

REQUEST FOR PROPOSALS (RFP)
Consulting Services for
Engineering Services to Prepare Water System Master
Plan



City of East Palo Alto
Public Works Department
Engineering Division
1960 Tate Street
East Palo Alto, CA 94303

Proposal Release Date: Wednesday, May 12, 2021
Proposal Due Date: Wednesday, June 9, 2021, at 2:00 pm

Contact: Batool Zaro
Assistant Engineer
bzaro@cityofepa.org
(650) 388-8921

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ATTACHMENTS

Attachment 1 - City Standard Contractor and Professional Service Agreement

I. GENERAL INFORMATION AND INTRODUCTION

The City of East Palo Alto invites qualified consultants to submit proposals for engineering services to develop an update to the City's Water System Master Plan (WSMP). The intent of the WSMP update is to independently assess and evaluate the City's existing water system facilities; develop 20-year water demand projections; evaluate the City's available water supply sources; develop a calibrated distribution system hydraulic model; prepare system evaluation that addresses capacity, operational, and seismic reliability, and rehabilitation and replacement needs for the next 20 years; and develop a risk-based capital improvement program for recommended existing and future water system improvements. The selected consultant shall provide the full range of services for plan development including project management and obtaining data and information from City staff and applicable City consultants.

The City last updated the Water System Master Plan in 2010/11 and a copy is located on the City's website:

https://www.cityofepa.org/sites/default/files/fileattachments/public_works/page/3651/epa_water_master_plan_report_10-19-10_final.pdf

See the full Scope of Services in **Section II**.

Background:

The "City of East Palo Alto", hereinafter the "City", is seeking responses from qualified Consultants interested in providing planning and design services to identify existing and future city government physical facility needs. Proposals will be accepted at the Public Works Department, 1960 Tate Street, East Palo Alto, CA 94303, Monday through Friday, 8:00 a.m. to 5:00 p.m. Proposals will be accepted up to but no later than 2:00 p.m., Wednesday, June 9, 2021.

The City of East Palo Alto is a general law city incorporated in 1983. The City is located on the San Francisco Peninsula in the most southern part of San Mateo County, California, approximately 30 miles south of San Francisco. The City encompasses roughly 2.5 square miles of area and has a population of approximately 26,000.

For most of its history, East Palo Alto was part of unincorporated San Mateo County. As such, it did not have an official boundary until it incorporated in 1983. However, the area historically regarded as East Palo Alto was much larger than the city's current 2.5 square miles. Large tracts were annexed by Menlo Park and Palo Alto from the late 1940s to the early 1960s.

The City owns its water distribution system and it is maintained and operated by Veolia North America under a 25 years Lease Agreement that was executed in 2001 and will expire on May 21, 2026. The main water supply source is the wholesale water purchased from San Francisco Public Utility Commission (SFPUC) delivered to the City via three turnouts. The City owns one active local underground Municipal well at Gloria Way and Bay Road. The City is continuously investing in a robust capital program to rehabilitate its pipelines. The City provides water service to over 4,000 residential, commercial, institutional, and light industrial accounts. The City's distribution system includes 35 miles of water main ranging in diameter from 2 to 12 inches, no storage tanks, 300 fire hydrants, over 1000 valves, and one active pressure zone.

In fiscal year 2019-2020, City customer water distribution was approximately 572 million gallons.

See Figures 1-3 for City water system maps.

Figure 1 – City of East Palo Alto Water Master Map

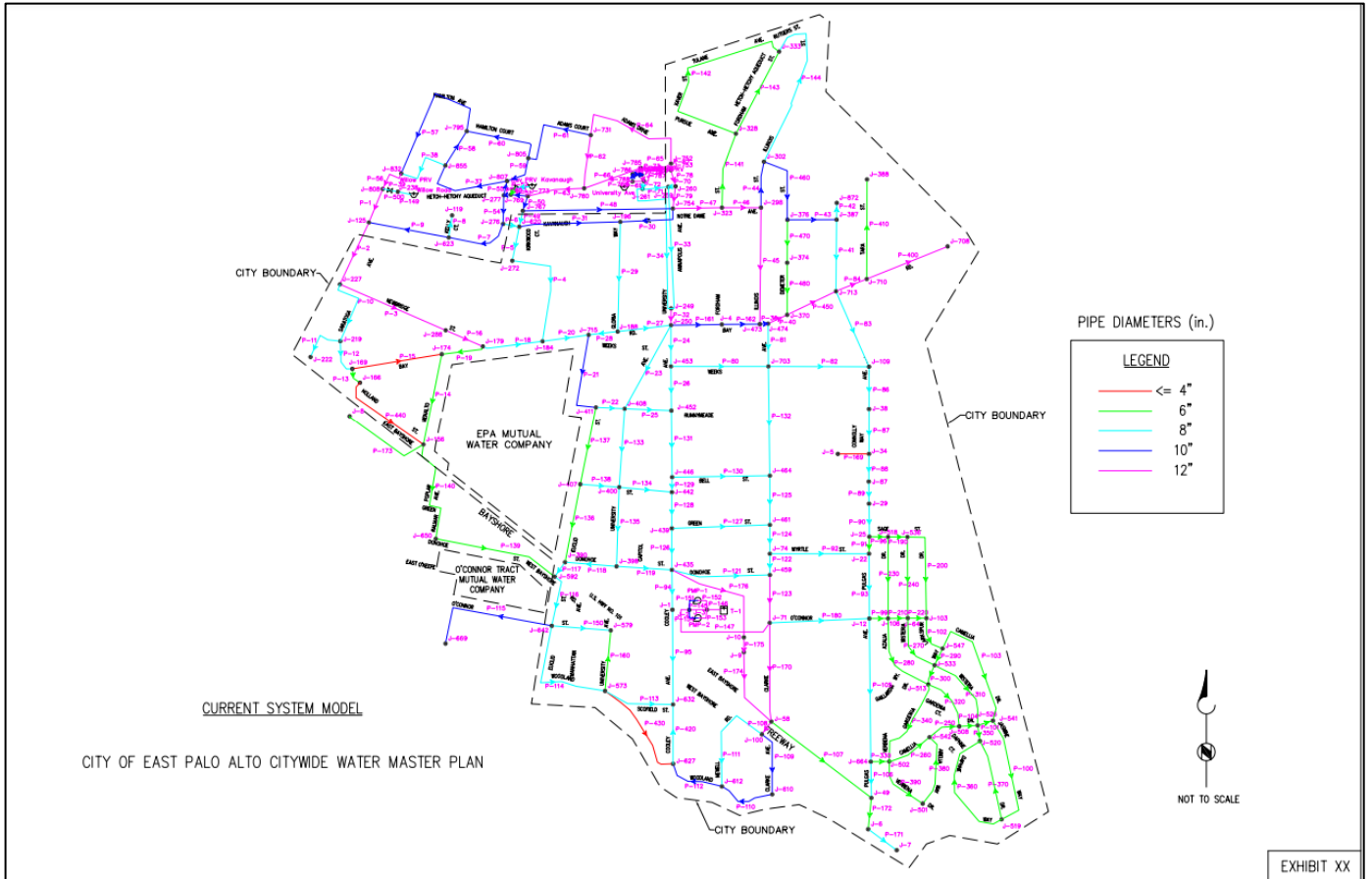


Figure 2 –Water District Boundaries Within the City of East Palo Alto



Legend NOTE: Areas not served by either O'Connor or Palo Alto Mutual are served by American Water Enterprises

- O Connor Tract Water District
- Palo Alto Park Mutual Water Company
- East Palo Alto City Boundary

0 345 690 1,380 Feet



Figure 3 –City of East Palo Alto Service Area



Project Goal:

The purpose of this document is to facilitate the selection of a qualified engineering firm to develop a Water System Master Plan (WSMP).

Consultants are urged to submit concise proposals, appropriate to the scale of the project and include only items that are relevant to this specific project. The Fee Proposal shall be submitted in a separate sealed envelope marked “**Fee Proposal to Prepare Water System Master Plan**”.

The City of East Palo Alto reserves the right to reject any or all responses received as a result of this solicitation; to extend the submission due date for; to modify, amend, reissue or rewrite this document; and to procure any or all services by other means.

The City will not be liable for any costs incurred by the consulting firms' incidentals to the preparation of proposals or for developing and carrying out interview presentations, if needed.

Submission of a proposal indicates acceptance by the firm of the conditions contained in this Request for Proposals (RFP) and Sealed Fee Proposal unless clearly and specifically noted in the proposal submitted and confirmed in the contract between the City of East Palo Alto and the firm selected.

II. SCOPE OF SERVICES

The update to the City's Water System Master Plan will require the selected consultant to perform all necessary analyses and documentation to evaluate the City's existing water system facilities and infrastructure, water supply sources and demand projections, provide recommendations for the installation of new infrastructure, and rehabilitation and replacement of existing infrastructure for the next 20 years.

The following Scope of Services describes the specific tasks to be performed by the Consultant. If the Consultant believes that the project can be enhanced in any way by the addition of other tasks or the deletion of any specified tasks, such information should be included in the proposal.

Objectives:

The City last completed a Water System Master Plan in 2010/11 and is seeking to complete an updated Master Plan. A copy of the current Master Plan is on the City's website:

https://www.cityofepa.org/sites/default/files/fileattachments/public_works/page/3651/epa_water_master_plan_report_10-19-10_final.pdf

The Water System Master Plan is intended to establish a 20-year planning document to achieve the following objectives:

1. Evaluate and summarize the existing water and planned system facilities.
2. Develop 20-year water demand projections consistent with the City's Urban Water Management Plan, and additional demand projections from developments not included in the City's General Plan, if Water Supply Assessments are available for those developments.

3. Evaluate and summarize the City's available and potential water supply sources.
4. Develop a calibrated distribution system hydraulic model using the City's geographical information system (GIS) and data collected during fire flow testing.
5. Establish Master Plan key assumptions, including developing performance and operational criteria for evaluating water system capacity, summarizing criteria from the City's risk resiliency assessment (currently being prepared), and establishing criteria for identifying rehabilitation and replacement needs.
6. Prepare a comprehensive system evaluation that addresses distribution, storage, supply capacity, operational and seismic reliability, redundancy, resilience, rehabilitation, and replacement needs for the next 20-years.
7. Develop a 20-year risk-based capital improvement program for recommended existing and future water system improvements based on existing and future needs.
8. Evaluate the potential demands for the entire City, including demands met by Palo Alto Park Mutual and O'Connor Tract Water Company. Evaluate adding Palo Alto Park Mutual and O'Connor Tract Water Company to City system.
9. Perform a City-wide projected demand analysis on future use of recycled water.

Scope of Work:

The Consultant will define the approach and the specific scope of work and methodology to complete the City's Water System Master Plan. The proposal should include a detailed description of all project tasks, including those suggested in this scope of work and any proposed changes, additions, or recommendations. The description of each project task should include descriptions of the task itself, the methodology or analytical process, scheduling, personnel, and costs.

In general, the scope of work shall include the following:

- Attend kick-off meeting. The City will arrange and conduct a kick-off meeting with Consultant's staff. This meeting will allow for introduction of project team, review of scope of work, receive information, and discuss a schedule.
- Evaluate and inventory existing facilities. The City will provide all available maintenance and operation information and records of all distribution system

improvements that have been completed dating back to the 2010/11 Water System Master Plan.

- Review land use projections.
- Review regulatory requirements.
- Review maintenance practices.
- Develop recommended distribution system performance criteria.
- Develop existing and projected water demands and method to allocate demands throughout the distribution system for hydraulic modeling purposes.
- Evaluate existing and potential supply availability and reliability.
- Evaluate adding the Palo Alto Park Mutual and O'Connor Tract Co-operative Water Company to the City water system.
- Construct a new hydraulic model of the distribution system in a professional water modeling package.
- Develop a model calibration test plan, perform calibration testing with assistance from the City, and calibrate the hydraulic model.
- Evaluation of the distribution modeling of the entire water system hydraulics in a professional water modeling package that integrates with the city's GIS and asset register (currently in development), definition of deficiencies, and plan for risk-based approach in determining distribution system improvements.
- Perform distribution system modeling evaluation to identify hydraulic deficiencies and plan for distribution system improvements.
- Evaluate storage and groundwater production wells based on system reliability, redundancy, and resilience requirements.
- Analyze existing rates and review potential funding.
- Develop capital improvement program alternatives and program schedule integrated with other water system program milestones.
- Meet with City staff to present initial findings and concepts.
- Provide written status reports, on a monthly basis, with invoice statement.
- Prepare draft and final Master Plan report.

The Master Plan should include the following sections or address the following areas:

- Executive Summary
- Service Area Description
- Existing Water System Facilities
- Existing and Future Water Demands
- Water Supply and Reliability Evaluation
- Hydraulic Model Development

- Recommended Distribution Performance and Sizing Criteria
- Water Distribution Modeling Evaluation of Existing and Future Water System
- Water Storage and Supply Capacity Evaluation
- High level recycled water projected demand/use analysis
- Recommended 20-Year Capital Improvement Program
- Rate Analysis

III. SELECTION

Selection Process:

The RFP process will establish a ranking based on how each proposal meets the qualifications of the Scope of Services and the requirements of the RFP. The proposal shall conform to the Proposal Requirements (**Section IV**). It is important that all listed items be included in the proposal. Proposals, which do not comply with all the requirements per or the proposal deadline, will not be considered. The City reserves the right to reject any or all proposals without qualifications, and to negotiate specific requirements and costs using the selected proposal as a basis.

The selected consultant shall be required to enter into the City's standard contractor and professional services agreement (**Attachment 1**). All Consultants that respond to the RFP shall assume that the execution of this agreement, without changes, will be a required condition.

At the conclusion of the evaluation, the City will enter into contract negotiations with the top- ranking firm. If negotiations with the top-ranking firm are unsuccessful, negotiations will terminate and the City will undertake negotiations with the second rank firm. City staff will make recommendations to the City Council, which reserves the right to reject any or all proposals. The selection process will be completed when a contract is executed.

Furthermore, the City reserves the right to reject any or all proposals, and to waive any and all irregularities to choose the firm which, in the City's opinion, best serves the City's interests.

Selection Criteria:

- Proposed Work Plan and Approach
- Familiarity with policies and procedures related to the work effort
- Quality and completeness
- Relevance and conciseness

- Qualification relating to development of water system master plan and hydraulic analyses
- Qualifications and experience of staff
- Manpower allocation
- Completion of similar projects and references

V.PROPOSAL FORMAT AND REQUIREMENTS

Submission:

Proposals shall be submitted to the City by: **Wednesday, June 9, 2021 at 2:00 p.m.**

The City will accept Proposals submitted either:

1. as a physical or hard copy, or
2. via electronic mail (email) or on electronic media.

1. Physical, or Hard Copy, Submission of the Proposal:

Five (5) copies of Proposal shall be submitted to:

City of East Palo Alto
Public Works Department
1960 Tate Street
East Palo Alto, CA 94303
Attention: Batool Zaro, Assistant Engineer

2. Electronic Submission of the Proposal:

Proposal and Fee Proposal/Rate shall be submitted via email to:

Email: bzaro@cityofepa.org

Format:

The proposal shall be brief, precise, and shall not include unnecessary promotional material. The proposal shall include the following items and organized as follows.

1. Letter of Transmittal. Describe your firm or team's interest and commitment in providing consulting services for the City of East Palo Alto. An officer of the Consulting firm who is authorized to contractually bind the firm and to negotiate a contract with the City shall sign the letter. Provide name, title, address, email, and telephone number of this officer.

2. Table of Contents. Each proposal shall include an index to the major topics contained in the proposal and all pages shall be numbered.

3. Work Plan and Approach. Discuss your firm's understanding of the Scope of Services (**Section II**) to be performed. Describe the method for management of overall project costs, schedule, quality assurance/quality control, and other issues critical to this project.

4. Key Personnel Background. Name, position, summary of qualifications, resumes, related experience and proposed responsibilities of project manager and key personnel.

5. Team Experience. Listing of water or utility master plans, utility infrastructure assessments, or related studies performed within the last 5-years. Include the following information:

- Clients name, point of Contact, addresses, and telephone numbers
- Description of study and year of completion
- Key personnel involved

6. References. Provide at least three (3) references (name, company title, address, email, and telephone number)

7. Manpower Allocation. Consultant shall provide an estimate of the required personnel hours by task and job title in the proposal for the tasks described in the scope of services. This information is not meant as a fee proposal, but only an indication of the level of effort envisioned for completion of the project at hand.

8. Cost. In a separate sealed envelope, provide complete summary of the estimated number of consulting hours, schedule of hourly rates for each classification, and total not-to-exceed cost inclusive of ancillary costs, including travel for the Scope of Services to be performed.

VI. SCHEDULE

Project Time Schedule:

The following is a preliminary schedule for the project:

<u>Date</u>	<u>Action</u>
June 2021	Select Consultant
July 2021	Award Consultant Contract
December 2021	Prepare and Complete Master Plan

Consultant Selection Schedule:

A following schedule has been established for conducting this consultant selection process. The City of East Palo Alto reserves the right, however, to modify this schedule at any time.

<u>Task</u>	<u>Approximate Dates</u>
Issuance of Request for Proposal	May 12, 2021
Proposals due	June 9, 2021 by 2:00 PM
City to review and rank proposals	June 18, 2021
Interview Consulting Firms (if needed)	June 24, 2021
Award Consultant Contract	July 2, 2021

VIII. QUESTIONS

Questions regarding the information contained in the RFP document must be submitted in writing, by email addressed to:

City of East Palo Alto
Public Works Department
1960 Tate Street
East Palo Alto, CA 94303
Attention: Batool Zaro, Assistant Engineer
Email: bzaro@cityofepa.org
Ph: (650) 388-8921

All questions must be received by 5:00 p.m. on May 28, 2021. Questions will be responded to in writing. Written summaries of all questions and answers will be distributed to each consultant. Anonymity of the source of specific written questions will be maintained in the written responses. A clarification addendum will be issued, if necessary.

Telephone requests for information or inquiries will be allowed only if the nature of the request or inquiry does not lend itself to formulation into a written question. Verbal inquiries, however, are

discouraged and calling parties may be requested to submit written questions in lieu of receiving a verbal response. The intent behind this requirement is to ensure that consultants have available to them the same information and no inconsistent, incomplete or misinformation is communicated to any team. If any changes or updates to the RFP are made, a copy of the current RFP will be posted on the City's website at:

<https://www.cityofepa.org/rfps>

ATTACHMENT 1

CITY STANDARD CONTRACTOR AND PROFESSIONAL SERVICE AGREEMENT

CONTRACTOR AND PROFESSIONAL SERVICES AGREEMENT

This Contractor and Professional Services Agreement ("Agreement") is made at East Palo Alto, California, dated for reference this _____ day of _____, 20____, by and between the City of East Palo Alto, a municipal corporation ("City"), and [type in name], [type in the type of entity], hereinafter referred to as "Contractor", who agree as follows:

1. **Services.** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the City professional services as specified in Exhibit A, entitled "Scope of Work."
2. **Payment.** City shall pay Contractor for services rendered pursuant to this Agreement at the times and in the manner set forth in Exhibit B, entitled "Compensation." The payments specified in Exhibit B shall be the only payments to be made to Contractor for services rendered pursuant to this Agreement.
3. **Term.** The term of this Agreement shall commence on [type in start date] and shall continue in full force and effect until [type in end date].
4. **Facilities and Equipment.** Contractor shall, at its sole cost and expense, furnish all facilities and equipment which may be required for furnishing services pursuant to this Agreement.
5. **Indemnification.** Contractor shall indemnify, defend (with independent counsel approved by the City), and hold harmless the City, its officers, officials, directors, employees, agents, volunteers and affiliates and each of them from any and all claims, demands, causes of action, damages, costs, expenses, actual attorney's fees, Contractor's fees, expert fees, losses or liability, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Contractor's operations, or any subcontractor's operations, to be performed under this Agreement, for the fullest extent permitted by law, with the exception of the sole active negligence or willful misconduct of the City.

The provisions of this section shall survive the expiration or termination of this Agreement and are not limited by any provisions relating to insurance in this Agreement.

6. **Insurance Requirements.** Contractor agrees to comply with all of the Insurance Requirements set forth in Exhibit C, entitled "Insurance Requirements for Contractor." Failure to maintain required insurance at all times shall constitute a default and material breach.

7. Accident Reports. Contractor shall immediately report (as soon as feasible, but not more than 24 hours) to the City Risk Manager any accident or other occurrence causing injury to persons or property during the performance of this Agreement. The report shall be made in writing and shall include, at a minimum: (a) the names, addresses, and telephone numbers of the persons involved, (b) the names, addresses and telephone numbers of any known witnesses, (c) the date, time and description of the accident or other occurrence.

8. Conflict of Interest. Contractor warrants and represents that to the best of its knowledge, there exists no actual or potential conflict between Contractor's family, business, real property or financial interests and the services to be provided under this Agreement. Contractor shall comply with the City of East Palo Alto Conflict of Interest Code and not enter into any contract or agreement during the performance of this Agreement which will create a conflict of interest with its duties to City under this Agreement. In the event of a change in Contractor's family, business, real property or financial interests occurs during the term of this Agreement that creates an actual or potential conflict of interest, then Contractor shall disclose such conflict in writing to City.

9. Independent Contractor. Contractor is an independent contractor. Neither Contractor nor any of Contractor's officers, employees, agents or subcontractors, if any, is an employee of City by virtue of this Agreement or performance of any services pursuant to this Agreement. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement; however, City shall not have the right to control the means by which Contractor accomplishes services pursuant to this Agreement.

10. Licenses, Permits, Etc. Contractor represents and warrants to City that all Contractor services shall be provided by a person or persons duly licensed by the State of California to provide the type of services to be performed under this Agreement and that Contractor has all the permits, qualifications and approvals of whatsoever nature which are legally required for Contractor to practice its profession. Contractor represents and warrants to City that it shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals which are legally required for Contractor to practice its profession.

11. Business License. Contractor, and its subcontractors, has obtained or agrees to apply prior to performing any services under this Agreement to City's Finance Department for a business license, pay the applicable business license tax and maintain said business license during the term of this Agreement. The failure to obtain such license shall be a material breach of this Agreement and grounds for termination by City. No payments shall be made to Contractor until such business license(s) has been obtained.

12. Standard of Performance. Contractor shall provide products and perform all services required pursuant to this Agreement in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised under similar conditions by a member of Contractor's profession currently practicing in California.

Contractor is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work, including without limitation applicable federal, state, and local laws and regulations, and all other contingencies or considerations.

Contractor's responsibilities under this section shall not be delegated. Contractor shall be responsible to City for acts, errors, or omissions of Contractor's subcontractors.

Contractor is responsible for making an independent evaluation and judgment of all conditions affecting performance of the work and shall prepare plans, reports, and/or other work products in such a way that additional costs will not be incurred or, beyond a project budget approved or amended by the City Manager or his or her designee.

Whenever the scope of work requires or permits review, approval, conditional approval or disapproval by City, it is understood that such review, approval, conditional approval or disapproval is solely for the purposes of administering this Agreement and determining whether the Contractor is entitled to payment for such work, and not be construed as a waiver of any breach or acceptance by the City of any responsibility, professional or otherwise, for the work, and shall not relieve the Contractor of responsibility for complying with the standard of performance or laws, regulations, industry standards, or from liability for damages caused by negligent acts, errors, omissions, noncompliance with industry standards, or the willful misconduct of Contractor.

13. Force Majeure. Neither party shall be considered in default of this Agreement to the extent performances are prevented or delayed by any cause by circumstances beyond either party's reasonable control, such as war, riots, strikes, lockouts, work slow down or stoppage, acts of God, such as floods or earthquakes, and electrical blackouts or brownouts.

In the event that the Contractor is unable to meet the completion date or schedule of services, Contractor shall inform the City Representative of the additional time required to perform the work and the City Representative may adjust the schedule.

14. Time is of the Essence. Time is of the essence in this Agreement. Any reference to days means calendar days, unless otherwise specifically stated.

15. Personnel. Contractor agrees to assign only competent personnel according to the reasonable and customary standards of training and experience in the relevant field to perform services under this Agreement. Failure to assign such competent personnel shall constitute grounds for termination of this Agreement.

The payment made to Contractor pursuant to this Agreement shall be the full and complete compensation to which Contractor and Contractor's officers, employees, agents, and subcontractors are entitled for performance of any work under this Agreement. Neither Contractor nor Contractor's officers or employees are entitled to any salary or wages, or retirement, health, leave or other fringe benefits applicable to employees of the City. The City will not make any federal or state tax withholdings on behalf of Contractor. The City shall not be required to pay any workers' compensation insurance on behalf of Contractor.

Contractor shall pay, when and as due, any and all taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request.

16. Prevailing Wages for Public Works Projects. For public works projects, Contractor shall comply with all provisions of California laws dealing with prevailing wages, apprentices, and hours of work. Contractor shall also comply with provisions of Labor Code section 1720 as applicable. Contractor shall maintain certified payroll records evidencing such payment of prevailing wages as required by law.

17. Contractor Not Agent. Except as authorized under this Agreement or as City may authorize in a letter of authorization signed by the City Manager or his or her designee, Contractor shall have no authority, express or implied to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, under this Agreement, to bind City to any obligation whatsoever.

18. Termination or Abandonment by City. The City has the right, at any time and in its sole discretion, to immediately terminate or abandon any portion or all of the services to be provided under this Agreement by giving notice to Contractor. Upon receipt of a notice of termination, Contractor shall perform no further work except as specified in the notice. Before the date of termination, Contractor shall deliver to City all work product, whether completed or not, as of the date of termination and not otherwise previously delivered.

The City shall pay Contractor for services performed in accordance with this

Agreement before the date of termination. If this contract provides for payment of a lump sum for all services or by task and termination occurs before completion of the work or any defined task which according to the performance schedule was commenced before the notice of termination, the fee for services performed shall be based on an amount mutually agreed to by City and Contractor for the portion of work completed in conformance with this Agreement before the date of termination. In addition, the City will reimburse Contractor for authorized expenses incurred and not previously reimbursed. The City shall not be liable for any fees or costs associated for the termination or abandonment except for the fees, and reimbursement of authorized expenses, payable pursuant to this section.

19. Products of Consulting Services. The work product, including without limitation, all writings, work sheets, reports, recordings, drawings, files, detailed calculations and other work products, whether complete or incomplete, of Contractor resulting from services rendered pursuant to this Agreement, shall become the property of City. Contractor agrees that all copyrights which arise from creation of the work under this Agreement shall be vested in the City and waives and relinquishes all claims to copyright or other intellectual property rights in favor of the City. City acknowledges that its use of the work product is limited to the purposes contemplated by the scope of work and that the Contractor makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

Documents submitted to the City in electronic format shall be formatted according to specifications provided by the City, or if not otherwise specified, in Microsoft Word, Excel, PowerPoint or other Microsoft Office format as appropriate for the particular work product or, if directed by the City Representative in Adobe Acrobat PDF format.

20. Cooperation by City. City shall, to the extent reasonable and practicable, assist and cooperate with Contractor in the performance of Contractor's services hereunder.

21. Assignment and Subcontracting. Contractor shall not subcontract, assign or transfer voluntarily or involuntarily any of its rights, duties or obligation under this Agreement without the express written consent of the City Manager or his or her designee in each instance. Any attempted or purported assignment of any right, duty or obligation under this Agreement without said consent shall be void and of no effect.

If subcontracting of work is permitted, Contractor shall pay its subcontractor within ten (10) days of receipt of payment by City for work performed by a subcontractor and billed by the Contractor. Use of the term subcontractor in any other provision of this contract shall not be construed to imply authorization for

Contractor to use subcontractors for performance of any service under this Agreement.

The City is an intended beneficiary of any work performed by Contractor's subcontractor for purposes of establishing a duty of care between the subcontractor and City.

22. Successors and Assigns. All terms, conditions, and provisions of this Agreement shall apply to and bind the respective heirs, executors, administrators, successors, and assigns of the parties. Nothing in this section is intended to affect the limitation on assignment.

23. Non-Discrimination/Fair Employment Practices.

Contractor shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination and non-harassment in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, sexual orientation, medical condition or physical handicap. Contractor agrees to abide by the City's Policy Against Discrimination, Harassment and Retaliation as set out in attached Exhibit D.

24. Official Notices. All notices or instruments required to be given or delivered by law or this Agreement shall be in writing and shall be effective upon receipt thereof and shall be by personal service or delivered by depositing the same in any United States Post Office, registered or certified mail, postage prepaid, addressed to:

If to City: [insert name]
[insert title]
[insert Department name]
2415 University Avenue
East Palo Alto, CA 94303

If to Contractor: [insert name]
[insert title]
[insert company name]
[insert street name and suite #, if any]
[insert city, state and zip code]

Any party may change its address for receiving notices by giving written notice of such change to the other party in accordance with this section.

Routine administrative communications shall be made pursuant to section 1 of Exhibit A.

25. Integration Clause. This Agreement, including all Exhibits, contains the entire agreement between the parties and supersedes whatever oral or written understanding they may have had prior to the execution of this Agreement. This Agreement shall not be amended or modified except by a written agreement executed by each of the parties hereto.

26. Severability Clause. Should any provision of this Agreement ever be deemed to be legally void or unenforceable, all remaining provisions shall survive and be enforceable.

27. Law Governing. This Agreement shall in all respects be governed by the law of the State of California without regard to its conflicts of law rules. Litigation arising out of or connected with this Agreement shall be instituted and maintained in the courts of San Mateo County in the State of California or in the United States District Court, Northern District of California, San Francisco/Oakland Division, California, and the parties consent to jurisdiction over their person and over the subject matter of any such litigation in such courts, and consent to service of process issued by such courts.

28. Waiver. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent or any other right hereunder.

29. Ambiguity. The parties acknowledge that this is a negotiated agreement, that they have had the opportunity to have this Agreement reviewed by their respective legal counsel, and that the terms and conditions of this Agreement are not to be construed against any party on the basis of such party's draftsmanship thereof.

30. Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neutral, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

31. Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

32. Compliance with Laws. Contractor will comply with all statutes, regulations and ordinances in the performance of all services under this Agreement.

33. Confidentiality. Contractor shall treat all records and work product prepared or maintained by Contractor in the performance of this Agreement as confidential and shall not at any time, either directly or indirectly, divulge, disclose or communicate in any manner any City records on information to any third party,

other than its own employees, agents or subcontractors who have a need for the City records or information for the performance of services under this Agreement. A violation by Contractor of this section shall be a material violation of this Agreement and will justify legal and/or equitable relief.

Contractor agrees and acknowledges that this confidentiality provision does not limit the City's disclosure as required by law, pursuant to a subpoena, the California Public Records Act, or Order of the Court.

34. News and Information Release. Contractor agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Representative.

35. Counterparts. The parties may execute this Agreement in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed one and the same instrument.

36. Authority. The person signing this Agreement for Contractor hereby represents and warrants that he/she is fully authorized to sign this Agreement on behalf of Contractor.

37. Exhibits. The following exhibits are attached hereto and incorporated herein by reference:

Exhibit A, entitled "Scope of Work," including any attachments.

Exhibit B, entitled "Compensation," including any attachments.

Exhibit C, entitled "Insurance Requirements," including any attachments.

Exhibit D, entitled "Policy Against Discrimination, Harassment and Retaliation"

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year shown below the name of each of the parties.

[INSERT CONTRACTOR NAME]
[INSERT TYPE OF ENTITY]

CITY OF EAST PALO ALTO,
a municipal corporation

By: _____
[insert name]
[insert title]

By: _____
Jaime M. Fontes
City Manager

DATE: _____

DATE: _____

East Palo Alto Business License No.

APPROVED AS TO CONTENT:

[Insert Department Head Name]
[Insert Department Head Title]

APPROVED AS TO FORM:

Rafael E. Alvarado Jr.
City Attorney

EXHIBIT A
SCOPE OF WORK

1. Representatives.

City Representative:

[insert name]
[insert title]
[insert Department name]
2415 University Avenue
East Palo Alto CA 94303
[insert telephone number]
[insert facsimile number]

Contractor's Representative:

[insert name]
[insert title]
[insert company name]
[insert street name and suite #, if any]
[insert City, state and zip code]
[insert telephone number]
[insert facsimile number]

All routine administrative communications between the parties will be between the above named representatives and may be by personal delivery, mail, facsimile transmission or electronic mail as agreed between the Contractor Representative and City's Representative.

2. Services and Schedule.

The services provided shall be as set forth in Attachment 1 of Exhibit A, attached hereto and incorporated herein by this reference and performed according to the schedule set forth therein. Contractor will complete all services by [insert date].

3. Phased Performance.

If the schedule calls for the services to be performed in phases or discrete increments, Contractor shall not proceed from one phase or increment to the next without written authorization from the City's Representative.

4. Additional Services. Additional services are those services related to the scope of Services of Contractor as set forth in Exhibit A but not anticipated at the time of execution of this Agreement ("Additional Services"). Additional Services shall be provided only when authorized by an amendment to this Agreement and approved by the City Manager, or his or her designee. City reserves the right to perform any Additional Services with its own staff or to retain other Contractors to perform said Additional Services. Any costs incurred due to the performance of Additional Services prior to the execution of an amendment will not be reimbursed under this Agreement or an amendment.

Contractor's compensation for Additional Services shall be based on the total number of hours spent on Additional Services multiplied by the employees' appropriate billable hourly rate as established below. City, at its option, may negotiate a fixed fee for some or all Additional Services as the need arises. Where a fixed fee for Additional Services is established by mutual agreement between City and Contractor, compensation to Contractor shall not exceed the fixed fee amount.

5. Key Personnel. All of the individuals identified below are necessary for the successful prosecution of the services due to their unique expertise and depth and breadth of experience. There shall be no change in the personnel listed below, without written approval of the City Representative. Contractor recognizes that the composition of this team was instrumental in the City's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the City's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Contractor's obligations under this Agreement and shall be grounds for termination.

Key personnel: [**INSERT LIST OF EMPLOYEES NAMES** – If the project does not require assignment of specific personnel, delete "Key Personnel" section]

EXHIBIT B
COMPENSATION

1. Contractor's Compensation.

A. City agrees to pay Contractor, at the rate(s) specified below, for those services set forth in Exhibit A of this Agreement and for all authorized reimbursable expenses, for a total not to exceed [insert dollar amount in words - e.g. Two Thousand Five Hundred Fifty Dollars and 13 Cents] [insert dollar amount in number- e.g., \$2,550.13].

Contractor shall notify City in writing no later than thirty (30) days prior to the estimated date when Contractor will have billed City the maximum payment amount permitted under this Agreement, and Contractor shall provide City with an estimate of the additional compensation required to complete the project.

2. Appropriate Billable Hourly Rates for Services and Additional Services.

Contractor's billable hourly rates shall be:

[Insert Name, Title and Hourly Rate]

or

["Contractor will perform the services according to the schedule contained in Attachment [insert number] of [insert letter]."]

3. Contractor's Reimbursable Expenses.

Reimbursable Expenses shall be limited to actual reasonable expenditures of Contractor for expenses that are necessary for the proper completion of the Services and shall only be payable if specifically authorized in advance by City.

4. Payments to Contractor.

A. Payments to Contractor shall be made within a reasonable time after receipt of Contractor's invoice, said payments to be made in proportion to services performed. Contractor may request payment on a monthly basis. Contractor shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of City.

B. All invoices submitted by Contractor shall contain the following information:

1. Description of services billed under this invoice
2. Date of Invoice Issuance
3. Sequential Invoice Number
4. City's Purchase Order Number (if issued)
5. Social Security Number or Taxpayer Identification Number
6. Amount of this Invoice (Itemize all Reimbursable Expenses")
7. Total Billed to Date

C. Items shall be separated into Services and Reimbursable Expenses. Billings that do not conform to the format outlined above shall be returned to Contractor for correction. City shall not be responsible for delays in payment to Contractor resulting from Contractor's failure to comply with the invoice format described above.

5. Accounting Records of Contractor.

Contractor shall maintain for three (3) years after completion of all services hereunder, all records under this Agreement, including, but not limited to, records of Contractor's direct salary costs for all Services and Additional Services performed under this Agreement and records of Contractor's Reimbursable Expenses, in accordance with generally accepted accounting practices. Contractor shall keep such records available for audit, inspection and copying by representatives of the City's Finance Department or other government agencies during regular business hours upon twenty four (24) hours notice.

The obligations of Contractor under this section shall survive this Agreement.

6. Taxes.

Contractor shall pay, when and as due, any and all taxes incurred as a result of Contractor's compensation hereunder, including estimated taxes, and shall provide City with proof of such payments upon request. Contractor hereby agrees to indemnify and defend City for any claims, losses, costs, fees, liabilities, damages or injuries suffered by City arising out of Contractor's breach of this section pursuant to the Indemnification provisions of this Agreement.

- 7. Taxpayer Identification Number.** Contractor shall provide City with an IRS Form W-9, Request for Taxpayer Identification Number and Certification, containing an original signature and any other State or local tax identification number requested by City.

EXHIBIT C

INSURANCE REQUIREMENTS

I. TYPES OF INSURANCE

- A. Commercial General Liability Insurance: Contractor's General Liability insurance shall include contractual liability coverage. Contractor shall take out and maintain during the life of this Agreement such Bodily Injury Liability and Property Damage Liability Insurance (Commercial General Liability Insurance) on an occurrence basis as shall protect it while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as claims for property damage which may arise from the Contractor's operations under this Agreement, whether such operations be by Contractor or by any sub-Contractor or by anyone directly or indirectly employed by either of them. The amounts of such insurance shall be not less than One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000), in aggregate or Three Million Dollars (\$3,000,000) combined single limit bodily injury and property damage for each occurrence. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- B. Automobile Liability Insurance: Contractor shall take out and maintain during the life of this Agreement such Automobile Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000) for each occurrence combined single limit or not less than One Million Dollars (\$1,000,000) for any one (1) person, and One Million Dollars (\$1,000,000) for any one (1) accident, and Three Hundred Thousand Dollars, (\$300,000) property damage. Contractor shall provide the City with certificates of insurance and copies of additional insured and primary coverage endorsements evidencing the insurance coverage required by this Agreement.
- C. Worker's Compensation and Employer's Liability Insurance: Contractor shall have in effect during the entire life of this Agreement Worker's Compensation and Employer's Liability Insurance providing full statutory coverage. In signing this Agreement, Contractor makes the following certification, required by Section 18161 of the California Labor Code: "I am aware of the provisions of Section 3700 of the California 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 the Code, and I will comply with such provisions before commencing the performance of the work of this Agreement".

D. Professional Liability Insurance: Contractor shall take out and maintain during the life of this Agreement a policy of professional liability insurance, protecting it against claims arising out of the acts, errors, or omissions of Contractor pursuant to this Agreement, in the amount of not less than One Million Dollars (\$1,000,000) per claim. Said professional liability insurance is to be kept in force for not less than one (1) year after completion of services described herein.

II. ADDITIONAL REQUIREMENTS

- A. Broader Insurance Coverage: In the event that Contractor maintains broader coverage and/or higher limits than the City's minimum requirements, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Contractor. The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of the City before the City's own insurance shall be called upon to protect it as a named insured.
- B. Additional Insured Status: The City of East Palo Alto, its subsidiary agencies, directors, officers, employees, agents, independent contractors and volunteers shall be named as additional insureds on any such policies of comprehensive general and automobile liability insurance.
- C. Primary and Non-Contributory Coverage: Except for professional liability and worker's compensation insurance, the policies shall also contain a provision that the insurance afforded to the City, its subsidiary agencies, and their directors, officers, employees, agents, independent contractors and volunteers based on additional insured status shall be primary and non-contributory insurance to the full limits of liability of the policy, and that if the City, its subsidiary agencies and their directors, officers, employees, agents, independent contractors and volunteers have other insurance against a loss covered by a policy, such other insurance shall be excess insurance only.
- D. Verification of Coverage: Contractor shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause). All certificates and endorsements are to be received and approved by the City Attorney's Office at least five days before Contractor commences work to be performed pursuant to the agreement.
- E. Notice of Cancellation: Contractor shall provide thirty (30) days' notice, in writing, to the City, at 2415 University Avenue, East Palo Alto, CA 94303, of any pending change or cancellation of the policy.

- F. Deductibles or Self-Insured Retentions: Prior to the execution of this Agreement, any deductibles or self-insured retentions must be declared to and approved by City.

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

EXHIBIT D

CITY OF EAST PALO ALTO'S POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION

EFFECTIVE DATE: 12/21/2004

REVISED DATE: 1/12/07

ADOPTED BY CITY COUNCIL: 12/21/2004

I. PURPOSES

The purposes of this policy are to emphasize the City's commitment to keeping its workplace free of harassment, discrimination and retaliation, to define and provide examples of the conduct that is prohibited, to summarize the respective responsibilities for preventing, reporting, investigating, and responding to violations and to give clear warning of the serious consequences that violators will face.

A copy of this policy shall be provided to all persons who are subject to it, and shall be posted on City bulletin boards in all City facilities.

II. POLICY

All of the following are prohibited by this Policy:

- Discrimination or harassment in any aspect of City employment based on any legally protected characteristic or status, including sex, gender, sexual orientation, race, color, national origin, language, ancestry, religion, age, marital status, domestic partner, physical disability, mental disability, or medical condition.
- Retaliation for opposing, filing a complaint about, or participating in an investigation of, any such harassment or discrimination.
- Aiding, abetting, inciting, compelling, or coercing or any such discrimination, harassment or retaliation, or attempting to do so.

The City will take all reasonable steps necessary to prevent such misconduct from occurring, and to remedy and punish any occurrence. Any City employee, Council member, member of any advisory body, including any Commissioner, Committee member, or Board member found having engaged in any such misconduct will be subject to disciplinary action up to and including termination or censure or removal and will be deemed to have acted outside the course and scope of his or her employment.

This policy applies to all City employees, volunteers, interns, vendors, and contractors as well as to all applicants for City positions.

The policy shall not be interpreted or applied in any manner that would be inconsistent with any applicable State or Federal law or regulation, or increase the legal liability of the City.

III. DESCRIPTION AND EXAMPLES OF PROHIBITED HARASSMENT

Harassment on the basis of sex is unlawful, and is prohibited by this policy. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when:

- An individual's submission to such conduct is made explicitly or implicitly, a term or condition of that individual's employment; or,
- An individual's submission to or rejection of such conducts is used as the basis for an employment decision affecting that individual; or,
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, abusive, or offensive work environment.

Sexual harassment need not be motivated by sexual desire or gratification, and may include nonsexual conduct motivated by the violator's hostility towards the victim's gender, or towards the victim's nonconformity to gender stereotypes. Sexual harassment includes not only conduct motivated by gender, but also by pregnancy, childbirth, or a related condition. A harasser may be either male or female, and the victim may either be the same sex or the opposite sex. Even a person who is not the intended target of harassment may be harassed by it if he or she witnesses it.

Sexual harassment may be verbal, visual, or physical. For example:

- Verbal harassment may consist of derogatory, threatening, or intimidating comments, epithets, slurs or jokes; references to gender, physical appearance, attire, sexual prowess, marital status, or pregnancy; or sexual advances, propositions, or demands.
- Visual harassment may consist of displaying or circulating derogatory or offensive posters, cartoons, drawings, photographs, pin-ups, computer images, or electronic media transmissions.
- Physical harassment may consist of assault, battery, or unwelcome, unnecessary and offensive touching (kissing, hugging, patting, rubbing, pinching, brushing against), stating, leering, gesturing, whistling or making noises, impeding or blocking movement, or physical interfering with normal work or movement.

In addition to prohibiting harassment based on sex or gender, this policy also prohibits harassment based on sexual orientation, or upon any other legal protected characteristic or status, such as race, religion, creed, color, national origin, language, ancestry, physical disability, mental disability, medical condition, marital status, domestic partner, or age.

Harassment on the basis of such factors is subject to the principles applicable to sexual harassment, as stated above.

IV. REPORTING DISCRIMINATION, HARASSMENT OR RETALIATION

Any City employee, volunteer, intern, vendor, contractor, or applicant who becomes aware of any discrimination, harassment or retaliation prohibited by this policy shall report it immediately to their immediate supervisor, or higher ranking supervisor, or the Assistant City Manager. Under no circumstances shall such a report be required or expected to be made to the person who engaged in the misconduct that is subject to this report.

The responsibility to report conduct prohibited by this policy arises even if the conduct is directed toward someone else and even if the person toward whom it is directed does not want it reported.

Reports may be made orally or in writing, free of requirements as to form.

Because reports of conduct prohibited by this policy will be treated as serious charges, the making of a deliberately false report, or a report made with reckless disregard for its truth or falsity, may subject the maker to disciplinary action.

V. INVESTIGATION AND RESOLUTION

The City of East Palo Alto will investigate all reported violations of this policy. All employees, volunteers, interns, vendors and contractors, members of the City Council, or members of a City advisory body shall cooperate with any such investigation.

Any supervisor, manager department head, member of the City Council, or member of a City advisory body who receives a report of, or who becomes aware of, conduct prohibited by this policy shall promptly report it to the Personnel Officer. Upon receiving the report, the Personnel Officer shall direct any report that accuses a City Council member or appointee to the City Council for investigation and resolution. The City Council shall delegate the responsibility to conduct a prompt, full, and fair investigation to the qualified private investigator. Upon receiving a report regarding a non-City Council member or appointee, the Personnel Officer shall conduct a prompt, full, and fair investigation, or delegate

that responsibility to a qualified City employee or private investigator. The person performing the investigation shall:

- Interview the complainant, the accused, and any other person the investigator believe to have knowledge relevant to the charges;
- Gather and review any documentary, electronic, or physical evidence relevant to the charges;
- Consult with legal counsel as needed;
- Determine whether the charges can or cannot be substantiated; and
- Develop recommendations for appropriate remedial and/or disciplinary action, if any.

VI. OUTSIDE ADMINISTRATIVE AGENCIES

In addition to the remedies described in this Policy, the U.S. Equal Employment Commission and the California Department of Fair Employment and Housing provide administrative complaint and investigation processes as to harassment, discrimination or retaliation on the basis of a protected status. The toll free telephone number for such office is listed below:

California Department of Fair Employment and Housing 1.800.233.3212
U.S. Equal Employment Opportunity Commission 1.800.669.4000