporated herein by reference as Exhibit D. Liability insurance shall be required in accordance with Schedule Q.

When providing the insurance, include the Project Name and Project Number on the ACORD form in the section marked Description of Operations/Locations.

When providing the insurance, the Certificate Holder should be listed as:

Keira Williams
Cultural Arts & Marketing
Community & Economic Development Agency
City of Oakland
1 Frank H. Ogawa Plaza, 9th Floor
Oakland, CA 94612

510-238-6811
kwilliams@oaklandnet.com

5. Equal Benefits Ordinance - Exhibit E

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City Contractors (contractors) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a Contractor's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or sub Contractors.

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1** "Equal Benefits-Declaration of Nondiscrimination."

6. Prompt Payment Ordinance - Exhibit F

This contract is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S, passed January 15, 2008 and effective February 1, 2008). The Ordinance requires that, unless specific exemptions apply, the Contractor and its subcontractors shall pay undisputed invoices of their subcontractors for goods and/or services within twenty (20) business days of submission of invoices unless the Contractor or its subcontractors notify the Liaison in writing within five (5) business days that there is a bona fide dispute between the Contractor or its subcontractor and claimant, in which case the Contractor or its subcontractor may withhold the disputed amount but shall pay the undisputed amount.

Disputed late payments are subject to investigation by the City of Oakland Liaison, the Department of Contracting & Purchasing, upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance

may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <http://cces.oaklandnet.com/cceshome/> by clicking on the rightmost upper tab labeled Prompt Payment Ordinance. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Liaison, 510-238-6261, Department of Contracting & Purchasing, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612.

7. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's sub Contractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.
- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1**, "Declaration of Compliance with the Americans with Disabilities Act," attached hereto as part of Schedule C-P-U-V and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers'

representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- e. Contractor shall submit information concerning the ownership and workforce composition of Contractor's firm as well as its sub Contractors and suppliers, by completing **Schedule D**, "Ownership, Ethnicity and Gender Questionnaire," **Schedule E**, "Project Contractor Team," and made a part of this Agreement, and **Schedule F**, "Exit Report and Affidavit," attached and incorporated herein and made a part of this Agreement. Schedule F is not included here but will be part of the contract.
- f. All affirmative action efforts of Contractors are subject to tracking by the City. This information or data shall be used for statistical purposes only. All Contractors are required to provide data regarding the make-up of their sub Contractors and agents who will perform City contracts, including the race and gender of each employee and/or Contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- g. In the recruitment of sub Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland's business community. The City Administrator will track the City's MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability
- h. In the use of such recruitment, hiring and retention of employees or sub Contractors, the City of Oakland requires all Contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland's business community.

8. City Contractor Performance Evaluation

At the end of the project, the Project Manager will evaluate the Contractor's Performance in accordance with the City Contractor Performance Evaluation program using **Schedule L1**, "Consultant Performance Evaluation," which is not included here but will be part of the contract.

9. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. Contractor's services will be performed in accordance with the generally accepted principles and practices applicable to Contractor's trade or profession. The Contractor warrants that the Contractor, and the Contractor's employees and subcontractors are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Contractor shall complete **Schedule M**, "Independent Contractor Questionnaire, Part A," attached hereto.

10. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits Contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations. If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

11. Nuclear Free Zone Disclosure

Contractor represents, pursuant to **Schedule P**, "Nuclear Free Zone Disclosure Form," that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete **Schedule P**, attached hereto as part of Schedule C-P-U-V.

At the request of City Council, the Department of Contracting & Purchasing will monitor contracting activity for unlawful discrimination based on race, ethnicity or gender, and make periodic reports to the City Council. Furthermore, the City will immediately report evidence or instances of apparent discrimination in City or Agency contracts to the appropriate State and Federal agencies, and will take action against Contractors who are

found to be engaging in discriminatory acts or practices by an appropriate State or Federal agency or court of law, up to and including termination or debarment.

12. The following City staff are available to answer questions regarding this RFP:

RFP and project related issues	Keira Williams Project Manager	kwilliams@oaklandnet.com 510-238-6811
Schedules, LBE/SLBE, etc.	Vivian Inman Contract Compliance Officer	vinman@oaklandnet.com 510-238-6261
Insurance	Deborah Grant Risk Manager	dgrant@oaklandnet.com 510-238-7165

13. All responses to the RFP become the property of the City.

14. The RFP does not commit the City to award a contract or to pay any cost incurred in the preparation of the proposal.

15. The City reserves the sole right to evaluate each proposal and to accept or reject any or all proposals received as a result of the RFP process.

16. The City reserves the unqualified right to modify, suspend, or terminate at its sole discretion any and all aspects of the RFP and/or RFP process, to obtain further information from any and all Contractor teams and to waive any defects as to form or content of the RFP or any responses by any contractor teams.

17. The City may require a service provider to participate in negotiations and submit technical information or other revisions to the service provider's qualifications as may result from negotiations.

18. **Once a final award is made, all RFP responses, except financial and proprietary information, become a matter of public record and shall be regarded by the City as public records.** The City shall not in any way be liable or responsible for the disclosure of any such records or portions thereof if the disclosure is made pursuant to a request under the Public Records Act or the City of Oakland Sunshine Ordinance.

19. The Fair Political Practices Act and/or California Government Code Section 1090, among other statutes and regulations may prohibit the City from contracting with a service provider if the service provider or an employee, officer or director of the service providers' firm, or any immediate family of the preceding, or any sub Contractor or contractor of the service provider, is serving as a public official, elected official, employee, board or commission member of the City who will award or influence the awarding of the contract or otherwise participate in the making of the contract. The making of a contract includes actions that are preliminary or preparatory to the

selection of a Contractor such as, but not limited to, involvement in the reasoning, planning and/or drafting of solicitations for bids and RFPs, feasibility studies, master plans or preliminary discussions or negotiations.

B. SUBMITTAL REQUIREMENTS

Eight (8) copies of the proposal are due at the Cultural Arts & Marketing office in City Hall, 1 Frank H. Ogawa Plaza, 9th floor, Oakland, CA 94612, **no later than 4:00 p.m. on Monday, September 13, 2010.**

C. REQUIRED PROPOSAL ELEMENTS AND FORMAT

1. Transmittal Letter

a. Addressed to:

Keira Williams
Cultural Arts & Marketing
Community & Economic Development Agency
City of Oakland
1 Frank H. Ogawa Plaza, 9th Floor
Oakland, CA 94612

510-238-6811

kwilliams@oaklandnet.com (inquiries only)

b. Signed by an officer of the Prime Contractor. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign.

2. Project Team

a. Prime Contractors: list addresses, telephone numbers, email addresses and areas of expertise of each. Briefly describe the project responsibility of each team member. Identify which contractors are MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE). Additionally, for LBEs/SLBEs, submit a copy of current Business Tax registration and date established in Oakland.

b. Sub Contractors: list addresses, telephone numbers, email addresses and areas of expertise of each. Briefly describe the project responsibility of each team member. Identify which contractors are MBE, WBE, Local Business Enterprises (LBE) and Small Local Business Enterprise (SLBE). Additionally, for LBEs/SLBEs, submit a copy of current Business Tax registration and date established in Oakland.

3. Project Personnel

- a. Prime(s): Provide a detailed resume of the proposed principal-in-charge and the project manager(s). The Project Manager(s) shall be a full-time employee of the prime(s). Clearly identify experience. DO NOT SUBMIT OTHER RESUMES.
- b. Subcontractors: Provide a detailed resume of the proposed project manager, who shall be a full-time employee of each subcontractor for this project. Clearly identify relevant experience. DO NOT SUBMIT OTHER RESUMES.

4. Relevant Experience

If the prime and sub(s) have not previously collaborated on projects, please address the items below with examples from both the prime's and sub's(s') work. If the team has worked together collaboratively, please include a description of this work.

- a. Describe experience in providing the necessary services and project management of at least three (3) projects similar in size and scope to this project.
- b. Describe experience and qualifications for providing full services that include, but are not limited to, research, messaging, strategy development and execution, design and production of marketing tools, testing, launch, and evaluation.
- c. Describe experience and ability to work effectively with City staff, focus groups, and other stakeholders, and addressing the various interests in developing a successful project.
- d. Provide written and graphic illustrations of a maximum of five (5) relevant projects. Provide the following information:
 - 1. Project name and location.
 - 2. Brief description of project scope.
 - 3. Month and year project commenced and was (or will be) completed.
 - 4. Implementation cost.
 - 5. Firm's or individual's project responsibility.
 - 6. Client name, address, contact person, and telephone number.

5. Project Approach and Organization
 - a. Present your concept of the approach and organization required for this project. Indicate your understanding of the critical project elements, and what special approaches your team will feature to control these elements.
 - b. Describe how you intend to interface with City staff and the community.

6. References
 - a. Primes(s): Three business related references, giving name, company, address, telephone number and business relationship.
 - b. Subcontractor(s): Two business related references, giving name, company, address, telephone number and business relationship to project manager.

7. Hourly Billing Rates
 - a. Provide a complete list of all staff hourly rates by category, i.e., Principal, Project Manager, Project Professional, Technician, Clerical, etc. Hourly rates shall be all-inclusive, i.e., base salary, fringe benefits, overhead, profit, etc.

8. Required Schedules - Submit all of the required documents listed below with your proposal.

Schedule A	Scope of Work
Schedule B-2	Declaration of Compliance with the Arizona Resolution
Schedule C-P-U-V	Declaration of Compliance with Americans with Disabilities Act, Nuclear Free Zone Disclosure Form, Compliance Commitment Agreement, Affidavit of Non-Disciplinary or Investigatory Action
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D. REJECTION OF PROPOSAL

The City reserves the right to reject any or all proposals, whether or not minimum qualifications are met, and to modify, postpone, or cancel the RFP without liability,

obligation, or commitment to any party, firm, or organization. In addition, the City reserves the right to request and obtain additional information from any candidate submitting a proposal. **Furthermore, a proposal RISKS BEING REJECTED for any of the following reasons:**

- Proposal received after designated time and date.
- Proposal team is not represented at the Pre-Proposal Conference on August 26, 2010.
- Proposal not in compliance with **staff's requirement of a team composed of twenty percent (20%) minimum Oakland-based businesses.**
- Proposal not containing the required elements, exhibits, nor organized in the required format.
- Proposal considered not fully responsive to this RFP.
- Proposal contains excess or extraneous material not called for in the RFP.

V. EVALUATION PROCESS

A. EVALUATION OF PROPOSALS

The City has allocated approximately nineteen (19) working days for review of the proposals.

Key factors considered while reviewing RFQ responses:

- Meets City of Oakland's contracting requirements.
- Successful creation and implementation of effective, nationally-recognized social media strategies for national corporations and major public agencies. Must be able to demonstrate quantifiable, break-through results.
- Proven research-based strategy development.
- Comprehensive roster of professionals ranging from researchers and strategists to designers and coders.
- Capacity to meet all project deadlines on time and within budget (provide client references).
- Return on investment.
- Flexibility in working with local government.
- Passionate about and knowledgeable of Oakland's assets, local environment, lifestyle and amenities.

The following specific criteria and the points for each criterion, for a total of 100 points, will be used in evaluating and rating the proposals:

1. RELEVANT EXPERIENCE 25 points
 - A. Past, recently completed, or on-going projects that will substantiate experience.
 - B. Experience on at least three (3) social media projects providing services similar to those described in this RFP.
 - C. Prior experience and ability to work with City staff, focus groups, and other stakeholders, and addressing the various interests in developing a successful project.

2. QUALIFICATIONS 25 points
 - Professional background and qualifications of team members and firms comprising the team.

3. ORGANIZATION 15 points
 - Current workload.
 - Available staff.
 - Resources.
 - Capacity and flexibility to meet schedules, including any unexpected work.
 - Ability to perform on short notice and under time constraints.
 - Cost control procedures in design and implementation.
 - Ability to perform numerous projects at the same time.

3. APPROACH 25 points
 - Understanding of the nature and extent of the services required.
 - A specific outline of how the work will be performed.
 - Awareness of potential problems and providing possible solutions.

- Special resources the team offers that are relevant to the successful completion of the project.
- Presentation, completeness, clarity, organization, and responsiveness of proposal.

4. LOCAL AND SMALL LOCAL CERTIFIED BUSINESS PARTICIPATION 10 Points

B. INTERVIEW OF SHORT-LISTED TEAMS

1. It is anticipated that approximately three (3) teams will be invited to interview. The selected teams will be notified in writing, and will be required to submit **a detailed approach outlining proposed tasks, work schedule and outcomes during the interview**. It is presently anticipated that the interviews will be conducted within ten (10) working days of notification.
2. The interviews will last approximately 60 minutes, with the time allocated equally between the team’s presentation and a question-and-answer period. The teams should be prepared to discuss at the interview their specific experience providing services similar to those described in the RFP, project approach, estimated work effort, available resources, and other pertinent areas that would distinguish them. Interviews will be held at a City of Oakland office to be determined.
3. OVERALL RATING CRITERIA: The following specific criteria and the points for each criterion, for a total of 100 points, will be used in evaluating and rating the short-listed firms:

a. PRESENTATION: 40 points

Scoring criteria is similar to that of the proposal criteria.

- Relevant Experience
- Qualifications
- Organization
- Approach
- Other Factors

b. REQUEST FOR PROPOSAL SUBMITTAL: 25 points

Total points from the initial review of the Proposals will be allocated PROPORTIONALLY based on a maximum allowance of 25 points.

c. Interview / Questions: 35 points

VI. SELECTION PROCESS

A. CONTRACT NEGOTIATIONS

1. The completion of the interview process will result in the teams being numerically ranked. The team ranked first will be invited to participate in contract negotiations. Should the City and the first ranked team not be able to reach an agreement as to contract terms within a reasonable timeframe, the City may terminate the negotiations and begin negotiations with the team that is next in line, and proceed down the list as necessary until an agreement is reached or the list is exhausted.
2. The contract amount (including reimbursables) shall be a not-to-exceed amount, to be established based upon a mutually agreeable Scope of Services and fee Schedule.
3. The City will withhold the final 10% of contract amount pending successful completion of work.

B. CONTRACT AWARD

1. A sample City standard professional services agreement is include in this RFP as **Exhibit C**. The selected team will be required to enter into a contract that contains similar terms and conditions as in the standard agreement. Please note that the City Attorney's Office is typically not inclined to make any modifications to the standard agreement terms and provisions.
2. Upon completion of necessary documents, the City will issue a Notice to Proceed.
3. The selected team and its other members will be required to maintain auditable records, documents, and papers for inspection by authorized local, state and federal representatives. Therefore, the team and its other members may be required to undergo an evaluation to demonstrate that the team uses recognized accounting and financial procedures.

VII. SCHEDULES

CITY OF OAKLAND
CONSULTING AND PROFESSIONAL SERVICES CONTRACTORS
SCOPE OF WORK/OUTLINE OF SERVICES TO BE PERFORMED

The services to be performed by Consultant shall consist of services requested by the Project Manager or a designated representative, including (but not limited to) the following:

TASK

COMPLETION DATE

1.

2.

3.

4.

5.

Consultant:

(Please Print)

(Signature)

(Date)

City Representative:

(Please Print)

(Signature)

(Date)

**** Must be attached to signed Agreement**



Declaration of Compliance with the Arizona Resolution

A Boycott of the State of
Arizona and Arizona-
Based Businesses.
Resolution #82727

To be completed by Business Owner.

(1) Business Name _____

(2) Business Contact Person: (Name/Title) _____

(3) Business Contact Person: (Phone/E-mail) _____

(4) Business Headquarters Address _____

(5) Existing contracts with the City ? Yes No If Yes, please list title and agency: _____

(6) The above named company is currently responding to the following contract opportunity:

Title: _____

Project Number: _____

Name of City Contact/Project Manager/Agency/Department _____

Phone/ e-mail _____

A

I declare under penalty of perjury that my company is NOT headquartered in Arizona

Signed (Business Owner) _____ Date _____

I declare under penalty of perjury that my company is headquartered in Arizona and my proposal/bid should be considered because _____

(Please use attachments if additional space is needed).

Signed (Business Owner) _____ Date _____

B



Schedule C-1
“DECLARATION OF COMPLIANCE WITH THE
AMERICANS WITH DISABILITIES ACT”
(To be completed by the prime)

The Americans with Disabilities Act (ADA) requires that private organizations serving the public make their goods, services and facilities accessible to people with disabilities. Furthermore, the City of Oakland requires that all of its Contractors comply with their ADA obligations and verify such compliance by signing this Declaration of Compliance.

I certify that I will comply with the Americans with Disabilities Act by:

- A. Adopting policies, practices and procedures that ensure non-discrimination and equal access to Contractor’s goods, services and facilities for people with disabilities;
- B. Providing goods, services and facilities to individuals with disabilities in an integrated setting, except when separate programs are required to ensure equal access;
- C. Making reasonable modifications in programs, activities and services when necessary to ensure equal access to individuals with disabilities, unless fundamental alteration in the nature of the Contractor’s program would result;
- D. Removing architectural barriers in existing facilities or providing alternative means of delivering goods and services when removal of barriers is cost-prohibitive;
- E. Furnishing auxiliary aids to ensure equally effective communication with persons with disabilities; and
- F. If contractor provides transportation to the public, by providing equivalent accessible transportation to people with disabilities.

Schedule P
“NUCLEAR FREE ZONE DISCLOSURE FORM”

I certify that:

- A) Neither this Business Entity nor any of its subsidiaries, affiliates or agents engages in nuclear weapons work or anticipates entering into such work for the duration of its contract(s) with the City of Oakland, and
- B) The appropriate individuals of authority are cognizant of their responsibility to notify the Office of Finance of the City of Oakland if the Business Entity or any of its subsidiaries, affiliates or agents subsequently engages in nuclear weapons work.



Schedule U
"COMPLIANCE COMMITMENT AGREEMENT"

I have read the City of Oakland and Redevelopment Agency Local/Small Local Business Enterprise Program (L/SLBE) and that for the pertinent project, I have achieved the requirement of 20% L/SLBE participation, of which at minimum 10% has been allotted to Local Business Enterprises (LBE), and 10% has been allotted to Small Local Business Enterprises (SLBE); and that 20% of the total trucking dollars have been allotted to certified Oakland Local Truckers (trucking dollars applicable only to construction services projects). In the event that these requirements have not been achieved, I understand that my bid will be deemed non responsive.

As prime contractor for this project, I agree to use the City of Oakland's electronic payroll system to input ALL certified payrolls reports including all tiers of subcontractors for this project (certified payroll applicable only to construction services projects).

As prime, I agree to submit with the final payment request, a completed "Exit Report and Affidavit form". The Exit Report and Affidavit Form is located on the City's website at http://cces.oaklandnet.com/cceshome/.

Schedule V
"AFFIDAVIT OF NON-DISCIPLINARY OR INVESTIGATORY ACTION"

I certify that the Equal Employment Opportunity Commission (EEOC), Department of Fair Employment & Housing (DFEH) or the Office of Federal Contract Compliance Programs (OFCCP) has not taken disciplinary or investigatory action against the Firm. If such action has been taken, attached hereto is a detailed explanation of the reason for such action, the party instituting such action and the status or outcome of such action.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

By signing and submitting this form the prospective primary participant's authorized representative hereby obligates the proposer(s) to the Schedule C-1, Schedule P, Schedule U and Schedule V's stated conditions.

Date

Signature of Authorized Representative

Company Name

Type or Print Name

Address

Type or Print Title

City

State

Zip

Phone/Email



DEPARTMENT OF CONTRACTING AND
PURCHASING
Social Equity Division
Phone: 510-238-3970 Fax: 510-238-3363

SCHEDULE D OWNERSHIP, ETHNICITY and GENDER QUESTIONNAIRE

Part I: OWNERSHIP & ETHNICITY of PRIME:

Firm or Individual Name _____ Phone (____) _____

Street Address _____ City _____ State _____ Zip _____ Federal ID # _____

City of Oakland Business License Number _____ Completed by: _____ Phone if different from above _____

(Please check one and explain below)

Self Employed, Name of Owner _____ Corporation, State of Incorporation _____

Partnership, General or Limited _____ Names of Partners _____

Joint Venture, Names of Participants _____

Ownership Interests

All owners must be listed
in this information

Ethnicity	African American	American Indian/ Alaskan Native	Asian or Pacific Islander	Caucasian	Filipino	Hispanic	Other
Number of Owners							
% Of Total Ownership							
Women							
Joint Venture Ownership							

Part II: CERTIFICATIONS

Please attach a copy of the
certification letter or provide the
certification number and expiration
date.

- Minority-owned Business Enterprise (MBE)? Cert # _____ Expiration Date _____
- Woman-Owned Business Enterprise (WBE) Cert # _____ Expiration Date _____
- Disadvantaged Business Enterprise (DBE) Cert # _____ Expiration Date _____
- Oakland Certified Local Business Enterprise Cert # _____ Expiration Date _____
- Other _____ Cert # _____ Expiration Date _____

Part III: Ethnicity and Gender of Employees

Employment Category	Total Employees	Oakland Residents	Male					Female					
			African American	American Indian/Alaskan Native	Asian/ Pacific Islander	Caucasian	Hispanic	Other	African American	American Indian/Alaskan Native	Asian/ Pacific Islander	Caucasian	Hispanic
Project Management													
Professional													
Technical													
Clerical													
Trades													

AFFIRMATIVE ACTION INFORMATION I certify that I/we shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, sexual orientation, national origin, age, disability, Acquired Immune Deficiency Syndrome (AIDS) AIDS related complex, or any other arbitrary basis and shall insure compliance with all provisions of Executive Order No. 11246 (as amended by Executive Order No. 11375). I certify that I/we shall not discriminate against any employee or applicant for employment because they are disabled veteran of the Viet Nam era and shall insure compliance with all provisions of 41CFR60-250.4 where applicable.

I declare under penalty of perjury that the foregoing is true and correct. Signature _____

Print Name _____ Title _____ Date _____

Please be advised that the ethnicity and gender information contained in this Schedule D will be used for reporting and tracking purposes ONLY.

FOR CITY USE ONLY

Based upon a review of this questionnaire and any other factors I have cited below, I have determined that this person (is) (is not) an independent contractor.

Date _____

City Attorney/Assistant City Attorney/
Deputy City Attorney

PART A: INDEPENDENT CONTRACTOR QUESTIONNAIRE TO BE COMPLETED BY PROPOSED CONTRACTOR

Name of Contractor _____

SSN or Corporate Taxpayer ID No. of Contractor _____

Please answer questions “yes” or “no” whenever possible. When a more extensive explanation is required and there is no space on this form, please attach a separate sheet.

The word contract refers to the agreement the City is contemplating entering into with you.

NOTE: IF YOU ARE A CORPORATION, YOU NEED NOT COMPLETE THE REMAINDER OF THIS QUESTIONNAIRE IF YOU RETURN IT SHOWING, ABOVE, YOUR CORPORATE FEDERAL TAXPAYER NUMBER AND ATTACHING A COPY OF YOUR CERTIFICATE OF CORPORATE GOOD STANDING ISSUED BY THE STATE OF CALIFORNIA.

	Yes	No
1. Have you performed services for the City in any year(s) prior to 199__? If yes, please indicate which years.		
2. Have you received any training, guidance, or direction from the City as to how the City expects the job (for which your services are contemplated) to be done. If yes, please describe what you are expecting (or have received) in the way of training or direction. _____		
3. Will your services under the contract be performed on City property? If no, please describe where the services are to be performed. _____ _____		
4. Do you expect to devote any full days (6 or more hours) or full weeks (30 or more hours) towards performing the services under the contract? If yes, please indicate approximately how many full days and/or full weeks you expect to devote during the life of the contract _____		
5. Are there any set or fixed hours or days of the week during which the City is expecting you to perform services under the contract? If yes, please indicate the days and hours during which you will be performing services. _____		

	Yes	No
6. Please provide the date on which you expect to complete your services under the contract.		
7. In order to perform services under the contract, do you intend to provide your own supplies or equipment? If yes, briefly describe the equipment/supplies. _____		
8. If your response to No. 7 is yes, has the City promised to or will you be expecting the City to reimburse you in any way for the cost of the supplies or equipment?		
9. Other than the above-referenced supplies and equipment, do you anticipate incurring any <u>unreimbursable</u> out-of-pocket expenses in the performance of the contract with the City? If yes, please describe. _____		
10. Do you have federal and state employer identification numbers? If so, please provide these numbers. _____		
11. <u>Within the past two years</u> have you performed the same type services (as called for in the contract) for any client or customer <u>other than</u> the City? If yes, please identify the client or customer and briefly describe the services performed. _____		
12. Do you <u>currently</u> have clients or customers other than the City for whom you are or will perform services during the duration of the contract? If yes, please identify client or customer by name and briefly describe the nature of services performed. _____		
13. In the past two years have you notified any insurance company in conjunction with obtaining a business-related insurance policy that you are self-employed? If yes, please indicate the insurance company and the nature of the business-related policy. _____ _____		
14. Do you have your own <u>employees</u> to help you perform the services called for by your contract? (Do not refer to independent contractors you may use to assist you.) _____		
15. Within the <u>past two years</u> have you been the <u>employee</u> of any employer (received a W-2)? If yes, state the employer(s), the date(s) of employment, and the nature of the services performed. _____ _____		
16. Do you have an office or business address other than your own home address, a City of Oakland office or your employer's business address? If yes, please state the address. _____ _____		

	Yes	No
17. With regard to the following, please indicate whether you have:		
a. an existing business letterhead? (please attach)		
b. an existing business phone number other than your home number? (please indicate #)		
c. filed for a fictitious business name? If yes, please attach a certified copy of the County issued certificate and an affidavit of publication.		
d. done public advertising for your business? If yes, please attach the ad copy or briefly describe your advertising efforts.		
18. If you have answered parts or all of No. 17 with "Yes," are the services represented in your answers the same type of services you will be performing for the City?		
19. Do you have a license from any governmental agency to perform the services under the contract? If yes, please state the type of license and name of the licensing agency. _____		
20. Please describe the extent of any personal financial investment you have made in order to be self-employed. You may either choose to indicate the actual dollar amount of investment or, without disclosing any dollar amount, briefly describe any purchases, leases or other types of financial commitments made by you for self employment purposes. _____ _____ _____ _____		

I VERIFY THAT THE RESPONSES ABOVE ARE TRUE AND CORRECT.

Date

Contractor

PLEASE INDICATE WHETHER YOU OBJECT IF THE CITY DECIDES TO TREAT YOU AS A SHORT-TIME CONTRACT EMPLOYEE RATHER THAN AN INDEPENDENT CONTRACTOR AND THE REASON FOR YOUR OBJECTION. _____



**SCHEDULE N
DECLARATION OF COMPLIANCE – LIVING WAGE ORDINANCE**

(For use by all city agencies and departments for procurement, and professional services contracts)
To be completed by the prime and sub-consultants (including CFARs)

The Oakland Living Wage Ordinance (the "Ordinance"). Codified as Oakland Municipal Code provides that certain employers under contracts for the furnishing of services to or for the City that involve an expenditure equal to or greater than \$25,000 and certain recipients of City financial assistance that involve receipt of financial assistance equal to or greater than \$100,000 shall pay a prescribed minimum level of compensation to their employees for the time their employees work on City of Oakland contracts. The Redevelopment Agency of the City of Oakland adopted the City's Living Wage policy as its own policy Agency Resolution No. 98-13 C.M.S.

The contractor or city financial assistance recipient (CFAR) further agrees:

To pay employees a wage no less than the minimum initial compensation of \$10.83 per hour with health benefits, as described in Section 3-C "Health Benefits" of the Ordinance, or otherwise \$12.45 per hour, and to provide for the annual increase pursuant to Section 3-A "Wages" of the Ordinance. Effective, **July 1, 2010** the new rates will be **\$11.15** with health benefits and **\$12.82** without health benefits.

- (a) To provide at least twelve compensated days off per year for sick leave, vacation or personal necessity at the employees request, and, at least ten additional days per year of uncompensated time off pursuant to Section 3- B "Compensated Days Off" of the Ordinance.
- (b) Health benefits –Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.62 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- (c) To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. For further information you may visit <http://www.irs.gov/individuals/article/0,,id=96406,00.html>
- (d) To permit access to work sites for authorized City representatives to review the operation, payroll and related documents, and to provide certified copies of the relevant records upon request by the City; and
- (e) Not to retaliate against any employee claiming non-compliance with the provisions of this Ordinance and to comply with federal law prohibiting retaliation for union organizing.

The undersigned authorized representative hereby obligates the proposer to the above stated conditions under penalty of perjury.

_____		_____	
Project Number		Project Name	
_____		_____	
Company Name		Signature of Authorized Representative	
_____		_____	
Address		Type or Print Name	
_____		_____	
City	State	Zip	
_____		_____	
Area Code	Phone	Date	Type or Print Title

Employment Questionnaire

Please provide responses to the following questions:

Item

<u>No.</u>	DESCRIPTION	RESPONSE	COMMENTS
1.	*How many permanent employees are employed with your company? (If less than 5 employees stop here)		
2.	How many of your permanent employees are paid above the Living Wage rate.		
	How many of your permanent employees are paid below the Living Wage rate.		
3.	Number of compensated days off per employee (Refer to item "a" on the other side of the form for the correct number of compensated days off.		
4.	Number of trainees in your company?		
5.	Number of employees who are under 21 years of age, employed by a nonprofit corporation for after school or summer employment for a period not longer than 90 days.		



**Equal Benefits – Declaration of
Nondiscrimination/Equal Access
(Completed by the Prime Contractor ONLY)**

Section A. Vendor/Contractor/Consultant/CFAR¹ Information

Name of Company _____

Name of Company Contact _____

Address _____

City _____ State _____ Zip _____

Phone Number _____ Fax Number _____

Vendor Number _____ Federal ID or Social Security Number _____

Approximate Number of Employees in the U.S. _____

Are any of your employees covered by a collective bargaining agreement or union trust fund? Yes No

Union Name(s) _____

Section B. Compliance

Does your company provide or offer access to any benefits to employees with spouses or to spouses of employees? (Please check one) Yes No

Does your company provide or offer access to any benefits to employees with domestic partners²? (Please check one) Yes No

Section C. Compliance

Please check each benefit that applies

Benefits	Offered to Employees only	Offered to Employees and their spouses	Offered to Employees and their Domestic Partners	Not Offered at all	Documentation attached
Health					
Dental					
Vision					
Retirement (Pension, 401K, etc)					
Bereavement					
Family Leave					
Parental Leave					
Employee Assistance Program					
Relocation & Travel					
Company Discount, Facilities & Events					
Credit Union					
Child Care					
Other					

Signature: _____

Date: _____

¹ CFAR is a City Financial Recipient

² Domestic Partner is defined as a same sex couples or opposite sex couples registered as such with a state or local government domestic partnership registry



**CONTRACTOR ACKNOWLEDGEMENT OF CITY OF OAKLAND CAMPAIGN CONTRIBUTION LIMITS
FOR CONSTRUCTION, PROFESSIONAL SERVICE & PROCUREMENT CONTRACTS**

To be completed by City Representative prior to distribution to Contractor

City Representative _____ Phone _____ Project Spec No. _____

Department _____ Contract/Proposal Name _____

This is an ___ Original ___ Revised form (check one). If Original, complete all that applies. If Revised, complete Contractor name and any changed data.

Contractor Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

Type of Submission (check one) Bid Proposal Qualification Amendment

Majority Owner (if any). A majority owner is a person or entity who owns more than 50% of the contracting firm or entity.

Individual or Business Name _____ Phone _____ - _____ - _____

Street Address _____ City _____, State _____ Zip _____

The undersigned Contractor's Representative acknowledges by his or her signature the following:

The Oakland Campaign Reform Act limits campaign contributions and prohibits contributions from contractors doing business with the City of Oakland and the Oakland Redevelopment Agency during specified time periods. Violators are subject to civil and criminal penalties.

I have read Oakland Municipal Code Chapter 3.12, including section 3.12.140, the contractor provisions of the Oakland Campaign Reform Act and certify that I/we have not knowingly, nor will I/we make contributions during the period specified in the Act.

I understand that the contribution restrictions also apply to entities/persons affiliated with the contractor as indicated in the Oakland Municipal Code Chapter 3.12.080.

If there are any changes to the information on this form during the contribution-restricted time period, I will file an amended form with the City of Oakland.

Signature

____/____/____
Date

Print Name of Signer

Position

To be Completed by City of Oakland after completion of the form

Date Received by City: ____/____/____ By _____

Date Entered on Contractor Database: ____/____/____ By _____

Schedule Q
PROFESSIONAL OR SPECIALIZED SERVICES
INSURANCE REQUIREMENTS

a. General Liability, Automobile, Worker's Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. **Commercial General Liability insurance**, shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, Bodily Injury, Broad Form Property Damage, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)]. If such CGL insurance contains a general aggregate limit, it shall apply separately to this agreement.
 - A. Coverage afforded on behalf of the City shall be primary insurance and any other insurance available to the City under any other policies shall be excess insurance (over the insurance required by this Agreement).
 - B. Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location [project].
 - C. If the policy is a "claim made" type policy, the following should be included as endorsements:
 - 1) The retroactive date shall be the effective date of this Agreement or a prior date.
 - 2) The extended reporting or discovery period shall not be less than thirty-six (36) months.
- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be

endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. In the event the Contractor does not own vehicles, but utilized non-owned and hired vehicles, evidence of such coverage is acceptable with a signed statement from Contractor stating that only non-owned and hired vehicles are used in the course of the contract.

- iii. **Worker's Compensation insurance** as required by the laws of the State of California. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.
- iv. **Professional Liability/errors and omissions insurance** in the amount of
- v. **\$.00.**

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents and employees as insureds in its Comprehensive Commercial General Liability policy. If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Cancellation Notice: 30-day prior written notice of termination or material change in coverage and 10-day prior written notice of cancellation for non-payment;
- iii. Cross-liability coverage as provided under standard ISO forms' separation of insureds clause; and
- iv. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and

v. Insurer shall carry a insurance from an admitted company with a Best Rating of A VII or better.

c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

h. Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.

MASTER
PROFESSIONAL OR SPECIALIZED SERVICE AGREEMENT
BETWEEN THE CITY OF OAKLAND
AND
NAME OF CONSULTANT

Whereas, the City Auditor is authorized to enter into contracts for professional or specialized services if the mandates of Oakland City Charter Section 902(e) have been met.

Now therefore the parties to this Agreement covenant as follows:

1. Parties and Effective Date

This Agreement is made and entered into as of July 15th, 2010 between the City of Oakland, a municipal corporation, (“City”), One Frank H. Ogawa Plaza, Oakland, California 94612, and AON Consulting (“Contractor”)

2. Scope of Services

Contractor agrees to perform the services specified in **Schedule A, Scope of Services** attached to this Agreement and incorporated herein by reference. Contractor shall designate an individual who shall be responsible for communications with the City for the duration of this Agreement. **Schedule A** includes the manner of payment. The Project Manager for the City shall be _____

3. Time of Performance

Contractor’s services shall begin on Month, date, year and shall be completed by Month, Date and Year

4. Compensation and Method of Payment

There are other options if this will not work for you.

Contractor will be paid for performance of the entire scope of work set forth in **Schedule A** an amount not to exceed \$ _____. Payment at the **rates** stated in **Schedule A**, shall be due upon completion and acceptance of the **services**, at which time Contractor shall submit an invoice. Invoices shall state a description of the **services** completed and the amount due.

In the aggregate, progress payments will not exceed ninety percent (90%) of the total amount of the contract, with the balance to be paid upon satisfactory completion of the contract. Progress, or other payments, will be based on at least equivalent services rendered, and will not be made in advance of services rendered.

In computing the amount of any progress payment (this includes any partial payment of the contract price during the progress of the work, even though the work is broken down into clearly identifiable stages, or separate tasks), the City will determine the amount that the contractor has earned during the period for which payment is being made, on the basis of the

contract terms. The City will retain out of such earnings an amount at least equal to ten percent (10%), pending satisfactory completion of the entire contract.

5. Independent Contractor

a. Rights and Responsibilities

It is expressly agreed that in the performance of the services necessary to carry out this Agreement, Contractor shall be, and is, an independent contractor, and is not an employee of the City. Contractor has and shall retain the right to exercise full control and supervision of the services, and full control over the employment, direction, compensation and discharge of all persons assisting Contractor in the performance of Contractor's services hereunder. Contractor shall be solely responsible for all matters relating to the payment of his/her employees, including compliance with social security, withholding and all other regulations governing such matters, and shall be solely responsible for Contractor's own acts and those of Contractor's subordinates and employees. Contractor will determine the method, details and means of performing the services described in **Schedule A**.

b. Contractor's Qualifications

Contractor represents that Contractor has the qualifications and skills necessary to perform the services under this Agreement in a competent and professional manner without the advice or direction of The City. The Contractor warrants that the Contractor, and the Contractor's employees and sub-consultants are properly licensed, registered, and/or certified as may be required under any applicable federal, state and local laws, statutes, ordinances, rules and regulations relating to Contractor's performance of the Services. All Services provided pursuant to this Agreement shall comply with all applicable laws and regulations. Contractor will promptly advise City of any change in the applicable laws, regulations, or other conditions that may affect City's program. This means Contractor is able to fulfill the requirements of this Agreement. Failure to perform all of the services required under this Agreement will constitute a material breach of the Agreement and may be cause for termination of the Agreement. Contractor has complete and sole discretion for the manner in which the work under this Agreement is performed. Prior to execution of this agreement, Contractor shall complete **Schedule M, Independent Contractor Questionnaire**, attached hereto.

c. Payment of Income Taxes

Contractor is responsible for paying, when due, all income taxes, including estimated taxes, incurred as a result of the compensation paid by the City to Contractor for services under this Agreement. On request, Contractor will provide the City with proof of timely payment. Contractor agrees to indemnify the City for any claims, costs, losses, fees, penalties, interest or damages suffered by the City resulting from Contractor's failure to comply with this provision.

d. Non-Exclusive Relationship

Contractor may perform services for, and contract with, as many additional clients, persons or companies as Contractor, in his or her sole discretion, sees fit.

e. Tools, Materials and Equipment

Contractor will supply all tools, materials and equipment required to perform the services under this Agreement.

f. Cooperation of the City

The City agrees to comply with all reasonable requests of Contractor necessary to the performance of Contractor's duties under this Agreement.

g. Extra Work

Contractor will do no extra work under this Agreement without first receiving prior written authorization from the City.

6. Proprietary of Confidential Information of the City

Contractor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Contractor may have access to private or confidential information which may be owned or controlled by the City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to the City. Contractor agrees that all information disclosed by the City to Contractor shall be held in confidence and used only in performance of the Agreement. Contractor shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

7. Ownership of Results

Any interest of Contractor or its Subcontractors, in specifications, studies, reports, memoranda, computation documents prepared by Contractor or its Subcontractors in drawings, plans, sheets or other connection with services to be performed under this Agreement shall be assigned and transmitted to the City. However, Contractor may retain and use copies for reference and as documentation of its experience and capabilities.

8. Copyright

Contractor shall execute appropriate documents to assign to the City the copyright to works created pursuant to this Agreement.

9. Audit

Contractor shall maintain (a) a full set of accounting records in accordance with generally accepted accounting principles and procedures for all funds received under this Agreement; and (b) full and complete documentation of performance related matters such as benchmarks and deliverables associated with this Agreement.

Contractor shall (a) permit the City to have access to those records for the purpose of making an audit, examination or review of financial and performance data pertaining to this Agreement; and (b) maintain such records for a period of four years following the last fiscal year during which the City paid an invoice to Contractor under this Agreement.

In addition to the above, Contractor agrees to comply with all audit, inspection, recordkeeping and fiscal reporting requirements incorporated by reference.

10. Agents/Brokers

Contractor warrants that Contractor has not employed or retained any subcontractor, agent, company or person other than bona fide, full-time employees of Contractor working solely for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any subcontractor, agent, company or persons other than bona fide employees any fee, commission, percentage, gifts or any other consideration, contingent upon or resulting from the award of this Agreement. For breach or violation of this warranty, the City shall have the right to rescind this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage or gift.

11. Assignment

Contractor shall not assign or otherwise transfer any rights, duties, obligations or interest in this Agreement or arising hereunder to any person, persons, entity or entities whatsoever without the prior written consent of the City and any attempt to assign or transfer without such prior written consent shall be void. Consent to any single assignment or transfer shall not constitute consent to any further assignment or transfer.

12. Publicity

Any publicity generated by Contractor for the project funded pursuant to this Agreement, during the term of this Agreement or for one year thereafter, will make reference to the contribution of the City of Oakland in making the project possible. The words "City of Oakland" will be explicitly stated in all pieces of publicity, including but not limited to flyers, press releases, posters, brochures, public service announcements, interviews and newspaper articles.

City staff will be available whenever possible at the request of Contractor to assist Contractor in generating publicity for the project funded pursuant to this Agreement. Contractor further agrees

to cooperate with authorized City officials and staff in any City-generated publicity or promotional activities undertaken with respect to this project.

13. Title of Property

Title to all property, real and personal, acquired by the Contractor from City funds shall vest in the name of the City of Oakland and shall be accounted for by means of a formal set of property records. Contractor acknowledges it is responsible for the protection, maintenance and preservation of all such property held in custody for the City during the term of the Agreement. The Contractor shall, upon expiration or termination of this Agreement, deliver to the City all of said property and documents evidencing title to same. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with “Notice” section of this Agreement.

Contractor shall provide to the City Auditor all property-related audit and other reports required under this Agreement. In the case of lost or stolen items or equipment, the Contractor shall immediately notify the Police Department, obtain a written police report and notify the City in accordance with the “Notice” section of this Agreement.

Prior to the disposition or sale of any real or personal property acquired with City funds, Contractor shall obtain approval by the City Council and City Administrator in accord with the requirements for disposal or sale of real or personal surplus property set forth in the Oakland City Charter and/or Oakland Municipal Code Title 2.04, Chapter 2.04.120. Surplus supplies and equipment – Disposal or Destruction.

14. Insurance

Unless a written waiver is obtained from the City’s Risk Manager, Contractor must provide the insurance listed in **Schedule Q**, Insurance Requirements. **Schedule Q** is attached and incorporated herein by reference.

15. Indemnification (modified language agreed to by the City Attorney)

a. Aon shall indemnify and hold harmless the Client, its Councilmembers, directors, officers, employees and agents from and against any and all claims, actions, losses, damages, liabilities and expenses resulting from third party claims arising out of the performance of Services, to the extent finally judicially determined to have directly resulted from the negligence of Aon, not to exceed the percentage share that its negligence bears to the total negligence of Client and all other negligent entities and individuals. b. Except with respect to the indemnification obligations in the preceding paragraph, (i) in no event will either party be liable to the other party for any indirect, incidental, special, consequential, exemplary or reliance damages (including, without limitation, lost or anticipated revenues or profits, loss of use of data) arising out of this Agreement or the use of the Deliverables based upon any theory of liability, even if the party is advised of the possibility of such damages, and, in addition, (ii) the liability of Aon, including officers, directors, employees, agents, affiliates, and parent companies, to the Client for any claims, liabilities, or expenses relating to this

Agreement shall be limited to the lesser of (a) \$250,000 or (b) the amount of fees paid pursuant to this Agreement in the calendar year in which the claim arose; except to the extent resulting from the bad faith, gross negligence or intentional misconduct of Aon's personnel, or the breach of the confidentiality provision of this Agreement. Notwithstanding the foregoing, as applicable to the Client and the Services, Aon will not be liable to Client for any amounts for which Client or the Plan would have been responsible to pay irrespective of any act, error or omission by Aon, including interest adjustments. c. This Section will survive the termination or expiration of this Agreement.

16. Right to Offset Claims for Money

All claims for money due or to become due from City shall be subject to deduction or offset by City from any monies due Contractor by reason of any claim or counterclaim arising out of: i) this Agreement, or ii) any purchase order, or iii) any other transaction with Contractor.

17. Prompt Payment Ordinance

This agreement is subject to the Prompt Payment Ordinance of Oakland Municipal Code, Title 2, Chapter 2.06 (Ordinance 12857 C.M.S., Passed January 15, 2008 and effective February 1, 2008), establishing a policy requiring payment within 20 business days after receipt of an invoice for purchase of goods and/or services.

Disputed late payments are subject to investigation by the City of Oakland Liaison, Office of Contract Compliance, upon the filing of a complaint. Contractor or its subcontractors opposing payment shall provide security in the form of cash, certified check or bond to cover the disputed amount and penalty during the investigation. If Contractor or its subcontractor fails or refuses to deposit security, the City will withhold an amount sufficient to cover the claim from the next Contractor progress payment. The City, upon a determination that an undisputed invoice or payment is late, will release security deposits or withholds directly to claimants for valid claims.

Contractor and its subcontractors shall not be allowed to retain monies from subcontractor payments for goods as project retention, and are required to release subcontractor project retention in proportion to the subcontractor services rendered, for which payment is due and undisputed, within five (5) business days of payment. Contractor and its subcontractors shall be required to pass on to and pay subcontractors mobilization fees within five (5) business days of being paid such fees by the City. For the purpose of posting on the City's website, Contractor and its subcontractors, are required to file notice with the City of release of retention and payment of mobilization fees, within five (5) business days of such payment or release; and, Contractor is required to file an affidavit, under penalty of perjury, that he or she has paid all subcontractors, within five (5) business days following receipt of payment from the City. The affidavit shall provide the names and address of all subcontractors and the amount paid to each.

If any amount due by a prime contractor or subcontractor to any claimant for goods and/or services rendered in connection with a purchase contract is not timely paid in accordance the Prompt Payment ordinance, the prime Contractor or subcontractor shall owe and pay to the claimant interest penalty in the amount of ten percent (10%) of the improperly withheld

amount per year for every month that payment is not made, provided the claimant agrees to release the prime contractor or subcontractor from any and all further interest penalty that may be claimed or collected on the amount paid. Claimants that receive interest payments for late payment Prompt Payment ordinance may not seek further interest penalties on the same late payment in law or equity.

Contractor and its subcontractors shall include the same or similar provisions as those set forth above in this section in any contract with another contractor or subcontractor that delivers goods and/or services pursuant to or in connection with this City of Oakland purchase contract.

Prompt Payment invoice and claim forms are available at the following City of Oakland website: <http://cces.oaklandnet.com/cceshome/> by clicking on the rightmost upper tab labeled Prompt Payment Ordinance. Invoice and claim inquiries should be directed to Vivian Inman, City of Oakland Liaison, 510-238-6261, Office of Contract Compliance, 250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612.

18. Arizona and Arizona-Based Businesses

Contractor agrees that in accordance with Resolution No. 82727 C.M.S., neither it nor any of its subsidiaries, affiliates or agents that will provide services under this agreement is currently headquartered in the State of Arizona, and shall not establish an Arizona business headquarters for the duration of this agreement with the City of Oakland or until Arizona rescinds SB 1070.

Contractor acknowledges its duty to notify the Department of Contracting and Purchasing, Purchasing Division if it's Business Entity or any of its subsidiaries affiliates or agents subsequently relocates its headquarters to the State of Arizona. Such relocation shall be a basis for termination of this agreement.

19. Dispute Disclosure

Contractors acknowledges the requirement to disclose pending disputes with the City of Oakland or Redevelopment Agency when it submits bids, proposals or applications for a City or Agency contract or transaction involving professional services. Contractor represents that it has disclosed any and all pending disputes to the City prior to execution of this agreement. Failure to disclose pending disputes prior to execution of this agreement may, at the City's discretion, be a basis for termination of this agreement.

20. Termination on Notice

The City may terminate this Agreement immediately for cause or without cause upon giving (30) calendar days' written notice to Contractor. Unless otherwise terminated as provided in this Agreement, this Agreement will terminate on «Termination Date».

21. Conflict of Interest

a. Contractor

The following protections against conflict of interest will be upheld:

- i. Contractor certifies that no member of, or delegate to the Congress of the United States shall be permitted to share or take part in this Agreement or in any benefit arising therefrom.
- ii. Contractor certifies that no member, officer, or employee of the City or its designees or agents, and no other public official of the City who exercises any functions or responsibilities with respect to the programs or projects covered by this Agreement, shall have any interest, direct or indirect in this Agreement, or in its proceeds during his/her tenure or for one year thereafter.
- iii. Contractor shall immediately notify the City of any real or possible conflict of interest between work performed for the City and for other clients served by Contractor.
- iv. Contractor warrants and represents, to the best of its present knowledge, that no public official or employee of City who has been involved in the making of this Agreement, or who is a member of a City board or commission which has been involved in the making of this Agreement whether in an advisory or decision-making capacity, has or will receive a direct or indirect financial interest in this Agreement in violation of the rules contained in California Government Code Section 1090 et seq., pertaining to conflicts of interest in public contracting. Contractor shall exercise due diligence to ensure that no such official will receive such an interest.
- v. Contractor further warrants and represents, to the best of its present knowledge and excepting any written disclosures as to these matters already made by Contractor to City, that (1) no public official of City who has participated in decision-making concerning this Agreement or has used his or her official position to influence decisions regarding this Agreement, has an economic interest in Contractor or this Agreement, and (2) this Agreement will not have a direct or indirect financial effect on said official, the official's spouse or dependent children, or any of the official's economic interests. For purposes of this paragraph, an official is deemed to have an "economic interest" in any (a) for-profit business entity in which the official has a direct or indirect investment worth \$2,000 or more, (b) any real property in which the official has a direct or indirect interest worth \$2,000 or more, (c) any for-profit business entity in which the official is a director, officer, partner, trustee, employee or manager, or (d) any source of income or donors of gifts to the official (including nonprofit entities) if the income or value of the gift totaled more than \$500 the previous year. Contractor agrees to promptly

disclose to City in writing any information it may receive concerning any such potential conflict of interest. Contractor's attention is directed to the conflict of interest rules applicable to governmental decision-making contained in the Political Reform Act (California Government Code Section 87100 et seq.) and its implementing regulations (California Code of Regulations, Title 2, Section 18700 et seq.).

- vi. Contractor understands that in some cases Contractor or persons associated with Contractor may be deemed a "city officer" or "public official" for purposes of the conflict of interest provisions of Government Code Section 1090 and/or the Political Reform Act. Contractor further understands that, as a public officer or official, Contractor or persons associated with Contractor may be disqualified from future City contracts to the extent that Contractor is involved in any aspect of the making of that future contract (including preparing plans and specifications or performing design work or feasibility studies for that contract) through its work under this Agreement.
- vii. Contractor shall incorporate or cause to be incorporated into all subcontracts for work to be performed under this Agreement a provision governing conflict of interest in substantially the same form set forth herein.

b. No Waiver

Nothing herein is intended to waive any applicable federal, state or local conflict of interest law or regulation

c. Remedies and Sanctions

In addition to the rights and remedies otherwise available to the City under this Agreement and under federal, state and local law, Contractor understands and agrees that, if the City reasonably determines that Contractor has failed to make a good faith effort to avoid an improper conflict of interest situation or is responsible for the conflict situation, the City may (1) suspend payments under this Agreement, (2) terminate this Agreement, (3) require reimbursement by Contractor to the City of any amounts disbursed under this Agreement. In addition, the City may suspend payments or terminate this Agreement whether or not Contractor is responsible for the conflict of interest situation.

22. Non-Discrimination/Equal Employment Practices

Contractor shall not discriminate or permit discrimination against any person or group of persons in any manner prohibited by federal, state or local laws. During the performance of this Agreement, Contractor agrees as follows:

- a. Contractor and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment because of age, marital status, religion, gender,

sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability. This nondiscrimination policy shall include, but not be limited to, the following: employment, upgrading, failure to promote, demotion or transfer, recruitment advertising, layoffs, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- b. Contractor and Contractor's Subcontractors shall state in all solicitations or advertisements for employees placed by or on behalf of Contractor that all qualified applicants will receive consideration for employment without regard to age, marital status, religion, gender, sexual orientation, gender identity, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- c. Contractor shall make its goods, services, and facilities accessible to people with disabilities and shall verify compliance with the Americans with Disabilities Act by executing **Schedule C-1, Declaration of Compliance with the Americans with Disabilities Act**, attached hereto and incorporated herein.
- d. If applicable, Contractor will send to each labor union or representative of workers with whom Contractor has a collective bargaining agreement or contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this nondiscrimination clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23. Local and Small Local Business Enterprise Program (L/SLBE)

- a. *Requirement* - There is a twenty percent (20%) minimum participation requirement for all professional services contracts \$50,000 or more. Contractors shall comply with the twenty percent (20%) local business participation requirement at a rate of ten percent (10%) local and 10% small local business participation. The requirement may be satisfied by a certified prime consultant and/or sub-consultant(s) or a small local certified firm may meet the twenty percent requirement. A business must be certified by the City of Oakland in order to earn credit toward meeting the twenty percent requirement.
- b. *Good Faith Effort* - In light of the twenty percent requirement, good faith effort documentation is not necessary.
- c. *Incentives* – Upon satisfying the twenty percent requirement, a consultant will earn two (2) preference points. Three additional preference points may be earned at a rate of one point for every additional ten percent participation up to fifty percent participation of the total contract dollars attributable to local certified firms.
- d. *Banking* – The City will allow banking of credits for L/SLBE participation that exceeds fifty percent (50%) on a City funded project and will allow consultants to accumulate credits for hiring certified local businesses and certified small local businesses on non-

city funded projects within a year of the City funded project. Banked credits will count toward achieving a bid discount or preference points (up to 2%) on a City contract. The ability of firms to bank credits or hours on non-City projects will not be retroactive. Consultants will have one year to apply credits. A certificate validating banked credits must be issued by the City prior to the submittal or bid date.

- e. The Exit Report and Affidavit (ERA) – This report declares the level of participation achieved and will be used to calculate banked credits. The prime consultant must complete the **Schedule F, Exit Report and Affidavit** for, and have it executed by, each L/SLBE sub consultant and submitted to the City Administrator’s Department of Contracting and Purchasing, along with a *copy* of the final progress payment application.
- f. Joint Venture and Mentor Protégé Agreements. If a prime contractor or prime consultant is able to develop a Joint Venture or “Mentor-Protégé” relationship with a certified LBE or SLBE, the mentor or Joint Venture partners will enjoy the benefit of credits against the participation requirement. In order to earn credit for Joint Venture or Mentor-Protégé relationships, the Agreement must be submitted for approval to the Department of Contracting and Purchasing, Social Equity Division prior to the project bid date for construction, and by proposal due date for professional services contracts. Joint Venture Applications and elements of City approved Mentor Protégé relation are available upon request.
- g. Contractor shall submit information concerning the ownership and workforce composition of Contractor’s firm as well as its subcontractors and suppliers, by completing **Schedule D, Ownership, Ethnicity, and Gender Questionnaire**, and **Schedule E, Project Consultant Team**, attached and incorporated herein and made a part of this Agreement.
- h. All affirmative action efforts of Contractor are subject to tracking by the City. This information or data shall be used for statistical purposes only. All contractors are required to provide data regarding the make-up of their subcontractors and agents who will perform City contracts, including the race and gender of each employee and/or contractor and his or her job title or function and the methodology used by Contractor to hire and/or contract with the individual or entity in question.
- i. In the recruitment of subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts, which include outreach to minorities and women-owned businesses as well as other segments of Oakland’s business community. The City Administrator will track the City’s MBE/WBE utilization to ensure the absence of unlawful discrimination on the basis of age, marital status, religion, gender, sexual preference, race, creed, color, national origin, Acquired-Immune Deficiency Syndrome (AIDS), AIDS-Related Complex (ARC) or disability.
- j. In the use of such recruitment, hiring and retention of employees or subcontractors, the City of Oakland requires all contractors to undertake nondiscriminatory and equal outreach efforts which include outreach to minorities and women as well as other segments of Oakland’s business community.

24. Living Wage Ordinance

If the contract amount of this Agreement is equal to or greater than \$25,000 annually, then Contractor must comply with the Oakland Living Wage Ordinance. The Living Wage Ordinance requires that nothing less than a prescribed minimum level of compensation (a living wage) be paid to employees of service contractors (consultants) of the City and employees of CFARs (Ord. 12050 § 1, 1998). The Ordinance also requires submission of the Declaration of Compliance attached and incorporated herein as **Schedule N** and made part of this Agreement, and, unless specific exemptions apply or a waiver is granted, the consultant must provide the following to its employees who perform services under or related to this Agreement:

- a. Minimum compensation – Said employees shall be paid an initial **hourly wage rate of \$11.15 with health benefits or \$12.82 without health benefits**. These initial rates shall be upwardly adjusted each year no later than April 1 in proportion to the increase at the immediately preceding December 31 over the year earlier level of the Bay Region Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor. **Effective July 1st of each year, Contractor shall pay adjusted wage rates.**
- b. Health benefits – Said full-time and part-time employees paid at the lower living wage rate shall be provided health benefits of at least \$1.82 per hour. Contractor shall provide proof that health benefits are in effect for those employees no later than 30 days after execution of the contract or receipt of City financial assistance.
- c. Compensated days off – Said employees shall be entitled to twelve compensated days off per year for sick leave, vacation or personal necessity at the employee's request, and ten uncompensated days off per year for sick leave. Employees shall accrue one compensated day off per month of full time employment. Part-time employees shall accrue compensated days off in increments proportional to that accrued by full-time employees. The employees shall be eligible to use accrued days off after the first six months of employment or consistent with company policy, whichever is sooner. Paid holidays, consistent with established employer policy, may be counted toward provision of the required 12 compensated days off. Ten uncompensated days off shall be made available, as needed, for personal or immediate family illness after the employee has exhausted his or her accrued compensated days off for that year.
- d. Federal Earned Income Credit (EIC) - To inform employees that he or she may be eligible for Earned Income Credit (EIC) and shall provide forms to apply for advance EIC payments to eligible employees. There are several websites and other sources available to assist you. Web sites include but are not limited to: (1) <http://www.irs.gov>. for current guidelines as prescribed by the Internal Revenue Service and (2) the 2008 Earned Income Tax Outreach Kit <http://www.cbpp.org/eic2008/>

- e. Contractor shall provide to all employees and to the Department of Contracting and Purchasing, written notice of its obligation to eligible employees under the City's Living Wage requirements. Said notice shall be posted prominently in communal areas of the work site(s) and shall include the above-referenced information.
- f. Contractor shall provide all written notices and forms required above in English, Spanish or other languages spoken by a significant number of employees within 30 days of employment under this Agreement.
- g. Reporting – Contractor shall maintain a listing of the name, address, hire date, occupation classification, rate of pay and benefits for each of its employees. Contractor shall provide a copy of said list to the Department of Contracting and Purchasing, on a quarterly basis, by March 31, June 30, September 30 and December 31 for the applicable compliance period. Failure to provide said list within five days of the due date will result in liquidated damages of five hundred dollars (\$500.00) for each day that the list remains outstanding. Contractor shall maintain employee payroll and related records for a period of four (4) years after expiration of the compliance period.
- h. Contractor shall require subcontractors that provide services under or related to this Agreement to comply with the above Living Wage provisions. Contractor shall include the above-referenced sections in its subcontracts. Copies of said subcontracts shall be submitted to the Department of Contracting and Purchasing.

25. Equal Benefits Ordinance

This Agreement is subject to the Equal Benefits Ordinance of Chapter 2.232.010 of the Oakland Municipal Code and its implementing regulations. The purpose of this Ordinance is to protect and further the public, health, safety, convenience, comfort, property and general welfare by requiring that public funds be expended in a manner so as to prohibit discrimination in the provision of employee benefits by City contractors(consultants) between employees with spouses and employees with domestic partners, and/or between domestic partners and spouses of such employees. (Ord. 12394 (part), 2001)

The following contractors are subject to the Equal Benefits Ordinance: Entities which enter into a "contract" with the City for an amount of twenty-five thousand dollars (\$25,000.00) or more for public works or improvements to be performed, or for goods or services to be purchased or grants to be provided at the expense of the City or to be paid out of moneys deposited in the treasury or out of trust moneys under the control of or collected by the city; and Entities which enter into a "property contract" pursuant to Section 2.32.020(D) with the City in an amount of twenty-five thousand dollars (\$25,000.00) or more for the exclusive use of or occupancy (1) of real property owned or controlled by the city or (2) of real property owned by others for the city's use or occupancy, for a term exceeding twenty-nine (29) days in any calendar year.

The Ordinance shall only apply to those portions of a contractor's operations that occur (1) within the city; (2) on real property outside the city if the property is owned by the city or if the city has a right to occupy the property, and if the contract's presence at that location is connected to a contract with the city; and (3) elsewhere in the United States where work related to a city contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor

The Equal Benefits Ordinance requires among other things, submission of the attached and incorporated herein as **Schedule N-1, Equal Benefits-Declaration of Nondiscrimination**.

26. City of Oakland Campaign Contribution Limits

This Agreement is subject to the City of Oakland Campaign Reform Act of Chapter 3.12 of the Oakland Municipal Code and its implementing regulations if it requires Council approval. The City of Oakland Campaign Reform Act prohibits contractors that are doing business or seeking to do business with the City of Oakland from making campaign contributions to Oakland candidates between commencement of negotiations and either 180 days after completion of, or termination of, contract negotiations.

If this Agreement requires Council approval, Contractor must sign and date an Acknowledgment of Campaign Contribution Limits Form attached hereto and incorporated herein as **Schedule O**.

27. Nuclear Free Zone Disclosure

Contractor represents, pursuant to **Schedule P, Nuclear Free Zone Disclosure Form**, that Contractor is in compliance with the City of Oakland's restrictions on doing business with service providers considered nuclear weapons makers. Prior to execution of this agreement, Contractor shall complete **Schedule P**, attached hereto.

28. Political Prohibition

Subject to applicable State and Federal laws, moneys paid pursuant to this Agreement shall not be used for political purposes, sponsoring or conducting candidate's meetings, engaging in voter registration activity, nor for publicity or propaganda purposes designed to support or defeat legislation pending before federal, state or local government.

29. Religious Prohibition

There shall be no religious worship, instruction, or proselytization as part of, or in connection with the performance of the Agreement.

30. Business Tax Certificate

Contractor shall obtain and provide proof of a valid City business tax certificate. Said certificate must remain valid during the duration of this Agreement.

31. Abandonment of Project

The City may abandon or indefinitely postpone the project or the services for any or all of the project at any time. In such event, the City shall give thirty (30) days written notice of such abandonment. In the event of abandonment prior to completion of the final drawings, if applicable, and cost estimates, Contractor shall have the right to expend a reasonable amount of additional time to assemble work in progress for the purpose of proper filing and closing the job. Prior to expending said time, Contractor shall present to the City a complete report of said proposed job closure and its costs, and the City may approve all or any part of said expense. Such additional time shall not exceed ten percent (10%) of the total time expended to the date of notice of termination. All charges thus incurred and approved by the City, together with any other charges outstanding at the time of termination, shall be payable by the City within thirty (30) days following submission of a final statement by Contractor.

Should the project or any portion thereof be abandoned, the City shall pay the Contractor for all services performed thereto in accordance with the terms of this Agreement.

32. Validity of Contracts

This Agreement shall not be binding or of any force or effect until it is: i) approved by resolution of the City Council as required by the Oakland City Charter, Oakland Municipal Code Title 2.04 and Oakland City Council Rules of Procedure, ii) approved for form and legality by the Office of the City Attorney, and iii) signed by the City Administrator or his or her designee.

33. Governing Law

This Agreement shall be governed by the laws of the State of California.

34. Notice

If either party shall desire or be required to give notice to the other, such notice shall be given in writing, via facsimile and concurrently by prepaid U.S. certified or registered postage, addressed to recipient as follows:

(City of Oakland)

Project Manager

Agency Name

Division Name

Address

Oakland, CA 94612-2033

(Consulting Name)
Name and Title
Address
City, State, Zip

Any party to this Agreement may change the name or address of representatives for purpose of this Notice paragraph by providing written notice to all other parties ten (10) business days before the change is effective.

35. Entire Agreement of the Parties

This Agreement supersedes any and all agreements, either oral or written, between the parties with respect to the rendering of services by Contractor for the City and contains all of the representations, covenants and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement or promise not contained in this Agreement will be valid or binding.

36. Modification

Any modification of this Agreement will be effective only if it is in a writing signed by all parties to this Agreement.

37. Severability/Partial Invalidity

If any term or provision of this Agreement, or the application of any term or provision of this Agreement to a particular situation, shall be finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then notwithstanding such determination, such term or provision shall remain in force and effect to the extent allowed by such ruling and all other terms and provisions of this Agreement or the application of this Agreement to other situation shall remain in full force and effect.

Notwithstanding the foregoing, if any material term or provision of this Agreement or the application of such material term or condition to a particular situation is finally found to be void, invalid, illegal or unenforceable by a court of competent jurisdiction, then the Parties hereto agree to work in good faith and fully cooperate with each other to amend this Agreement to carry out its intent.

38. Time of the Essence

Time is of the essence in the performance of this Agreement.

39. Commencement, Completion and Close out

It shall be the responsibility of the Contractor to coordinate and schedule the work to be performed so that commencement and completion take place in accordance with the provisions of this Agreement.

Any time extension granted to Contractor to enable Contractor to complete the work must be in writing and shall not constitute a waiver of rights the City may have under this Agreement.

Should the Contractor not complete the work by the scheduled date or by an extended date, the City shall be released from all of its obligations under this Agreement.

Within thirty (30) days of completion of the performance under this Agreement, the Contractor shall make a determination of any and all final costs due under this Agreement and shall submit a requisition for such final and complete payment (including without limitations any and all claims relating to or arising from this Agreement) to the City. Failure of the Contractor to timely submit a complete and accurate requisition for final payment shall relieve the City of any further obligations under this Agreement, including without limitation any obligation for payment of work performed or payment of claims by Contractor.

40. Approval

If the terms of this Agreement are acceptable to Contractor and the City, sign and date below.

41. Inconsistency

If there is any inconsistency between the main agreement and the attachments/exhibits, the text of the main agreement shall prevail.

City of Oakland,
a municipal corporation

Consulting Name

(City Administrator) (Date)

(Signature) (Date)

(Agency Director) (Date)

Business Tax Certificate No.

Date of Expiration

Approved as to form and legality:

Resolution Number

(City Attorney's Office Signature) (Date)

Accounting Number (PO#)

Schedule Q

INSURANCE REQUIREMENTS PROFESSIONAL AND SPECIALIZED SERVICES AGREEMENTS

a. General Liability, Automobile, Worker's Compensation and Professional Liability

Contractor shall procure, prior to commencement of service, and keep in force for the term of this contract, at Contractor's own cost and expense, the following policies of insurance or certificates or binders as necessary to represent that coverage as specified below is in place with companies doing business in California and acceptable to the City. If requested, Contractor shall provide the City with copies of all insurance policies. The insurance shall at a minimum include:

- i. **Commercial General Liability insurance**, shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, Bodily Injury, Broad Form Property Damage, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)]. If such CGL insurance contains a general aggregate limit, it shall apply separately to this agreement.
 - A. Coverage afforded on behalf of the City shall be primary insurance and any other insurance available to the City under any other policies shall be excess insurance (over the insurance required by this Agreement).
 - B. Limits of liability: Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$2,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this location [project].
 - C. If the policy is a "claim made" type policy, the following should be included as endorsements:
 - 1) The retroactive date shall be the effective date of this Agreement or a prior date.
 - 2) The extended reporting or discovery period shall not be less than thirty-six (36) months.
- ii. **Automobile Liability Insurance.** Contractor shall maintain automobile liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos). Coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. In the event the Contractor does not own

vehicles, but utilized non-owned and hired vehicles, evidence of such coverage is acceptable with a signed statement from Contractor stating that only non-owned and hired vehicles are used in the course of the contract.

- iii. **Worker's Compensation insurance** as required by the laws of the State of California. Statutory coverage may include Employers Liability coverage with limits not less than \$1,000,000. The Contractor certifies that he/she is aware of the provisions of section 3700 of the California Labor Code, which requires every employer to provide Workers' Compensation coverage, or to undertake self-insurance in accordance with the provisions of that Code. The Contractor shall comply with the provisions of section 3700 of the California Labor Code before commencing performance of the work under this Agreement and thereafter as required by that code.
- iv. **Professional Liability/errors and omissions insurance** in the amount of \$1,000,000.00.

b. Terms Conditions and Endorsements

The aforementioned insurance shall be endorsed and have all the following conditions:

- i. Insured Status (Additional Insured): Contractor shall provide insured status using ISO endorsement CG 20 10 or its equivalent naming the City of Oakland, its Councilmembers, directors, officers, agents and employees as insureds in its Comprehensive Commercial General Liability policy. If Contractor submits the ACORD Insurance Certificate, the insured status endorsement must be set forth on a CG 20 10 (or equivalent). A STATEMENT OF ADDITIONAL INSURED STATUS ON THE ACORD INSURANCE CERTIFICATE FORM IS INSUFFICIENT AND WILL BE REJECTED AS PROOF OF MEETING THIS REQUIREMENT; and
- ii. Cancellation Notice: 30-day prior written notice of termination or material change in coverage and 10-day prior written notice of cancellation for non-payment;
- iii. Cross-liability coverage as provided under standard ISO forms' separation of insureds clause; and
- iv. Certificate holder is to be the same person and address as indicated in the "Notices" section of this Agreement; and
- v. Insurer shall carry a insurance from an admitted company with a Best Rating of A VII or better.

c. Replacement of Coverage

In the case of the breach of any of the insurance provisions of this Agreement, the City may, at the City's option, take out and maintain at the expense of Contractor, such insurance in the name of Contractor as is required pursuant to this Agreement, and may deduct the cost of taking out

and maintaining such insurance from any sums which may be found or become due to Contractor under this Agreement.

d. Insurance Interpretation

All endorsements, certificates, forms, coverage and limits of liability referred to herein shall have the meaning given such terms by the Insurance Services Office as of the date of this Agreement.

e. Proof of Insurance

Contractor will be required to provide proof of all insurance required for the work prior to execution of the contract, including copies of Contractor's insurance policies if and when requested. Failure to provide the insurance proof requested or failure to do so in a timely manner shall constitute ground for rescission of the contract award.

f. Subcontractors

Should the Contractor subcontract out the work required under this agreement, they shall include all subcontractors as insureds under its policies or shall maintain separate certificates and endorsements for each subcontractor. As an alternative, the Contractor may require all subcontractors to provide at their own expense evidence of all the required coverages listed in this Schedule. If this option is exercised, both the City of Oakland and the Contractor shall be named as additional insured under the subcontractor's General Liability policy. All coverages for subcontractors shall be subject to all the requirements stated herein. The City reserves the right to perform an insurance audit during the course of the project to verify compliance with requirements.

g. Deductibles and Self-Insured Retentions

Any deductible or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductible or self-insured retentions as respects the City, its Councilmembers, directors, officers, agents, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

h. Waiver of Subrogation

Contractor waives all rights against the City of Oakland and its Councilmembers, officers, directors and employees for recovery of damages to the extent these damages are covered by the forms of insurance coverage required above.

i. Evaluation of Adequacy of Coverage

The City of Oakland maintains the right to modify, delete, alter or change these requirements, with reasonable notice, upon not less than ninety (90) days prior written notice.