



CITY OF
HAYWARD
HEART OF THE BAY

RFP #1631-042916

**Request for Proposal for
Construction Material Testing and Inspection Services
For
Department of Public Works
Engineering & Transportation Division**

Proposal must be received no later than:

Tuesday, June 14, 2016 @ 3:30 pm

Deliver response to the office of
Purchasing Manager
777 B Street, 3rd Floor
Hayward, CA 94541-5007

TABLE OF CONTENTS

- | | |
|--|---------------|
| 1. Background Information | Pages 1 – 7 |
| 2. Scope of Services | Pages 8 – 12 |
| 3. General Conditions and Instructions | Pages 13 – 19 |

To be completed and returned along with the bid form:

- Signature Form/Authorized Agent
- Bidder's Reference and Statement of Experience
- Designation of Subcontractors
- Acknowledgement of Addenda
- Signature Affidavit for Non-Collusion
- Contractor's Certificate Regarding Worker's Compensation
- Non-Discriminatory Employment Provision
- Affirmative Action Provision
- Non-Nuclear Affirmation

Attachments:

- General Provisions for Purchases of Work and Services

BACKGROUND INFORMATION

The City of Hayward invites proposal for “**construction material testing and inspection services**” as requested.

ABOUT THE CITY

The City of Hayward, California (the City) is located in Alameda County and is known as the “Heart of the Bay” because of its central and convenient location to San Francisco, Oakland, and San Jose. It is served by an extensive network of freeways and bus lines and has two BART stations and an Amtrak station. Currently, it is estimated that there are 143,000 residents of the City of Hayward with the City growing by approximately three percent since 2000.

The City is governed by a City Council / City Manager form of government. The City Council is made up of six members plus a mayor that serves as the head of the City Council. The City Council appoints a City Manager to oversee the City’s twelve departments. The City Manager also serves as the Executive Director of the Hayward Redevelopment Agency.

Background Summary	
Population	143,000
Number of Employees	800
Annual City Operating Budget (including General Fund)	\$235 M
Annual General Fund Budget	\$120 M
Annual City Capital Budget	\$210 M
Fiscal Year	July 1 – June 30
Number of Departments	12
Governance Structure	City Council / City Manager
Utility Customers	34,000
MOUs	11
Housing Units	48,000

The City will open accounts with multiple firms to allow flexibility and control in turn-around and delivery time especially when volume is high. The City intends to establish a pool of vendors. Upon award of the contract, the Project Manager will request construction material testing and inspection estimates on an as-needed basis from the vendors. Work will be assigned to the vendor based on availability, cost and completion date. Award of this bid does not imply exclusive agreement with the City of Hayward.

The City of Hayward Engineering & Transportation Division manages a variety of City capital improvement projects, and is responsible for delivering projects that include new construction, rehabilitation, upgrading, repairing, expanding, demolition, and modifying various City-owned and operated facilities.

PURPOSE

The City of Hayward is soliciting Proposals from qualified contractors that may lead to the award of a contract for on-call construction material testing and inspection services for the City.

The City may seek up to three (3) or more contractors to provide the construction material testing and inspection services:

- (1) On-Call Quoted Basis.

No minimum amount of overall work is guaranteed to any firm awarded a contract. This is not an exclusive agreement and the City shall have the right to use other construction material testing and inspection firms based on specific project needs.

SOLICITATION OBJECTIVES

The City expects to achieve the following outcomes through an established list or new blanket contracts.

- (1) Skilled contractors that has a strong record and experience, so the City is assured to get dependable, responsive, proven and expert services;
- (2) Lowest responsible and responsive pricing;
- (3) Best value, with consideration to experience, skills, and other selection criteria as well as price;
- (4) A pool of selected contractors that can provide immediate response to City's needs from the Department of Public Works – Engineering and Transportation Division.

MINIMUM QUALIFICATIONS

The following are minimum qualifications and licensing requirements that the Contractors must meet in order to be eligible to submit a RFP response. Responses must clearly show compliance to these minimum qualifications. Those that are not clearly responsive to these minimum qualifications shall be rejected by the City without further consideration:

- A. Contractor must have a minimum of five years continuous experience on construction material testing and inspection services with satisfactory references. Experience may include project types: airfields roadway and pipeline construction, retaining walls, seismic retrofits, bridge work, building construction. Services may include, but are not limited to materials field sampling, laboratory testing, and plant/factory inspection.
- B. Contractor must have successfully performed at least three contracts with a public or

private agency of similar size to the City of Hayward. Contracts must be active for a minimum of five-years, with volumes and services that are similar to those expected by the City.

- C. Contractor must possess required appropriate license(s) for the services provided.
- D. Contractor must possess and maintain an active Business License with the City of Hayward at the time of the contract awarded.

DESIRABLE QUALIFICATIONS

- A. Office and lab presence within Hayward City limits is highly desirable.
- B. Contracted vendors shall provide adequate, competent support staff that shall be able to service the City twenty four hours a day, seven days a week (24/7). Such representative(s) shall be knowledgeable about the contract, services offered and able to identify and resolve quickly any issues including but not limited to order and invoicing problems. Contractor's assigned support staff shall be familiar with the City's requirements and standards to ensure that such requirements are adhered to.

SELECTION PROCESS

A review committee will evaluate all responses to the RFP that meet the submittal requirements and deadline. Submittals that do not meet the requirement or deadline will not be considered. The review committee will rank the proposals and may or may not arrange interviews with the finalist prior to selection. Testing laboratory may be subject to the City of Hayward's site inspection for quality assurance.

The review committee will use the following criteria to evaluate the proposals:

CRITERIA

- 1. Quality and thoroughness of the proposal.
- 2. Quality and thoroughness of the interview
- 3. Vendor Capability. This may include but not limited to:
 - Firm's history and resource capability
 - Total scope of services that firm is qualified to perform.
 - Response time
 - Familiarity/previous work with the City of Hayward
 - Location of laboratory / dispatch
 - Firm's history
 - Level of expertise, professional background, and qualifications of key team members.
 - Knowledge and experience with regulatory agencies.
 - Resource capability
 - Available staff and specialized resources, if any.
- 4. Cost Proposal

5. References (include at least 3 local municipalities) and related experience. This may include but not limited to:
 - Prior experience and ability to work with City of Hayward staff, other stakeholders on City managed projects.
 - Past, recently completed, or on-going projects that will substantiate experience on public works projects with FAA, Caltrans participation, and Federal participation.
 - Demonstrated ability to provide technical assistance for a broad range of Special Inspection and Testing services.

All responsive proposals shall be reviewed and evaluated by the City in order to determine which proposal has the best qualified personnel, equipment, experience and knowledge for meeting the City's needs. The City of Hayward reserves the right to accept or reject any or all proposals, or to alter the selection process in any way, to postpone the selection process for its own convenience at any time, and to waive any informality in the proposals. The City of Hayward retains the right at its sole discretion to select a contractor.

All proposals submitted in response to this RFP become the property of the City and public records and, as such, may be subject to public review.

The City reserves the right to cancel, in part or in its entirety, this RFP including, but not limited to: selection procedures, submittal date, and submittal requirements.

MANDATORY CONTENT AND SEQUENCE OF SUBMITTAL

I. Submission Requirements and Instructions

All bidder requirements in this section are **mandatory**. The City reserves the right to waive any non-material variation.

II. Proposal Outline and Content

Assemble and submit each proposal in the order below and address the required content/questions accordingly (bulleted from 1 – 19). The order in which items are presented is important, as proposal evaluators will follow this order:

The responses to this RFP should be printed vertically ("portrait" orientation) on standard 8" by 11" paper. The responses should not exceed 15 pages; single sided (not including resumes and price list). The signed, original proposal should include a statement signed by an owner, officer, or authorized agent of the respondent, acknowledging and accepting the terms and conditions of this RFP. Three copies of the response are required. At a minimum, the proposal should contain the following information:

1. Date of proposal.
2. Information on your firm.
3. Legal name, address, and telephone and fax numbers of the principal office (national headquarters) and local office.

4. Number of employees in the local office location which is intended to provide the services.
5. Location of AASHTO accredited laboratory and location of Caltrans approved laboratory if different than the AASHTO accredited lab. Name of supervising Professional Engineer and location of the Engineer's primary office. If laboratory services will be provided from additional locations, provide this information for these sites also.
6. Year established.
7. Type of organization (partnership, corporation, etc.).
8. Name, title, address, and telephone and fax numbers (and E-mail address if available) of the person to whom correspondence should be directed
9. Information on staff that will be responsible for the projects, their professional qualifications, and resumes of experience. In addition to the specific qualification requirements applicable to each individual position all key/lead team members must have been employed by their firm for at least twelve (12) months prior to the date that proposals are received.
 - a. Name(s) of Project Manager, along with his/her Civil Engineering Licensed # in the State of California with a minimum of ten (10) years of experience with the testing and inspection aspects of construction.
 - b. Name(s) of Technicians providing Special Inspections services as defined in the California Building Code shall be Group 2 inspectors/technicians as defined in the General Prevailing Wage Determination Made By The Director Of Industrial Relations , Pursuant To California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 And 1773.1 , For Commercial Building, Highway, Heavy Construction And Dredging Projects and shall have a minimum of five (5) years of journeyman experience with the testing and inspection aspects of construction.
 - c. Name(s) of Inspectors/Technicians providing inspections and/or testing services on projects in a primary capacity as a Construction Inspector, as determined by The City of Hayward, shall be Group 2 inspectors/technicians as defined in the General Prevailing Wage Determination Made By The Director Of Industrial Relations , Pursuant To California Labor Code Part 7, Chapter 1, Article 2, Sections 1770, 1773 And 1773.1, For Commercial Building, Highway, Heavy Construction And Dredging Projects and shall have a minimum of five (5) years of journeyman experience with the testing and inspection aspects of construction.
 - d. Certification of Personnel by one or more of the following:
 - i. Caltrans District Materials Engineer
 - ii. Nationally recognized non-Caltrans organizations such as the American Concrete Institute, Asphalt, National Institute of Certification of Engineering Technologist, etc.
 - iii. Other recognized organizations approved by the State of California and/or recognized by local governments or private association.
10. Information on sub-consultants or laboratories that will be used and in what capacity.
11. Information with relevant details on three past projects which you would like the City to consider in evaluating your qualifications.
12. List all relevant projects or assignments.
13. References for at least five of your most current projects, including phone numbers.

14. Describe your staffing availability or how you will staff up to meet the requirements of this contract.
15. Describe your firm's project management organization and approach.
16. Demonstrate ability to provide timely service on an "On-Call" basis (response time).
17. A list of construction inspection or testing services provided by the firm that are not included in the Scope of Work section of this RFQ/P and may be available for use under the proposed agreement
18. The successful firm shall be compensated for the services it furnishes to the City on a time and expense basis.
 - a. A copy of the proposer's construction material inspection and testing fee schedule, including hourly rates and reimbursable expenses shall be submitted with the proposal. The schedule of hourly rates should include at a minimum the required items to complete assignments as stated in the scope of work. Include ALL relevant charges and basis of charges. Clearly state if trip charges will be charged. Clearly state if any project management fees will be charged in addition to inspection fees.
 - b. Firm shall provide a complete list of all staff hourly rates, including the laboratory cost/rate, by category, i.e., Principal, Project Manager, Project Professional, Technician, Clerical, etc. and unit process for laboratory tests. Hourly rates shall be itemized and all-inclusive, i.e., base salary, fringe benefits, overhead, indirect cost surcharges, profit, reproduction costs, photography, phone, fax, etc.
 - c. This schedule shall also address costs associated with travel time to and from the project site or manufacturer's facilities whether included in the hourly rate or as a separate hourly rate.
 - d. Basis information related to testing costs such as shift differential, minimum inspection time, advance notice for inspections, administrative charges, project management charges and any other miscellaneous expenses shall be identified.
 - e. List of the various laboratory testing and analysis that the firm can perform and the associated cost. Plus if certain tests are performed by outside firm, then this should be noted on the proposal.
 - f. Mark-up for all reimbursable expenses, i.e. sub-consultants, equipment rental, etc., shall be individually negotiated and shall be subject to the City's approval, but may not in any case exceed 10%.

Hourly rates will not be the main factor in the evaluation. However, the City reserves the right, after the firms have been selected, to decline to enter into a contract with a firm whose rates are deemed to be unreasonable at the City's sole discretion.

19. An identification of the firm's experience performing services for projects of a similar size, scope, and complexity as the services required by this RFP, including an identification of: (1) the number of years firm has been performing similar services; and (2) the most recent projects for which the firm has performed similar services. Firm shall provide examples of a MAXIMUM of five projects. For each project for which descriptions are to be included, provide the following information:

- 1) Project name and location.
- 2) Brief description of project scope.
- 3) Dollar amount of the contract
- 4) Month and year
- 5) Firm's project responsibility.
- 6) Client name, address, contact person, and telephone number.

REQUESTS FOR SUPPLEMENTAL INFORMATION

The City reserves the right to require the submittal of additional information that supplements or explains proposal materials.

REQUESTS FOR INFORMATION:

Any requests for clarification or additional information regarding this RFP shall be submitted via email to Maria Carrillo, Purchasing Manager at: maria.carrillo@hayward-ca.gov and copy Jason Whipple, Supervising Construction Inspector at jason.whipple@hayward-ca.gov by 5:00 p.m., **Tuesday, May 31, 2016.**

All requests received prior to the stated deadline will be answered in writing by the City, and copies of the questions and answers will be transmitted to all prospective consultants who have been invited to bid on this solicitation.

END OF SECTION

SCOPE OF SERVICES

Services for specific projects will be specified in subsequent task order assignments and may include, but are not limited to, the tasks below. Inability of firm to perform “some” of the task listed below will not necessarily exclude the firm. The detailed scope of services will be negotiated between the City and the consultant for each project at the time of task order assignment. The scope of services to be provided shall comply with the California Code of Regulations, FAA standards, Caltrans Standard Specifications and all other related standards as applicable to the specific projects. The inspector(s) and/or technician(s) will report to and work with City Staff and will perform services including, but not limited to, observation of the contractor's operations to ensure conformance with applicable standards. Special inspection and testing services in accordance with City of Hayward requirements include the following:

CAST-IN-PLACE CONCRETE & REBAR

- Concrete mix design reviews
- Tagging and sampling rebar
- Rebar placement inspection
- Concrete batch plant inspection
- Concrete placement inspection
- Sampling concrete
- Prepare compression cylinders
- Tensile and bend test
- Compression tests

POST-TENSIONED CONCRETE AND REBAR

- Concrete mix design reviews
- Post-tensioning tendon placement
- Concrete placement inspection
- Prepare compression cylinders
- Transport samples
- Review of Stressing sheets
- Stressing inspection
- Compression tests

SHOTCRETE

- Shotcrete mix design review
- Rebar placement inspection
- Shotcrete placement inspection
- Witnessing fabrication of test panels
- Transporting samples
- Compression tests

MASONRY

- Grout mix design reviews
- Sampling masonry block
- Tagging and sampling rebar
- Witness fabrication of masonry assemblages
- Grout batch plant inspection
- Masonry placement inspection
- Sampling mortar/grout
- Transporting samples
- Ferro scanning or GPR scanning to locate rebar
- Coring masonry
- Physical tests of masonry units
- Tensile and bend test
- Composite prism compression tests
- Compression tests - mortar cylinders
- Compression test - grout prisms
- Shear bond test of CMU cores
- Compression tests of CMU cores

STRUCTURAL STEEL

- Material identification
- Review welder certifications
- Shop welding inspection
- NOT shop welding
- Field welding inspection
- High strength bolting inspection
- NOT field welding
- Metal deck/stud welding inspection
- Light gauge framing inspection
- Testing of high strength bolts, nuts and washers

BASE PLATE GROUTING

- Non-shrink grout placement
- Sampling non-shrink grout
- Transporting samples
- Compression tests

SPRAY-APPLIED FIRE RESISTIVE MATERIALS

- Fireproofing inspection
- Sampling fireproofing
- Transporting samples
- Fireproofing laboratory density tests
- Institute bond strength test

ANCHOR BOLTS / EPOXIED DOWELS

- Proof load testing - tension
- Proof load testing - torque
- Epoxy/dowel installation

GLUE LAMINATED STRUCTURAL LUMBER

- Glu-Lam fabrication inspection

SOILS

- Sampling soils
 - Laboratory compaction curves, checkpoints, moisture/density, plasticity, gradation
 - Verify materials below footings are adequate to achieve the design bearing capacity
 - Verify excavations are extended to proper depth and have reached proper material
 - Perform classification and testing of controlled fill materials
 - Verify use of proper materials, densities (compaction testing) and lift thickness during placement and compaction of controlled fill
 - Prior to placement of controlled fill, observe subgrade and verify that the site has been prepared properly
 - R-value- field sampling and laboratory testing

ASPHALT

- Plant inspection and sampling
- Asphalt mix design reviews
- Field asphalt concrete sampling
- Laboratory gradation, asphalt concrete bums to determine oil content of samples, sand equivalent test
- Cold asphalt in place testing and inspection
- Viscosity and air void determination
- Micro-resurfacing testing and inspection
- Field asphalt concrete compaction tests

Other types of tests may be required and are not limited to those listed above.

DELIVERABLES and TASKS

Assist City staff with material testing services related to the City's Capital Improvement Program, including but not limited to the following:

1. Obtaining samples and performing lab analysis on soil, asphalt, and concrete to test conformance with project plans and specifications
2. Providing reports and field testing for moisture/density during site grading, backfill, placement of engineered fill, sub-grade preparation, asphalt concrete, etc.
3. Providing continuous and/or periodic field observations of construction activities
4. Providing special Inspections of concrete reinforcement, structural steel construction, shop/field welding, high strength bolting, masonry construction, etc.

5. Preparing testing and observation daily reports
6. Providing moisture/density curves for site and import materials
7. Review of construction material submittals for conformance with project plans and specifications
8. Construction monitoring
9. Shop drawing review

Special inspections as required by the California Building Code for new facilities such as reinforcing steel inspection, concrete inspection and testing, welding inspections, concrete anchor installation and shop inspections of steel fabricators.

DEFINITION AND TERMS

Wherever in the Standard Specifications or Standard Plans, the following definitions and terms are used, the intent and meaning shall be interpreted as follows:

City - City of Hayward.

Department - The Department of Public Works, Engineering and Transportation Division

Director - The Director of Public Works- Engineering and Transportation Division, City of Hayward.

Engineer - The City Engineer of the City of Hayward, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties entrusted to them.

Highway - The streets of the City of Hayward, Union, and Newark, which shall include the total right of way or area which is reserved for and secured for use in constructing the roadway or street and its appurtenances.

Laboratory - The Office of Materials and Foundations of the Department of Transportation of the State of California or the City of Hayward testing laboratory or laboratories authorized by the Engineer to test materials and work involved in the contract.

Owner - The City of Hayward.

Special Provisions - The special provisions are specific clauses setting forth conditions or requirements peculiar to the work and supplementary to the Standard Specifications. The Department of Transportation publications entitled "Labor Surcharge and Equipment Rental Rates" and "General Prevailing Wage Rates" are to be considered as a part of the special provisions.

Standard Plans - The Standard Plans for Construction of Local Streets and Roads of the Department of Transportation dated 2010, and the Standard Details of the City of Hayward dated 2010. The Standard Details of the City of Hayward shall govern over both the State of California Department of Transportation Standard Plans and Standard Specifications.

Standard Specifications - Standard Specifications for Construction of Local Streets and Roads, State of California Department of Transportation dated 2010.

California Public Contract Code. State Contract Act - The provisions of the California Public Contract Code and of other applicable laws form and constitute a part of the provisions of this contract to the same extent as if set forth herein in full, except for those laws which are expressly made inapplicable herein, and except to the extent those laws are modified herein. The State Contract Act, being Chapter 1 (commencing with Section 10100) of Part 2, Division 2, California Public Contract Code, does not form or constitute any part of this contract. Section 20162 of the California Public Contract Code does not apply to work performed by City work forces.

END OF SECTION

GENERAL CONDITIONS AND INSTRUCTIONS TO BIDDERS

No bid proposals shall receive consideration by the City of Hayward for **RFP #1631-042916** unless made in accordance with the following instructions:

It is the responsibility of the bidder to assure that the bid proposal is received at the City of Hayward prior to the bid-opening deadline date and time. Bids received beyond the bid-opening deadline will not be accepted and will be returned unopened. Late bids, unsealed bids, unlabeled bids, incomplete bids, or bids otherwise not in compliance with the General Conditions of this Invitation to Bid, will be rejected. By submitting a response, bidder acknowledges and accepts the General Conditions and all terms and conditions contained in this RFP.

All bid proposals must include the company name and address and must be signed by an authorized representative of the company; signature must be an original signature, or an original signature stamp.

City of Hayward, at its sole option, may correct arithmetic or extension errors, and obtain clarification, if necessary.

If no terms discount is to be offered, the terms portion of the bid form shall state "NET".

Bid proposal modifications, corrections, or additions received beyond the bid deadline will NOT be considered.

Telephone or facsimile bids will NOT be accepted.

By submitting a response to this Invitation to Bid, Bidder acknowledges and accepts the City of Hayward's standard terms and conditions.

DEADLINE FOR RECEIPT OF PROPOSALS

Proposals must be filed at the office of the Purchasing Manager located at 777 B Street, Hayward, CA 94541 no later than **TUESDAY, June 14, 2016 @ 3:30 p.m.** It is the sole responsibility of the bidder to see that their bid is received in proper time. Any bid received after the schedule closing time for receipt of bids will be returned to the bidder unopened.

CONTACT

Any administrative questions regarding bidding procedures should be directed to:
Maria Carrillo, Purchasing Manager (510) 583-4802; maria.carrillo@hayward-ca.gov

Questions relating to the project management may be directed to:
Jason Whipple, Project Engineer (510) 583-4755 jason.whipple@hayward-ca.gov

LAST DAY FOR QUESTIONS

Questions regarding documents, discrepancies, omissions, or doubts as to meaning must be submitted in writing to the office of the Purchasing Department, Maria Carrillo; at maria.carrillo@hayward-ca.gov, no later than **Wednesday, June 1, 2016 at 11:00 a.m.**

AWARD OF CONTRACT

Awards will be made to multiple vendors who meet the requirements of this RFP and who will be considered the pool of vendors. This short list of vendors will be contacted to provide required inspection and testing services during the contract term.

Proposals will be evaluated on basis of experiences, response time, price and compliance to the City's requirements. The City reserves the right to consider contractor's response time on the deliverables, qualifications, staffing, quality of work, references and any other information considered to be in the best interests of the City of Hayward.

A Purchase Order will be mailed and furnished to the successful proposers within time for acceptance specified, results in a binding contract without further action by either party. The contract shall be interpreted, construed and given effect in all respects according to the laws of the State of California.

Award of this contract does not imply exclusive agreement with the City of Hayward.

The City reserves the right to reject any or all responses that materially differ from any terms contained herein and to waive informalities and minor irregularities in responses received.

TERM / TERMINATION / RENEWAL

- A. The term of the contract, which may be awarded pursuant to this RFP, will be for one year.
- B. By mutual agreement, any contract which may be awarded pursuant to this RFP may be extended for two (2) additional one (1) year terms with all other terms and conditions remaining the same.
- C. The City may terminate the contract at any time without written notice upon a material breach of contract and substandard or unsatisfactory performance by the Contractor.

WITHDRAWAL OF PROPOSALS

Proposal may be withdrawn by the proposer prior to the time fixed for the opening of RFP, but may not be withdrawn for a period of ninety (90) days after the opening of RFP. A successful proposer shall not be relieved of the bid submitted without the City's consent or bidder's recourse to Public Contract Code sections 5100 et. seq.

ADDENDA OR BULLETINS

Any addenda or bulletins issued during the time of bidding shall form a part of the information and specifications issued to bidders for the preparation of their proposals and shall constitute a part of the contract documents. Initials of bidders on the bid form shall reflect receipt of all addenda prior to submittal of the bid.

PROTEST

Should any bidder question or protest the award of the contract, such question or protest must be furnished in writing to the Purchasing Manager no later than three (3) working days following the date of the bid opening. Such submittal must fully explain the basis of the objection supported by all relevant information facts and details. Letter must be signed by an authorized representative stating specific reason(s) for the protest including all relevant facts (law, rule, regulation, and criteria).

Questions or protests not furnished in writing as prescribed will not be accepted.

REJECTION OF BIDS

The City reserves the right to accept or reject any and all proposals or any portion or combination thereof, or award on the basis of the total bid. The City of Hayward reserves the right to reject any and all RFPs, or to waive any informality or non-substantial irregularity in any bid.

GOVERNING LAW AND VENUE

In the event of litigation, the RFP documents, specifications and related matters shall be governed by and construed in accordance with the law of the State of California. Venue shall be with the appropriate state or federal court located in Alameda County.

TRANSFER OF INTEREST

No interest in the contract shall be transferred to any other party without permission of the city.

WORKERS' COMPENSATION

In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees. Contractor hereby acknowledges the following statement:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in

accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract documents."

The Contractor shall take out and maintain during the life of the contract, Statutory Worker's Compensation and Employer's Liability Insurance with limits not less than One Million Dollars (\$1,000,000) for all its employees to be engaged in the work on the project under the Contract. Should any work be sublet, the Contractor shall require the subcontractor similarly to provide Worker's Compensation and Employer's Liability Insurance, all in strict compliance with State laws and to fully protect the City from any and all claims arising out occurrences on the work.

PROOF OF CARRIAGE OF INSURANCE

The contractor shall take out and maintain during the life of the Agreement all the insurance required by this section and shall annually submit certificates for review and approval by the City. Acceptance of the certificates shall not relieve the contractor of any of the insurance requirements, and shall not decrease the liability of the contractor. The City reserves the right to require the contractor to provide insurance policies for review by the City.

Contractor shall not commence work nor shall contractor allow any subcontractor to commence work under this contract until all required insurance and certificates have been delivered in duplicate to and approved by the City. Certificates and insurance policies shall include the following clause:

"This policy shall not be canceled or reduced in required limits of liability or amount of insurance until notice has been mailed to the City stating date of cancellation or reduction. Date of cancellation or reduction may not be less than ten (10) days after date of mailing notice."

Certificate of insurance shall state in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date and cancellation and reduction notice. Contractor shall be solely responsible for:

1. Compliance of subcontractors with insurance requirements; and
2. Other insurance coverage including but not limited to loss, theft, fire, property damage, and glass breakage.

COMMERCIAL GENERAL AND AUTOMOBILE LIABILITY INSURANCE

The Contractor shall take out and maintain in the name of the Contractor and as an additional insured, the City, during the life of the Contract, such Commercial General and Automobile Liability Insurance as shall protect the Contractor, the City, and its officials, officers, directors, employees and agents from claims which may arise from operations under this contract, whether such operations be by the Contractor, by the City, its officials, officers, directors, employees and agents, any subcontractors or by anyone directly or indirectly employed by any of them. Such coverage shall be at least as broad as: Insurance Service Office Commercial

General Liability coverage (occurrence Form CG0001) and Insurance Service Form Number CA0001 (Ed.1/87) covering Automobile Liability, Code 1 (any auto). This liability insurance shall include but not limited to protection against claims arising from bodily and personal injury and damage to property, resulting from the Contractor's or subcontractor's operations, including the use of owned or non-owned automobiles, products and completed operations. The amounts of insurance shall not be less than the following:

- Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
- Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
- Employer's Liability Insurance: \$1,000,000 per occurrence.

The following endorsements must be attached to the policy:

- *The City must be named as an additional named insured under the coverage afforded with respect to the work being performed under the contract.*
- If the insurance policy covers on an "accident" or a "claims made" basis, it must be changed to "occurrence".
- The policy must cover Personal Injury as well as Bodily Injury.
- The policy must cover complete contractual liability. Exclusions of contractual liability. Exclusions of contractual liability as to bodily injuries, personal properties and property damages. **MUST BE ELIMINATED** from the basic policy endorsements. This endorsement may be satisfied by amending the definition of "incidental contract" to include written contract.
- Broad form property damage liability must be afforded. Permission is granted for deductible, which shall not exceed \$10,000 without special approval of the City.
- A certificate shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance affected by the City will be called upon to contribute to a loss under this coverage.
- The policy must include a cross liability or severability of interest clause.
- Any failure of the Contractor to comply with the reporting provisions of the policies shall not affect coverage provided to the City, et al.
- Notice of Cancellation, non-renewal, reduction in limits, or material change, shall be sent to the City with at least thirty (30) days prior written notice by certified mail.
- Insurance is to be placed with California Admitted Insurers with a Best's rating of no less than A:XI
- The policy covers use of Non-owned Autos;

Should any insurance policy be materially changed before final completion of the work, and the Contractor fail to procure other insurance as herein required, immediately, the City may

procure such insurance and deduct the cost thereof from any amounts due to the Contractor.

Insurance is to be placed with insurers acceptable to the City of Hayward's Legal Department.

LOSS OR DAMAGE

The Contractor shall take and assume all responsibility for the work. The Contractor shall bear all losses and damages which may occur to said work or any part or portion thereof and in connection therewith to persons and/or property, and shall fully indemnify the City from and against the same.

The Contractor, subject to the limitations of Civil Code Section 2782, shall assume the defense of and indemnify and save harmless the City, officers and employees from every expense, liability or payment by reason of injury (including death) to persons or damage to property suffered through any act or omission, including passive and/or active negligence, of the Contractor, or any Subcontractors or anyone directly or indirectly employed by either of them, or from the condition of the premises while in the control of the Contractor or any Subcontractors, or anyone directly or indirectly employed by either of them or arising in any way from the work called for by this contract, or any part of the premises.

INDEMNIFICATION

The contractor has the entire responsibility for any and all injury to the public and to individuals. The contractor expressly agrees to indemnify, defend and hold the City, its City Council, managers and employees free and harmless from and against any and all loss, liability, expense, claims, cost, suits and damages including attorneys' fees arising out of contractor's operation or performance under this Agreement.

NON APPROPRIATION OF FUNDS

Notwithstanding any of the foregoing provisions, if for any fiscal year of this agreement the governing body of the City fails to appropriate or allocate funds for future payments under the Agreement, City of Hayward will not be obligated to make any payments remaining unpaid beyond the fiscal period for which funds have been appropriate or allocated and either party hereto may terminate the Agreement as provided.

TERMINATION

This Agreement may be terminated by City or Consultant upon thirty (30) days written notice. In the event of termination, the Consultant shall be entitled to compensation for services performed to the effective date of termination, provided, however, that City may condition payment of such compensation upon delivery to the City by Consultant of any and all documents and materials prepared pursuant to this Agreement.

FAILURE TO PERFORM

The City of Hayward, without notice to the Contractor, may immediately terminate this Contract should the Contractor fail to perform properly any of its obligations hereunder. In the event of such termination, the City may proceed with the work in any reasonable manner it chooses. The cost to the City of completing the Contractor's performance shall be deducted from any sum due to the Contractor under this Contract, without prejudice to the City's rights to recover damages.

SUCCESSFUL BIDDER NOT AN AGENT OF THE CITY OF HAYWARD

The right of general supervision of the City of Hayward shall not make the Successful Bidder an agent of the City; and the liability of the Successful Bidder for all damages to persons or to public or private property arising from the Successful Bidder's execution of The Work shall not be lessened because of such general supervision.

COOPERATION

Should work be performed by other firms, within or adjacent to The Work specified, or should work of any other nature be underway by other forces within or adjacent to said limits, the Successful Proposers shall cooperate with all such other firms or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

When two or more firms are employed on related or adjacent work, each shall conduct his operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each firm shall be responsible to the other for all damage to work, to persons or property caused to the other by his operations and for loss caused the other due to his unnecessary delays or failure to finish The Work within the time specified for completion.

GENERAL PROVISIONS FOR PURCHASES OF WORK AND SERVICES

The City of Hayward's general provisions for purchases of work and services are described in Attachment 1. The provisions are dated 11/15/1999 and include sections 1.00 Legal Relations and Responsibilities through 1.26 Recycled Materials.

PUBLIC RECORDS

All responses to this RFP will become the property of the City. Once a final award is made, all bid 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.

ATTORNEY'S FEES

In the event suit is brought by either party in connection with this agreement, the prevailing party shall have judgment for court costs and a reasonable attorney's fee.

END OF SECTION

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE PROPOSAL FORM****

THE REPRESENTATIVES MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY
NO PROPOSAL IS VALID UNLESS SUBMITTED ON THIS FORM AND SIGNED BY AUTHORIZED
AGENT FOR YOUR COMPANY.

SUBMITTED BY:

COMPANY NAME: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

TELEPHONE: _____

EMAIL: _____

SIGNATURE: _____
(Authorized Agent)

NAME: _____
(Please Print)

TITLE: _____

DATE: _____

NOTE: If proposer is a corporation, the legal name of the corporation shall be set forth above, together with the signature of authorized officers or agents; if bidder is a partnership, the true name of the firm shall be set forth above, together with the signature of the partnership; and if bidder is an individual, his signature shall be placed above.

THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE PROPOSAL FORM

PROPOSER'S REFERENCE AND STATEMENT OF EXPERIENCE

The bidder is required to state below work of similar character to that included in the proposed contract he has done and provide references which will fully disclose his responsibility, experience, skill and business standing. Please list below your qualified commercial references within the last five (5) years:

COMPANY NAME _____
ADDRESS _____
CONTACT _____ PHONE # _____
EMAIL _____
NAME OF PROJECT OF EQUAL OR COMPARABLE SIZE _____

DATE/PERIOD OF SERVICE _____
TOTAL AMOUNT OF PROJECT \$ _____
BRIEF DESCRIPTION OF PROJECT _____

COMPANY NAME _____
ADDRESS _____
CONTACT _____ PHONE # _____
EMAIL _____
NAME OF PROJECT OF EQUAL OR COMPARABLE SIZE _____

DATE/PERIOD OF SERVICE _____
TOTAL AMOUNT OF PROJECT \$ _____
BRIEF DESCRIPTION OF PROJECT _____

COMPANY NAME _____
ADDRESS _____
CONTACT _____ PHONE # _____
EMAIL _____
NAME OF PROJECT OF EQUAL OR COMPARABLE SIZE _____

DATE/PERIOD OF SERVICE _____
TOTAL AMOUNT OF PROJECT \$ _____
BRIEF DESCRIPTION OF PROJECT _____

COMPANY NAME _____

ADDRESS _____

CONTACT _____ PHONE # _____

EMAIL _____

NAME OF PROJECT OF EQUAL OR COMPARABLE SIZE _____

DATE/PERIOD OF SERVICE _____

TOTAL AMOUNT OF PROJECT \$ _____

BRIEF DESCRIPTION OF PROJECT _____

COMPANY NAME _____

ADDRESS _____

CONTACT _____ PHONE # _____

EMAIL _____

NAME OF PROJECT OF EQUAL OR COMPARABLE SIZE _____

DATE/PERIOD OF SERVICE _____

TOTAL AMOUNT OF PROJECT \$ _____

BRIEF DESCRIPTION OF PROJECT _____

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

DESIGNATION OF SUBCONTRACTORS

In compliance with the provisions of the Government Code of the State of California each bidder shall set forth below the name and the mill, shop, or office of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement to be performed under these specifications and the portion of the work which will be done by each subcontractor.

If the Contractor fails to specify a subcontractor for any portion of the work to be performed under the contract, he shall be deemed to have agreed to perform such portion himself, and he shall not be permitted to subcontract that portion of the work under the conditions hereinafter set forth.

Subletting or subcontracting of any portion of the work as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the legislative body of the CITY.

TRADE	NAME	CONTRACTOR'S LICENSE NUMBER	EXPIRATION DATE
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

THE REPRESENTATIONS MADE HEREIN ARE MADE UNDER PENALTY OF PERJURY.

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

ACKNOWLEDGMENT OF ADDENDA

Failure to execute the following may be considered as an irregularity in the bid. Receipt of the following addenda issued during the time of bidding is acknowledged, and the information contained therein has been considered in the preparation of this bid:

- | | |
|--------------------------------|--------------------------------|
| <input type="checkbox"/> None | <input type="checkbox"/> No. 3 |
| <input type="checkbox"/> No. 1 | <input type="checkbox"/> No. 4 |
| <input type="checkbox"/> No. 2 | <input type="checkbox"/> No. 5 |

(Check Appropriate Space(s) for Addenda Received)

Warning

If an addendum or addenda have been issued by the City and not noted above as being received by the bidder, this Proposal may be rejected.

****THIS DOCUMENT MUST BE COMPLETED, EXECUTED AND SUBMITTED WITH THE BID FORM****

CONTRACTOR'S CERTIFICATE
REGARDING WORKER'S COMPENSATION

LABOR CODE SECTION 3700

“Every employer except the State and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the City of Industrial Relations of ability to self-insure and to pay any compensation that may become due to this employees.’

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker’s compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of this contract.

SIGNATURE: _____

Print Name: _____

Date: _____

(In accordance with Article 5 [commencing at Section 1860], Chapter I, Part 7, Division 2 of the Labor Code, the above certificate must signed and filed with the awarding body prior to performing any work under this contract.)

CITY OF HAYWARD

GENERAL PROVISIONS FOR PURCHASES OF WORK AND SERVICES

Attachment #1

If these general provisions are incorporated by reference into a Purchase Order for work and/or services, all references to "Bidder" or "Successful Bidder" shall be construed to mean the Seller from whom work and services are purchased by the City. The work and services described in the accompanying Request for Quotation or Purchase Order hereinafter shall be designated as "The Work".

1.00 Legal Relations and Responsibilities

1.01 Laws to be Observed: The Bidder shall keep itself fully informed of all existing and future State and Federal laws, including O.S.H.A. standards, and all municipal ordinances and regulations of the City of Hayward which in any manner affect those engaged or employed in The Work or the materials used in The Work, or which in any way affect the conduct of The Work, and of all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same.

1.02 Labor Discriminations: No discrimination shall be made in employment of persons upon The Work because of the race, color or religion of such persons, and any Successful Bidder which violates this Section is subject to all the penalties imposed for a violations of Chapter 1, Part 7, Division 2, of the Labor Code of the State of California in accordance with the provisions of Section 1735 thereof.

1.03 Prevailing Wage: The Successful Bidder hereby stipulates that Sections 1771 and 1777.5 of the Labor Code of the State of California shall be complied with and shall forfeit as a penalty to the City of Hayward not more than fifty dollars (\$50.00) for each calendar day or portion thereof for each worker paid less than the general prevailing rates of per diem wages as determined by the Department of Industrial Relations for such work or craft in which such worker is employed on The Work in violation of the Labor Code of the State of California, in particular the provisions of Sections 1770 to 1780, Inclusive, thereof.

Copies of the general prevailing wage rates are on file in the office of the City Engineer and are available to any interested parties on request.

1.03.1 Certified Payroll Records: Bidder shall maintain certified payroll records as required by Section 1776 of the Labor Code. Copies of certified payroll records shall be provided to the City of Hayward within ten (10) days of written request by the City. Failure to provide copies of certified payroll within the time prescribed by statute shall result in imposition of monetary penalties or withholding of progress payments due under the contract.

1.04 Permits and Licenses: Any person doing business in the City of Hayward is required by Chapter 8, Section 1 of the Municipal code to pay a business license tax. The successful bidder shall have or procure a business license and, prior to initiation of work, show evidence thereof to the Revenue Department. The successful bidder shall, in addition, procure all permits, pay all charges and fees and give all notices necessary and incidental to the due and lawful prosecution of The Work.

1.05 Encroachment Permit: The Successful Bidder shall obtain and/or comply with any encroachment permits as set forth in the order.

1.06 Patents: The Successful Bidder shall assume all responsibilities arising from the use of patented materials, equipment, devices, or processes used on or incorporated in The Work.

1.07 Public Convenience and Safety: Attention is directed to all applicable Sections of Chapter 7, Article 2, STREETS, "Disturbance of Streets," of the City of Hayward Municipal Code.

Traffic control procedures stated herein and traffic control standard plans shall be the MINIMUM accepted in the City of Hayward. Any variations shall be approved by the Engineer prior to use. In no way shall compliance with these specifications and standards relieve the Successful Bidder of any liability for claims or damages arising from his work.

All streets within the project limits shall remain open to traffic at all times during

the construction period. Between the hours of 5:00 PM and 8:00 AM, all lanes remain open to traffic.

Adequate traffic warning and control devices shall be provided and maintained by the Successful Bidder during the construction period in accordance with the "State of California Manual of Warning Signs, Lights and Devices for Use In Performance of Work upon Highways" dated 1973. When inadequate traffic warning and control devices have been installed, the City shall provide whatever facilities are deemed necessary and will charge the Successful Bidder for the costs thereof as provided in Section 7, Article 2 of the Hayward Municipal Code.

Traffic control signs, (regulatory, warning or construction type) conforming to the State of California Standards, and any special-legend signs required, except "NO PARKING" signs, shall be furnished by the Successful Bidder as directed by the Engineer.

The Successful Bidder shall install and maintain all signs.

Any obstructions which will remain in the roadway after darkness MUST BE adequately outlined with barricades with flashers or delineators along with other warning devices. All barricades and delineators shall conform to State of California Manual of Warning Signs, Lights, and Devices for Use in Performance of Work upon Highways.

Safe and convenient pedestrian access shall be provided at all times.

Flagmen are mandatory at locations where equipment is intermittently blocking a traffic lane or where only one lane is available for two-direction traffic. One flagman is required for each direction of traffic affected where only one lane is available for over 100 feet or when required by the Engineer. When less than 20 feet of street width is available for traffic, a flagman will be required. Flagman shall wear distinctive clothing, such as a RED jacket.

All work specified herein shall be considered to be at the Successful Bidder's expense.

1.08 Responsibility for Damage: The Successful Bidder shall take all responsibility for the Work, shall bear all losses and damages directly or indirectly resulting to the Bidder, to any subcontractor, to the City, to City employees, or to parties designated in any purchase order provision, on account of the performance or character of The Work, unforeseen difficulties, accidents, occurrences or other causes predicted on active or passive negligence of the City, or of parties designated in any purchase order provisions. Said Bidder shall assume the defense of and shall indemnify and hold harmless the City, its officers, officials, directors, employees and agents from and against any or all loss, liability, expense, claim, costs, suits and damages of every kind, nature and description directly or indirectly arising from the performance of The Work.

Approval of the insurance contract does not relieve the Successful Bidder or subcontractors from liability under this clause.

1.09 Responsibility for Work: Except as provided above, until the formal acceptance of The Work by the City, the Successful Bidder shall have the charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of The Work. The Successful Bidder shall rebuild, repair, and restore, and make good all injuries or damages to any portion of The Work occasioned by any of the above causes before final acceptance and shall bear the expense thereof, except such injuries or damages occasioned by acts of the Federal Government or of the public enemy.

1.10 No Personal Liability: Neither the City Council, officers, employees or agents of the City of Hayward, nor any other officer or authorized assistant or agent shall be personally responsible for any liability arising from or in connection with The Work.

1.11 Responsibility of City: The City of Hayward shall not be held responsible for the care or protection of any material or parts of The Work prior to final acceptance, except as expressly provided for in these specifications.

1.12 Successful Bidder Not an Agent of the City of Hayward: The right of general supervision of the City of Hayward shall not make the Successful Bidder an agent of the City; and the liability of the Successful Bidder for all damages to persons or to public or private property arising from the Successful Bidder's execution of The Work shall not be lessened because of such general supervision.

1.13 Inspection and Payments Constitute No Waiver of Order Provisions: Neither the Inspection by the City Engineer nor by an inspector or other City representative, nor any payment of money, nor acceptance of any part or whole of The Work by the City of Hayward or its agents shall operate as a waiver of any provision of the order.

1.14 Insurance Requirements: Successful Bidder shall promptly obtain, at the Bidder's own expense, all the insurance required by this section and shall submit a completed copy of Coverage Verification signed by the Successful Bidder's agent or broker to the City's Purchasing Division for review and approval by the City. Insurance requirements must be met prior to issuance of purchase order. It is highly recommended that Bidders confer with their insurance carrier or broker to determine in advance of bid submission the availability of insurance coverage and endorsements as prescribed and provided herein. If an apparent successful bidder fails to comply with the insurance requirements, that Bidder may be disqualified.

(1) The Successful Bidder shall take out and maintain during the life of the purchase order statutorily sufficient Workers' Compensation and Employer's Liability Insurance for all of the Bidder's employees to be engaged on The Work. Should any work be sublet, the Successful Bidder shall require the subcontractor similarly to provide Workers' Compensation and Employer's Liability Insurance, all in strict compliance with State laws and to fully protect the City from any and all claims arising out of occurrences on The Work.

(2) The Successful Bidder shall take out and maintain in the name of the Successful Bidder and the City as a Named Insured during the life of the purchase order, such Public Liability Insurance as shall protect itself, the City, its officials, officers, directors, employees and agents from claims which may arise from operations under the purchase order, whether such operations be the Bidder, by the City, its officials, officers, directors, employees and agents, any subcontractors, or by anyone directly or indirectly employed by either of them. This Liability Insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from the Successful Bidder's, City's or subcontractor's operations, use of owned or non-owned automobiles, products, and completed operations. The amounts of insurance shall not be less than the following:

Single Limits Coverage Applying to Bodily and Personal Injury Liability and Property Damage: \$1,000,000.

If Commercial General Liability Insurance or other form with a General Aggregate Limit is used, either the General Aggregate Limit shall apply separately to the project/location or the General Aggregate Limit shall be twice the required occurrence limit.

The following endorsements must be attached to the policy:

(a) If the Insurance policy covers on an "accident" basis, it must be changed to "occurrence".

(b) The policy must contain a Cross Liability or Severability of Interest Clause.

(c) The policy must cover complete Contractual liability. Exclusions of contractual liability as to bodily injuries, personal injuries and property MUST BE ELIMINATED from the basic policy endorsements.

(d) Broad Form property damage liability must be afforded. Permission is granted for deductible which shall not exceed \$10,000 without special approval of the City.

(e) Any failure to comply with reporting or other provisions of the policies including brochures of warranties shall not affect coverage provided to the City, its Officials, Officers, Directors, Employees, or Agents.

(f) An endorsement shall be provided which states that the coverage is PRIMARY INSURANCE and that no other insurance effected by the City will be called upon to contribute to a loss under this coverage.

(g) Cancellation, non-renewal or reduction in limits shall be sent to the City with at least 10 days prior written notice, by certified mail, return receipt requested.

(h) Insurance is to be placed with California Admitted Insurers with an A.M. Best's Rating of no less than A:XI.

Successful Bidder shall not commence work until such insurance has been approved by the City. The Successful Bidder shall not allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained. Such insurance shall remain in full force and effect at all times during the prosecution of The Work and until the final completion and acceptance thereof.

1.15 Disposal of Material Outside the Public Right of Way: The Successful Bidder shall make his own arrangements for disposing of materials outside the public right of way, and he shall pay all costs involved.

1.16 Preservation of Property: Attention is directed to Section 1.08, "Responsibility for Damage." Due care shall be exercised to avoid injury to existing improvements or facilities, adjacent property and real or personal property that is not to be removed.

1.17 Cooperation: Should work be performed by other firms, within or adjacent to The Work specified, or should work of any other nature be underway by other forces within or adjacent to said limits, the Successful Bidder shall cooperate with all such other firms or other forces to the end that any delay or hindrance to their work will be avoided. The right is reserved to perform other or additional work at or near the site (including material sources) at any time, by the use of other forces.

When two or more firms are employed on related or adjacent work, each shall conduct his operation in such a manner as not to cause any unnecessary delay or hindrance to the other. Each firm shall be responsible to the other for all damage to work, to persons or property caused to the other by his operations and for loss caused the other due to his unnecessary delays or failure to finish The Work within the time specified for completion.

1.18 Assignment: The performance of The Work may not be assigned except upon the written consent of the Purchasing Agent. Consent will not be given to any proposed assignment which would relieve the Successful Bidder or its surety of their responsibilities under the order. The Successful Bidder may assign monies due or to become due it under the order and such assignment will be recognized by the City, if given proper notice thereof, to the extent permitted by law. That any assignment of money shall be subject to all proper set-offs in favor of the City, and to all deductions provided for in the order, and particularly all money withheld, whether or not assigned, shall be subject to being used by the City for the completion of The Work, in event that the Successful Bidder should be in default therein.

1.19 Time of Completion: The Successful Bidder shall complete all or any designated portion of The Work in all parts and requirements within the time set forth in the order.

1.20 Care and Protection: The Successful Bidder shall be entirely responsible for any damage to the City's or adjacent property due to hauling materials or other causes attributable to the conduct of his work, and all such damage will be repaired by the Successful Bidder when and as directed by the City's representative, and as required to place the property in as good condition as before the commencement of The Work.

1.21 Nondiscriminatory Employment Practices: In the performance of this contract the contractor or subcontractor agrees as follows:

(1) AFFIRMATIVE ACTION - GENERAL

The contractor or subcontractor shall not discriminate against any applicant for employment or employee on the grounds of race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. The contractor or subcontractor will take affirmative action to ensure that its recruitment, selection, and evaluation practices do not discriminate against any applicant for employment or employee. The contractor or subcontractor shall also ensure that its personnel policies, practices and procedures, including, but not limited to, the transfer, promotion, demotion, suspension, layoff, or termination, rates of pay and other form of compensation, and the selection for training programs, apprenticeship, and on-the-job training do not discriminate against any employee. The contractor or subcontractor shall post in conspicuous places that are accessible to applicants for employment and employees notices setting forth this Nondiscriminatory Employment Practices Provision.

(2) RECRUITMENT

(a) Non-union employees. Advertising placed with any media shall include the notation, "An Equal Opportunity Employer." Advertisements shall be placed with media having large circulation among minority groups or at school placement centers having large minority student enrollments. The contractor or subcontractor will send to each source of employee referrals, other than labor unions or workers' representatives, a notice in such form and content as shall be furnished or approved by the City, advertising said source of employee referrals of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Recruitment of non-union employees shall, to the maximum extent possible, utilize the services of minority organizations likely to be referral sources for minority group employees.

(b) Union employees. Union employees shall be recruited in accordance with applicable labor agreements. The contractor or subcontractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the City, advising said labor union or workers' representatives of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or sub contractor agrees to seek the inclusion in all union agreements to which it is a party, clauses prohibiting discrimination based upon race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. To the maximum extent consistent with applicable labor agreements, the contractor or subcontractor will attempt to recruit applicants without regard to race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability.

(3) EQUAL EMPLOYMENT OPPORTUNITY OFFICER

The contractor or subcontractor shall designate one of its management employees as its Equal Employment Opportunity Officer and assign such officer the responsibility and authority to administer and promote an active program to put the contractor's or subcontractor's nondiscriminatory employment practices commitment into practice.

(4) ACCESS TO RECORDS

The contractor or subcontractor shall permit access during normal business hours to its records of employment, employment advertisements, completed application forms, and other pertinent data and records when requested to do so by the City Manager or any representative of the Fair Employment Practices Commission of the State of California.

(5) COMPLIANCE REVIEW PROCEDURES

(a) The contractor or subcontractor shall, upon request of the City Manager, submit its official payroll records together with a monthly cumulative summary of all employee hours worked in performance of its contract with or on behalf of the City identified as to minority status.

(b) The contractor or subcontractor shall submit to a formal, thorough review of its records, books, reports, and accounts concerning its employment practices for the purpose of determining whether they are nondiscriminatory. This review will be performed at intervals during the performance of the contract as may be specified by the City Manager.

Each review shall be followed within 30 days by either a written notice to the contractor or subcontractor that it is in apparent compliance with the Nondiscriminatory Employment Practices Provision of its contract or by a citation of apparent deficiency, summary of findings, and a statement of remedial commitment for signature by the contractor. If the contractor or subcontractor fails to meet the commitments it has made in executing such statement, the City Manager shall issue a notice of intent to initiate an action against the contractor or subcontractor with the Fair Employment Practices Commission for willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act in not less than 30 days or such notice of intent.

(6) VIOLATIONS

The City Manager shall deem a finding of willful violation of the Nondiscrimination Employment Practices Provision and the California Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the contractor or subcontractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426, which has become final, or obtained relief under Labor Code Sections 1429 and 1429.1, or an appropriate federal commission or agency, or a court of the State of California, or if the United States Government finds, in any action or proceeding to which the contractor or subcontractor is a party, that it discriminated against employees or applicants for employment in the performance of this contract. Upon receipt or such notice or final judgment, the City Manager shall notify the contractor or subcontractor that unless it demonstrates to the satisfaction of the City Council within a stated reasonable period that the violation has been corrected, said contractor or subcontractor shall be subject to the remedies hereinafter provided.

(7) REMEDIES FOR WILLFUL VIOLATION

The contractor or subcontractor agrees that a finding of willful violation of the California State Fair Employment Practices Act or of this Nondiscriminatory Employment Practices Provision shall be regarded by the City Council as a basis for determining whether or not it is a responsible bidder as to future contracts for which such contractor or subcontractor may submit bids. The contractor or subcontractor further agrees that such disqualification by said City Council shall remain in effect for one year or until it demonstrates to the satisfaction of the City Manager that its employment practices are in conformity with the nondiscrimination provisions of the article.

The contractor or subcontractor further agrees that the contractor or subcontractor shall, as a penalty to the City of Hayward, forfeit for each calendar day or portion thereof an amount not to exceed \$250 or 1 percent of the total contract amount, whichever is greater. Such penalty may be deducted from any sums due to the contractor or subcontractor or recovered by the City through maintenance of an action in any court of competent jurisdiction.

Prior to making any determination with respect to reinstatement of a contractor or subcontractor as a responsible bidder, the City Council may refer the matter to the Human Relations Commission of the City of Hayward for a report and recommendation. The contractor or subcontractor agrees to cooperate to the fullest extent with said Human Relations commission in its exercise of the authority here conferred, including, but not limited to, promptly furnishing reports requested by the commission's review of matters relating to such reinstatement.

1.22 Acceptance and/or Rejection of Bids: The City reserves the right to reject any or all bids, or to accept separate items in a bid. In addition the City reserves the right to cancel a Request for Bids or an award at any time.

1.23 Waiving Minor Irregularities: The City may waive any minor irregularities in a bid or in the bidding process and make award accordingly.

1.24 Nuclear Affirmation Requirements: A purchase order has no force or effect until the person to which it is issued has on file with the City or executes and returns to the City of Hayward's Purchasing Manager an Affirmation Of Non-Involvement In Development Or Production Of Nuclear Weapons. City of Hayward Ordinance 87-024 C.S. defines "nuclear weapons" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei." The ordinance defines "person" as "any person, private corporation, institution or other entity."

1.25 Hazardous Material Requirements: The contractor shall comply with all government laws, rules and regulations concerning the use of hazardous materials and the disposal of hazardous wastes at the job site, including but not limited to the following:

(1) The contractor shall not bring hazardous materials onto the job site or deliver hazardous materials without providing the City, in advance, the Material Safety Data Sheets for each hazardous material introduced. Where applicable, materials must be labeled in accordance with Section 5194, Title 8, of the California Administrative Code. The contractor is required to include a Material Safety Data Sheet prepared in accordance with Section 5194 (g) with each shipment of all such materials to the City. No hazardous material will be introduced onto the job site until the City gives written approval for each hazardous material.

(2) All hazardous material shall be stored and used in a safe manner and shall not be stored or used in any vehicular or pedestrian traffic lanes.

(3) Any hazardous products, waste or empty containers used or generated shall not be poured down any drain or sewer nor disposed of in any trash container or dumpster.

(4) The contractor will be considered to be the hazardous waste generator and will be responsible for the legal transport and disposal of all hazardous waste. No containers or trash will be left in any building or on any job site.

(5) The contractor shall not disturb or damage any existing pipe lagging or equipment insulation or other asbestos material on the job site. If any asbestos material is disturbed or damaged, the contractor shall immediately notify the City and the situation will be considered an "asbestos release" under State and Federal Regulations. The job will be shut down immediately until all appropriate State and Federal notifications have been complete and all testing completed to determine if any asbestos fibers have been released.

(6) Violation of any of the above procedures shall be sufficient cause for the City to stop all work. Any expense incurred by the City caused by the work stoppage will be borne by the contractor. These expenses will include all costs to return the job site and all other areas contaminated by the contractor to a hazard-free condition.

(7) The contractor will be solely responsible for all the costs, including fines and penalties, for the investigation and cleanups of any suspected hazardous materials the contractor used, left on the job site, or dumped down a City drain or sewer, and any damage to property and/or injury to any person.

1.26 Recycled Materials: It is the policy of the City of Hayward to encourage the use of recycled materials, reusable products, and products designed to be recycled. Contractors and suppliers shall use or provide such materials or products to the maximum extent practicable and allowable within the specifications prepared by the City, provided however, that the performance or operational effectiveness of the product or material is not detrimentally effected nor the health and safety of the citizens or employees of the City of Hayward negatively impacted by the use of such products or materials.

(REV. 01/31/13)

CITY OF HAYWARD
NONDISCRIMINATORY EMPLOYMENT PRACTICES PROVISION

Attachment 2

In the performance of this contract the contractor or subcontractor agrees as follows:

1. **AFFIRMATIVE ACTION - GENERAL.** The contractor or subcontractor shall not discriminate against any applicant for employment or employee on the grounds of race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. The contractor or subcontractor will take affirmative action to ensure that its recruitment, selection, and evaluation practices do not discriminate against any applicant for employment or employee. The contractor or subcontractor shall also ensure that its personnel policies, practices and procedures, including but not limited to, the transfer, promotion, demotion, suspension, layoff, or termination, rates of pay or other forms of compensation, and the selection for training programs, apprenticeship, and on-the-job training do not discriminate against any employee. The contractor or subcontractor shall post in conspicuous places that are accessible to applicants for employment and employees notices setting forth this Nondiscriminatory Employment Practices Provision.

2. **RECRUITMENT.**

(a) **Non-union employees.** Advertising placed with any media shall include the notation, "An Equal Opportunity Employer." Advertisements shall be placed with media having large circulation among minority groups or at school placement centers having large minority student enrollments. The contractor or subcontractor will send to each source of employee referrals, other than labor unions or workers' representatives, a notice, in such form and content as shall be furnished or approved by the City, advising such source of employee referrals of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notices in conspicuous places available to employees and applicants for employment.

Recruitment of non-union employees shall, to the maximum extent possible, utilize the services of minority organizations likely to be referral sources for minority group employees.

(b) **Union employees.** Union employees shall be recruited in accordance with applicable labor agreements. The contractor or subcontractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the City, advising said labor union or workers' representatives of its commitments under Chapter 2, Article 7, of the Hayward Municipal Code, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The contractor or subcontractor agrees to seek the inclusion in all union agreements to which it is a party, clauses prohibiting discrimination based upon race, color, religion, national origin, ancestry, place of birth, sex, sexual orientation, age, or disability. To the maximum extent consistent with applicable labor agreements the contractor or subcontractor will attempt to recruit applicants without regard to race, color, religion, national origin, sex, age, or disability.

3. **EQUAL EMPLOYMENT OPPORTUNITY OFFICER.** The contractor or subcontractor shall designate one of its management employees as its Equal Employment Opportunity Officer and shall assign such officer the responsibility and authority to administer and promote an active program to put the contractor's or subcontractor's nondiscriminatory employment practices commitment into practice.

4. **ACCESS TO RECORDS.** The contractor or subcontractor shall permit access during normal business hours to its records of employment, employment advertisements, completed application forms, and other pertinent data and records when requested to do so by the City Manager or any representative of the Fair Employment Practices Commission of the State of California.

5. **COMPLIANCE REVIEW PROCEDURES.**

(a) The contractor or subcontractor shall, upon request of the City Manager, submit its official payroll records together with a monthly cumulative summary of all employee hours

worked in performance of its contract with or on behalf of the City identified as to minority status.

(b) The contractor or subcontractor shall submit to a formal, thorough review of its records, books, reports, and accounts concerning its employment practices for the purpose of determining whether they are nondiscriminatory. This review will be performed at intervals during the performance of the contract as may be specified by the City Manager.

Each review shall be followed within 30 days by either a written notice to the contractor or subcontractor that it is in apparent compliance with the Nondiscriminatory Employment Practices Provision of its contract or by a citation of apparent deficiency, summary of findings, and a statement of remedial commitment for signature by the contractor. If the contractor or subcontractor fails to meet the commitments it has made in executing such statement, the City Manager shall issue a notice of intent to initiate an action against the contractor or subcontractor with the Fair Employment Practices Commission for willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act in not less than 30 days of such notice of intent.

6. **VIOLATIONS.** The City Manager shall deem a finding of willful violation of the Nondiscriminatory Employment Practices Provision and the California Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the contractor or subcontractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426, which has become final, or obtained relief under Labor Code Sections 1429 and 1429.1, or an appropriate federal commission or agency, or a court of the State of California, or if the United States Government finds, in any action or proceeding to which the contractor or subcontractor is a party, that it discriminated against employees or applicants for employment in the performance of this contract. Upon receipt of such notice or final judgement, the City Manager shall notify the contractor or subcontractor that unless it demonstrates to the satisfaction of the City Council within a stated reasonable period that the violation has been corrected, said contractor or subcontractor shall be subject to the remedies hereinafter provided.

7. **REMEDIES FOR WILLFUL VIOLATION.** The contractor or subcontractor agrees that a finding of a willful violation of the California Fair Employment Practices Act or of this Nondiscriminatory Employment Practices Provision shall be regarded by the City Council as a basis for determining whether or not it is a responsible bidder as to future contracts for which such contractor or subcontractor may submit bids. The contractor or subcontractor further agrees that such disqualification by said City Council shall remain in effect for one year or until it demonstrates to the satisfaction of the City Manager that its employment practices are in conformity with the nondiscrimination provisions of the article.

The contractor or subcontractor further agrees that the contractor or subcontractor shall, as a penalty to the City of Hayward, forfeit for each calendar day or portion thereof an amount not to exceed \$250 or 1 percent of the total contract amount, whichever is greater. Such penalty may be deducted from any sums due to the contractor or subcontractor or recovered by the City through maintenance of an action in any court of competent jurisdiction.

Prior to making any determination with respect to reinstatement of a contractor or subcontractor as a responsible bidder, the City Council may refer the matter to the Human Relations Commission of the City of Hayward for a report and recommendation. The contractor or subcontractor agrees to cooperate to the fullest extent with said Human Relations Commission in its exercise of the authority here conferred, including, but not limited to, promptly furnishing reports requested by the commission's review of matters relating to such reinstatement.

(REV. 11/5/92)

CITY OF HAYWARD

SPECIAL AFFIRMATIVE ACTION PROVISION FOR SUPPLY AND SERVICE CONTRACTS

In accordance with section 2-7.04 of the Hayward Municipal Code (HMC), this provision shall be included in every nonconstruction contract estimated by the City to equal or exceed \$10,000 annually, where the contract has a potential for more than one delivery on City request and the Contractor employs more than ten (10) persons, and for every other nonconstruction contract equal to or in excess of \$25,000 (whether paid in one sum upon delivery or completion, or paid periodically and such periodical payments are estimated by the City to total \$25,000 or more in one year) the following requirements must be met in addition to those set out in The City of Hayward Nondiscriminatory Employment Practices Provision (Sec. 2-7.02, HMC):

1. IN THE PERFORMANCE OF THIS CONTRACT, THE CONTRACTOR AGREES AS FOLLOWS:

(a) The contractor that submits the apparent low bid shall, on behalf of itself and those of its subcontractors, if any, where the dollar amount of such subcontract exceeds \$10,000, furnish the City Manager such information concerning its employment practices and existing and projected work forces in the form and manner as may be requested by the City Manager.

(b) The contractor that submits the apparent low bid and each of its subcontractors, if any, where the dollar amount of such subcontract is \$10,000 or more, may be required to attend a conference with the City Manager at such time and place as may be fixed by the City Manager to determine whether the information earlier submitted shows compliance with the nondiscrimination requirements of this article.

In making such determination, the City Manager shall consider the following factors:

(1) The size of the contractor's or subcontractor's existing work force;

(2) The size of the anticipated work force necessary for the contractor or subcontractor to perform the contract or subcontract for or on behalf of the City;

(3) The projected turnover, vacancies, or work force expansion that the contractor or subcontractor expects to occur during the term of the contract;

(4) The specific plans of the contractor or subcontractor to recruit applicants for employment and to select, train, and promote employees hired to complete the contract with or on behalf of the City in like proportion to their numbers in the contractor's or subcontractor's typical, geographic labor market;

(5) An analysis showing the projected work force that would be expected, after all necessary selection is completed, to perform the contract or subcontract with or on behalf of the City absent any discriminatory employment practices;

(6) Any other qualitative or quantitative data which would assist the City Manager in determining the contractor's or subcontractor's commitment to meet the nondiscriminatory employment practices requirements of this contract.

(c) Following such conference, the apparent low bidder shall enter into a memorandum of understanding with the City in a form agreed to by such contractor and the City Manager, which memorandum of understanding shall set forth the measures that the contractor and its subcontractors who have attended the conference shall take in furthering and meeting its nondiscrimination employment practices commitment during the performance of the contract.

(d) In the event the apparent low bidder fails to submit the requested written information, appear at the conference, or enter into a

memorandum of understanding that is acceptable to the City Manager, the City Manager shall, after giving notice and an opportunity to respond to the apparent low bidder, contact the second lowest bidder for the purpose of conducting the procedure set out in subsections (a) through (c) herein.

2. IMPLEMENTING RULES AND REGULATIONS, ENFORCEMENT PROCEDURE, AND DELEGATION OF RESPONSIBILITY. (Sec. 2-7.05, HMC)

The City Manager shall promulgate all rules, regulations, and forms necessary to implement the provisions of this article. So far as is practical, such rules, regulations, and forms shall be similar to those adopted pursuant to federal Executive Order 11246 and the Fair Employment Practices Act of the State of California.

The City Manager shall monitor the performance of the contractors and subcontractors in their achievement of the nondiscriminatory employment practices requirements provided herein, conduct on-site inspection of their work forces and employment records and submit periodic reports on such performances to the City Council and Human Relations Commission for advisory review to the City Council regarding modifications of this article so as to ensure its effectiveness.

The City Manager shall designate a Contract Compliance Officer and may, at his discretion, delegate responsibility and authority for administering the provisions of this article to the Contract Compliance Officer and to such other officers or employees of the City as necessary for proper administration of this program.

3. EXEMPTIONS. (Sec. 2-7.06, HMC)

The following contracts are exempt from the provisions of this article:

(a) Contracts with other governmental jurisdictions;

(b) Contracts with manufacturers whose principal place of business is located outside the United States;

(c) Contracts with the United States manufacturers whose principal place of business is located outside the State of California;

(d) Contracts with any single or sole source supplier of any goods or service; and

(e) Contracts resulting from exigent emergency requisitions where any delay in completion or performance of the contract would jeopardize the public health, safety, or welfare of the citizens of the City of Hayward, or where in the judgement of the City Manager the operational effectiveness of a significant City function would be significantly threatened if the contract were not entered into expeditiously.

4. CONTRACTS SUBJECT TO EXECUTIVE ORDER 11246. (Sec. 2-7.07, HMC)

No provision of this article shall be construed to apply to any federally assisted construction contract entered into by the City that is subject to Executive Order 11246 or any order amending or superseding Executive Order 11246, the rules and regulations promulgated pursuant to said order, or the Federal Equal Employment Opportunity Bid Conditions for Alameda County.

5. OTHER REMEDIES. (Sec. 2-7.08, HMC)

The provisions of this article shall not be construed to prevent the City from pursuing and obtaining any remedy or relief as may be prescribed by law.

6. CONTACT

City of Hayward Purchasing and Contract Compliance Specialist, (510) 583-4802.



CITY OF
HAYWARD
HEART OF THE BAY

AFFIRMATION ON NON-INVOLVEMENT IN
DEVELOPMENT OF PRODUCTION OF NUCLEAR WEAPONS

The undersigned hereby certifies:

That it understands that City of Hayward Ordinance No.87024 C.S. prohibits award of contract to, or purchase of goods or services from, "any person which is knowingly or intentionally engaged in the development or production of nuclear weapons."

That it understands the ordinance defines "Nuclear Weapon" as "any device the intended explosion of which results from the energy released by fission or fusion reactions involving atomic nuclei."

That it understands the ordinance defines "Person" as "any person, private corporation, institution or other entity..."

As the owner or company official of the firm identified below, I affirm that this company is not knowingly or intentionally engaged in such development or production.

Print/Type Company Name

Print/Type Official Name & Title

Company Address

Signature of Company Official

City/State/Zip Code

Date

**Department of Finance
Purchasing Division**