



# **TOWN OF COLMA PLANNING DEPARTMENT**

## **REQUEST FOR QUALIFICATIONS FOR GENERAL PLAN TRAFFIC CONSULTING SERVICES**

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## **TOWN OF COLMA PLANNING DEPARTMENT**

### **GENERAL PLAN CONSULTING SERVICES**

#### **1. Introduction**

The Town of Colma, California (herein referred as "TOWN") is releasing this Request for Qualifications (RFQ) to consultant firms (hereinafter referred to as "Consultant") interested in participating with in-house staff in the update to the Town's General Plan. With the exception of the Housing Element (2015) and the Circulation Element (2014), the Town's General Plan has not been updated since 1999. Technical analysis, including but not limited to air quality, greenhouse gas, cultural, infrastructure, noise, and mobility (traffic) will be required. In addition to the General Plan update itself, the work plan will include project management and coordination; public engagement; and environmental analysis pursuant to the California Environmental Quality Act (CEQA).

The primary objective of the RFQ is to pre-qualify a consultant or consultants to assist the Town with traffic related information and analysis to support the General Plan and EIR process.

#### **2. Background**

The Town of Colma is located in north San Mateo County and is bordered by South San Francisco and Daly City. Colma is the smallest city in San Mateo County with a population of about 1,500 residents and an area of 1.9 square miles. A majority of the land in the Town is occupied by cemeteries. The Town has robust retail activity with two shopping centers and a successful auto row. The Town also has a busy cardroom that contributes the economic vitality of the Town. Approximately 4,000 workers and thousands of people are in town every day for shopping, services, funerals, entertainment and dining. The Town includes a quaint residential neighborhood and additional residential units and communities.

The Town of Colma is a general law city with a Council-City Manager form of government. Fire Protection services are provided through the Colma Fire Protection District. The Town does not operate any municipal utility services. The Town has a five-member City Council who conducts all Town business (the Town does not have a Planning Commission or other Committees or Commissions).

Legal, public works and planning services for the Town are provided by independent contractors under contract to the Town. CSG Consultants, Inc., provides Planning, Public Works and Building services to the Town.

### 3. Schedule

*Deadline.* To be considered, a Statement of Qualifications which meets the requirements set forth hereinafter, must be received by the City Planner, 1190 El Camino Real, Colma, California 94014, no later than the date and time shown in the right column.

November 30,  
2018  
2:00 PM

*Requests for Further Information.* Any person seeking further information or clarification about this RFQ shall submit a request, in writing, which must be received by the City Planner no later than close of business on ...

November 16,  
2018  
4:00 PM

*Request for Copy of Responses.* A copy of all questions and responses will be sent to each person who submits a written request for such information before ...

November 20,  
2018  
4:00 PM

*Oral Presentations.* The Town may request any one or more proposing firms to make an oral presentation during the evaluation process. The interviews will be scheduled at a mutually agreeable time between the dates shown. Such presentations will provide firms with an opportunity to answer any questions staff may have on a Consultant's proposal. Not all firms may be asked to make such oral presentations. *(Note: The Town will be flexible in scheduling oral presentations due to the holidays)*

December 17,  
2018  
to  
January 9,  
2019

*Notice of Selection.* On or about the date shown, the Town will mail notices to all firms submitting proposals notified whether they have been placed on the approved list of pre-qualified Consultants.

January 11,  
2019

### 4. Scope of Services

#### (a) *Process of Assigning Work to Pre-Qualified Consultant*

Once a consultant or consultants have been selected, the consultant will work with staff to develop and negotiate an appropriate scope of work and budget based on the consultant's role in the update and EIR process. Once a scope of work and budget are developed, a contract addendum will be prepared and presented to the City Manager and City Council for approval.

#### (b) *Consultant Skills*

The selected pre-qualified Consultant should possess the following demonstrated skills and experience:



- Mobility planning experience. Innovation that enhances mobility and safety for all users at all life Stages;
- Ability to work collaboratively with Town Staff and consultants to provide traffic information and guidance in the preparation and review of General Plan text, graphics and policy;
- Creating and implementing a VMT based traffic model, preferably in San Mateo County;
- Creating a VMT narrative and policies for the General Plan;
- Preparing a General Plan buildout traffic analysis (VMT and LOS) for inclusion in the General Plan;
- Coordination with other environmental professionals, especially the GHG specialists;
- Identify traffic infrastructure deficiencies or issues based on the General Plan buildout and future conditions based on growth and development in surrounding communities; and
- Have experience in addressing emerging mobility technologies, such as autonomous vehicles and parking policy analytics and innovation.

(c) *Each Consultant*

A selected Consultant will be required to perform all tasks in a timely manner to meet the time constraints established by the Town, and may be required to:

- Establish working relationships with City Staff, City Council and other public agencies;
- Make presentations to local community groups, the City Council, and the Town Staff;
- Provide a consistent standard of quality and maintain an overall standard of objectivity; and
- Maintain reasonable costs for preparation, review, and completion of any necessary documentation

## **5. Proposal Documents**

(a) *Copies.* Four copies of the proposal documents shall be submitted in the format described below for a proposing firm to be considered. Incomplete proposals and proposals not organized according to this RFQ may be rejected. A faxed or emailed proposal will not be accepted.

(b) *Transmittal Letter.* The proposal shall contain a letter duly executed by an authorized agent of the proposer, the contents of which are described below.

## **6. Statement of Qualifications**

The Proposal should describe the qualifications, knowledge, background and experience of the consultant, including:

- (a) A clear, concise statement as to actual ownership of the consultant, including the name of any parent company and whether the consultant is operating under a fictitious name.
- (b) Cover letter. Introduce the responding firm(s) and summarize general qualifications and interest in the General Plan update project. Identify a single point of contact for your response; if responding as part of a team, identify all participants and roles or disciplines as applicable.
- (c) Names and titles of key management persons.
- (d) An organization chart showing all key personnel, along with a description of staffing levels, capacity and availability, including the current size of the Prime Consultant and the size variation during the past five years.
- (e) Describe the firm's qualifications for providing the specific consulting services outlined in this RFQ. Include information relating to the philosophy and general approach to the work to be performed. Confirm the firm's ability to allocate resources effectively as needed to meet the project schedule and needs for the approximately two-year period of 2019-2021.
- (f) Staff qualifications: Provide the resume and identification of a project manager, an alternate project manager, and key staff with whom the Town will interact. Indicate the availability of key personnel to undertake work through the next few years.
- (g) Critical commentary on existing Circulation Element: Review and provide a brief critical commentary on the existing General Plan Circulation Element (2014) that can be found on the Town's website: <https://www.colma.ca.gov/current-general-plan/>. Comment on how the element might be updated to address current best practices in policy, state-of-the-art interactive Plan delivery, and better guidance and transparency to both the public and City decision-makers. We invite any additional critical commentary that helps us assess your firm's understanding, approach, or philosophy. Responses to this section that exhibit creativity and innovation, and draw on global best practices, will be favored.
- (h) Fee schedule/rate sheet: Detail reasonable hourly billing rates for each participating staff member or entity for services to be performed.
- (i) The Consultant must not have a conflict of interest with regard to any other work performed by the firm for the Town.
- (j) A list of the five most significant engagements performed in the last five years for a California public agency (preference given to work in the immediate San Francisco Bay Area) that are similar to the engagement described in this request for proposal, showing for each engagement:
  - (i) Name of the client and a contact name, address, and telephone number.
  - (ii) Month and year the projects started and the month and year they were completed;



- (iii) Scope of work;
  - (iv) Total charge for the services provided, budget performance, and schedule performance;
  - (v) Key personnel involved and the sub-consultants employed.
  - (vi) Time and materials compensation schedule.
- (k) References will be evaluated on a pass-or-fail basis; firms receiving unsatisfactory review from third-party references will be disqualified. The proposal phase is likely to include review and evaluation of written proposals as well as interviews with consultant teams. The best qualified consultant(s) will be recommended to the City Council for selection and award of a contract for services.
- (l) A statement disclosing each governmental agency contract disqualification or termination, whether for convenience or default, that occurred within the past five years, including the name of the government agency, the date of disqualification or termination, and the reason for disqualification or termination;
- (m) Each license or certificate that is legally required for preparing and signing plans for the work that may be involved in the project;
- (n) Anticipated Potential Problems. The proposal should identify and describe any anticipated potential problems, the consultant's approach to resolving these problems and any special assistance that will be requested from the Town.

## **7. Subcontractors**

If the use of subcontractors are proposed, the submittal shall include the scope of services to be provided by such subcontractor and a Statement of Qualifications containing applicable information specified in section 8, above, for such subcontractor.

## **8. Communications about the RFQ**

Telephone communications with Town staff about the RFQ are not encouraged but will be permitted. However, any such oral communication will not be binding on the Town. All telephone questions regarding this project should be directed to:

Michael P. Laughlin, City Planner  
Town of Colma Planning Department  
1198 El Camino Real  
Colma, CA 94014  
Phone: (650) 757-8896  
Fax: (650) 757-8890  
Email: michael.laughlin@colma.ca.gov

## **9. Form and Transmittal of Proposals**

- (a) The proposal documents shall consist of:
  - (i) A signed transmittal letter stating the understanding of the work to be done, a commitment to enter into a contract in substantially the same form as that which is attached hereto as Exhibit A, and a statement as to why the firm believes it to be best qualified to perform the engagement.
  - (ii) Four copies of the Consultant's Statement of Qualifications.
- (b) The proposal documents shall be enclosed in a sealed envelope within another sealed envelope. The outer envelope shall be addressed and delivered to:

Michael P. Laughlin, City Planner  
Town of Colma Planning Department  
1198 El Camino Real  
Colma, CA 94014

- (c) The inner envelope shall be clearly labeled "Request for Pre-qualification for Environmental Services" and the name of the Consultant(s). No FAX or e-mail submittals will be accepted.

## **10. Selection Process**

- (a) The Statement of Qualifications will be reviewed by an evaluation committee to determine which Consultants will be included in a final interview process. All firms submitting a proposal will be notified in writing as to whether they are or are not selected to be interviewed. The committee will then conduct an interview with the selected Consultants during the period noted in section 3, above, and will rank the interviewees based on their submitted materials and performance. This process may be extended due to the holidays.
- (b) The evaluation committee will make determination of the firms to be included on the list of Consultants, based upon the highest relative scores.
- (c) The evaluation committee will consist of at least two members who have technical expertise in relevant fields or who are involved in project review at various managerial levels.
- (d) The identity of members of the committee will be confidential until the interviews are held. Following the interviews, each Consultant is encouraged to direct questions concerning its relative ranking to Staff.

## **11. Evaluation Criteria**

The determination whether a Consultant is pre-qualified will be based on a combination of factors as determined to be in the best interests of the Town, which include, but are not limited to the following factors:



- (a) Ability of the Consultant to best perform the work, as measured by qualifications, past performance, knowledge of and experience with local, state and federal standards, regulations, guidelines, criteria and laws;
- (b) The Consultant's responsiveness to this Request for Qualifications;
- (c) Quality of Proposal, including but not limited to the Consultant's planned approach to anticipated work; and
- (d) Interview Presentation, e.g., whether the presentation is concise, relevant and informative.

## **12. Public Records Act**

Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, proposals submitted in response to this RFQ shall be held confidential by the Town and shall not be subject to disclosure under the California Public Records Act (Cal. Government Code section 6250 *et seq.*) until after either Town and the successful Consultant have completed negotiations and entered into an agreement or Town has rejected all proposals. All correspondence with the Town including responses to this RFQ will become the exclusive property of the Town and will become public records under the California Public Records Act. Furthermore, the Town will have no liability to the Consultant or other party as a result of any public disclosure of any proposal or the agreement.

If a Consultant desires to exclude a portion of its proposal from disclosure under the California Public Records Act, the Consultant must mark it as such and state the specific provision in the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. For example, if a Consultant submits trade secret information, the Consultant must plainly mark the information as "Trade Secret" and refer to the appropriate section of the California Public Records Act which provides the exemption as well as the factual basis for claiming the exemption. Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the Town is not in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked "Confidential", "Trade Secret" or "Proprietary", the Town will provide the Consultant who submitted the information with reasonable notice to seek protection from disclosure by a court of competent jurisdiction.

## **13. Release of Reports and Information**

Any reports, information, data, or other material given to, prepared by or assembled by the Consultant shall be the property of the Town and shall not be made available to any individual or organization by the Consultant without the prior written approval of the Town.



#### **14. Contract Documents.**

The successful Consultants will be expected to execute an On-Call Professional Services Agreement that contains the terms and conditions set forth in the form contract that is attached hereto as Exhibit A. The Consultant is reminded that any proposed change to the form contract will be considered in determining the firm's suitability for inclusion in the interview process.

#### **15. Terms and Conditions**

(a) *Proposal Costs.* This request for proposals does not commit the Town to pay for any costs incurred in the submission of a response or make any necessary studies or designs for the preparation thereof nor the purchase or contract for services in connection with the preparation of a submission. All costs in preparing and submitting a proposal shall be borne by the person making the proposal.

(b) *Withdrawal.* A Consultant may withdraw a proposal without prejudice prior to the time specified for opening by submitting a written request to the City Manager for its withdrawal, in which event, the proposal will be returned to the Consultant unopened. No proposal received after the time specified or at any place other than that stated in the "Notice Requesting Proposals" will be considered.

(c) *Retention and Use of Proposals.* The Town reserves the right to retain all proposals and use any idea in any proposal regardless of whether that proposal is selected. The Town also reserves the right to waive non-substantial irregularities in any proposal, to reject any or all proposals, to reject or delete one part of a proposal and to accept others, except to the extent that proposals are qualified by specific limitations, and to make an award as the interest of the Town may require.

(d) *Agreement.* The Town reserves the right to negotiate any and all terms of an agreement including length, scope of services and compensation.

(e) *Awarding Authority.* An agreement with the Contractor shall not be binding unless and until it is approved and executed by the City Council or City Manager depending on the dollar amount.

(f) *Competency and Responsibility.* The Town reserves full discretion to determine the competence and responsibility, professionally and/or financially, of Consultants. Consultants will provide, in a timely manner, any and all information that the Town deems necessary to make such decision.

(g) *No Award.* The Town may, for any reason, decide not to award an agreement as a result of this RFQ.

(h) *Execution of Contract.* The Consultant to whom award is made will be expected to execute a written contract with the Town within twenty (20) calendar days after notice of the

award has been mailed to the address given in the proposal. The substance of the contract will include the terms of this Request for Proposals and the form will be mutually acceptable to both parties.

Dated

11/5/18

  
City Manager



**EXHIBIT A**  
**ON-CALL PROFESSIONAL SERVICES AGREEMENT**  
**[ATTACHED BEHIND THIS PAGE]**

**TOWN OF COLMA  
ON-CALL PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of \_\_\_\_\_, 2019 by and between the Town of Colma ("Town"), and [\*\*\*INSERT NAME\*\*\*], a [\*\*\*INSERT TYPE OF ENTITY - CORPORATION, PARTNERSHIP, SOLE PROPRIETORSHIP OR OTHER LEGAL ENTITY\*\*\*] with its principal place of business at [\*\*\*INSERT ADDRESS\*\*\*] (hereinafter referred to as "Consultant"). Town and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

**RECITALS**

A. Town is a public agency of the State of California and is in need of professional services for the preparation of the General Plan, environmental and related studies (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services on the Project. Consultant desires to perform and assume responsibility for the provision of certain professional services required by Town on the terms and conditions set forth in this Agreement and in the task order(s) to be issued pursuant to this Agreement ("Task Order").

C. The Parties desire by this Agreement to establish the terms for Town to retain Consultant to provide the services described herein.

**AGREEMENT**

**NOW, THEREFORE, IT IS AGREED AS FOLLOWS:**

1. Services.

Consultant shall provide the Town with the services described in the Scope of Services attached hereto as Exhibit "A." The services shall be more particularly described in the individual Task Order issued by the Town or its designee. No services shall be performed unless authorized by a fully executed Task Order in the form attached hereto as Exhibit "C".

2. Compensation.

a. Consultant shall receive compensation, including authorized reimbursements, for all services rendered under this Agreement at the rates set forth in the Schedule of Charges attached hereto as Exhibit "B" and incorporated herein by this reference. The maximum compensation for services to be provided pursuant to each Task Order shall be set forth in the relevant Task Order. The total aggregate compensation paid to Consultant under this Agreement shall not exceed the amount set forth in Section 2(b) below.

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement and all Task Orders issued hereunder exceed the sum of \$ 300,000. This amount is to cover all printing and related costs, and the Town will not pay any additional fees for printing expenses. Periodic payments shall be made within 30 days of receipt of an invoice which includes a detailed description of the work performed. Payments to Consultant for work performed will be made on a monthly billing basis.



3. Additional Work.

If changes in the work seem merited by Consultant or the Town, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the Town by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the Town and executed by both Parties before performance of such services, or the Town will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by Town.

5. Time of Performance.

The term of this Agreement shall be from **February 1, 2019 to December 31, 2021** unless earlier terminated as provided herein. Consultant shall complete the services within the term of this Agreement and shall meet any other established schedules and deadlines set forth in each individual Task Order issued by the Town. All applicable indemnification provisions of this Agreement shall remain in effect following the termination of this Agreement.

6. Delays in Performance.

a. Neither Town nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the Town, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the Town, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Consultant

Consultant is retained as an independent contractor and is not an employee of Town. No employee or agent of Consultant shall become an employee of Town. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from Town as herein provided.

11. Insurance. Consultant shall not commence work for the Town until it has provided evidence satisfactory to the Town it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

- (1) Bodily Injury and Property Damage
- (2) Personal Injury/Advertising Injury
- (3) Premises/Operations Liability
- (4) Products/Completed Operations Liability
- (5) Aggregate Limits that Apply per Project
- (6) Explosion, Collapse and Underground (UCX) exclusion deleted
- (7) Contractual Liability with respect to this Contract
- (8) Broad Form Property Damage



(9) Independent Consultants Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the Town, and provided that such deductibles shall not apply to the Town as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the Town.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give Town, its officials, officers, employees, agents and Town designated volunteers additional insured status.

(iv) Subject to written approval by the Town, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the Town as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the Town and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

Combined Single Limit

Commercial General Liability	\$1,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$1,000,000 per occurrence
Professional Liability	\$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the Town evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the Town at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant



shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the Town at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the Town or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to waiver of subrogation in favor of the Town, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Town, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the Town and shall not preclude the Town from taking such other actions available to the Town under other provisions of the Agreement or law.

h. Qualifying Insurers

(i) All policies required shall be issued by acceptable insurance companies, as determined by the Town, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. Additional Insurance Provisions

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the Town, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.



(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Town has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Town will be promptly reimbursed by Consultant or Town will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Town may cancel this Agreement.

(iii) The Town may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the Town nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the Town that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the Town as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, Town may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

## 12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of Town's choosing), indemnify and hold the Town, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project, any Task Order or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the Town, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

## 13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. If the



services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws, if applicable. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages, employment of apprentices, hours of labor and debarment of contractors and subcontractors. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Section 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Sections 1777.1).

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such Services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the Town. Consultant shall defend, indemnify and hold the Town, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

#### 14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

#### 15. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Mateo, State of California.



16. Termination or Abandonment

a. Town has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, Town shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. Town shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by Town and Consultant of the portion of such task completed but not paid prior to said termination. Town shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to Town only in the event of substantial failure by Town to perform in accordance with the terms of this Agreement through no fault of Consultant.

17 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the Town.

18. Organization

Consultant shall assign \_\_\_\_\_ as Project Manager and \_\_\_\_\_ as alternate Project Manager. The Project Manager or alternate Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

19. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

20. Notice

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

TOWN:

Town of Colma

1198 El Camino Real

Colma, CA 94014

Attn: Brian Dossey, City Manager

CONSULTANT:

[\*\*\*INSERT NAME, ADDRESS & CONTACT  
PERSON\*\*\*]

and shall be effective upon receipt thereof.

21. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Town and the Consultant.

22. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

23. Entire Agreement

This Agreement, with its exhibits, represents the entire understanding of Town and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

24. Severability

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the provisions unenforceable, invalid or illegal.

25. Successors and Assigns

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of Town. Any attempted assignment without such consent shall be invalid and void.

26. Non-Waiver

None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is specifically specified in writing.

27. Time of Essence

Time is of the essence for each and every provision of this Agreement.

28. Town's Right to Employ Other Consultants

Town reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

29. Prohibited Interests

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

**[SIGNATURES ON FOLLOWING PAGE]**



**SIGNATURE PAGE FOR ON-CALL PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE TOWN OF COLMA  
AND [\*\*\*INSERT NAME\*\*\*]**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

TOWN OF COLMA

[INSERT NAME OF CONSULTANT]

By: \_\_\_\_\_  
[INSERT NAME]  
[INSERT TITLE]

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

EXHIBIT A  
Scope of Services

## EXHIBIT B

### Schedule of Charges/Payments

Consultant will invoice Town on a monthly cycle. Consultant will include with each invoice a detailed progress report that indicates the amount of budget spent on each task. Consultant will inform Town regarding any out-of-scope work being performed by Consultant. This is a time-and-materials contract.



EXHIBIT C

Sample Task Order Form

**TASK ORDER**

Task Order No. \_\_\_\_\_

Agreement: [INSERT TITLE OF AGREEMENT]

Consultant: [INSERT NAME OF CONSULTANT]

**The Consultant is hereby authorized to perform the following services subject to the provisions of the Agreement identified above:**

**List any attachments:** (Please provide if any.)

**Dollar Amount of Task Order:** Not to exceed \$\_\_\_\_\_,\_\_\_\_\_.00

**Completion Date:** \_\_\_\_\_

The undersigned Consultant hereby agrees that it will provide all equipment, furnish all materials, except as may be otherwise noted above, and perform all services for the work above specified in accordance with the Agreement identified above and will accept as full payment therefore the amount shown above.

**TOWN OF COLMA**

**[INSERT NAME OF CONSULTANT]**

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_