

REQUEST FOR QUALIFICATIONS

On-Call Habitat Restoration Design-Build Services

Santa Clara Valley Habitat Agency



Date Issued: November 6, 2018

Due Date: December 19, 2018 by 5:00 p.m.

Contact: Terah Donovan, Principal Program Manager

Email: terah.donovan@scv-habitatagency.org

Phone: (669) 253-6566

Address: Santa Clara Valley Habitat Agency
535 Alkire Avenue, Suite 100
Morgan Hill, CA 95037

Request for Qualifications (RFQ)

On-Call Habitat Restoration Design-Build Services

INTRODUCTION

The Santa Clara Valley Habitat Agency (Habitat Agency) is seeking qualified firms or individuals (consultant) to provide habitat restoration design-build, construction oversight, mitigation crediting, and permitting services for wetland, pond, riparian, and stream creation and restoration projects (design-build projects). The Habitat Agency intends to establish a list of qualified individuals or firms who will be offered design-build projects on an on-call basis.

BACKGROUND

The Habitat Agency is a joint powers authority formed on April 26, 2013 by the County of Santa Clara, and the Cities of San José, Morgan Hill, and Gilroy to implement the Santa Clara Valley Habitat Plan (Habitat Plan) and Implementing Agreement. The Santa Clara Valley Transportation Authority and the Santa Clara Valley Water District also were heavily involved in the formation of the Habitat Plan and are represented on the Habitat Agency Implementation Board.

The Habitat Plan and Implementation Agreement guide the long-term protection of ecosystems and biodiversity within Santa Clara County and provide incidental take authorization for impacts to 18 covered species pursuant to the Federal Endangered Species Act (16 U.S.C. sections 1531-1544) and the California Natural Community Conservation Planning Act (Fish and Game Code sections 2800-2835) resulting from covered activities, including local land use and public infrastructure activities. In addition, the Habitat Agency is responsible for the implementation of Regional General Permit #18. The Habitat Plan and Habitat Agency information can be found at: www.scv-habitatagency.org.

MINIMUM QUALIFICATIONS

- Familiarity with the Habitat Plan permits and RGP #18 requirements
- Successful completion of no less than three restoration design and construction projects in the last five years in ecosystems like those in Santa Clara County
- Success permitting of these same type of projects
- California Civil Engineering License (PE)
- California Class A – General Engineering Contractor’s License
- Valid current registration with the Department of Industrial Relations
- Ability to provide proof of professional liability, auto, general liability and worker’s compensation insurance in compliance with Habitat Agency and list the Habitat Agency

as Additional Insured. If projects are on County of Santa Clara lands, County compliance will also be required.

- Ability to enter into the Habitat Agency's Design-Build Contract
- Capacity to procure performance and payment bonds, as required by the Habitat Agency
- Demonstrated financial capacity to perform

DESIRED QUALIFICATIONS

Project management

- Maintain close communication to ensure all design, permitting, and construction documents are technically correct, and all work is completed within the budget and schedule parameters.
- Prepare schedule, contract, invoices and manage finances and project data
- Arrange and attend meetings and field visit with Habitat Agency, project partners, and regulatory agencies

Project planning, permitting, and design

- Recommend and complete necessary studies to understand historical ecology, water budget, and opportunities and constraints and inform project feasibility
- Produce design plans and specifications
- Expertise in geomorphology, hydrology, stream ecology, wetland ecology, limnology, restoration ecology, landscape architecture, biology, cultural resources, and habitat requirements for Habitat Plan covered species
- Prepare and submit regulatory permits including Section 404 permit from USACE through RGP #18, Section 401 Certification from RWQCB, 1600 Agreement from CDFW, Habitat Plan Reporting Package, SWPPP, and other permits as needed
- Negotiate and obtain mitigation credits from regulatory agencies
- Prepare Management and Monitoring Plan and Long-term Management Plan consistent with permit requirements

Project Construction

- Construct project consistent with design, specifications, and permit requirements
- Demonstrated experience with excavation, grading, bio-engineering, re-vegetation, temporary and permanent exclusion fencing
- Provide construction and contract administration services, including: schedule preparation, hiring and managing subcontractors, securing and providing bonds and insurance, preparing and administering a mobilization plan and a construction management plan, attending meetings and documenting meeting outcomes, preparing construction draws, maintaining cash flows, ensuring permit compliance,

tracking Requests for Information (RFI's), submitting as-builts, and administering the construction warranty.

- Provide construction oversight, inspection, and monitoring
- Comply and document compliance with permits

Project Monitoring and Maintenance

- Monitor and maintain project to ensure achievement of success criteria
- Inform and implement adaptive management or remedial measures

GENERAL TERMS AND CONDITIONS

Consultant shall assure that the designated project team, including sub-consultants, if any, will be maintained on the project. Departure or reassignment of, or substitution for, any member of the project team or sub-consultant(s) will require prior written approval by the Habitat Agency.

Selected individuals or firms will be required to execute a design-build services agreement which contains indemnification language and insurance requirements. The general form agreement is included in this RFQ.

HOW TO RESPOND TO THIS REQUEST FOR QUALIFICATIONS (RFQ)

Please submit **five (5) hard copies plus an electronic version on a flash drive** of your qualifications for consideration to:

Terah Donovan, Principal Program Manager
Santa Clara Valley Habitat Agency
535 Alkire Avenue, Suite 100
Morgan Hill, CA 95037

Submittals must include:

Cover letter on your company letterhead with the following information with name, address, phone number of your firm and email address for the contact person during the RFQ process.

Tab A: Consultant's Qualifications

Describe and provide an overview of the Consultant's qualifications, size of firm(s), and capabilities in delivering similar services and the name(s), qualifications and services of sub-consultants/contractors, if any, you propose to use. Also, include the number of projects the design and construction firms have completed together as a design-build team, if from separate companies.

Tab B: Experience and References

Provide a summary of Consultant's experience in providing these or similar services and a minimum of five references for related projects or service agreements, including dates, contact person, phone number, email address, and a brief description of the project or agreement. Three of the five references must be for restoration design and construction projects completed in the last five years in ecosystems similar to those found in Santa Clara County. Public sector references are preferred.

Tab C: Qualifications of Individual Team Members

Provide a brief summary of the qualifications and experience of each member of Consultant's team assigned to this project, including length of service with the firm, résumé and the qualifications/experience of any sub-consultant/contractor staff on your project team. How many projects, if any, has the designer and contractor, if from separate companies, performed together?

Tab D: Rate Schedule

Provide your rate schedule, including expense and subcontractor mark-ups. Provide an annual adjustment, if applicable.

Tab E: Information to Demonstrate Compliance with Minimum Qualifications

Provide the following.

- Copy of the Consultant's Class A-General Engineering Contractor's License
- Civil Engineering License (PE) issued by the State of California
- Copy of Consultant's registration with the Department of Industrial Relations
- Sample of Consultant's insurance certificates for general liability, professional liability, automobile liability, Workers Compensation demonstrating sufficient coverage as required in the *Agreement for Design-Build Services*, the sample form of which will be sent as Addendum to this RFP, and in the Santa Clara County Insurance Requirements for the Use of County Property, **Attachment E**
- A letter from Consultant's surety demonstrating bonding capacity of at least \$2,000,000
- A letter from an authorized signatory certifying that Consultant has the ability to enter into the Habitat Agency's Agreement for Design-Build Services, to be provided as Addendum to this RFQ.

Tab F: Balance Sheets

Provide three years of Consultant's end-of-the-year balance sheets for the past three years.

THE RFQ EVALUATION PROCESS

Submittals will be evaluated on qualifications and experience. Depending on the number of respondents, short listed individuals or firms may be invited to interview. Selected individuals or firms will be placed on an on-call list for future assignments. It is anticipated that the list will remain active for five (5) years.

TENTATIVE SCHEDULE

Release of RFQ	November 6, 2018
Qualifications due	December 19, 2018
Habitat Agency review	January 18, 2019
Interviews (if needed)	January 30, 2019
Notify selected firms	February 6, 2019

For additional information or questions, please contact Terah Donovan at (669) 253-6566 or terah.donovan@scv-habitatagency.org.

DRAFT
AGREEMENT FOR DESIGN-BUILD SERVICES
FOR _____
AT _____
BETWEEN
SANTA CLARA VALLEY HABITAT AGENCY
AND

This Agreement for design-build services ("Agreement"), dated _____ is by and between the Santa Clara Valley Habitat Agency ("Agency") and _____ ("Contractor"), for work on _____ at _____ ("Project").

The Parties agree as follows:

1. **Award of Contract.** In response to Agency's Request for Proposal, dated _____, and addenda thereto (collectively "RFP"), CONTRACTOR has submitted a Proposal ("Proposal") to design and build the Project. Agency has awarded the Contract for the Project to CONTRACTOR based on its determination that CONTRACTOR's Proposal offers the best value based upon the criteria set forth in the RFP. CONTRACTOR shall perform all design and construction services and provide all material, equipment, tools and labor necessary to complete the Work described in and reasonably inferable from the Contract Documents. The Contract Documents form the entire agreement between the parties and by incorporation are as fully binding as if repeated in this Agreement.
2. **Contract Documents.** The Contract Documents are comprised of the RFP; the Proposal and attachments thereto; this Agreement; the Construction Documents; the payment and performance bonds; the General Conditions; any written modifications, amendments, minor revisions and change orders, all of which are incorporated herein by reference. The Contract Documents are intended to permit the parties to complete the Work and all obligations required by the Contract Documents within the Time for Completion and for the agreed-upon Payment amount. The Contract Documents are intended to be complementary and interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards. In the event that inconsistencies, conflicts or ambiguities among the Contract Documents are discovered after execution of the Agreement, the parties shall attempt to resolve any ambiguity, conflict or inconsistency informally.
3. **CONTRACTOR's Responsibilities.** CONTRACTOR shall be responsible for procuring or furnishing the design and for the construction of the Work on the Project consistent with the Contract Documents. CONTRACTOR shall exercise reasonable skill and judgment in the performance of its services, all in conformance with the Contract Documents. CONTRACTOR shall provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including, but not limited to, provision of all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. CONTRACTOR also agrees to use its best efforts to complete the Work in a professional and

expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for CONTRACTOR's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, Agency shall pay CONTRACTOR _____ Dollars (\$_____) ("Contract Price"), in accordance with the payment provisions set forth in the General Conditions. The Contract Price includes compensation for all costs, direct and indirect, of CONTRACTOR's performance of the Work. The Contract Price includes all applicable federal, state, and local taxes. Billing and payment details are as set forth in Exhibit ___.

5. **Time for Completion.** The Work shall commence within five (5) business days of CONTRACTOR's receipt of AGENCY's Notice to Proceed ("Date of Commencement") unless the parties mutually agree otherwise in writing. Substantial Completion of the entire Work must be achieved by _____ ("Substantial Completion Date"). The Project must be fully completed and functional by or before _____ ("Final Completion Date"). Dates set forth are subject to adjustment in accordance with the General Conditions of Contract. Parties mutually agree that time is of the essence and CONTRACTOR will prepare and maintain a Project schedule. The schedule will be updated monthly. Milestones for the Work are set forth in Exhibit ____.

6. **Ownership and Use of Work Product.** AGENCY shall own title to and any and all intellectual property rights in and to all documents, reports, specifications, designs, developments, computations, and other materials prepared, obtained or delivered under the terms of this Agreement (collectively "Deliverables"). AGENCY may use, transfer, copy and distribute the Deliverables without restriction or limitation. AGENCY accepts responsibility for any changes made by AGENCY to these Deliverables after submittal by CONTRACTOR. AGENCY acknowledges that Deliverables are instrument of professional service. AGENCY agrees that CONTRACTOR may retain one copy of each Deliverable. CONTRACTOR shall take all necessary actions to ensure that all employees and subcontractors engaged by CONTRACTOR are bound by the terms of this Section. To the extent feasible, Deliverables shall also be provided in electronic format, compatible with AGENCY's systems. If there is a discrepancy between an electronic file and a hard copy, the hard copy shall govern.

7. **Liquidated Damages.** CONTRACTOR understands that if Substantial Completion is not attained by the Substantial Completion Date, AGENCY will suffer damages which are difficult to determine and accurately specify. If CONTRACTOR fails to complete the Project within the Contract Time, Agency may assess liquidated damages in the amount of _____ Dollars (\$_____) for each day of unexcused delay in completion, and the Proposal Price shall be reduced accordingly. Any liquidated damages assessed pursuant to this Agreement shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties and any other damages, whether special or consequential, and of whatsoever nature, incurred by AGENCY.

8. **Labor Code Compliance.** This Agreement is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including, but limited to, requirements pertaining to wages, working hours and workers' compensation insurance.

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

10. **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/dlsr>.

11. **Termination.** Upon ten (10) days written notice to CONTRACTOR, AGENCY may at its sole discretion and without cause, elect to terminate the Agreement. In such event, AGENCY shall pay CONTRACTOR for all Work executed and costs or expenses incurred in connection with such Work and the reasonable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts.

12. **Insurance.** Insurance shall be provided as set forth in Exhibit ____.

13. **Bonds.** CONTRACTOR shall furnish performance and payment bonds as specified in Exhibit ____ by one or more sureties recognized in the State of California within ten (10) days after notice of award. Failure to furnish such bonds promptly may stop all further work under the Contract and result in a re-let of the unfinished work at the expense of CONTRACTOR. The amount of the performance bond shall be 100% of the Contract Price, conditioned upon compliance with the Contract Documents, and shall indemnify and save harmless the AGENCY, against or from all cost, expense, injury or loss to which the AGENCY may be subjected by reason of wrongdoing, misconduct, want or care or skill, negligence, or default upon the part of the CONTRACTOR, its agents or employees, in or about the execution or performance of the CONTRACT. The performance bond shall continue in full force and effect through the end of the warranty period. The amount of the payment bond shall be 100% of the Contract Price and shall be for the protection of persons furnishing materials or performing labor, and shall save the AGENCY harmless from and against any and all legal recourse resulting from AGENCY's owning and/or accepting construction for which labor and materials have not been paid in full. CONTRACTOR shall also furnish a separate warranty bond for the duration of the project monitoring period, in an amount not less than \$_____.

If or whenever the surety or sureties on the bonds are deemed by AGENCY to be insufficient or unsatisfactory, CONTRACTOR within ten (10) days after receiving notice from the AGENCY, shall furnish and deliver new bonds on the same conditions with a surety satisfactory to AGENCY. This duty shall continue on the part of CONTRACTOR so long as AGENCY may require.

14. **Notice.** Any notice, billing, or payment required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by e-mail as a .pdf (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party shall be given as follows:

	Agency	CONTRACTOR
Name	Santa Clara Valley Habitat Agency	
Address	535 Alkire Avenue, Suite 100	
City/State/Zip	Morgan Hill, CA 95037	
Phone	408-779-7261	
Fax	408-825-4866	
Attn:	Terah Donovan, Principal Program Manager	
Email	Terah.donovan@scv-habitatagency.org	
Copy to:	Edmund.sullivan@scv-habitatagency.org Jill.Mross@scv-habitatagency.org Denise.Rosenberger@scv-habitatagency.org	

15. **General Provisions.**

15.1 **Assignment and Successors.** CONTRACTOR may not assign its rights or obligations under this Agreement, in part or in whole, without Agency’s written consent. This Agreement is binding on CONTRACTOR’s successors and permitted assigns.

15.2 **Third Party Beneficiaries.** There are no intended third-party beneficiaries to this Agreement except as expressly provided in the General Conditions.

15.3 **Governing Law and Venue.** This Agreement shall be governed by California law and venue shall be in the Superior Court of Santa Clara County, and no other place.

15.4 **Amendment.** No amendment or modification of this Agreement shall be binding unless it is in a writing duly authorized and signed by the parties to this Agreement.

15.5 **Integration; Severability.** This Agreement and the Contract Documents incorporated herein, including authorized amendments or change orders thereto, constitute the final, complete, and exclusive terms of the agreement between Agency and CONTRACTOR. If any provision of this Agreement, or portion thereof, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

15.6 **Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Agreement is legally binding on that party.

The parties agree to this Contract as witnessed by the signatures below:

SANTA CLARA VALLEY HABITAT AGENCY:

CONTRACTOR:

s/_____

Edmund Sullivan
Executive Officer

Attest:

s/_____

Angie Gonzalez
Agency Clerk

Approved as to Form:

s/_____

Valerie J. Armento
General Counsel

s/_____

Name/Title [print]

*Corporate entities must provide a
second signature:*

s/_____

Name/Title [print]

CONTRACTOR's License Number(s)
(and expiration date(s))

Seal:

PAYMENT BOND

The Santa Clara Valley Habitat Agency (“Agency”) and _____ (“CONTRACTOR”) have entered into a design-build contract, dated _____ (“Agreement”) for the design and construction of the _____ project at _____ (“Project”). The Agreement is incorporated by reference into this Payment Bond (“Bond”).

1. Pursuant to this Bond, the CONTRACTOR as Principal and _____, its surety (“Surety”), are bound to Agency as Obligee in the maximum amount of _____ Dollars (\$) for the non-design portions of the Contract (“Bond Sum”), pursuant to California Civil Code Sections 3247, et seq.

2. If CONTRACTOR fails to pay any of the persons named in California Civil Code Section 3181 amounts due under the Unemployment Insurance Code with respect to work or labor performed under the non-design portions of the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the CONTRACTOR and its subcontractors, pursuant to Section 13020 of the California Unemployment Insurance Code, with respect to the work and labor, that Surety will pay for the same, and also, in case suit is brought upon the Bond, a reasonable attorney’s fee, to be fixed by the court.

3. This Bond shall inure to the benefit of any of the persons named in California Civil Code Section 3181, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond.

4. If CONTRACTOR promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the non-design portion of the Work required by the Contract Documents, in conformance with the time requirements set forth in the Agreement and as required by California law, Surety’s obligations pursuant to this Bond shall be null and void. Otherwise, Surety’s obligations shall remain in full force and effect.

5. Surety waives any requirement to be notified of alterations to the Agreement or extensions of time for performance of the Work under the Agreement.

6. This Bond shall be governed by California law, and the venue for any dispute related to this Bond shall be the Superior Court of Santa Clara County, and no other place. Surety shall be responsible for Agency’s attorneys’ fees and costs in any action to enforce the provisions of this Bond.

7. This Bond is entered into and is effective on _____.

SURETY:

Principal

Principal

By: _____
Surety

By: _____
Attorney-in-Fact

By: _____
California Resident Agent

By: _____
Non-resident Agent – Attorney-in-Fact

(Attach Acknowledgment with Notary Seal and Power of Attorney)

APPROVED AS TO FORM:

By: _____
Valerie J. Armento
General Counsel

PERFORMANCE BOND

The Santa Clara Valley Habitat Agency ("Agency") and _____ ("CONTRACTOR") have entered into a design-build contract, dated _____ ("Agreement") for the design and construction of the _____ Project at _____ ("Project"). The Agreement is incorporated by reference into this Performance Bond ("Bond").

1. Pursuant to this Bond, the CONTRACTOR as Principal and _____, its surety ("Surety"), are bound to Agency as Obligee in the maximum amount of _____ Dollars (\$_____) (the "Bond Sum") for the non-design portions of the Contract. CONTRACTOR and Surety hereby bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein.
2. If CONTRACTOR fully performs its non-design obligations under the Agreement, Surety's obligations under this Bond shall become null and void upon recordation of the notice of completion. Otherwise Surety's obligations shall remain in full force and effect. Surety waives any requirement to be notified of alterations to the Agreement or extensions of time for performance of Work under the Agreement.
3. Upon making a demand on this Bond, Agency shall make the Contract Balance available to Surety for completion of the non-design work under the Agreement. For purposes of this provision, the Contract Balance is defined as the total amount payable by Agency to the CONTRACTOR as the Contract Price minus amounts already paid to CONTRACTOR, and minus any liquidated damages, credits, or backcharges to which Agency is entitled under the terms of the Agreement.
4. Upon written notification from Agency that CONTRACTOR is in default, Surety shall promptly act to remedy the default through one of the following courses of action:
 - 4.1 Arrange for completion of the Work specified in the Contract Documents by CONTRACTOR, with the Agency's consent, but only if CONTRACTOR is in default solely due to its financial inability to complete the Work;
 - 4.2 Arrange for completion of the Work under the Agreement by qualified CONTRACTOR or qualified contractor acceptable to Agency, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense, or
 - 4.3 Waive its right to complete the Work under the Agreement and reimburse Agency the amount of Agency's costs to have the remaining work completed.
5. This Bond shall be governed by California law, and the venue for any dispute related to this Bond shall be the Superior Court for Santa Clara County, and no other place. Surety shall be

responsible for Agency's attorneys' fees and costs in any action to enforce the provisions of this Bond.

6. This Bond is entered into and effective on _____.

SURETY:

s/ _____

Name: _____

Title: _____

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

s/ _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____

Valerie J. Armento
General Counsel

EXHIBIT A
SCOPE OF SERVICES

CONSULTANT shall perform the following services:

[INSERT DETAILED, CLEAR DESCRIPTION OF SERVICES THAT CONSULTANT WILL PERFORM. USE ACTIVE RATHER THAN PASSIVE VOICE. INCLUDE CLEAR DESCRIPTION OF DELIVERABLES.]

EXHIBIT B

SCHEDULE OF PERFORMANCE

[INSERT APPLICABLE SCHEDULE. THE FOLLOWING IS ONLY ONE EXAMPLE OF A VERY GENERAL SCHEDULE. MORE SPECIFICS MAY BE NEEDED.]

Work shall commence immediately upon execution of this AGREEMENT. The estimated time for completion is _____.

EXHIBIT C
COMPENSATION

[INSERT APPLICABLE COMPENSATION PROVISIONS. THE FOLLOWING IS ONLY ONE EXAMPLE OF VERY GENERAL COMPENSATION PROVISIONS. MORE SPECIFICS MAY BE NEEDED.]

AGENCY agrees to compensate CONSULTANT at the hourly rate of _____ Dollars (\$_____) for professional services performed in accordance with the terms and conditions of this AGREEMENT.

The maximum amount of compensation to be paid to CONSULTANT under this AGREEMENT, including both payment for professional services and reimbursable expenses, shall not exceed _____ Dollars (\$_____). Any hours worked for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to AGENCY.

Reimbursable expenses shall include:

EXHIBIT D
INSURANCE

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

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the Agency Counsel.

B. Minimum Limits of Insurance

CONSULTANT shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and

4. Professional Liability Errors & Omissions \$1,000,000 per occurrence/ aggregate limit.

C. Deductibles and Self-Insured Retentions

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

D. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
 - a. The Santa Clara Valley Habitat Agency, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONSULTANT; products and completed operations of CONSULTANT; premises owned, leased or used by CONSULTANT; and automobiles owned, leased, hired or borrowed by CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to AGENCY, its officers, employees, agents and contractors.
 - b. CONSULTANT's insurance coverage shall be primary insurance as respects AGENCY, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by AGENCY, its officers, employees, agents or contractors shall be excess of CONSULTANT's insurance and shall not contribute with it.
 - c. Any failure to comply with reporting provisions of the policies by CONSULTANT shall not affect coverage provided AGENCY, its officers, employees, agents, or contractors.
 - d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - e. Coverage shall contain a waiver of subrogation in favor of the AGENCY, its officers, employees, agents and contractors.
2. Workers' Compensation and Employers' Liability

Coverage shall contain waiver of subrogation in favor of the AGENCY, its officers, employees, agents and contractors.

3. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to AGENCY, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to Agency.

F. Verification of Coverage

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

Proof of insurance shall be mailed to the following postal address or any subsequent address as may be directed in writing by the Agency:

Santa Clara Valley Habitat Agency

G. Subcontractors

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

EXHIBIT E

SPECIAL PROVISIONS

[INSERT ANY SPECIAL PROVISIONS REQUIRED. THE FOLLOWING LANGUAGE CAN BE USED WHEN REQUIRED, BUT SHOULD NOT BE USED ROUTINELY.]

Retroactive Services.

It is understood and agreed that CONSULTANT has provided services prior to the execution of this AGREEMENT in anticipation of its execution. If AGENCY accepts and approves the services provided by CONSULTANT prior to the date of this AGREEMENT, AGENCY agrees to compensate CONSULTANT for those services in accordance with the terms of this AGREEMENT. However, in no event shall CONSULTANT be compensated for work performed for AGENCY prior to ____ .