



# **Town of Hillsborough**

*California*

## **Request for Proposals for Professional Consulting Services for the Town of Hillsborough Sewer Rate Study**

### **Submit Proposal to:**

Town of Hillsborough  
Attention: Richard Santiago, Assistant Finance Director  
1600 Floribunda Avenue  
Hillsborough, CA 94010

Email: [rsantiago@hillsborough.net](mailto:rsantiago@hillsborough.net)

Phone: (650) 375-7406

### **Due Date:**

**Thursday, October 22, 2020**

**Time: 5:00 p.m. PST**

*Proposals will not be accepted after this date &  
time*

**Town of Hillsborough  
Request for Proposals  
Sewer Rate Study**

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**i. Introduction**

The Town of Hillsborough (Town) is requesting proposals from qualified consultants to conduct a sewer rate study that meets the Town's requirements. The objective of the study is to determine sewer rates that will adequately fund sewer capital, operations, and debt service over a two to five-year period.

**ii. Background**

The Town of Hillsborough is an entirely residential city located in San Mateo County, California approximately 15 miles south of San Francisco. The population is approximately 10,900 residents and the Town is approximately 6.25 square miles.

The Town's wastewater collection system consists of approximately 97 miles of pipes ranging in size from 4 to 28 inches in diameter in addition to 2,472 manholes, 247 cleanouts, and 4 wastewater lift stations. The system serves a population of approximately 11,900 residents in an area approximately 6.25 square miles. Wastewater from the area north of Hayne Road and West Santa Inez Avenue is transported primarily by gravity pipelines to the Town limits where it is routed to the City of Burlingame's wastewater treatment plant. Wastewater from south of Hayne Road and West Santa Inez Avenue is transported through force and gravity pipeline to the City of San Mateo's wastewater treatment plant. Of the Town's 3,898 sewer accounts, approximately 57% (2,221) flow to San Mateo for wastewater processing. The Town has wastewater contract with both Burlingame and San Mateo that have been in place for approximately 50 years and, by their terms, remain in effect until amended or terminated. The Town contracts with the Cities of Burlingame and San Mateo to treat its wastewater.

The Town's five-year sewer capital improvement plan (CIP) totals approximately \$19 million and primarily covers priority sewer basin infiltration and inflow (pipeline replacement), sewer lift station, flow metering and other projects. A description and cost estimate for each project is included in the Town's FY 2020-21 Adopted Budget in the Capital Improvement Plan section starting on page 181 and is posted on the Town's website at <https://www.hillsborough.net/179/Financial-Information>. These CIP projects will be primarily funded by rates. The capital funding over the next five years is primarily related to projects that are being monitored and audited by other agencies (Regional Water Quality Board, US EPA, State Water Boards, and Baykeeper).

The Town owns and operates its wastewater collection system facilities within the Town's border; however, wastewater is conveyed to treatment plants that are owned and operated by San Mateo and Burlingame, the cost for which is billed to the Town and included in the Town's wastewater service charges. San Mateo's wastewater treatment plant is undergoing a major upgrade and expansion. The Town is currently negotiating its share of San Mateo's Clean Water Program costs and the negotiations will likely complete in less than two years. The rate study will project rates through FY 2022-23 to allow these negotiations to complete but the rates study will also include a full year five-year rate projection. The rate analysis will also include a separate estimate of the rate impacts of the Burlingame and San Mateo treatment.

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The Town’s residential wastewater customers are billed an annual charge for wastewater service on the property tax roll. The Town’s non-residential customers are billed bi-monthly on the water bill. The current rates are posted on the Town’s website at <https://www.hillsborough.net/188/Water-Sewer-Rates> There are 3,878 residential connections and 7 non-residential connections.

**iii. General RFP Information**

The Town’s designated team will evaluate the proposals. During the review process, the Town reserves the right to clarify information and allow for corrections of errors and omissions. All proposals are due no later than 5:00 p.m. PST on October 22, 2020.

Please mail or deliver four (4) hard copies and one electronic copy of your proposal. Mail or deliver hard copy proposals in a sealed envelope with the name of your company and the title “RFP- Sewer Rate Study” to: Town of Hillsborough, Attention: Rich Santiago, Assistant Finance Director, Town of Hillsborough, 1600 Floribunda Avenue, Hillsborough, CA 94010; Email electronic proposals to [rsantiago@hillsborough.net](mailto:rsantiago@hillsborough.net)

**iv. RFP Questions**

Jan Cooke, Finance Director, will be the Town’s project manager and will have overall responsibility and accountability for the project. Paul Willis, Public Works Director, and Rich Santiago, Assistant Finance Director, will work directly with the consultant during the study.

Please submit questions by email to [rsantiago@hillsborough.net](mailto:rsantiago@hillsborough.net) by October 16, 2020.

Contact information for questions:

Rich Santiago  
Tel. No. 650-375-7406  
Email: [rsantiago@hillsborough.net](mailto:rsantiago@hillsborough.net)

Jan Cooke  
Tel. No. 650-375-7408  
Email: [jcooke@hillsborough.net](mailto:jcooke@hillsborough.net)

Paul Willis  
Tel. No. 650-375-7487  
Email: [pwillis@hillsborough.net](mailto:pwillis@hillsborough.net)

**v. Schedule**

The Town of Hillsborough reserves the right to make changes to the below schedule but plans for the RFP process as follows. The Town of Hillsborough reserves the right to reject any and all proposals for any reason deemed appropriate for the Town.

October 16, 2020	Deadline for submitting questions
October 20, 2020	Staff provides answers to questions
October 22, 2020	Deadline for submitting proposals
October 29, 2020	Interviews
November 6, 2020	Notify successful consultants and draft agreement
December 9, 2020	City Council approves agreement, if required

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**vi. Proposal Format**

The proposal will contain the following:

**Technical Proposal – Limit thirty (30) pages**

- a. **Approach to the Project.** Describe your firm’s approach to this project and any special ideas or suggestions that you think might make the project proceed efficiently.
- b. **Schedule.** Describe your plan/schedule for completing the work.
- c. **Qualifications and Experience.** Describe the experience of the firm and of the individuals assigned with related projects of a similar nature. Include a copy of a rate study performed that most closely fits the scope of work outlined for this project.
- d. **References.** Provide at least three (3) recent references for projects of a similar nature to this project. Please provide name, address, telephone number and email address.

**Cost Proposal – Limit ten (10) pages.** A separate cost proposal provided in a separate sealed envelope shall include an estimate of hours and costs to complete the services as described in the Request for Proposal. The estimate should be an itemized staff breakdown in spreadsheet form, indicating personnel classification, hours, and costs for each consultant team member.

**vii. Evaluation of Proposals**

Proposals are evaluated using the criteria outlined in this document. Contract award is based on qualifications and a combination of factors that are in the best interest of the Town. The Town reserves the right to make investigations, as it deems necessary to determine the ability of the proposed to provide these services meeting a satisfactory level of performance in accordance with the Town’s requirements. The adequacy, depth and clarity of the written proposal will influence the evaluation. The Town of Hillsborough reserves the right to reject any and all proposals for any reason deemed appropriate by the Town.

**viii. Services Required**

**a. Scope of Work**

The following are the types of services that the consultant may need to perform; however, if additional services are needed, the consultant needs to indicate them in the proposal:

1. Develop projections for a five-year period to set rates that cover operations, capital, treatment plant costs, debt services, and reserve requirements.
2. Analyze and propose rate design changes, as needed, for residential and non-residential customers.
3. Analyze separate treatment plant costs with any impact on rate setting.
4. Develop technically compliant and easily administered rates for review and approval by the Town.
5. Support the Town through a public process such as writing draft Proposition 218 notice and ordinance, attending Financial Advisory and City Council meetings, presenting analysis and recommendations, and attending public hearing for adoption of the rates.

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**b. Project Requirements Delivered by the Consultant**

The study shall provide a financial and rate plan which includes an evaluation of revenue required to meet operating and capital needs. Rates must be in conformance with the requirements related to fees found in the California Constitution, Article XIII D., Section 6(b) (added by Proposition 218 in 1997). Financial plan and rates should be adequate to cover costs for sewer treatment provided by the cities of Burlingame and San Mateo, debt service requirements of the Sewer Enterprise Fund, and funding for the Sewer capital improvement program, and reserves. The study is to be performed in conformance with the following directions:

1. Provide a draft and final report that clearly describes findings and recommendations for funding. Comparisons to other nearby municipalities and customer bills based on those rates should be included as examples.
2. Attend up to four (4) meetings to present findings and recommendations with staff, Financial Advisory Committee, and City Council public meetings.
3. Write draft Proposition 218 notices and update draft Town ordinances, as requested by staff.

**c. Services to be Provided by the Town of Hillsborough**

The services to be provided by the Town of Hillsborough include, but are not necessarily limited to the following:

1. Furnish all reasonably available records and information, including financial reports, budgets, master plans and capital improvement plans. The Town's most recent budget and financial report can be found on the Town's website at: <https://www.hillsborough.net/179/Financial-Information>
2. Provide staff and assistance as required.

- d. Town Requirements** The consultant must comply with all relevant Town requirements, such as obtaining a business license, providing proof of insurance for at least the minimum required amounts, and executing the Town's professional services agreement. Business license requirements can be found on the Town's website at <https://www.hillsborough.net/180/Business-Residential-Services>. The minimum required insurance is outlined in the Town professional services agreement (Attachment A).

The consultant should comment in the Proposal Cover Letter on any issues that may be of concern with the Town's PSA. Evidence of insurance must be received and Town's business license procured, prior to agreement implementation. The firm must obtain a Town of Hillsborough business license for each year of engagement at the rate in effect for that year.

**TOWN OF HILLSBOROUGH  
PROFESSIONAL SERVICES AGREEMENT**

This Agreement is made and entered into as of \_\_\_\_\_, 20\_\_\_\_ by and between the Town of Hillsborough, a municipal corporation organized and operating under the laws of the State of California with its principal place of business at 1600 Floribunda Ave., Hillsborough, CA 94010 ("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 following project:

\_\_\_\_\_  
(hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

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." **[Alternatively, Scope of Services can be included here and all subsequent exhibits renumbered accordingly.]**

2. Compensation.

a. Subject to paragraph 2(b) below, the Town shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B." **[Alternatively, Schedule of Charges may be included here and all subsequent exhibits renumbered accordingly.]**

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of \$\_\_\_\_\_ **[Insert amount of compensation]**. 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.

Consultant shall perform its services in a prompt and timely manner and shall commence performance upon receipt of written notice from the Town to proceed ("Notice to Proceed"). Consultant shall complete the services required hereunder within **Insert number of calendar days for performance of the services – if more detail is required attach "Activity Schedule" as Exhibit C, otherwise delete Exhibit C.** The Notice to Proceed shall set forth the date of commencement of work.

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. 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. Any subconsultants Consultant intends to utilize in the performance of this Agreement shall be listed in Exhibit "B." Consultant shall provide written notice and shall obtain the written consent of the Town prior to using or substituting a non-listed subconsultant in the performance of this Agreement. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement.

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:

	<u>Combined Single Limit</u>
Commercial General Liability	\$2,000,000 per occurrence/ \$2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	\$2,000,000 per occurrence for bodily injury and property damage
Employer's Liability	\$2,000,000 per occurrence
Professional Liability	\$2,000,000 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 reasonably approved by the Town), indemnify and hold the Town, its officials, officers, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged 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 or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to Claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Town, its officials, officers, employees, agents or volunteers.

b. Additional Indemnity Obligations. Consultant shall defend, with counsel of Town's choosing and at Consultant's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against the Town, its officials, officers, employees, agents or volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against the Town, its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse Town for the

cost of any settlement paid by the Town, its officials, officers, employees, agents or volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for the Town's attorney's fees and costs, including expert witness fees. Consultant shall reimburse the Town, its officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the Town, its officials, officers, employees, agents and volunteers.

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.

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. This Project 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.

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.

**[Delete the following provision and renumber all further provisions, if not applicable.]**

15. Town Material Requirements.

Consultant is hereby made aware of the Town's requirements regarding materials, as set forth in **[Insert the name of the document that contains the Town's standard material requirements]**, which are deemed to be a part of this Agreement.

16. 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.

17 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.

18 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.

19. Organization

Consultant shall assign [REDACTED] as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the Town.

20. Limitation of Agreement.

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

21. 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 Hillsborough  
1600 Floribunda Ave. Hillsborough, CA 94010

CONSULTANT:

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

Attn: [\*\*\*INSERT NAME & DEPARTMENT\*\*\*]

and shall be effective upon receipt thereof.

22. 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.

23. 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.

24. 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.

25. Severability

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

26. 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.

27. Non-Waiver

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

28. Time of Essence

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

29. 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.

30. 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 PROFESSIONAL SERVICES AGREEMENT  
BETWEEN THE TOWN OF HILLSBOROUGH  
AND [\*\*\*INSERT NAME\*\*\*]**

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

TOWN OF HILLSBOROUGH

[INSERT NAME OF CONSULTANT]

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

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

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

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

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  
Activity Schedule