

San Jose Redevelopment Agency

Request for Proposals

Disaster Recovery Services

March 27, 2009

Summary

The San Jose Redevelopment Agency (SJRA) is soliciting proposals from vendors to provide recovery services and an offsite recovery location for the Agency's server, network, telecommunications, and desktop PC infrastructure. It is preferred that the recovery location be outside of State of California, but in the western United States.

Background

The San Jose Redevelopment Agency is a public, non-profit organization created in 1956 by the City of San Jose to improve the quality of life for all who live, work, and play in San Jose, by creating jobs, developing affordable housing, strengthening neighborhoods and building public facilities.

Governed by the San Jose City Council which serves as the Redevelopment Agency Board, the SJRA works with businesses and the community to revitalize the economy in San Jose. Through a balanced series of investments and initiatives, the SJRA facilitates and oversees comprehensive programs for development to revitalize the City's Downtown, Neighborhoods and Industrial areas.

The Redevelopment Agency has about 110 employees, all located at the San Jose City Hall.

Current desktop O/S and applications in use are the following:

- Windows XP Professional
- Microsoft Office 2003
- Various Windows-based design, graphics, productivity, and small database applications

Current server-based O/S and applications in use are the following:

- Windows Server 2003
- Windows 2000 Server
- Microsoft Active Directory
- Windows NT4 Domain Controller
- Microsoft Exchange 2003
- JD Edwards Financials Version 8.12 (Web-based client)
- ADP PC Payroll
- Microsoft Windows File Sharing
- Microsoft Windows Printer Sharing
- Symantec Backup Exec 12.0
- Symantec Endpoint Protection 11.0 Antivirus Software
- Various Windows-based license management and shared-database applications

Current desktop hardware in use is HP Business Desktop PC's, models DC7600, DC7700 and DC7800.

Current server hardware in use is specified under "Customer's Required Configuration" below.

Timetable

Release RFP to vendors	March 27, 2009
Proposal responses due	April 24, 2009 at 4:00 pm PST
Interviews (If necessary)	Week of May 4-8, 2009
Announce selected vendor	May 15, 2009
Negotiate contract	May 18-29, 2009

RFP Response Format

This RFP is available on the SJRA web site at <http://www.sjredevelopment.org/opportunities.htm>

Proposals must adhere to the schedule described above under "**Timetable**".

It is preferred that proposals are delivered in electronic form, either by email or by physical delivery of electronic media to the address provided below under "Contact Information". If delivered by email, confirmation of receipt will be provided by email.

Customer's Required Configuration

SJRA needs to be able to provide recovery for the following servers:

Server/Host or Application Name:	Model	OS Ver	CPU (Qty)	CPU Speed	Mem(MB)	(Eth/Tkr)	Int Disk (GB)
Gandalf (File Server)	Proliant DL380/G3	W2000 Srvr	2x1	2800	1GB	Ethernet	1700
Bilbo (Antivirus,FM Pro, Lic Srvr)	Proliant DL380/G5	WS2003	1x4	2333	2GB	Ethernet	340
Dagobah (ADP, Antivirus)	HP Ntsrvr LC2000	W2000 Srvr	2x1	933	2GB	Ethernet	180
Windu (NT4 Domain Contrlr)	HP Ntsrvr LH3	NT 4	1	500	1GB	Ethernet	4
EXSJRA (Exch 2003)	Proliant DL380/G5	WS2003	1x4	2333	4GB	Ethernet	204
Sjrarecovery (Backups)	Proliant DL380/G3	W2000 Srvr	2x1	2800	1GB	Ethernet	444
Coruscant (JDEdwards DB)	Proliant DL380/G5	WS2003	1x4	2333	8GB	Ethernet	342
Hoth (JDEdwards App Srvr)	Proliant DL380/G5	WS2003	1x4	2333	4GB	Ethernet	204
Tatooine (JDE Deployment)	Proliant DL380/G5	WS2003	1x4	2333	2GB	Ethernet	204
Active Dir. Domain Controller	Proliant Family	WS2003					

All of the above servers are backed up on LTO4 tapes, using an HP MSL2024 tape drive and Symantec Backup Exec Version 12.0

In addition, the successful proposer must provide work space, suitable Windows based workstations, laser printer access, ethernet network connections and telephones for ten (10) SJRA employees at the off-site recovery location.

Public Records

SJRA is subject to the California Public Records Act and as such, all proposals are public records subject to disclosure under this Act.

RFP Costs and Proposal Ownership

Each respondent to this RFP agrees that the preparation of all materials for submittal to SJRA are at the respondent's sole cost and expense, and SJRA shall not, under any circumstances, be responsible for any costs or expenses incurred by a respondent. Additionally, each respondent agrees that all documentation and materials submitted with a proposal shall remain the property of SJRA.

Vendor Selection

Responses to this RFP will be evaluated by a panel of SJRA employees, based on the following criteria:

- Completeness of proposal
- Experience providing similar disaster recovery services
- Proposed rates
- References
- Any value-added factors
- Other factors as appropriate

SJRA reserves the right to request additional information from any vendors if deemed necessary. SJRA also reserves the right to reject any or all proposals. Selection of a vendor shall be within the sole discretion of the panel based on the evaluation of the above criteria.

Contract Negotiations

After a vendor is selected, SJRA and the consultant will enter into a written agreement for the performance of services. See Appendix for an SJRA exemplar agreement. If the term of services is extended beyond its original term, an amendment to the agreement will be required.

The selected consultant must provide certificates of insurance naming both the San Jose Redevelopment Agency and the City of San Jose as additional insureds. See the example contract for insurance requirements.

Contact Information

Proposal submissions and questions related to this RFP should be directed in writing to the following individual by email or US postal mail:

Steve Reuter
Information Systems Manager
San Jose Redevelopment Agency
200 E. Santa Clara St., 14th Floor
San Jose, Ca 95113
Email: steve.reuter@sanjoseca.gov

Appendix

Exemplar Agreement

Technical Specifications and Requirements

Vendors must provide the information requested below in Sections A-N.

A. Executive Summary

Provide a concise summary of the services you are offering and the advantages you bring to our organization.

B. Vendor Profile

1. History - how many years has vendor been providing disaster recovery services?
2. Provide a brief overview of your company, including the products and services offered.
3. How many full-time employees dedicated to disaster recovery support?
4. Describe your ownership (public company, subsidiary, etc.)

C. Customer Base and Corporate Experience

1. How many subscribers does vendor currently support?
2. How many customer disaster declarations has the Vendor supported?
3. How many customer recovery tests has Vendor supported?
4. Is any facility used for purposes other than disaster recovery?

D. Sharing of Recovery Facility

1. What is Vendor's policy on handling the recovery of multiple subscribers for the same recovery hardware?
2. Does Vendor allow sharing by more than one subscriber at the same recovery facility? If yes, provide an overview of the logistics for this process.
3. How does Vendor limit the number of subscribers per facility?
4. What is the Vendor's policy on shared peripherals?

E. Multiple/Regional Disaster Support

1. What is Vendor's policy on regional disasters or multiple, simultaneous disasters when more than one subscriber invokes a disaster declaration?
2. How does Vendor assign priority of access to customers?
3. Can Vendor provide access to additional hardware at time of disaster?

Recovery Facility Disaster

1. What happens if a disaster strikes our assigned recovery facility?

F. Testing Methodology and Support

1. Provide a summary of Vendor's testing methodology and standard support provided during tests.
2. What type of support does Vendor provide before, during and after a test? What type of fee is associated with this support?
3. Does Vendor support remote testing?
4. What additional fees will subscriber incur during testing or disaster recovery?
5. What is your test scheduling and cancellation policy?

G. Financial Data

1. This section should contain information describing the current financial condition of Vendor's company. Include Vendor's latest annual report.

H. Staff and Services

1. Indicate the number of support staff personnel, including position and experience, at each recovery site during testing and actual disaster recovery.
2. Provide a list of support services contractually guaranteed at time of disaster?
3. What services are provided as part of the standard contract, and what services are available for an additional fee?

I. Recovery Configuration

1. Provide a detailed list of the hardware, peripherals and telecommunications equipment that you are proposing to match our recovery configuration requirements.
2. If a specific requirement cannot be met, please explain why and if applicable, offer an alternative solution.

J. Proposed Pricing

Provide pricing for 1, 3 and 5 year terms for the proposed recovery configuration in format indicated below. Vendor shall also include pricing for all optional services proposed. Pricing shall include the monthly subscription fee, disaster declaration fee, daily usage fees and any other associated fees (including any one-time fees, if applicable), inclusive of required taxes.

K. Vendor Policies

Pre-emptive Access Rights

1. Provide Vendor's policy for preventing one organization's right of access to the assigned recovery facility being preempted by another subscriber.
2. Is Vendor currently engaged in a contract that allows a customer to have greater access rights than another customer?

Subscriber Risk Limitations

1. How does Vendor limit the risk of simultaneous declarations from multiple subscribers of the same configuration size?
2. Will the Vendor allow a non-subscriber access to the recovery center?
3. Has Vendor ever failed to meet their commitments to a subscriber at time of disaster?

Disaster Alert and Declaration

1. Define vendor's disaster alert and declaration procedure. Describe the support you provide at time of disaster.
2. Does vendor require a fee be paid when placing a disaster declaration or alert?
3. How does vendor assign a recovery facility when a subscriber places a disaster declaration?

Terms and Conditions

1. Provide Vendor's provisions for upgrading subscriber's recovery configuration during the term of the contract.
2. Does Vendor's contract contain an automatic renewal provision?
3. Describe your provisions for termination of the contract, and any penalties for early termination.
4. What audit process does Vendor undergo for quality control?
5. Liability – what is our recourse if Vendor fails to meet our requirements at time of disaster?

L. Recovery Facility

Locations

1. Provide a list of Vendor's recovery facility(s).
2. Indicate the sites that would be available and recommended for our Organization and provide location maps.
3. Does the Vendor offer facilities with remote access?
4. Does the Vendor offer any mobile recovery facilities?

Telecommunications

- 1. Does Vendor have its own internal backbone network? If so, please describe.**
- 2. Can our Organization install a dedicated line into your facility that is closest to our current data center and backhaul our bandwidth through your backbone network? If yes, how much bandwidth can we subscribe to for the purposes of backhauling?**
- 3. What usage charges, if any, can be saved by using Vendor's network capabilities?**
- 4. Does Vendor provide all required networking equipment (switches, routers, etc.) at the proposed facility?**

Access / Occupancy

- 1. Our Organization requires access within 24 hours after placing a disaster declaration. Can Vendor meet this requirement?**
- 2. What are the minimum and maximum occupancy times Vendor offers following a disaster declaration?**

Facility Infrastructure

- 1. Detail the fire detection and suppression system of the proposed recovery facility.**
- 2. Detail the security system and security staff provided at the proposed recovery facility.**
- 3. Detail the environmental support equipment of the proposed recovery facility:**
 - a) Power Conditioning**
 - b) HVAC**
 - c) UPS**
 - d) Power Generator**
- 4. Indicate whether the proposed recovery facility has redundant capabilities for the above environmental support equipment.**
- 5. Detail which utility companies (electrical and communications) service the proposed recovery facility.**
- 6. Indicate redundant capabilities for electrical and communications utilities in the event of an outage.**
- 7. What are the maintenance procedures for the hardware and environmental support equipment at the proposed recovery facility?**

Customer Equipment

- 1. Describe the storage capacity at the proposed recovery facility.**
- 2. Describe the Vendor's security provisions for our data while at the recovery facility.**
- 3. Describe provision for placement of customer-owned equipment at the recovery facility.**
- 4. Will our Organization incur a fee for placing customer-owned equipment at the proposed recovery site?**

5. Describe your provisions for customer offices at the recovery facility. Are any conference rooms available?
6. What manuals/guides does the Vendor provide to new subscribers?

Transportation

1. Provide details regarding local ground transportation near the proposed recovery facility.
2. Provide details regarding local commercial airport locations near the proposed recovery facility.

Lodging/Restaurants

1. How many hotel rooms and restaurants are available within a five mile radius of the proposed recovery facility?
2. Do the local area hotels offer corporate discounts to the Vendor's customers?

M. References

Provide three (3) references of customers currently under subscription for a disaster recovery configuration.

N. Additional Information

Vendor may include any additional information they feel pertinent to their response that was not specifically asked for in the Request For Proposal (i.e. marketing literature, additional support provided, optional services, etc.).

APPENDIX
EXEMPLAR AGREEMENT

**AGREEMENT BETWEEN THE REDEVELOPMENT AGENCY
OF THE CITY OF SAN JOSE
AND**

THIS AGREEMENT is made and entered into this -----day of -----, 200_, by and between the REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE, a public agency ("AGENCY"), and -----, a ----- **[qualified to do business in California]** ("CONSULTANT"), for ----- services in connection with the ----- Project.

RECITALS

The purpose for which this AGREEMENT is made, and all pertinent recitals, are listed on EXHIBIT A, entitled "RECITALS", which is attached hereto and incorporated herein.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES.

CONSULTANT shall perform those services specified in detail in EXHIBIT B, entitled "SCOPE OF SERVICES", which is attached hereto and incorporated herein.

SECTION 2. TERM OF AGREEMENT.

The term of this AGREEMENT shall be from [_____, 200_][the date of final execution of this AGREEMENT as written above], to -----, 200_ **[NOTE: add 6 months to estimated date of**

completion], inclusive, subject to the provisions of SECTION __ **[TERMINATION SECTION]** of this AGREEMENT.

SECTION 3. SCHEDULE OF PERFORMANCE.

The services of CONSULTANT are to be completed according to the schedule set out in EXHIBIT C, entitled "SCHEDULE OF PERFORMANCE", which is attached hereto and incorporated herein. Time is of the essence in this AGREEMENT.

Contract Number:

(to be filled in only by Redevelopment
Agency Contracts Administration)
Document2

[insert date]

SECTION 4. COMPENSATION. [Note: If expenses are to be reimbursable, include first option and delete second. If expenses are not reimbursable, do the reverse]

The total compensation to be paid to CONSULTANT, including payment for services, **[reimbursable expenses and]**supplies, materials, and equipment provided by CONSULTANT, if any, shall not exceed ----- AND NO/100 DOLLARS (\$ -----) pursuant to the payment terms set forth in EXHIBIT D, entitled "COMPENSATION", which is attached hereto and incorporated herein. **[Any expenses incurred in the performance of this AGREEMENT shall be the sole responsibility of CONSULTANT.]**

SECTION 5. METHOD OF PAYMENT.

Payments to CONSULTANT by AGENCY shall be made within thirty (30) days after receipt of CONSULTANT's itemized invoice. Request for payment shall be made to:

Redevelopment Agency of the City of San Jose Attention: _____, Project
[Coordinator][Manager] P.O. Box 720847
San Jose, CA 95172

Or by email to sjra_ap@sanjoseca.gov

SECTION 6. INDEPENDENT CONTRACTOR.

It is understood and agreed that CONSULTANT, in the performance of the work and services agreed to be performed by CONSULTANT, shall act as and be an independent contractor and not an agent or employee of AGENCY.

SECTION 7. ASSIGNABILITY.

The parties agree that the expertise and experience of CONSULTANT are material considerations for this AGREEMENT. CONSULTANT shall not assign or transfer any interest in this AGREEMENT nor the performance of any of CONSULTANT's obligations hereunder, without the prior written consent of AGENCY, and any attempt by CONSULTANT to so assign this AGREEMENT or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. SUBCONSULTANTS.

A. Notwithstanding Section 7 above, CONSULTANT may use **[the following designated]** subcontractors in performing the work under this AGREEMENT[:

(list subcontractors)] [based upon prior written approval by -----]

Document2
[insert date]

B. CONSULTANT shall be responsible for directing the work of the above named subcontractors and for any compensation due to subcontractors. AGENCY assumes no responsibility whatsoever concerning such compensation.

C. CONSULTANT shall change or add subcontractors only with the prior written approval of the AGENCY's Project Coordinator.

SECTION 9. INDEMNIFICATION.

CONSULTANT shall defend, indemnify and hold harmless AGENCY and City, their officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this AGREEMENT due to the willful or negligent acts (active or passive) or omissions by CONSULTANT's officers, employees or agents. The acceptance of said services and duties by AGENCY and City shall not operate as a waiver of such right of indemnification. All of CONSULTANT's obligations under this Section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this AGREEMENT.

SECTION 10. INSURANCE REQUIREMENTS.

CONSULTANT agrees to have and maintain the policies set forth in EXHIBIT E, entitled "INSURANCE REQUIREMENTS", which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Director of Finance or the Director's authorized designee ("Risk Manager") as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. CONSULTANT agrees to provide AGENCY with a copy of said policies, certificates and/or endorsements before work commences under this AGREEMENT.

SECTION 11. NONDISCRIMINATION.

CONSULTANT shall not discriminate, in any way, against or grant preferential treatment to any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of this AGREEMENT.

SECTION 12. CONFLICT OF INTEREST.

CONSULTANT shall at all times avoid conflict of interest or appearance of conflict of interest in the performance of this AGREEMENT. CONSULTANT shall disclose any conflict of interest, or potential conflict of interest, which exists or arises at any time during the term of this AGREEMENT. AGENCY shall have the right to treat any violation of this Section as a material breach of this AGREEMENT, and shall have the right to terminate the AGREEMENT and pursue any and all legal or equitable remedies for said breach of this AGREEMENT.

SECTION 13. TERMINATION.

A. AGENCY shall have the right to terminate this AGREEMENT, without cause, by giving not less than seven (7) days written notice of termination.

B. If CONSULTANT fails to perform any of its material obligations under this AGREEMENT, in addition to all other remedies provided by law, AGENCY may terminate this AGREEMENT immediately upon written notice.

C. AGENCY's Executive Director is empowered to terminate this AGREEMENT on behalf of AGENCY.

D. In the event of termination, CONSULTANT shall deliver to AGENCY copies of all reports, documents, and other work prepared by CONSULTANT under this AGREEMENT, if any, and upon receipt thereof, AGENCY shall pay CONSULTANT for services performed and supplies, materials, and equipment provided by CONSULTANT to the date of termination.

SECTION 14. GOVERNING LAW.

AGENCY and CONSULTANT agree that the law governing this AGREEMENT shall be that of the State of California.

SECTION 15. COMPLIANCE WITH LAWS.

CONSULTANT shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.

SECTION 16. CONFIDENTIAL INFORMATION.

All data, documents, discussions or other information developed or received by or for CONSULTANT in performance of this AGREEMENT are confidential and not to be disclosed to any person except as authorized by AGENCY, or as required by law.

SECTION 17. OWNERSHIP OF MATERIALS.

All reports, documents, electronic equivalents or other materials developed or discovered by CONSULTANT or any other person engaged directly or indirectly by CONSULTANT to perform the services required hereunder shall be and remain the property of AGENCY without restriction or limitation upon their use.

SECTION 18. WAIVER.

CONSULTANT agrees that waiver by AGENCY of any breach or violation of any term or condition of this AGREEMENT shall not be deemed to be a waiver of any other term or condition contained herein or a waiver of any subsequent breach or violation of

the same or any other term or condition. The acceptance by AGENCY of the performance of any work or services by CONSULTANT shall not be deemed to be a waiver of any term or condition of this AGREEMENT.

SECTION 19. CONSULTANT'S BOOKS AND RECORDS.

A. CONSULTANT shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, supplies, materials, or equipment provided to AGENCY for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to CONSULTANT pursuant to this AGREEMENT.

B. CONSULTANT shall maintain all documents and records which demonstrate performance under this AGREEMENT for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this AGREEMENT.

C. Any records or documents required to be maintained pursuant to this AGREEMENT shall be made available for inspection or audit, at no cost to AGENCY, at any time during regular business hours, upon written request by the AGENCY's General Counsel, Executive Director, Director of Finance/Budget, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to AGENCY for inspection at the AGENCY office when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at CONSULTANT's address indicated for receipt of notices in this AGREEMENT.

D. Where AGENCY has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of CONSULTANT's business, AGENCY may, by written request by any of the above-named officers, require that custody of the records be given to AGENCY and that the records and documents be maintained at the AGENCY office. Access to such records and documents shall be granted to any party authorized by CONSULTANT, CONSULTANT's representatives, or CONSULTANT's successor-in-interest.

SECTION 20. GIFTS.

A. CONSULTANT is familiar with AGENCY's prohibition against the acceptance of any gift by an AGENCY officer or designated employee, which prohibition is found in the San Jose Municipal Code.

B. CONSULTANT agrees not to offer any AGENCY officer or designated employee any gift prohibited by said Code.

C. The offer or giving of any prohibited gift shall constitute a material breach of this AGREEMENT by CONSULTANT. In addition to any other remedies AGENCY

Redevelopment Agency of the City of San Jose
Richard Doyle, General Counsel
200 East Santa Clara Street, 16th Floor Tower
San Jose, CA 95113

Notice shall be deemed effective on the date of personal delivery by hand or the date of receipt of facsimile transmission (with verification of receipt) or, if mailed, three (3) days after deposit in the mail.

SECTION 24. VENUE.

In the event that suit shall be brought by either party hereunder, the parties agree that trial of such action shall be exclusively vested in a state court in the County of Santa Clara or, or if federal jurisdiction is appropriate, in the United States District Court for the Northern District of California, San Jose, California.

SECTION 25. PRIOR AGREEMENTS AND AMENDMENTS.

This AGREEMENT, including all Exhibits attached hereto, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by a written amendment duly executed by the parties to this AGREEMENT.

SECTION 26. SEVERABILITY.

If any term, covenant, condition or provision of this AGREEMENT, or the application thereof to any person or circumstance, shall to any extent be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this AGREEMENT, or the application thereof to any person or circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

SECTION 27. REPRESENTATION OF AUTHORITY.

The person executing this AGREEMENT on behalf of CONSULTANT does hereby represent and warrant that CONSULTANT is a duly authorized and existing California corporation, that CONSULTANT has, is and shall remain during the term of this AGREEMENT qualified to do business in the State of California, that CONSULTANT has full right, power and authority to enter into this AGREEMENT and to carry out all actions contemplated by this AGREEMENT, that the execution and delivery of this AGREEMENT were duly authorized by proper action of CONSULTANT and no consent, authorization or approval of any person is necessary in connection with such execution, delivery and performance of this AGREEMENT except as have been obtained and are in full force and effect, and that this AGREEMENT constitutes the valid, binding and enforceable obligation of CONSULTANT. Upon AGENCY's request,

CONSULTANT shall provide AGENCY with evidence reasonably satisfactory to AGENCY confirming the foregoing representations and warranties.

WITNESS THE EXECUTION HEREOF on the day and year first hereinabove written.

"AGENCY"

APPROVED AS TO FORM:

REDEVELOPMENT AGENCY OF THE CITY OF SAN JOSE

-----By-----
[Associate Counsel] or Executive Director
[Chief Deputy General Counsel]

200 East Santa Clara Street
14th Floor Tower
San Jose, CA 95113
(408) 535-8500

"CONSULTANT"

[INSERT NAME]

By --- -----

Name:

Title: Address: -----

Telephone: -----

Employer I.D. No.

EXHIBIT A

RECITALS

- A. The AGENCY is presently engaged in redevelopment activities in the
----- Redevelopment Project Area.
- B. The specialized requirements of said redevelopment activities are from time to time more efficiently satisfied by the retention of private professional contractors.
- C. The AGENCY has determined that CONSULTANT possesses such specialized professional skill and ability.
- D. The Board of Directors of AGENCY **[has approved] [has delegated approval to the Executive Director of]** the selection of CONSULTANT.

EXHIBIT B

SCOPE OF SERVICES CONSULTANT shall provide to

AGENCY services necessary to **SECTION 1. GENERAL.** _____

- A. The performance of all services by CONSULTANT shall be to the satisfaction of the AGENCY.

- B. All of the services to be furnished by CONSULTANT under this AGREEMENT shall be of the professional standard and quality which prevail among consultants of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances. All documentation prepared by CONSULTANT shall provide for a completed Project that conforms to all applicable federal, state and local codes, rules, regulations, and guidelines which are in force at the time such documentation is prepared.

- C. CONSULTANT shall coordinate all services with the AGENCY and AGENCY's separate consultants and contractors performing work on this Project and the City of San Jose ("City"), as necessary.

- D. CONSULTANT shall attend all meetings as directed by AGENCY and as necessary in order to complete all services contemplated herein to the satisfaction of AGENCY.

SECTION 2. BASIC SERVICES.

[Complete]

TO BE INCLUDED WITHIN THE SCOPE OF SERVICES ANY TIME CONSTRUCTION DOCUMENTS ARE PREPARED:

Prior to the commencement of construction, CONSULTANT shall review all documentation which CONSULTANT prepared and provide AGENCY with written notice of any changes in the applicable federal, state and local codes, rules, regulations and guidelines occurring after submission of the documentation to the City for Code review, or changes in law which the CONSULTANT reasonably anticipates will occur prior to the time the construction will begin, and identify any necessary revisions to the documentation to comply with such changes in the applicable federal, state and local codes, rules, regulations and guidelines.

SECTION 3. ADDITIONAL SERVICES.[if applicable]

Additional services are those services not included in Section 2, Basic Services, above. Such services shall be provided by CONSULTANT only upon prior written authorization by the Director of -----, pursuant to EXHIBIT F of this AGREEMENT, entitled "SPECIAL PROVISIONS".

EXHIBIT C

SCHEDULE OF PERFORMANCE

Work shall commence immediately upon execution of this AGREEMENT.
[CONSULTANT shall provide the services set forth in EXHIBIT B hereto based on the schedule set forth below:]

EXHIBIT D

COMPENSATION

A. The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including payment for professional services, **[reimbursable expenses and]** supplies, materials, and equipment provided by CONSULTANT, shall not exceed
AND NO/100 DOLLARS (\$ _____).

[ALTERNATE 1 FOR SUBSECTION B - IF COMPENSATED ON HOURLY BASIS]

B. The maximum amount of compensation to be paid to CONSULTANT for **[basic]** **[professional]** services pursuant to EXHIBIT B shall not exceed _____

AND NO/100 DOLLARS (\$ -----). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be performed at no cost to AGENCY. AGENCY agrees to compensate CONSULTANT at the hourly rates set forth below for professional services performed in accordance with the terms and conditions of this AGREEMENT.

Schedule of Rates:

[List by title/position]

[ALTERNATE 2 FOR SUBSECTION B - IF COMPENSATED ON A LUMP (FIXED) SUM BASIS]

B. The amount of compensation to be paid to CONSULTANT for **[basic]** **[professional]** services pursuant to EXHIBIT B is -----AND NO/100 DOLLARS (\$ -----).

C. Reimbursable expenses under this AGREEMENT shall not exceed -----AND NO/100 DOLLARS (\$ -----). Ordinary and reasonable expenses, as determined by AGENCY, which are incurred by CONSULTANT in performance of this AGREEMENT shall be reimbursed at cost (up to the maximum stated above) upon request of CONSULTANT and presentation of adequate documentation. Ordinary and reasonable reimbursable expenses include expenses related to **[subcontractors, long distance telephone and expenses relating to printing and reproduction of documents]**. CONSULTANT shall, in the case of unusual or extraordinary expenses, obtain AGENCY approval in writing prior to

the expenditure in order to obtain reimbursement. **[Or, if no reimbursable expenses allowed, delete this entire paragraph and insert the following: No reimbursable expenses are allowed.]**

[ALTERNATE 1 - IF ADDITIONAL SERVICES - HOURLY BASIS]

D. In the event of a written request by AGENCY for CONSULTANT to perform Additional Services as set forth in EXHIBIT B "SCOPE OF SERVICES" and EXHIBIT F "SPECIAL PROVISIONS", compensation for Additional Services shall not exceed ----- AND NO/100 DOLLARS (\$ -----) pursuant to the hourly rate schedule **[written above.] [as follows:]**

[ALTERNATE 2 - IF ADDITIONAL SERVICES - LUMP SUM BASIS]

D. In the event of a written request by AGENCY for CONSULTANT to perform Additional Services as set forth in EXHIBIT B "SCOPE OF SERVICES" and EXHIBIT F - "SPECIAL PROVISIONS", compensation shall not exceed ----- AND NO/100 DOLLARS (\$ -----), which shall be payable by lump sum in accordance with the accepted proposal for Additional Services approved by the parties as set forth in EXHIBIT F.

EXHIBIT E

INSURANCE REQUIREMENTS

CONSULTANT shall procure and maintain for the duration of the AGREEMENT at its sole cost and expense, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the work hereunder by the CONSULTANT, its agents, representatives, employees or subcontractors.

A. Minimum Scope of Insurance Coverage

shall be at least as broad as:

1. The coverage described in Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001, including products and completed operations; and
2. The coverage described in Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 “any auto”, or Code 2 “owned autos” and Endorsement CA 0025. Coverage shall also include Code 8 “hired autos” and Code 9 “nonowned autos”; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors and Omissions insurance.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. 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; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

[EXCEPTION: If, however, the CONSULTANT does not have any employees and does not wish to cover himself or herself for WORKERS' COMPENSATION, the CONSULTANT shall sign the following statement as well as the contract itself to effect a fully initiated contract:

I, as the herein designated CONSULTANT, do not have, nor intend to have for the full term of this AGREEMENT, any employees. Furthermore, I do not wish to obtain or be covered under any WORKERS' COMPENSATION insurance coverage and, therefore, am signing this statement in lieu of providing the above required WORKERS' COMPENSATION COVERAGE.

CONSULTANT]

4. Professional Liability Errors and Omissions Insurance \$1,000,000 per occurrence.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the AGENCY. At the option of the AGENCY, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the AGENCY, its officials, employees, agents and contractors; or the CONSULTANT shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the AGENCY.

- D. Other Insurance Provisions The policies are to contain, or be endorsed to contain, the following provisions: 1. Commercial General Liability and Automobile Liability Coverages.

- a. The AGENCY, the City of San Jose, their officials, employees, agents and contractors are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the CONSULTANT; products and completed operations of the CONSULTANT; premises owned, leased or used by the CONSULTANT; automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the AGENCY, the City of San Jose, their officials, employees, agents and contractors; and
- b. The CONSULTANT's insurance coverage shall be primary insurance as respects the AGENCY, the City of San Jose, their

officials, employees, agents and contractors. Any insurance or self-insurance maintained by the AGENCY, the City of San Jose, their officials, employees, agents or contractors shall be excess of the CONSULTANT's insurance and shall not contribute with it; and

- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the AGENCY, the City of San Jose, their officials, employees, agents, or contractors; and
- d. Coverage shall state that the CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the AGENCY.

- E. Acceptability of Insurers Insurance is to be placed with insurers acceptable to the City's Risk Manager.

- F. Verification of Coverage

CONSULTANT shall furnish the AGENCY with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the City's Risk Manager:

The City of San Jose – Human Resources
Risk Management Division
200 East Santa Clara Street, 2nd Floor Wing
San Jose, CA 95113-1905

- G. Subcontractors

CONSULTANT shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.

EXHIBIT F

SPECIAL PROVISIONS

[IF APPLICABLE:]

A. ADDITIONAL SERVICES PROCEDURE

If the AGENCY requires any Additional Services and the CONSULTANT desires to render such services, the following procedure for authorization and payment shall be followed:

1. AGENCY's Project Coordinator shall provide a written description of work to be performed;

2. CONSULTANT shall provide a written price proposal for work, including forecast man-hours for each individual working on the job, total cost, and schedule of performance;

3. AGENCY and CONSULTANT shall agree upon one of the following methods of compensation for the Additional Services:

a. A negotiated and pre-agreed lump sum; or

b. A time and material basis according to the schedule of hourly rates set forth in EXHIBIT D.

4. Following agreement on scope, method of compensation, and schedule of performance, AGENCY shall provide written acceptance of the proposal. For proposals for Additional Services of \$25,000 or under, approval shall be by the Director of _____
Division. Approval of proposals over \$25,000 shall be by the Executive Director.

5. No Additional Services shall be performed by CONSULTANT without prior written authorization by AGENCY.

[NOTE: IF AN AGREEMENT HAS NO SPECIAL PROVISIONS, RETAIN THIS EXHIBIT AND STATE:

There are no special provisions.