



CITY OF
HAYWARD
HEART OF THE BAY

RFP #1701-081916.1

REQUEST FOR PROPOSALS

for

Weed and Rubbish Abatement Services

ISSUE DATE: January 17, 2017

PROPOSAL DUE DATE: February 9, 2017 at 3:00 PM

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RESOURCES

- Template for Agreement for Professional Services Between the City of Hayward and Contactor
- Nondiscriminatory Employment Practices Provisions
- Special Affirmative Action Provision for Supply & Services Contracts
- Nondiscriminatory Employment Practices and Affirmative Action Certification Statement
- Affirmation of Non-involvement in the Development or Production of Nuclear Weapons Form

INTRODUCTION

The City of Hayward is seeking an experienced and qualified contractor who is specially trained, experienced, and competent to perform weed and rubbish abatement services in accordance with the terms, conditions, and specifications contained in this Request for Proposals (RFP).

The objectives for this proposal are to:

- Perform weed abatement.
- Secure vacant properties.
- Remove and properly dispose of rubbish from properties.
- Perform services within timelines requested by city staff for emergency and non-emergency abatements.
- Maintain records of work performed and all related correspondence received from City staff and provide invoices for services rendered within 48 hours of project completion.

CITY BACKGROUND

The City of Hayward is an economically and ethnically diverse city of approximately 149,000 residents located on the eastern edge of the San Francisco Bay. An aspiring regional center of retail, industrial and public activities, Hayward combines a hometown atmosphere, an ideal climate, cultural attractions, park and recreational facilities, with easy access to suppliers and customers throughout the Bay Area and beyond.

The City is known as the "Heart of the Bay" because of its central location in Alameda County – 25 miles southeast of San Francisco, 14 miles south of Oakland, 26 miles north of San Jose and 10 miles west of the valley communities surrounding Pleasanton. Serviced by an extensive network of freeways and bus lines, Hayward has two BART stations, an Amtrak station and its own Hayward Executive Airport, with easy access to San Francisco, Oakland, and San Jose international airports. The city also boasts easy access to the Port of Oakland, the fourth busiest container port in the United States.

The Code Enforcement Division, in collaboration with other city departments, helps to manage the future development of Hayward, in order to assure the

economic and environmental health of the community and a high quality of life for its residents.

The Code Enforcement Division supports the City Councils Priorities in assisting with the development of a Safe Clean and Green community. If a community is well-maintained, petty crime is often reduced, property values remain high and people will want to further invest in the community. The Code Enforcement Division ensures that all property owners maintain their properties up to local, State, federal laws and ordinances, and community standards.

Additional information regarding the City of Hayward may be obtained at: <http://www.hayward-ca.gov/about.shtm>

LAST DAY FOR QUESTIONS

All inquiries regarding this Request for Proposals must be submitted on or before January 31, 2017, no later than 5:00 p.m., and shall be submitted via email to Maria G. Carrillo, Purchasing Manager at maria.carrillo@hayward-ca.gov and copy to Eusebio Espitia, Code Enforcement Manager, at eusebio.espitia@hayward-ca.gov.

Bidders are advised that oral or written communication from the City not in the form of an official addendum do not alter the bid plans or specifications.

NOTICE OF REQUEST FOR PROPOSALS

NOTICE IS HEREBY GIVEN that the City of Hayward (hereinafter referred to as "City") is seeking proposals for purposes of performing weed and rubbish abatement services and will be accepting formal bids to be submitted via email no later than 3:00 p.m., February 9, 2017. All proposals will be submitted via email to:

Maria Carrillo – Purchasing Manager
City of Hayward – Purchasing Division
777 B Street, Hayward, CA 94541
maria.carrillo@hayward-ca.gov
and copy to:
Eusebio Espitia, Code Enforcement Manager
eusebio.espitia@hayward-ca.gov

-No faxed proposals will be accepted. It is the sole responsibility of the proposing firm to ensure that proposals are received prior to the closing date and time, as late bids will not be accepted.

-Submitted Proposals will become the property of the City and may be used by the City in any way deemed appropriate.

-The work shall be done in compliance with the City's proposed contract language set forth in this Request for Proposals. Copies of the Request for Proposals are available from the City at the above- referenced address.

-The general scope of work is for presiding over administrative hearing appeals and providing a written determination of factual finds for the Code Enforcement Division.

-The City hereby affirmatively ensures that minority, or women business enterprises will be afforded full opportunity to submit proposals in response to this Notice and will not be discriminated against on the basis of race, religion, creed, color, national origin, ancestry, physical handicap, medical condition, marital status, or sex.

-The City reserves the right to withdraw this Request for Proposals, reject or negotiate any and all proposals, and to waive any irregularity. In negotiating a final contract, the City may increase or decrease the Scope of Work including increasing or decreasing the work for any or all identified tasks within the Scope of Work.

-The City intends to award this contract to the firm that it considers will provide the best overall program services. -The City reserves the right to accept other than the lowest priced offer based on the proposal that is in the best interest of the City and to reject any proposals that are not responsive to this request.

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INSTRUCTIONS FOR AGREEMENT

Required Elements

The following elements ***must*** be included in order to enter into an agreement with the City of Hayward:

- 1) **Cover Letter:** The cover letter should be on company letterhead and include the following:
 - i. Company name, address, phone and fax numbers.
 - ii. Designation of primary contact within the company who is authorized to answer questions regarding the assigned work, including their name, contact phone number and e-mail.
 - iii. Signature of an officer of the prime contractor. In case of joint venture or other joint-prime relationship, an officer of each venture partner shall sign.
- 2) **Contact & Customer Service:** Please describe all support services available from your company/business, specifically addressing the following issues:
 - i. Normal hours of availability
 - ii. Quality assurance program(s)
 - iii. Guaranteed response time
 - iv. Other support services
- 3) **References and Experience:** A list of three (3) references of current or past contracts for which the Contractor has performed or is performing work of similar type, scope, and complexity within the past five years. This list shall include the names, addresses, email addresses, and phone numbers of the contracting party as well as a description of services performed and the dollar amount of the contract. Upon further consideration of the Proposal, the City may request additional vendors.
- 4) **Capacity to perform the work:** Describe other major work commitments and/or capacity to perform the requested services. Projects completed within the past three years, particularly in Alameda, Contra Costa, Santa Clara or San Mateo Counties, are of particular interest.
- 5) **Project Scope & Approach:** Provide a detailed plan for providing the services as described in Exhibit A.
- 6) **Prices:** Prices for provision of services that are "all-inclusive" of all

costs, including but not limited to supervision, equipment, overhead-profit and all required insurances as specified in this document.

- 7) **Insurance:** A copy of an insurance certificate(s), or a letter of intent to provide insurance from the issuing company (including a description of types of coverage and dollar amount limits) providing the coverage described in Appendix B.
- 8) **Current City Business License:** The contractor selected for this project shall obtain or provide proof of having a valid City of Hayward business license.
- 9) **Required Forms:** Attach the following required forms:
 - i. Cover Letter
 - ii. Proposal
 - iii. Contactor Agreement
 - 1) Exhibit A. Scope of Work
 - 2) Exhibit B. Insurance
 - 3) Exhibit C. Certifications

City Standard Services Agreement

The selected company is expected to execute the City's Standard Professional Services Agreement. The City's service agreement language is attached for reference.

Pre-Contractual Expenses

The City shall not be liable for any pre-contractual expense incurred by Contractor in the preparation of its proposal and prior to the date of award. Contractor shall not include any such expense as part of its proposal.

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Schedule

The following schedule indicates the anticipated dates for steps in the selection process. The City reserves the right to modify this schedule as circumstances may require.

1. Last day to submit questions is January 31, 2017 @ 5:00 p.m. This will allow time for any addenda to be issued by the City to all bidders.
2. Candidates will submit written proposals via email to the Purchasing Manager at maria.carrillo@hayward-ca.gov and copy to the Code Enforcement Manager at eusebio.espitia@hayward-ca.gov no later than **3:00 p.m. on Thursday, February 9, 2017**, in accordance with requirements set forth in this RFP.
3. A mutually acceptable contract will be negotiated between the City and the Contractor(s). The Contractor(s) will be required to comply with the City's nondiscrimination and affirmative action provisions. The Contractor will need to stipulate its noninvolvement in the development or production of nuclear weapons. The Contractor will also be required to carry insurance in the amount of \$1,000,000 for each of the following: general liability, automotive liability, workers' compensation, and employers' liability. Professional liability insurance for errors and omissions will also be required.
4. If the City and the selected Contractor(s) team cannot agree on a satisfactory contract, the City reserves the right to terminate negotiations. The City will then negotiate an agreement with the next highest ranking responsible bidder.
5. Following is the tentative schedule for selection and award of the contractor contract:

Selection Process Timeline	Date
1. RFP issued	January 17, 2017
2. Proposals due	February 9, 2017
3. Finalist Interviews-if necessary	February 20, 2017 **
4. Adoption by Hayward City Council	March 7, 2017 **

****Dates subject to change as determined appropriate by the City of Hayward**

Review of Proposals

After the Proposals are received and opened by the City, the City shall review and evaluate all Proposals for completeness and responsiveness to this RFP in order to determine whether the Contractor possesses the professional qualifications necessary for the satisfactory performance of the services required. The City shall also investigate qualifications of all Contractors to whom the award is contemplated. It is anticipated that this review period will last approximately two weeks. The City will not be responsible for any of the Contractor's cost for the preparation of a Proposal in response to the RFP. The City reserves the right to reject any or all proposals submitted.

Factors to be considered in the selection process include:

- Quality & thoroughness of the proposal.
- Experience and past performance in completing projects of a similar type, size and complexity.
- Demonstrated capacity to deliver high-quality work within a preset timeline.
- Results of reference checks
- Cost & budget proposal

MISCELLANEOUS

Requests for Supplemental Information: The City reserves the right to require the submittal of additional information that supplements or explains proposal materials.

Reimbursement of Costs: No reimbursement whatsoever will be made by the City for any costs incurred by candidates related to the preparation or presentation of proposals.

Property of the City: All materials submitted become the property of the City of Hayward, and will not be returned. Funds awarded are public funds and any information submitted or generated is subject to public disclosure requirements.

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

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

Fiscal Year Funding Appropriation

Unless otherwise provided by law, a contract for supplies or services may be entered into for any period of time deemed to be in the best interests of the City, provided the term of the contract and conditions of renewal or extension, if any, are included in the contract and funds are available for the fiscal period at the time of the contract. Payment and performance obligations for succeeding fiscal periods shall be subject to appropriation by the City of funds thereafter. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be cancelled and the contractor shall be entitled to reimbursement for the reasonable value of any nonrecurring cost incurred but not advertised in the price of the supplies or services delivered under the contract or otherwise recoverable.

Changes / Modifications

The City reserves the right to order changes in the scope of work and resulting contract. The Contractor has the right to request an equitable price adjustment in cases where modifications to the contract under the authority of this clause result in increased costs to the contractor. Price adjustments will be based on the unit prices proposed by the Contractor. Any contract resulting from this solicitation may be modified upon written and mutual consent of both parties.

Award of Contract

The City reserves the right to reject any and all proposals, to contract work with whomever and in whatever manner the City decides, to abandon the work entirely and to waive any informality or non-substantive irregularity as the interest of the City may require and to be the sole judge of selection process. The City also reserves the right to negotiate separately in any manner to serve the best interest of the City. The City retains the right at its sole discretion to select a successful vendor(s).

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EXHIBIT A - SCOPE OF SERVICES

Subject to the terms and conditions set forth in this agreement, the Consultant shall provide the City of Hayward with Weed and/or Rubbish Abatement services. The term of this agreement shall begin on the date that this Agreement is fully executed and shall extend through December 31, 2018. Such Weed and Rubbish Abatement services will include the following:

- a. To supply all labor, materials and equipment necessary to remove weeds, rubbish and/or other debris as designated by the City of Hayward. The parcels of land will be specified by the City.
- b. The abatement of weeds and other ground cover will be done by disking or most efficient means for specified parcel. All Parcels shall be evaluated prior to abatement services for obstacles and obstructions such as pipes, abandoned septic tanks, etc.
- c. The securing of properties will be done in a manner to ensure the property is secure and non-accessible.
- d. Work will be started on specific parcels and in order of priority and public nuisance according to the City of Hayward.
- e. This contract shall be non-exclusive and the City of Hayward expressly reserves the right to contract with other contractors to remove weeds and/or refuse under special assignment proceedings or otherwise if required.
- f. The City shall continue to implement the Environmentally Friendly Preferred Purchasing Program by requiring City contractors to use best management practices (e.g., waste prevention, salvage and reuse, recycling and reusing) to maximize diversion of waste from landfills.

CITY OF HAYWARD PURCHASING DIVISION

January 17, 2017

I. GENERAL SPECIFICATIONS FOR WEED AND RUBBISH ABATEMENT CONTRACT

1. CITY CONTRACT REQUIREMENTS

- A.) Nondiscriminatory Employment Practices. A summary of which is attached hereto as Exhibit A.
- B.) Special Affirmative Action Provision. A summary of which is attached hereto as Exhibit B.
- C.) Non-discriminatory Employment Practices and Affirmative Action Certificate Statement. A summary of which is attached hereto as Exhibit C.
- D.) Nuclear Free Hayward. A summary of which is attached hereto as Exhibit D.
- E.) General Provisions. Except as set forth in these specifications, the terms and conditions of the General Provisions shall apply, a copy of which is attached hereto as Exhibit E.
- F.) Living Wage. The contract for weed abatement services is subject to the requirements and provisions of the Hayward Municipal Code (HMC), Chapter 2, Article 14, the "Hayward Living Wage Ordinance." The Contractor agrees to conduct his business in accordance with the requirements of this Ordinance a copy of which is attached hereto as Exhibit F.

The Living Wage is subject to annual adjustment each July 1 to reflect the change in the Bay Area Consumer Price Index for the twelve-month period preceding April 1. The following are the Living Wage Rates effective 7/1/16:

Required Wage per hour, with health benefits	
\$12.28	
Required Wage per hour, without health benefits	
\$14.19	
Medical Benefits	\$1.91

2. AWARD OF BID

The City's selection of a Contractor(s) will be based on the most advantageous proposals to the City. The City reserves the right to accept or reject any proposal

at the sole discretion of the City. The following factors shall be considered in the evaluation on the bid proposal:

- + Cost to the City including disking and edging; weed and rubbish abatement spraying, graffiti removal, property board-up and securing, and handwork/cleanup. Capacity of the contractor to comply with the requirements contained in the specifications
- + Types of equipment (including communication and photographic) owned by the bidder and available under this contract (verified by City inspection)
- + Contractors capabilities to perform the work
- + Location of vendor in relation to the work required (site inspection by City)
- + Contractor's experience with other governmental agency contracts
- + References of other customers of contractor (reference check by City)
- + Valid Business License with the City of Hayward
- + Valid Qualified Applicator License with the State of California, with certification for both Landscape Maintenance (category B) and Right of Way (category C) application (provide copy)
- + Certified for Landscape Maintenance application (category B)?
Yes (☐) No (☐)
- + Certified for Right of Way application (category C)?
Yes (☐) No (☐)

In addition, the City prefers, for ease of contract administration, to award one contract (**with no subcontractors**) for all three areas of work -- spraying, disking, and handwork. Therefore, bidders proposing to furnish work in all three areas will receive favorable consideration in evaluation of the bids received.

3. ASSIGNMENT

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

4. CARE AND PROTECTION

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

5. ATTORNEY'S FEES

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

6. TIME OF COMPLETION

The Contractor shall complete all or any designated portion of The Work in all parts and requirements within the time set forth in the order.

CITY OF HAYWARD PURCHASING DIVISION

January 17, 2017

II. SPECIFICATIONS FOR DISCING AND EDGING

1. EXAMINATION OF SPECIFICATIONS

The Contractor is required to carefully examine these Specifications and the attached bid documents, and the locations for work. It is assumed that the Contractor understands the specifications and the conditions of work likely to be encountered. The Contractor is required to accept as a condition of his/her obligation that any variation or deviation from specifications, requirements and conditions shall be sufficient grounds for rejection of all or any part of the work performed. Such rejected work shall be redone entirely at the Contractor's expense. Failure to do so within a reasonable length of time shall be sufficient reason for the withholding of payment for any or all of the work performed and forfeiture of the Contractor's bond.

2. SCOPE

The work to be covered by this section consists of furnishing all labor, materials, tools, equipment, transportation, and all incidental work and services involved in the eradication of undesirable vegetation by disking, perimeter edging and related techniques on certain public and private property within the City of Hayward.

3. LOCATION

The property upon which said eradication shall be done consists of a portion of streets, avenues, alleys, courts, square, parking strips, private property, and City property vacant or otherwise, upon which undesirable vegetation has been permitted to become a nuisance.

The Contractor shall not proceed on lots upon which the following conditions are observed:

1. A lot upon which construction has started.
2. A lot upon which an obvious attempt has been recently made to eradicate the weeds and/or remove rubbish and debris.
3. A lot upon which a nest site of a Burrowing Owl is located.
4. Agricultural land unless directed by the City.

Upon observing any of the above cases, the Contractor shall immediately notify the City of its existence. Staff shall inspect said lot and/or lots and determine whether or not the Contractor shall proceed with said abatement.

4. EQUIPMENT

The Contractor shall use only heavy-duty tractors and heavy-duty tandem discs. Such equipment must be adaptable to the particular conditions and terrain found on parcels where weed abatement work is performed.

The Contractor must have the following minimum equipment listed to perform the work:

- + One heavy-duty four wheel drive or crawler type tractor (for use in hill areas).
- + One set heavy-duty tandem discs (with a minimum span of 8' in width).
- + One gas powered string trimmer ("weed eater"), commercial quality for edging perimeters.
- + One heavy duty broom.
- + One square point shovel.
- + One round point shovel
- + One digital camera.
- + One cellular phone, with a local area code phone number.

5. METHODS OF ERADICATION

The eradication of vegetation shall be accomplished by disking and perimeter edging the area by methods hereinafter specified.

A) Debris Removal

Areas upon which there is debris of a moveable nature, such as rubbish or like materials, which will interfere with disking operations, shall be reported to the City, who will order same removed and disposed of prior to disking the area, such to be paid for as stipulated herein. Extraordinary amounts of debris shall be immediately brought to the attention of the City for additional consideration.

B) Eradication by Disking

The Contractor shall furnish sufficient disking equipment to cover the area to be disked in a period not to exceed fifteen (15) days, or such other period as is directed by the City. In the event the Contractor fails to furnish sufficient equipment, or prosecute the work in such a manner as to complete same on schedule, the City shall have the authority to take over the Contractor's equipment and/or hire the additional equipment necessary to complete the work as specified, and all expense incurred by the City shall be deducted from any monies due the Contractor.

The Contractor shall disc all areas which will accommodate tractor-drawn equipment. Care should be taken to operate as closely as is practical to

side and rear property boundaries but not to disc the areas that are designated by the City to be abated by other means.

The Contractor shall immediately notify the City if conditions (such as hard packed soil) prevent disking operations. City shall inspect said lot and shall determine what alternate abatement methods should be utilized (such as fire break, or tractor mowing).

The commencement of disking operations will depend on moisture content and weed growth. Scheduling shall be determined by the City. The discs should be set at an angle sufficient to cut the sod growth loose, turn the existing growth under, to destroy and bury the growth of weeds existing at that time. The final result will leave the property clean, reasonably smooth, and in an acceptable condition.

Disking equipment shall be operated so as not to break or damage concrete sidewalks, or other public improvements. However, weeds must be removed along fences, sidewalks and on park strips. Sidewalks shall be cleaned and free of weeds, debris, dirt, etc. so as to cause no obstruction to pedestrian traffic.

In certain areas a fire break shall be disked, approximately thirty (30) feet wide, to protect developed property from fire on adjacent agricultural lands. This shall be done as directed by the City.

C) Eradication by Edging

Edging required by this Contract shall remove weeds, grasses and noxious growth along fences, buildings and in comers or along edges of parcels, or which cannot be safely reached by disc. The result shall be of a quality satisfactory to the City, which leaves the property borders as well abated as the remainder of the property. Sidewalks shall be cleaned and free of weeds, debris, dirt, etc., so as to cause no obstruction to pedestrian traffic. Dry grass and/or weeds from edging shall be disked under or removed from the premises and not allowed to remain on property borders.

6. MEASUREMENT AND PAYMENT

Bidders may quote on items I **and II and III**, or may quote only items I **or II or III**. However, Bidders are hereby advised that for the ease of administration, the City prefers to award all items to a single contractor (**with no subcontractors**). Therefore, bidders proposing to furnish work in all three areas will receive favorable consideration in evaluation of the bids received.

I. HANDWORK/CLEANUP:

Weed eating, debris removal, et cetera \$_____ per hour

II. DISCING AND EDGING; Pricing shall be on an "a unit" basis per parcel in accordance with the following schedule of parcel sizes:

A. Disking

Parcels less than 43,560 sq. ft. \$_____ per 1000 sq. ft.

Parcels one (1) Acre and greater \$_____ per acre

The contractor will therefore provide the City with his quotation to perform disking for each of the above parcel sizes. This will determine the unit price. The total amount owed on any billing will be determined by the number of parcels done and the size of each of the parcels.

Contractors will also quote on the following:

B. Edging/Handwork of Perimeters \$_____ per hour

C. Tractor Cleared Fire Breaks \$_____ per hour

D. Tractor Mowing \$_____ per sq. ft.

III. WEED ABATEMENT SPRAYING: \$_____ per sq. ft.

Notwithstanding the unit price quoted above, MINIMUM SPRAYING CHARGES are:

For spraying one parcel only, \$_____ when no work is done at the same time of bordering or contiguous parcels.

For two (2) or more contiguous parcels, \$_____ for the first parcel, then \$_____ minimum for each bordering or contiguous parcel.

C.) Payments shall be made at the unit prices indicated and said payments shall include full compensation for furnishing all labor, materials, tools, equipment, transportation, and incidentals necessary to complete disking and edging to the satisfaction of the City and no additional payments will be made.

In areas where the lot or property does not require disking, the Contractor shall disc what firebreak bands the Abatement Enforcement Officer shall

order and the payment shall be made for the work at the unit price per hour.

The parcels worked shall be limited to those specified by the Abatement Enforcement Officer, and the Contractor shall accept payment at the various unit prices for the actual work done, and no additional allowances will be made.

7. RECORDS

The Contractor shall use the City work order or work book maps and property identifications as his/her guide for the above-mentioned work and shall do no other work than that shown and directed by the Abatement Enforcement Officer.

The Contractor shall file with the Code Enforcement Inspector an accurate report of the date and location of each parcel of property, at the end of the first disking and upon completion of the contract. Bills for work completed during the months of June and July cannot be combined, as they occur in separate fiscal years.

The Contractor must take clear photographs of the cleanup sites before abatement is started and after abatement is completed, then submit both sets of photographs along with the invoice to the City for payment. The before and after photographs are to be taken from the same camera angle for direct comparison purposes and should include a distinctive landmark which would help identify the property. Camera equipment is to be provided by the Contractor.

The Contractor shall provide upon request at any time, access to or copies of the contractor's payroll records, timecards or other pertinent data on contractor's time or employees' time spent on City jobs. The City may require, should it deem necessary, an audit of the contractor's time records or record keeping procedures.

8. BONDING

The successful bidder shall furnish the City with:

A.) A faithful performance bond in the amount of \$20,000.00 which is the estimated value of this portion of the contract.

B.) A labor and materials bond in the amount of \$15,000.00. The Contractor may utilize the enclosed forms or his Agent's forms providing the Agent's form contains the same information.

9. SCHEDULING

Written notice to proceed with weed abatement services (work orders or work books) will be issued to the Contractor by the City, after property owners have been advised by required means. Contractor shall receive such notice at least two (2) working days in advance of the date on which he/she shall be required to commence work.

The Contractor must advise the City of the item and location of all work scheduled, and must provide this information no later than 12:00 noon of the day proceeding the date the work is scheduled to start. The Contractor shall coordinate with the City as to the location and date(s) of requested abatement.

10. TERM OF CONTRACT

The contract shall be in force and effective until December 31, 2018 unless extended for an additional year by mutual agreement or cancelled by the City upon thirty (30) days notification.

END OF PROPOSAL

AGREEMENT BETWEEN THE CITY OF HAYWARD

AND _____ & _____

THIS AGREEMENT, dated for convenience this ____ day of ____, is by and between _____, ("Contractor") and the CITY OF HAYWARD, a public body of the State of California ("City");

RECITALS:

WHEREAS, Contractor is specially trained, experienced, and competent to perform the special services which will be required by this agreement; and

WHEREAS, Contractor is willing to render such as defined in those specifications entitled WEED and Rubbish Abatement Services, dated January , 2017.

NOW, THEREFORE, Contractor and the City agree as follows:

AGREEMENT:

Scope of Service. Subject to the terms and conditions set forth in this agreement, Contractor shall provide to City the Weed and Rubbish Abatement Services described in the Specifications for Weed and Rubbish Abatement. Contractor shall provide said services at the time, place and in the manner specified therein

Compensation. City hereby agrees to pay Contractor: the unit prices and amounts set forth on the "Bid Form", as submitted by the Contractor in response to the City's Request for Quotation for Weed and Rubbish Abatement Service. This schedule of compensation shall remain in effect for the initial term of this agreement. If the term of this agreement is extended, the schedule of compensation may be amended upon mutual consent of the City and Contractor.

Effective Date and Term. The effective date of this agreement is _____, and it shall terminate no later than December 31, 2017 with automatic renewal contingent upon lawful encumbrance or appropriation of new funds.

Independent Contractor Status. It is expressly understood and agreed by both parties that Contractor, while engaged in carrying out and complying with any of the terms and conditions of this agreement, is an independent contractor and not an employee of the City. Contractor expressly warrants not to represent, at any time or in any manner, that Contractor is an employee of the City.

Billings. Contractor shall submit invoices to the City describing its services and costs in the manner set forth in the Specifications for Weed and Rubbish Abatement Services. Contractor shall not invoice the City for services not yet performed. City agrees to remit payment to the contractor within 30 days of receipt of correct invoice.

Advice and Status Reporting. Contractor shall provide the City with timely advice of all significant developments arising during performance of its services hereunder orally or in writing.

Designation of Primary Provider of Services. This agreement contemplates the services of _____. The primary provider of the services called for by this agreement shall be _____, who shall not be replaced without the written consent of City's Purchasing Manager.

Assignment of Personnel. Contractor shall assign only competent personnel to perform services pursuant to this agreement. In the event that City, in its sole discretion, at any time during the term of this agreement, desires the removal of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, cause the removal of such person or persons.

Assignment and Subcontracting. It is recognized by the parties hereto that a substantial inducement to City for entering into this agreement was, and is, the professional reputation and competence of Contractor.

Neither this agreement nor any interest therein may be assigned by Contractor without the prior written approval of City's Purchasing Manager. Contractor shall not subcontract any portion of the performance contemplated and provided for herein without prior written approval of the City's Purchasing Manager.

Insurance. On or before beginning any of the services or work called for by any term of this agreement, Contractor, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the City the insurance specified in subsections (a) through (c) below with insurers and under forms of insurance satisfactory in all respects to the City. Contractor shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Contractor has also been obtained for the subcontractor.

- (a) **Workers' Compensation.** Statutory Workers' Compensation Insurance and Employer's Liability insurance for any and all persons employed directly or indirectly by Contractor shall be provided with limits not less than one million dollars. In the alternative, Contractor may rely on a self-insurance program to meet these requirements so long as the program of self-insurance complies fully with the provisions of the California Labor Code. The insurer, if insurance is provided, or the Contractor, if a program of self-insurance is provided, shall waive all rights of subrogation against the City for loss arising from work performed under this agreement.
- (b) **Commercial General and Automobile Liability.** Contractor, at Contractor's own cost and expense, shall maintain commercial general and automobile liability insurance for the period covered by this agreement in an amount not less than one million dollars per occurrence, combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this agreement, including the use of owned and non-owned automobiles. Coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 and Insurance Services Office Automobile Liability form CA 0001 Code 1 (any auto).

Each of the following shall be included in the insurance coverage or added as an endorsement to the policy:

- (i) City, its officers, employees, agents, and volunteers are to be covered as insureds as respects each of the following: liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor; products and completed operations of Consultant; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired, or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents, or volunteers.
- (ii) The insurance shall cover on an occurrence basis, and not on the basis of an accident or claims made.
- (iii) The insurance must cover personal injuries as well as bodily injuries. Any exclusion of contractual liability in personal injury provisions of the policy or any endorsement to it must be eliminated.
- (iv) The insurance must cover complete contractual liability. This may be provided by amending the definition of "incidental contract" to include any written agreement.
- (v) Any explosion, collapse, and underground property damage exclusion must be deleted.

- (vi) An endorsement must state that coverage is primary insurance and that no other insurance affected by the City will be called upon to contribute to a loss under the coverage.
 - (vii) The policy must contain a cross liability or severability of interests clause.
 - (viii) Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, employees, agents, and volunteers.
 - (ix) Broad form property damage liability must be afforded. A deductible that does not exceed \$25,000 may be provided.
 - (x) Insurance is to be placed with California- admitted insurers with a Best's rating of no less than A :VII.
 - (xi) Notice of cancellation or non-renewal must be received by City at least thirty days prior to such change.
- (c) Professional Liability. Contractor, at Contractor's own cost and expense, shall maintain for the period covered by this agreement professional liability insurance for licensed professionals performing work pursuant to this agreement in an amount not less than one million dollars covering the licensed professionals' errors and omissions, as follows:
- (i) Any deductible shall not exceed \$100,000 per claim.
 - (ii) Notice of cancellation or non-renewal must be received by the City at least thirty days prior to such change.
 - (iii) If the professional liability coverages are written on an occurrence form, the policy must contain a cross liability or severability of interest clause.
 - (iv) The following provisions shall apply if the professional liability coverages are written on a claims made form:
 - 1. The retroactive date of the policy must be shown and must be before the date of the agreement.
 - 2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the agreement or the work.
 - 3. If coverage is canceled or not renewed and it is not replaced with another claim made policy form with a retroactive date that precedes the date of this agreement, Consultant must provide extended reporting coverage for a minimum of five years after completion of the agreement or the work.
 - 4. A copy of the claim reporting requirements must be submitted to the City prior to the commencement of any work under this agreement.
- (d) Deductibles and Self-Insured Retentions. During the period covered by this agreement, upon express written authorization of City's City Attorney, Contractor may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The City Contractor may condition approval of an increase in deductible or self-insured retention levels upon a requirement that

Contractor procure a bond guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- (e) Notice of Reduction in Coverage. In the event that any coverage required under subsections (a), (b), or (c) of this section of the agreement is reduced, limited, or materially affected in any other manner, Contractor shall provide written notice to City at Contractor's earliest possible opportunity and in no case later than five days after Contractor is notified of the change in coverage.
- (f) In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option:
 - (i) Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the agreement;
 - (ii) Order Contractor to stop work under this agreement or withhold any payment which becomes due to Consultant hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof;
 - (iii) Terminate this agreement.

Exercise of any of the above remedies, however, is an alternative to other remedies City may have and is not the exclusive remedy for Contractor's failure to maintain insurance or secure appropriate endorsements.

Indemnification- Contractors' Responsibility. It is understood and agreed that Contractor has the experience, necessary to perform the work agreed to be performed under this agreement, that City relies upon the skills of Contractor to do and perform Contractor's work in a skillful manner, and Contractor thus agrees to so perform the work.

Acceptance by City of the work performed under this agreement does not operate as a release of said Contractor from such professional responsibility for the work performed. It is further understood and agreed that Contractor is apprised of the scope of the work to be performed under this agreement and Contractor agrees that said work can and shall be performed in a fully competent manner.

Other than in the performance of professional services by a design professional, which law shall be solely as addressed in subparagraph (c) above, and to the fullest extent permitted by law, Contractor shall indemnify, protect, defend, and hold harmless City, and its officers, employees, agents, and volunteers, from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses, or costs of any kind, interest, defense costs, and expert witness fees) arising out of the performance of this Agreement by Contractor, its officers, employees, agents, and sub-consultants, excepting only that resulting from the sole negligence, active negligence, or intentional misconduct of City, its officers, employees, agents, and volunteers. It is understood that the duty of Contractor to indemnify and hold harmless includes the duty to defend as set forth in section 2778 of the California Civil Code.

Acceptance of insurance certificates and endorsements required under this agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

Licenses. If a license of any kind, which term is intended to include evidence of registration, is required of Contractor, its employees, agents, or subcontractors by federal or state law, Contractor warrants that such license has been obtained, is valid and in good standing, and shall keep in effect at all times during the term of this agreement, and that any applicable bond has been posted in accordance with all applicable laws and regulations.

Nondiscriminatory Employment Practices. In the performance of this agreement, Contractor agrees to comply with the requirements of Hayward Municipal Code, Chapter 2, Article 7, Nondiscriminatory Employment Practices by City Contractors, a summary of which is attached hereto as Exhibit B.

Termination. This agreement may be cancelled at any time by City for its convenience upon written notification to Contractor. In the event of termination, the Contractor shall be entitled to compensation for services performed to the effective date of termination; provided, however, that the City may condition payment of such compensation upon Contractor's delivery to the City of any or all documents, materials provided to Contractor or prepared by or for Contractor or the City in connection with this agreement.

Notices. Notices required by this agreement shall be personally delivered or mailed, postage prepaid, as follows:

To Contractor:

To the City: City Manager
 Hayward City Hall
 777 B Street, 4th Floor
 Hayward, CA 94541-5007

Each party shall provide the other party with telephone and written notice of any change in address as soon as practicable.

Notices given by personal delivery shall be effective immediately. Notices given by mail shall be deemed to have been delivered forty-eight hours after having been deposited in the United States mail.

Amendments. This agreement may be modified or amended only by a written document executed by both Contractor and City's City Manager and approved as to form by the City Attorney. Such document shall expressly state that it is intended by the parties to amend the terms and conditions of this agreement.

Abandonment by Contractor. In the event the Contractor ceases performing services under this agreement or otherwise abandons the project prior to completing all of the services described in this agreement, Contractor shall, without delay, deliver to City all materials and records prepared or obtained in the performance of this agreement, and shall be paid for the reasonable value of the services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which City incurs as a result of such cessation or abandonment.

Waiver. The waiver by either party of a breach by the other of any provision of this agreement shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this agreement.

No Third-party Rights. The parties intend not to create rights in, or to grant remedies to, any third party as a beneficiary of this agreement or of any duty, covenant, obligation, or undertaking established herein.

Severability. Should any part of this agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid, or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this agreement, which shall continue in full force and effect, provided that the remainder of this agreement, absent the unexcised portion, can be reasonably interpreted to give effect to the intentions of the parties.

Compliance with Laws. In the performance of this agreement, Contractor shall abide by and conform to any and all applicable laws of the United States, the State of California, and the City Charter and Ordinances of

City. Contractor warrants that all work done under this agreement will be in compliance with all applicable safety rules, laws, statutes and practices, including but not limited to Cal/OSHA regulations.

Controlling Law. This agreement and all matters relating to it shall be governed by the laws of the State of California.

Conflict of Interest. Contractor warrants and covenants that the principal provider(s) of services presently has no interest in, nor shall any interest be hereinafter acquired in, any matter which will render the services required under the provisions of this agreement a violation of any applicable state, local, or federal law. If any principal provider of services is a " Contractor " for the purposes of the Fair Political Practices Act (Gov. Code§ 81000 et seq.), each such person shall comply with Form 721 Statement of Economic Interests filing requirements in accordance with the City's local Conflict of Interest Code. In addition, if any other conflict of interest should nevertheless hereinafter arise; principal provider of services shall promptly notify City of the existence of such conflict of interest so that the City may determine whether to terminate this agreement.

Copyright. Upon City's request, Contractor shall execute appropriate documents to assign to the City the copyright to work created pursuant to this agreement. The issuance of a patent or copyright to Contractor or any other person shall not affect City's rights to the materials and records prepared or obtained in the performance of this agreement. City reserves a license to use such materials and records without restriction or limitation consistent with the intent of the original design, and City shall not be required to pay any additional fee or royalty for such materials or records. The license reserved by City shall continue for a period of fifty years from the date of execution of this agreement unless extended by operation of law or otherwise.

Time is of the Essence. Contractor agrees to diligently prosecute the services to be provided under this agreement to completion and in accordance with any schedules specified herein. In the performance of this agreement, time is of the essence.

Whole Agreement. This agreement has ten pages excluding the exhibits described on its signature page. This agreement constitutes the entire understanding and agreement of the parties. This agreement integrates all of the terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof .

Multiple Copies of Agreement. Multiple copies of this agreement may be executed but the parties agree that the agreement on file in the office of City's City Clerk is the version of the agreement that shall take precedence should any differences exist among counterparts of the document.

IN WITNESS WHEREOF, Contractor has executed this Agreement, and the City, by its City Manager, who is authorized to do so, has executed this Agreement.

CONTRACTOR:
[Insert Name]

By: _____

Its: _____

Dated: _____

CITY OF HAYWARD

Recommended by:

EUSEBIO ESPITIA
Code Enforcement Manager

By: _____
KELLY McADOO
City Manager

Dated: _____

Approved as to form:

MICHAEL LAWSON
City Attorney

Attest: _____
MIRIAM LENS
City Clerk

Attachments:

- Exhibit A: Nondiscriminatory Employment Practices Provisions (one page)
- Exhibit B: Special Affirmative Action Provision for Supply and Service Contracts (one page)
- Exhibit C: Non-discriminatory Employment Practices and Affirmative Action Certification Statement (one page)
- Exhibit D: Affirmation on Non-Involvement in Development of Production Of Nuclear Weapons (one page)
- Exhibit E: General Provisions for Purchases of Work and Services (4 pages)



NONDISCRIMINATORY EMPLOYMENT PRACTICES PROVISION

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

1. **AFFIRMATIVE ACTION - GENERAL.**

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

2. **RECRUITMENT.**

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

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

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

3. **EQUAL EMPLOYMENT OPPORTUNITY OFFICER.**

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

4. **ACCESS TO RECORDS.**

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

5. **COMPLIANCE REVIEW PROCEDURES.**

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

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

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

6. **VIOLATIONS.**

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

7. **REMEDIES FOR WILLFUL VIOLATION.**

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

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

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

(REV. 11/5/92)



CITY OF HAYWARD

SPECIAL AFFIRMATIVE ACTION PROVISION FOR SUPPLY AND SERVICE CONTRACTS

Exhibit B

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

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

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

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

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

- (1) The size of the contractor's or subcontractor's existing work force;
- (2) The size of the anticipated work force necessary for the contractor or subcontractor to perform the contract or subcontract for or on behalf of the City;
- (3) The projected turnover, vacancies, or work force expansion that the contractor or subcontractor expects to occur during the term of the contract;
- (4) The specific plans of the contractor or subcontractor to recruit applicants for employment and to select, train, and promote employees hired to complete the contract with or on behalf of the City in like proportion to their numbers in the contractor's or subcontractor's typical, geographic labor market;
- (5) An analysis showing the projected work force that would be expected, after all necessary selection is completed, to perform the contract or subcontract with or on behalf of the City absent any discriminatory employment practices;
- (6) Any other qualitative or quantitative data which would assist the City Manager in determining the contractor's or subcontractor's commitment to meet the nondiscriminatory employment practices requirements of this contract.

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

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

memorandum of understanding that is acceptable

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

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

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

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

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

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

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

- (a) Contracts with other governmental jurisdictions;
- (b) Contracts with manufacturers whose principal place of business is located outside the United States;
- (c) Contracts with the United States manufacturers whose principal place of business is located outside the State of California;
- (d) Contracts with any single or sole source supplier of any goods or service; and
- (e) Contracts resulting from exigent emergency requisitions where any delay in completion or performance of the contract would jeopardize the public health, safety, or welfare of the citizens of the City of Hayward, or where in the judgment of the City Manager the operational effectiveness of a significant City function would be significantly threatened if the contract were not entered into expeditiously.

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

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

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

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

6. CONTACT

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

(rev. 06/26/02)



CITY OF
HAYWARD
HEART OF THE BAY

NONDISCRIMINATORY EMPLOYMENT PRACTICES
AND
AFFIRMATIVE ACTION CERTIFICATION STATEMENT

The Respondent to a City of Hayward Request for Proposals/Request for Quotation hereby certifies that it is in compliance with all executive orders, federal and state laws regarding fair employment practices and nondiscrimination in employment.

1. That it shall demonstrate compliance with the requirements established in the Affirmative Action provisions (EEO) for supply and services contracts.
2. That it fully understands that the provisions contained in the City's special Affirmative Action provisions shall be considered a part of its contractual agreement with the City in the event of award of contract.
3. That it is in compliance with all executive orders, federal, state and local laws (including Hayward Municipal Code Chapter 2, Article 7) regarding fair employment practices and nondiscrimination in employment.

(Print/Type Name of Company Official)

(Title)

(Signature of Company Official)

(Date)

Name of Project: _____

Name of Firm: _____

Address: _____
Street Address City/State/Zip

Telephone: () _____ () _____

Please check below as appropriate:

Prime Contractor ()

Supplier of Goods ()

Subcontractor ()

Supplier of Services ()

Professional Services ()



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

The undersigned hereby certifies:

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

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

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

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

Print/Type Company Name

Print/Type Official Name & Title

Company Address

Signature of Company Official

City/State/Zip Code

Date

CITY OF HAYWARD

GENERAL PROVISIONS FOR PURCHASES OF WORK AND SERVICES

Exhibit E

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

1.00 Legal Relations and Responsibilities

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

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

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

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

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

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

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

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

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

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

All streets within the project limits shall remain open to traffic at all times during the construction period. Between the hours of 5:00 PM and 8:00 AM, all lanes remain open to traffic.

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

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

The Successful Bidder shall install and maintain all signs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following endorsements must be attached to the policy:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) AFFIRMATIVE ACTION - GENERAL

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

(2) RECRUITMENT

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

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

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

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

(3) EQUAL EMPLOYMENT OPPORTUNITY OFFICER

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

(4) ACCESS TO RECORDS

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

(5) COMPLIANCE REVIEW PROCEDURES

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

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

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

(6) VIOLATIONS

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

(7) REMEDIES FOR WILLFUL VIOLATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(REV. 01/31/13)