

REQUEST FOR PROPOSALS (RFP)

**COMMUNITY FORESTRY and URBAN FOREST
MASTER PLAN IMPLEMENTATION
SERVICES**

CITY OF EAST PALO ALTO



ISSUED ON: September 9, 2026

PROPOSALS DUE: September 30, 2026, by 4:00 PM PST

DEADLINE FOR QUESTIONS: September 16, 2026, by 4:00 PM PST

LATE PROPOSALS WILL NOT BE ACCEPTED

Submit Proposal to:

Diana Tran
Environmental Services Aide
City of East Palo Alto
1960 Tate Street
East Palo Alto, CA 94303
Email: cleancity@cityofepa.org

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SECTION 1

SUBMITTAL REQUIREMENTS

1.1 General Description

The City of East Palo Alto maintains approximately 7,500 street trees and has an adopted Urban Forest Master Plan (UFMP) outlining its canopy and community forestry goals for the next several decades. Goals include the increase of canopy coverage from the current 13.5% to 20% by 2062 and 30% by 2122. This Request for Proposals (RFP) solicits proposals from qualified contractors to provide ongoing, year-round community forestry planting, maintenance, and educational services for Fiscal Years 2026-2027 and 2027-2028. Services may include, but are not limited to:

- Planting 80 public and private trees annually
- Maintenance: providing young tree care to each previously planted tree under the contract for up to 3 years.
- Organizing, coordinating, implementing, and promoting 5 separate annual community events including the following:
 - Mayor Tree Planting & Celebration
 - Arbor Day Planting & Celebration
 - Bilingual Community Tree Walks (English & Spanish)
 - Other volunteer or community-oriented planting and educational events
- Promoting tree planting offerings to private landowners.
- Reviewing development proposals to identify planting opportunities and recommending conditions of approval to improve planting and canopy coverage outcomes.
- Presenting bi-annual updates at public meetings, including at City Council, the Public Works & Transportation Commission, and/or the Planning Commission.

These services shall be provided at the request of the City's Environmental Division staff.

The selected contractor will be invited to enter into a contract with the City based on their submitted proposal. A sample agreement is provided in Section 8 of this RFP. By submitting a proposal, each contractor agrees that, if selected for award, the contractor will enter into an agreement with the City using a City-approved agreement form that is similar to the sample included in Section 7 of the RFP, with no exceptions to the form.

Please note: Compensation for fluctuating fuel prices will not be separately provided. Contractors should factor any fuel cost variability into their proposed pricing.

1.2 Proposal Requirements

Each proposal must include the following forms, fully and legibly completed, using the forms provided with this RFP:

- Cost Proposal (**Section 3**)

Contractor's Qualifications, Reputation, and References (**Section 6**). Each proposal should also include:

- Full name and title of the contractor's primary contact for purposes of the proposal
- Mailing address, telephone number, fax (if applicable), and email for the contractor
- Signed acknowledgment of any addenda issued after the RFP release

All questions must be submitted in writing by:

Wednesday, September 16, 2026 – 4:00 P.M.

To: Diana Tran, Environmental Services Aide
1960 Tate Street, East Palo Alto, CA 94303
Email: cleancity@cityofepa.org

Any questions or objections that are not submitted in the manner specified and by the deadline for questions will be deemed waived. The City will provide any necessary responses in the form of an addendum to this RFP. All such addenda will become part of the RFP. Each contractor submitting a proposal in response to the RFP is solely responsible for ensuring that it has received and reviewed each addendum before submitting its proposal. City will not be bound by the oral representations of any City officials, employees, or representatives.

All submitted materials become the property of the City of East Palo Alto and will not be returned. Proposals will not be available for public review until the evaluation process is complete. No reimbursement will be provided for any costs incurred in the preparation or submission of proposals.

1.3 Proposal Deadline

Proposals must be received by the City of East Palo Alto no later than 4:00 P.M. on Wednesday, September 30, 2026. Late submissions will not be accepted.

Submit proposals via email to: cleancity@cityofepa.org

Or deliver to:

Diana Tran
Environmental Services Aide

City of East Palo Alto
1960 Tate Street
East Palo Alto, CA 94303

1.4 Evaluation of Proposals

Proposals will be evaluated based on:

- Responsiveness to the RFP 10%
- Cost proposal 50%
- Contractor's qualifications 20%
- Professional reputation and references 20%

A Review Selection Committee, which may include representatives from other agencies, will review proposals for responsiveness and evaluate and score proposals based on the criteria set forth above. When the evaluation is complete, the proposals will be ranked based on total scores to identify the proposal that offers the best value to the City. The City will award the contract, if at all, to the contractor that is determined by City, acting in its sole discretion, to offer the best value to City based on the City's review. The Review Selection Committee will submit its recommendation for award to the City Manager. The selected contractor will be required to enter into a formal agreement, using a form similar to the sample included in Section 7, subject to approval by the City Attorney's Office.

1.5 RFP Schedule

The following schedule is provided for planning purposes based on current information. The City reserves the right to modify this schedule at any time, in the City's sole discretion.

Action	Date
Issuance of Request for Proposals (RFP)	September 9, 2026
Proposal Due Date	September 30, 2026
Contract Start Date	To Be Determined: Oct/Nov 2026

1.6 Notice of Selection & Protest Procedures

Notice of Selection & Protest Procedures. Contractors will be notified of the Review Selection Committee's intended recommendation for award by a Notice of Selection which will be posted on the City's website and which may also be emailed to each

contractor that submits a proposal. Any protest challenging the City's intended selection or the selection process must be submitted no later than 5:00 p.m., on the fifth business day following the date of the Notice of Selection. The protest must be submitted in writing via email to cleancity@cityofepa.org Diana Tran, Environmental Services Aide and must clearly specify the basis for the protest. Any basis not specified is deemed waived. The protest will be reviewed by the Public Works Director, Humza Javed in consultation with the City Attorney's Office, and their determination on the protest is final. No public hearing will be held on the protest. Time being of the essence, the City reserves the right to proceed with award of an agreement and commencement of the services notwithstanding any pending protest or legal challenge.

End of Section 1

SECTION 2

SCOPE OF WORK AND DEFINITIONS

2.1 Scope of Work

The selected contractor will perform contracted work in coordination with the City's Environmental Services Division staff. The work under this contract shall consist of: the siting of public and private tree locations, underground utility checks, outreach to private landowners, planting climate and ecosystem-appropriate trees, young tree care for up to three (3) years, maintaining an inventory of planted trees and their status, coordinating and executing community events, development proposal reviews, and general outreach to the community and City leadership about the City's Urban Forest Master Plan.

Work locations may include, but are not limited to, residential yards, public right of way (including sidewalks, medians, streetscaped areas, and City owned or operated facilities), City parks, and parkways (area between sidewalk and curb).

Unless otherwise specified, the Contractor shall furnish all labor, materials, tools, equipment, and incidentals required to complete the work as outlined in the agreement and individual work order(s).

Work Order Structure. The contractor will work independently to select potential planting locations, conduct outreach, and execute community events. The contractor will have bimonthly coordination calls with City staff within the Environmental Division to provide updates and establish timelines for events. City staff may reach out to the contractor to request planting events within the contract's scope.

The City will pay the contractor for full and satisfactory performance of work done. each work order, based on the unit prices set forth in the contractor's Cost Proposal. Contractor's compensation is intended to cover all costs required for performing the work set forth in a work order, including overhead and indirect costs.

Notwithstanding the foregoing, emergency work properly initiated by authorized City personnel pursuant to Section 2.3 may be performed prior to issuance of a written work order. City will issue a work order confirming the emergency work as soon as practicable. Contractor will be entitled to payment for emergency work authorized pursuant to Section 2.3, consistent with the agreement and Cost Proposal.

2.2 Work Level Expectations

All work shall be performed in accordance with Best Management Practices (BMPs) developed by the International Society of Arboriculture (ISA), and comply with:

- ANSI A300 Pruning Standards
- ANSI Z133 Safety Standards

2.5 Licenses, Registration, and Permits

Contractor License. Each contractor submitting a proposal must hold an active C-49 Tree and Palm Contractor License or D-49 Tree Service Contractor License, and must maintain the required license for the duration of the contract. If the scope of services includes activities requiring an active C-27 Landscaping Contractor License, such services must be performed either by the contractor, if properly licensed, or by a subcontractor holding an active C-27 license. If the scope of services requires the services of a certified arborist, such services must be performed either by the contractor, if properly certified, or by a subcontractor holding the appropriate arborist certification.

City Business License. The contractor must obtain a City business license before the contract is executed by the City.

DIR Registration. Only contractors that are registered with the California Department of Industrial Relations (“DIR”) to perform public work under Labor Code § 1725.5 are eligible to submit a proposal for or to enter into the contract. The City may not accept a proposal from or enter into the contract with a contractor without reliable evidence that the contractor is registered with the DIR. Subcontractors performing any of the services are also subject to DIR registration requirements.

In-Use Off-Road Diesel-Fueled Fleets. If the services involve the use of vehicles subject to the California Air Resources Board’s In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) (“**Off-Road Regulation**”), then each Proposer must have valid Certificates of Reported Compliance for its fleet and its subcontractors, if applicable, in accordance with the Off-Road Regulation, unless exempt under the Off-Road Regulation. The selected contractor must submit copies of the valid Certificates of Reported Compliance for the fleet and its listed subcontractors, if applicable, to the City within ten days following notification from the City of its intent to recommend award of the contract to contractor, and prior to any extension of the contract, if any.

Other Permits and Certifications. Contractor must obtain and maintain (or cause the maintenance of) any other permits, certifications, or licenses necessary to perform the services, including, but not limited to, OSHA 1910.269 certification (when applicable).

2.6 Safety Requirements

- Compliance with all applicable safety laws including:
 - Cal OSHA
 - OSHA
 - California Division of Industrial Safety
 - CDFA Regulations
- Non-compliance may result in contract termination.

2.7 Jobsite Cleanup

- All debris must be removed daily and properly disposed of or recycled at Contractor's expense.
- Jobsite must be left clean, including:
 - Sweeping streets
 - Cleaning up dirt mounds or debris from planting sites
- If a job is left unattended, it must be safely secured.

2.9 Protection of Property

- Contractor must exercise due care to prevent damage to:
 - Structures
 - Utilities
 - Landscaping
- Contractor is responsible for locating underground utilities via USA (Underground Service Alert).
- All damages due to Contractor negligence must be repaired at Contractor's expense.

2.12 Dress Code and Appearance

- All personnel must wear company uniforms with visible identification.
- Uniforms must be clean and professional.
- Penalty: \$100 per day per violation for non-compliance.

2.13 Hold Harmless Clause

Contractor agrees to indemnify, defend, and hold harmless the City and its representatives against all claims arising out of Contractor's work, except in cases of the City's sole negligence or willful misconduct.

2.14 Special Requests / Extra Work

- Must be authorized in writing prior to performance (unless emergency).
- Work may be on a time-and-materials or lump-sum basis.
- Contractor shall submit itemized reports for all extra work.

2.15 Project Inspections

Upon request, Contractor shall accompany City staff for inspections or walk-throughs. Contractor representative must be authorized to make changes and sign documents.

2.16 City's Right to Perform Work

The City reserves the right to perform work that is similar or related to the scope of services under this contract.

2.17 Coordination with Other Contractors

- Contractor must cooperate with City staff and other contractors.
- Must adjust schedule to avoid conflicts as directed.

2.18 Nonperformance or Deficient Performance

- Contractor may be required to provide written explanation for poor performance.
 - Repeated or serious nonperformance or deficient performance may result in:
 - Termination of contract
 - Withholding of payment
 - Deductions from payment otherwise due Contractor
-

2.19 Notice Requirements

Official notices shall be made via registered mail or email to the last known business address or email address of the recipient.

2.20 Contractor Neglect

All property damage due to contractor negligence shall be corrected by contractor at **no cost to the City**.

2.21 Scheduling

Normal work hours are Monday–Friday, 7:30 AM to 6:00 PM, unless otherwise approved.

2.22 Equal Opportunity Clause

Contractor must comply with all federal and state non-discrimination laws, including:

- California Labor Code
 - Federal Civil Rights Act of 1964
-

2.23 Prevailing Wages

General. Pursuant to Labor Code § 1720 et seq., the services are subject to the prevailing wage requirements applicable to the locality in which the services are to be performed for each craft, classification or type of worker needed to perform the services, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.

Rates. The prevailing rates are on file with the City and available online at <http://www.dir.ca.gov/DLSR>. The contractor and any subcontractor must pay no less than the specified rates to all workers employed to provide services under the contract. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

Compliance. The contract will be subject to compliance monitoring and enforcement by the DIR, under Labor Code § 1771.4.

2.24 Unauthorized Aliens

Contractor shall comply with Federal Immigration Law (8 U.S.C. §1101 et seq.). Any violations resulting in sanctions to the City must be reimbursed by the Contractor.

2.25 Background Checks

Contractor shall perform background checks and fingerprinting on all personnel. Those with unsatisfactory results shall not be assigned to City work.

2.26 Dismissal of Unsatisfactory Employees

- City reserves the right to request removal of any contractor employee for cause.
- Contractor shall enforce a zero-tolerance drug and alcohol policy consistent with the City's Drug-Free Workplace policy.

2.27 Noise Control

- Equipment must be fitted with proper mufflers.
 - Contractor must adhere to local noise ordinances.
 - No additional compensation for sound control compliance.
-

2.28 Equipment Standards

- All equipment must be in good working condition.
- Unsafe or non-compliant equipment must be removed or replaced immediately.

- All vehicles must display the contractor's company name.

2.29 Commencement Date

Contractor shall commence work within 15 working days after receiving written Notice to Proceed.

2.30 Award of Contract

1. See Section 1.4 of RFP.

2.31 Contract Term

- Initial term: Five (5) years
- Renewal: Up to two (2) additional one-year extensions upon mutual agreement.

2.32 Contract Pricing

After two years, pricing may adjust annually based on CPI-U for the San Francisco-Oakland-Hayward, CA Core Based Statistical Area, with a maximum increase of 4.5%.

2.33 Additions/Deletions to Scope

City may modify scope, locations, or service frequency by email. The City reserves the right to remove or modify any tasks.

2.34 Administration

2.34.1 Schedules and Reports

Contractor shall perform work between the hours of 7:30 AM to 6:00 PM Monday through Friday, excluding holidays, unless expressly authorized by City staff, in which case there are no limitations on working hours. (See Section 5.1, below.)

Observed Holidays:

1. New Year's Day
2. Martin Luther King Jr. Day
3. Lincoln's Birthday
4. President's Day
5. Cesar Chavez Day
6. Memorial Day
7. Juneteenth
8. Independence Day
9. Labor Day
10. Veterans Day
11. Thanksgiving Day
12. Friday after Thanksgiving
13. Christmas Day

2.34.2 Deficient Performance

- Verbal or written notice will be given for unsatisfactory work.
- Public health and safety issues must be corrected immediately upon notice.

End of Section 2

SECTION 3

COST PROPOSAL

Each contractor submitting a proposal in response to the RFP must submit pricing for the following services:

SAMPLE COST PROPOSAL FORMAT (ANNUAL)
(The City is looking for a submittal in this format – content should match qualifications required)

Scope	Labor Categories	Est. Quantity	Unit Rate	Extended
UFMP Objective 1	Public and Private Tree Plantings Including 3 Years of Young Tree Care for Public Trees	80 trees	\$	\$
	Development Proposal Reviews	Up to 25 hours	\$	\$
UFMP Objective 3	Community Outreach Campaigns	5 events	\$	\$
	Community Events (Arbor Day, MLK Day, Mayor's Tree Planting and additional events upon request)	5 events	\$	\$
	On-call services (Commission and Council presentations, additional outreach or events, other tasks to be determined in coordination with the Environmental Division)	Up to 60 hours annually	\$	\$
TOTAL NOT TO EXCEED			\$	\$

Contractor Name: _____

Authorized Signature: _____

Name/Title: _____

Date: _____

End of Section 3

SECTION 4 COMPENSATION

4.1 Payment for Services

The City must be invoiced on a quarterly basis. Contractor will be paid monthly or quarterly for completed services based on the rates submitted in the Cost Proposal (Section 3). Contractor shall submit progress reports to correspond with

- Tree pruning
- Tree/stump removal
- Clearance pruning

4.3 Progress Payments

- Invoices for work completed in a month must be submitted by the 5th of the following month.
- The City will issue payments within 30 calendar days of receiving complete and undisputed invoices.

End of Section 4

SECTION 5

GENERAL REQUIREMENTS

5.1 Working Hours

Regular working hours are between 7:30 AM and 6:00 PM, unless pre-approved by the City.

There are no limitations on working hours for emergency work. The contractor must respond to and perform emergency work within 3 hours following a request from City. (See also Section 2.3, above.)

5.2 Equipment Standards

- Only use equipment that meets job specifications and safety standards.
- All equipment must be pre-approved by the City.
- Emergency equipment must include proper safety lighting and markings per California Vehicle Code.

5.3 Disposal of Debris

Contractor is responsible for removal and disposal of all debris. The City will not provide:

- Dumpsters
- Disposal sites
- Compensation for debris handling

5.4 City Rights

The City reserves the right to:

- Reject any or all proposals in what it alone considers to be the best interest of the City, to waive any informalities or irregularities in the proposals, and to negotiate with one or more respondents to achieve the best value for the City.
- Cancel the RFP at any point prior to award of the contract, and to reissue a new RFP at a later date.
- Request additional or clarifying information from any contractor that submits a proposal following the proposal deadline.
- Proposals must remain valid for 180 days from the proposal deadline.

- Use in-house or alternative contractors for emergency work
- Record services for public education
- Check and consider input from additional references not included in a contractor's proposal.

5.5 Subcontracting Limitation

No subcontracting of services is allowed without prior written approval from the City.

5.6 Assignment of Contract

The contract cannot be assigned without City consent.

5.7 Company Background

Contractor must be experienced in emergency tree services. Submit the following with the proposal (see Section 6 for more information):

- Resumes for assigned staff
- Three (3) references from current government clients
- Three (3) references from past (within 5 years) government clients

The City, acting in its sole discretion and in the City's best interest, will determine whether a contractor's experience, including its proposed team, is adequate to meet the City's needs, and whether its references are satisfactory.

5.8 Negative History

Disclose any:

- Prior contract failures
- Litigation
- Civil/criminal investigations within the last 5 years

If none, state: "No negative history to disclose."

The City may consider negative history when evaluating "professional reputation and references," as set forth in Section 1.4 of the RFP.

End of Section 5

SECTION 6

CONTRACTOR QUALIFICATIONS, REPUTATION, & REFERENCES

Contractor Name: _____

DIR Registration No.: _____

CSLB Contractor License No. and Classification(s): _____

1. Years in Business:

Under current business name: _____ years

2. Experience:

Years performing similar work: _____ years

3. List of Completed Contracts (past 3 years): For each completed contract, specify the year, type of work, contract value, and client.

Year	Work Type	Contract Value	Client
------	-----------	----------------	--------

(a)

(b)

(c)

(d)

(e)

4. References: Specify three (3) references from current government clients and three (3) references from past (within 5 years) government clients. (See Section 5.7.) For each reference, specify the name, title, associated agency, agency address, and phone number for the reference.

Name / Title	Agency / Address	Phone
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(a)

(b)

(c)

(d)

Name / Title Agency / Address Phone

(e)

(f)

(Attach additional sheets if needed)

7. Company History: Disclose any of the following in the blank space provided below:

- Prior contract failures
- Litigation
- Civil/criminal investigations within the last 5 years

If none, state: "No negative history to disclose."

8. Certification

I certify the above information is true and submitted as part of my proposal.

Signature: _____

Name / Title: _____

End of Section 6

SECTION 7

(SAMPLE)

CONTRACTOR AND PROFESSIONAL SERVICES AGREEMENT

For

TREE MAINTENANCE SERVICES AND EMERGENCY TREE MAINTENANCE SERVICES

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. Labor Code Compliance. This Agreement is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, beginning at § 1720, and the related regulations, including, but not limited to, requirements pertaining to wages, working hours and workers' compensation insurance. Contractor must post all job site notices required by laws and regulations pursuant to Labor Code § 1771.4.

16.1 Prevailing Wages. Each worker performing services under this Agreement that is covered under Labor Code § 1720, 1720.3, or 1720.9, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with the City and are available online at <http://www.dir.ca.gov/DLSR>. Pursuant to Labor Code § 1775, Contractor and any subcontractor will forfeit to City as a penalty up to \$200 for each calendar day, or portion thereof, for each worker paid less than the applicable prevailing wage rate, in addition to paying each worker the difference between the applicable wage rate and the amount actually paid.

16.2 Working Day. Pursuant to Labor Code § 1810, eight hours of labor consists of a legal day's work. Pursuant to Labor Code § 1813, Contractor will forfeit to City as a penalty the sum of \$25 for each day during which a worker employed by Contractor or any subcontractor is required or permitted to work more than eight hours during any one calendar day, or more than 40 hours per calendar week, unless such workers are paid overtime wages under Labor Code § 1815. All services must be carried out during regular City working days and hours unless otherwise specified or authorized in writing by City.

16.3 Payroll Records. Contractor and its subcontractors must maintain certified payroll records in compliance with Labor Code §§ 1771.4, 1776, and 1812, and all implementing regulations promulgated by the DIR. For each payroll record, Contractor and its subcontractors must certify under penalty of perjury that the information in the record is true and correct, and that it has complied with the requirements of Labor Code §§ 1771, 1811, and 1815. Unless the Agreement is for \$15,000 or less, Contractor must electronically submit certified payroll records to the Labor Commissioner as required under California law and regulations.

16.4 Apprentices. If the Agreement is for \$30,000 or more, Contractor must

comply with the apprenticeship requirements in Labor Code § 1777.5.

16.5 DIR Monitoring, Enforcement, and Registration. This Agreement is subject to compliance monitoring and enforcement by the DIR pursuant to Labor Code § 1725.5, and, subject to the exception set forth below, Contractor and any subcontractors must be registered with the DIR to perform public works projects. The registration requirements of Labor Code § 1725.5 do not apply if the Contract is for \$15,000 or less.

16.6 Workers' Compensation Certification. Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the services on this Agreement."

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.

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.

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

20. 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.

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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.

30. 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.

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

32. 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.

33. 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.

34. 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.

35. 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.

36. 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"

Exhibit A

SCOPE OF WORK

1. Representatives.

City Representative:

Contractor's Representative:

[insert name]

[insert name]

[insert title]

[insert title]

[insert Department name]

[insert company name]

2415 University Avenue

[insert street name and suite #, if any]

East Palo Alto CA, 94303

[insert City, state and zip code]

[insert telephone number]

[insert telephone number]

[insert facsimile 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.

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.

End of Section 7

SECTION 8 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 Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000), in aggregate or Four Million Dollars (\$4,000,000) 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 insured 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.

End of Section 8

SECTION 9

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

*** END OF DOCUMENT ***