



Item No. 11 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

**TO: HONORABLE MAYOR AND CITY COUNCIL
GEORGE RODERICKS, CITY MANAGER**

FROM: MIKE KASHIWAGI, COMMUNITY SERVICES DIRECTOR

DATE: JANUARY 21, 2015

**SUBJECT: AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSAL (RFP) TO
DEVELOP BID DOCUMENTS FOR CLASS III BIKE ROUTES AND TO
COMPLETE PRELIMINARY ENGINEERING OF CLASS I AND II BIKE
ROUTES**

RECOMMENDATION

Authorize issuing a Request for Proposal to develop bid documents for Class III bike routes and to complete preliminary engineering of Class I and II bike routes.

BACKGROUND

At the November 19, 2014 meeting, the Council accepted the Pedestrian and Bicycle Master Plan, adopted the Initial Study/Negative Declaration, and confirmed priority projects for implementation. The Council gave the highest priority to safety considerations, especially for students accessing schools in a near Atherton.

As identified in the November 19 staff report, now that the City Council has adopted the Pedestrian and Bicycle Master Plan and provided staff direction regarding priorities, the next step to begin implementation is to prepare plans and specifications for Class III Bike routes and perform engineering feasibility studies for the identified Class I and Class II facilities.

DISCUSSION

The work products of the proposed RFP include:

- Plans and specifications necessary to implement Class III Bike Routes
- Identification of existing constraints and design alternatives necessary to implement Class I and II Bikes Lanes
- Refined cost estimates to implement Class I, II, and III Bike facilities identified in the adopted Town of Atherton Pedestrian and Bike Master Plan

The scope of the RFP requires the Consultant to assess physical improvements and to develop preliminary engineering concepts and cost estimates for Class I and Class II paths. The Consultant will identify implementation issues and provide refined cost estimates for the construction of Class I and Class II paths in order to inform the Council's future decisions as to which projects and segments to select to proceed to design and construction.

The Consultant will also develop bid documents for Class III bike routes (installation of signage/sharrows), allowing for rapid installation of required signing and roadway markings in conformance with traffic engineering standards.

POLICY ISSUES

This project will ultimately require the City Council to consider capital improvements in and around the Town's rights-of-way along various local streets – signage, striping, and ground surface changes. Some of these changes may affect parking. As the project evolves, staff will identify any other policy issues that might arise. All capital improvement projects will ultimately be incorporated into the Town's 5-Year Capital Improvement Budget reviewed and approved by the Council every fiscal year.

FISCAL IMPACT

The current 5-Year Capital Improvement Budget allocates \$500,000 in FY 2014-15 and \$530,000 over the succeeding four (4) years to pay for the Bicycle and Pedestrian Facilities Improvements Program through a combination of the Special Parcel Tax and Measure M. There are sufficient funds budgeted in the Capital Improvement Program – Fund 201 (201-50-56069-000) to pay for the proposed engineering services. The budget will be further refined by the process outlined above.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. In addition, the Town has a project page for issues related to the project at the following web address: <http://www.ci.atherton.ca.us/index.aspx?nid=298>

This project page provides information about the project, allowing interested parties to stay informed of its progress. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

ATTACHMENTS

Bicycle and Pedestrian Master Plan, Phase 1- Design Consulting Services Request for Proposal (RFP)

TOWN OF ATHERTON



Request for Proposals

for

**Bicycle and Pedestrian Master Plan
Design Services**

**City Clerk
91 Ashfield Road
Atherton, CA 94027**

Proposals due by 4:00 pm on February 18, 2015

SECTION I	Overview
SECTION II	Background
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I. Overview

The Town of Atherton intends to retain a qualified professional engineering Consultant to provide design services required to implement priority improvement projects identified in the recently accepted Bicycle and Pedestrian Master Plan (BPMP). The Consultant is expected to develop model specifications and plans suitable for bidding the Class III bike paths. The Consultant will provide plans, specifications and an estimate (PS&E) to allow for the construction of the Class III bike paths to be completed in the summer of 2015. The Consultant will review the proposed Class I and Class II locations identified in the BPMP to identify potential constraints and confirm the feasibility of constructing the Class I and II bike paths. The Consultant will also be expected to develop necessary design alternatives required to implement the Class I and II paths identified in the BPMP. The Consultant will provide a technical feasibility analysis, identifying potential mitigations to the constraints, funding sources and methods to implement the projects in a cost effective manner. The Consultant is expected to provide budgetary costs estimates for each conceptual design alternative, present the alternatives in a public meeting; and document feedback received at the public meeting.

Detailed plans, specifications and estimates of the preferred alternative for each site will be completed under a separate contract. It is the intent that the improvement projects will be designed and constructed in a manner that aligns with the goals outlined in the BPMP as well as in a manner that will allow the projects to be implemented in a cost efficient order that coordinates, or is incorporated into the Town's existing Capital Improvement Program. The final design will be approved by the Town Council and will incorporate feedback provided by the community, local schools and other affected stakeholders.

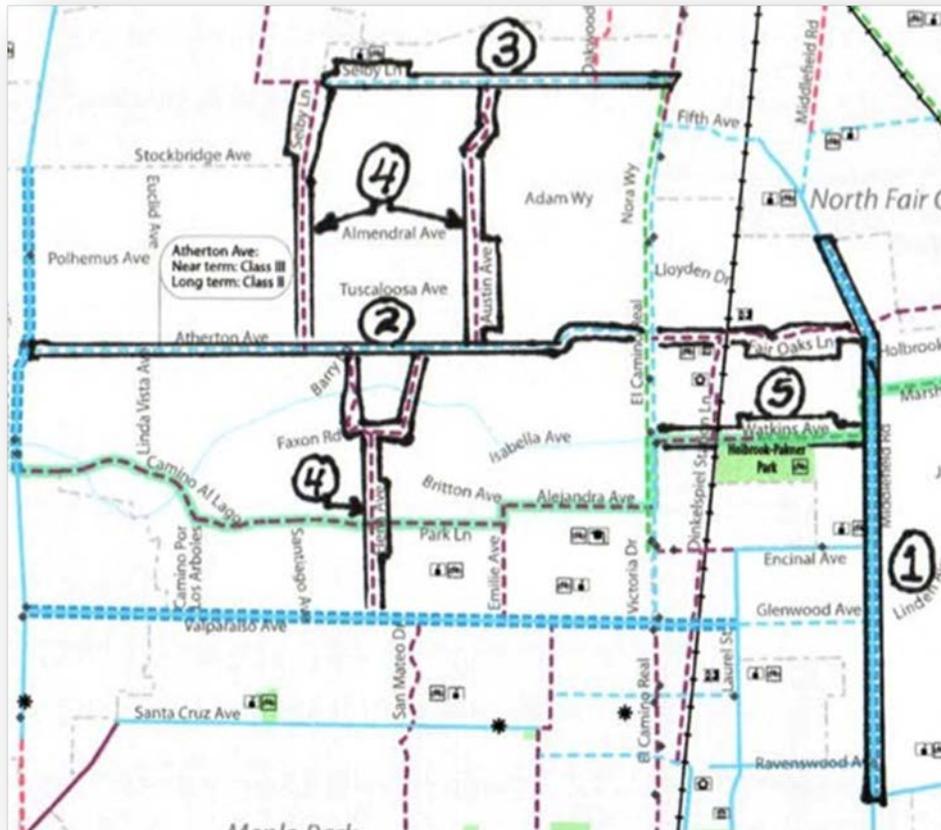
II. Background

The Atherton Town Council accepted the Bicycle and Pedestrian Master Plan (BPMP) in November 2014. The primary goal of the BPMP was to provide a comprehensive resource for identifying and advancing projects that promote increased safety and levels of non-motorized activity throughout the Town. The BPMP is included in this RFP as a separate document that is available on the Town's website: <http://www.ci.atherton.ca.us/>

To help serve long-term planning needs, the BPMP included a list of 13 priority projects for the Town to consider implementing and two corridor feasibility studies for the Town to consider undertaking to help promote increased safety and levels of non motorized activity. The BPMP included a planning level budgetary cost estimate of \$7 million to complete the priority projects and studies.

The following five routes were established by the City Council as the priority order of routes during a Town Council workshop held in September 2014. A schematic of the projects discussed by the Town Council is included below.

1. *Middlefield Road, from Jennings Lane (north end) to Ringwood Avenue (South End)*. Class II dedicated paths along its entire length plus a Class I, separate off-road, two-way path from Watkins to Marsh, with early analysis of improvements at Oak Grove Avenue and consideration of green lanes on all of the Class III lanes;
2. *Atherton Avenue, from Alameda de las Pulgas to El Camino Real (ECR)*. Initially as a Class III route, with consideration to widen the road to allow Class II paths in the future, connecting to Fair Oaks Lane from ECR to Middlefield Road as a Class III route;
3. *Selby Lane from El Camino Rea to Selby Lane School*. Class II paths;
4. *Elena Avenue/Faxon Road/Barry Lane/Atherton/Selby Lane and a parallel route splitting off at Isabella Avenue/Elena Avenue/Atherton Avenue/Austin Avenue*. A North-South Class III shared bike route.
5. *Watkins Avenue*. A Class III shared route from ECR to Middlefield Road.



III. Scope of Work

Reporting to and directed by the Town Engineer, the Project Manager will be responsible for advising on and documenting the progress of the feasibility analysis and the design plans, specifications and estimates.

Key Elements/Responsibilities include but are not limited to:

Project Management and Meetings

The Consultant will conduct a kick off meeting with Town staff to finalize the scope of work and schedule, and discuss any issues to be clarified prior to the start of work.

Review Existing Conditions, Background Studies and Documentation

The Consultant shall review the Town's BPMP, CIP, existing field conditions and documentation related to the existing infrastructure and proposed improvements to help better understand the project goals and constraints and to develop the Class III standards and the conceptual design for the Class I and II paths. The Town does not have existing topographic information or base maps available.

Class III Standards

The Consultant shall use best current practices and address sensitivity to the Town's aesthetic rural nature to develop Class III standards and specifications. The standards shall define items such as size and color of pavement markings and striping, design and placement of signs, coloring of the path, materials to be used, etc. A technical memorandum, identifying compliance with State and Federal standards shall be prepared.

Class I and II Conceptual Design

Consultant shall develop a minimum of two conceptual design concepts with sketches and budgetary level cost estimates for each identified Class I and II priority project. The conceptual design shall consider traffic, safety, aesthetics, budget and "constructability".

Public Workshop

The Consultant shall conduct a public workshop to present the Class I and II conceptual designs and cost estimates for each identified priority project. The presentation shall include a re-cap of the project background, intent and goals, and focus on obtaining feedback on the Conceptual Designs. The Consultant shall also gather information regarding specific traffic and safety issues and concerns at each project location from the public. The Consultant shall summarize the public concerns and feedback received on the Class III standards and on each Class I and Class II design option.

Class III Plans, Specifications and Estimates

The Consultant shall prepare 65%, 95% and final design, plans, specifications and estimates (PS&E) for the Class III bike paths. Each submittal shall include four copies and shall address comments made on the previous submittal. Town staff will seek to expedite and summarize the comments and use the weekly progress meetings as a tool to drive consensus and the production schedule.

PS&E shall be signed and stamped by a California registered engineer and designed in accordance with State, Federal and local policies, standards and procedures.

Funding Assistance

The Consultant shall prepare a technical memorandum identifying and recommending potential funding opportunities for all improvements. Consultant shall look for and consider public and private

opportunities and identify staff of their schedules, matching requirements, likely chances of success, etc.

Project Coordination/Cost Efficiency

The Consultant shall prepare a technical memorandum identifying and recommending how (or if) to combine any of the projects together, or with other CIP projects to help minimize construction costs, impacts, increase safety and to maximize the use of available funding.

Project Documentation

Throughout the project, the Consultant shall prepare meeting minutes, technical memorandums and memo's to file as needed to document the design and decision process, feedback and direction received.

IV. Submittal and Review Process

1. Applicant questions: All questions regarding the RFP shall be submitted in writing to Andrew Poster, Senior Engineer, at aposter@ci.atherton.ca.us. Questions and responses will be posted on the Atherton Town website.
2. Submittal Deadline: Late submittals will not be accepted.
3. In addition to written proposal, include sample project management documentation (e.g. meeting minutes, schedule reviews, cost control reporting)
4. Format and Delivery: Submit five (5) letter-sized copies with one (1) unbound copy of the technical proposal to:

City Clerk
Town of Atherton
91 Ashfield Road
Atherton, CA 94027

and e-mail a PDF copy to Andrew Poster at aposter@ci.atherton.ca.us.

5. Submittals will not be returned.
6. One (1) copy of the cost proposal shall be submitted in a separate sealed envelope at the same time as submittal of the technical proposal. The Town expects compensation to be on a time and materials basis with a not-to-exceed limit.
7. The Town reserves the right to accept or reject any or all proposals, or to alter the selection process in any lawful way, to postpone the selection process for its own convenience at any time, and to waive any non-substantive defects in this RFP or the proposals.

8. The Town reserves the right to negotiate with other qualified persons or firms, or to solicit additional statements of qualifications at any point in the project should it fail to negotiate a reasonable fee with the initially selected person or firm or should that firm fail to execute the Town's Agreement.

V. Proposed Timeline

January 22, 2015	RFP available on Town of Atherton website
February 12, 2015, 4 pm	Submission deadline for written questions
February 13, 2015	Responses to written questions available on Town website
February 18, 2015, 4 pm	Technical and Cost Proposals due
Week of February 23, 2015	Interviews with highest ranked proposers, if necessary

VI. Proposal Content

The proposal should include the following:

1. **FIRM OR PERSON INTRODUCTION:** including information such as form of organization, length of time in business, office location(s), number of staff and a general summary of qualifications documenting the strengths of the firm or person, areas of expertise and licensing. Include name, email address and phone number for the firm's contact person.
2. **APPROACH:** the person or firm's project management practices, methodologies and processes.
3. **PROJECT EXPERIENCE:** listing specific experience that is related to the type of service required by the Bicycle and Pedestrian Master Plan – Phase 1 Design project. Project experience should list the type of work provided with the client contact information for each project. If Sub-Consultants are proposed, include information on joint work, if any, and their roles in those projects.
4. **WORK PLAN:** detailed work plans with estimated hours by task or project phase.
5. **KEY STAFF:** including the identification of the Principal-in-Charge and key staff. This section should identify the qualifications and related experience of key staff assigned to the project; and includes their resume showing experience in traffic impact studies. Include an organizational chart for this project.
6. **REFERENCES:** Provide client references, for all similar projects in the past five (5) years, that have working experience with the project team and companies proposed for assignment to this project. Furnish the name, title, address and telephone number of the person(s) at the client

reference who is most knowledgeable about the work performed and can comment on the professional qualifications/expertise of the staff.

7. LITIGATION: a list of any current litigation to which the firm or person are parties by virtue of their professional service, in addition to a list of any such litigation from the past ten years.
8. DISCLOSURE: of any past, ongoing, or potential conflicts of interest that the firm or person may have as a result of performing the anticipated work.
9. COMMENTS OR REQUESTED CHANGES TO CONTRACT: A typical Town of Atherton Consultant Services Agreement is included as an attachment to the RFP. The proposing person or firm shall identify any objections and/or requested changes to the Agreement. The Town reserves the right to accept or reject any proposed changes.
10. PROFESSIONAL FEES: Include standard hourly fees and charges. **One (1) copy of the cost proposal shall be submitted in a separate sealed envelope at the same time as submittal of the technical proposal.**

VII. Evaluation Criteria

RFQ Evaluation Criteria

The Project Manager would ideally satisfy the following criteria:

- At least 10-years' experience designing Bicycle and Pedestrian facilities.
- Knowledge of the local areas traffic issues.
- Substantial experience managing public projects
- Sufficiently experienced and confident to challenge the project.
- Business office location within 50 miles of Atherton, CA

Firm qualifications	10%
Project Team's Technical Experience and approach	30%
Understanding of Project Issues	20%
Quality of Proposed Work Plan	20%
Quality of References	20%

Standard Form of Agreement

VIII. Professional Services Agreement

CONSULTANT SERVICES AGREEMENT

THIS AGREEMENT is entered into as of the _____, 2015 by and between the TOWN OF ATHERTON ("Town") and _____ ("Consultant").

RECITALS

WHEREAS, Town desires to obtain professional transportation engineering services in connection with the Neighborhood Traffic Management Program project;

WHEREAS, Consultant hereby warrants to Town that Consultant is skilled and able to provide such services described in this Agreement; and

WHEREAS, Town desires to retain Consultant in accordance with the terms of this Agreement to provide the services described herein.

AGREEMENT

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

Incorporation of Recitals. The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

Project Coordination.

Town. The City Manager or his/her designee shall represent Town for all purposes under this Agreement. The City Manager or designee is hereby designated as the Project Manager. The Project Manager shall supervise the progress and execution of this Agreement.

Consultant. Consultant shall assign _____ to have overall responsibility for the progress and execution of this Agreement.

Scope and Performance of Services

Scope of Services. Subject to such policy direction and approvals as Town through its staff may determine from time to time, Consultant shall perform the services outlined in the "Scope of Work" attached as Exhibit A ("Services"). Town shall have the right to amend

the Scope of Work by written notification to Consultant. In such event, the compensation and time of performance shall be subject to renegotiation upon written demand of either party. Consultant shall not commence any work exceeding the Scope of Work without prior written authorization from Town. Failure of Consultant to secure Town's written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the contract price or time of performance, whether by way of restitution, quantum meruit, or any other form of monetary or nonmonetary compensation.

Time of Performance. The Services are to commence no sooner than _____, 2015 and must be completed no later than _____, 2015. Consultant shall perform the Services in accordance with the "Schedule of Performance" attached as Exhibit B. Any changes to the dates in either this Section or Exhibit B must be approved in writing by the Project Manager.

Standard of Quality. Town relies upon the professional ability of Consultant as a material inducement to entering into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with all applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.

Compensation and Method of Payment.

Compensation. The compensation to be paid to Consultant, including payment for professional services and reimbursable expenses, shall be at the rate and schedule attached as Exhibit C, "Compensation." However, in no event shall the amount Town pays Consultant exceed _____ (\$_____) ("Cost Ceiling"). Payment by Town under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to Town at the time of payment.

Timing of Payment. Town shall make progress payments to Consultant that will be tied to completion of tasks so that all payments are proportional to the work completed. A copy of the progress payment schedule is attached to Exhibit C.

Changes in Compensation. Consultant shall not undertake any work that will incur costs in excess of the Cost Ceiling without prior written authorization by the Project Manager.

Taxes. Consultant shall pay all taxes, assessments and premiums under the federal Social Security Act, any applicable unemployment insurance contributions, Workers' Compensation insurance premiums, sales taxes, use taxes, personal property taxes, or other taxes or assessments now or hereafter in effect and payable by reason of or in connection with the Services to be performed by Consultant.

No Overtime or Premium Pay. Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings, weekends, or on recognized holidays. Consultant shall not receive paid time off for days not

worked, whether it be in the form of sick leave, administrative leave, or any other form of absence.

Term. This Agreement shall commence upon its execution and shall continue in full force and effect until completed, amended, or otherwise terminated as provided herein.

Inspection. Consultant shall furnish Town with every reasonable opportunity for Town to ascertain that the Services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the Project Manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.

Ownership of Documents. Title to all plans, specifications, maps, estimates, reports, manuscripts, drawings, descriptions and other final work products compiled by Consultant under the Agreement shall be vested in Town, and none shall be used in any manner whatsoever, by any person, firm, corporation, or agency without the expressed written consent of Town. Basic survey notes and sketches, charts, computations, and other data prepared or obtained under the Agreement shall be made available, upon request, to Town without restriction or limitations on their use. Consultant may retain copies of the above-described information but agrees not to disclose or discuss any information gathered, discussed or generated in any way through this Agreement without the written permission of Town, unless required to do so by law.

Employment of Other Consultants, Specialists or Experts. Consultant will not employ or otherwise incur an obligation to pay other consultants, specialists, or experts for services in connection with this Agreement without the prior written approval of Town. All consultants, specialists, or experts approved by Town are listed in Exhibit D.

Conflict of Interest.

Consultant covenants and represents that neither it, nor any officer or principal of its firm, has, or shall acquire any investment, income, business entity, interest in real property, or other interest, directly or indirectly, which would conflict in any manner with the interests of Town or hinder Consultant's performance of the Services. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of Town. Consultant agrees at all times to avoid conflicts of interest, or the appearance of any conflicts of interest in the performance of the Agreement.

Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of Town or of any Town official; and

possesses no authority with respect to any Town decision beyond the rendition of information, advice, recommendation, or counsel. (2 Cal. Code Regs. § 18700(a)(2).)

Liability of Members of Town. No member of Town, including without limitation any officer, employee, or agent, shall be personally liable to Consultant in the event of any default or breach of Town, or for any amount that may become due to Consultant or any successor in interest, or for any obligations directly or indirectly incurred under the terms of this Agreement.

Indemnity. To the fullest extent permitted by law, Consultant hereby agrees to defend (by counsel reasonably satisfactory to the Town), indemnify, and hold harmless Town, its officers, agents, employees, volunteers, and servants, from and against any and all claims, demands, damages, costs, liabilities, or obligations brought on account of or arising out of any acts, errors, or omissions of Consultant, its officers, employees, agents, and subcontractors undertaken pursuant to this Agreement, excepting liabilities due to the sole negligence or willful misconduct of Town. Town has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion and acceptance or otherwise. Consultant's duty to indemnify and hold harmless, as set forth herein, shall include the duty to defend as set forth in California Civil Code Section 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under Workers' Compensation, disability, or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this Agreement.

Independent Contractor; Not an Agent of Town. It is expressly agreed that Consultant, in the performance of the Services agreed to be performed hereunder, shall act as and be an independent contractor and not an agent or employee of Town. As an independent contractor, Consultant shall obtain no rights to retirement benefits or other benefits that accrue to Town employees, and Consultant hereby expressly waives any claim it may have to any such rights. Further, Consultant, its officers, employees and agents shall not have any power to bind or commit Town to any decision.

Compliance with Laws.

General. Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations. Consultant represents and warrants to Town that it has and shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement any licenses, permits, insurance and approvals which are legally required for Consultant to practice its profession. Consultant shall maintain a Town business license.

Workers' Compensation. Consultant certifies that it is aware of the provisions of the California Labor Code that require every employee to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant certifies that it will comply with such provisions before commencing performance of the Agreement and at all times in the performance of the Agreement.

Pedestrian and Bicycle Master Plan –Design Services - Request for Proposal

Prevailing Wage. Consultant and Consultant's subconsultants (if any) shall, to the extent required by the California Labor Code, pay not less than the latest prevailing wage rates to workers and professionals as determined by the Director of Industrial Relations of the State of California pursuant to California Labor Code, Part 7, Chapter 1, Article 2. Copies of the applicable wage determination are on file at Town's Public Works Department.

Injury and Illness Prevention Program. Consultant certifies that it is aware of and has complied with the provisions of California Labor Code § 6401.7, which requires every employer to adopt a written injury and illness prevention program.

Town Not Responsible. Town is not responsible or liable for Consultant's failure to comply with any and all of its requirements under this Section.

Waiver of Subrogation. Consultant and Consultant's insurance company agree to waive all rights of subrogation against Town, its elected or appointed officials, officers, agents, employees, and volunteers for losses paid under Consultant's Workers' Compensation insurance policy that arise from the work performed by Consultant for Town.

Confidential Information. All data, documents, discussions or other information developed or received by or for Consultant in performance of this Agreement are confidential and not to be disclosed to any person except as authorized by Town or as required by law.

Assignment; Subcontractors; Employees.

Assignment. Consultant shall not assign, delegate, transfer, or convey its duties, responsibilities, or interests in this Agreement or any right, title, obligation, or interest in or to the same or any part thereof without Town's prior written consent. Any assignment without such approval shall be void and, at Town's option, shall immediately cause this Agreement to terminate.

Subcontractors; Employees. Consultant shall be responsible for employing or engaging all persons necessary to perform the Services. No subcontractor of Consultant shall be recognized by Town as such; rather, all subcontractors are deemed to be employees of Consultant, and Consultant agrees to be responsible for their performance. Consultant shall give its personal attention to the fulfillment of the provisions of this Agreement by all of its employees and subcontractors, if any, and shall keep the work under its control. If any employee or subcontractor of Consultant fails or refuses to carry out the provisions of this Agreement or appears to be incompetent or to act in a disorderly or improper manner, it shall be discharged immediately from the work under this Agreement on demand of the Project Manager.

Insurance.

Minimum Scope of Insurance.

Consultant agrees to have and maintain, for the duration of this Agreement, a General Liability insurance policy insuring it and its firm to an amount not less

than \$2,000,000 (Two Million Dollars) combined single limit per occurrence and in the aggregate for bodily injury, personal injury, and property damage.

Consultant agrees to have and maintain, for the duration of this Agreement, an Automobile Liability insurance policy insuring it and its staff to an amount not less than \$1,000,000 (One Million Dollars) combined single limit per accident for bodily injury and property damage.

Consultant shall maintain professional errors and omissions liability insurance for protection against claims alleging negligent acts, errors, or omissions which may arise from Consultant's operations under this Agreement, whether such operations be by Consultant or by its employees, subcontractors, or subconsultants. The amount of this insurance shall not be less than \$1,000,000 (One Million Dollars) on a claims-made annual aggregate basis.

A Workers' Compensation and Employers' Liability policy written in accordance with the laws of the State of California and providing coverage for any and all employees of Consultant:

This policy shall provide coverage for Workers' Compensation (Coverage A).

This policy shall provide required coverage for Employers' Liability (Coverage B).

All of the following endorsements are required to be made a part of each of the required policies, except for the Professional Liability and Workers' Compensation and Employers' Liability policies, as stipulated below:

"The Town of Atherton, its officials, officers, agents, employees, and volunteers are hereby added as additional insureds, but only as respect to work done by, for, or on behalf of the named insured."

"This policy shall be considered primary insurance as respect to any other valid and collectible insurance Town may possess, including any self-insured retention Town may have, and any other insurance Town possesses shall be considered excess insurance only and shall not contribute to it."

"This insurance shall act for each insured and additional insured as though a separate policy had been written for each. This, however, will not act to increase the limit of liability of the insuring company."

Consultant shall provide to Town all certificates of insurance with original endorsements effecting coverage required by this section. Certificates of such insurance shall be filed with Town on or before commencement of performance of this Agreement. Town reserves the right to require complete, certified copies of all required insurance policies at any time.

Any failure to comply with reporting provisions of the policies shall not affect coverage provided to Town, its officials, officers, agents, employees, and volunteers.

Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

All Coverages. Each insurance policy required shall provide that coverage shall not be canceled, except after 30-days' prior written notice by certified mail, return receipt requested, has been given to Town. Current certification of such insurance shall be kept on file with the City Manager at all times during the term of this Agreement.

Acceptability of Insurers. Insurance is to be placed with insurers with a Best's rating of no less than A:VII.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by Town. At Town's option, Consultant shall demonstrate financial capability for payment of such deductibles or self-insured retentions.

Verification of Coverage. Consultant shall furnish Town with original Certificate(s) of Insurance verifying Consultant's receipt of the insurance coverage required herein.

Termination of Agreement; Default.

This Agreement and all obligations hereunder may be terminated at any time, with or without cause, by Town upon 5-days' written notice to Consultant.

If Consultant fails to perform any of its obligations under this Agreement within the time and in the manner provided or otherwise violates any of the terms of this Agreement, in addition to all other remedies provided by law, Town may terminate this Agreement immediately upon written notice. In such event, Consultant shall be entitled to receive as full payment for all Services satisfactorily rendered and expenses incurred hereunder, an amount which bears the same ratio to the total fees specified in the Agreement as the Services satisfactorily rendered by Consultant bear to the total Services otherwise required to be performed for such total fee; provided, however, that Town shall deduct from such amount the amount of damages, if any, sustained by Town by virtue of the breach of the Agreement by Consultant.

In the event this Agreement is terminated by Town without cause, Consultant shall be entitled to any compensation owing to it hereunder up to the time of such termination, it being understood that any payments are full compensation for services rendered before the time of payment.

Upon termination of this Agreement with or without cause, Consultant shall immediately turn over to the City Manager any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by Consultant or its subcontractors, or given to Consultant or its subcontractors, in connection with this Agreement.

Consultant's Books and Records.

Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to either charges for services, expenditures, and/or disbursements charged to Town for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such documents shall be provided to Town for inspection when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

Town may, by written request by any of the above-named officers, require that custody of the records be given to Town and that the records and documents be maintained in the City Manager's office.

Agreement Binding. The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns, and subcontractors of both parties.

Equal Employment Opportunity. Consultant is an equal opportunity employer and agrees to comply with all applicable state and federal regulations governing equal employment opportunity. Consultant will not discriminate against any employee or applicant for employment because of race, age, sex, creed, color, sexual orientation, marital status or national origin. Consultant will take affirmative action to ensure that applicants are treated during such employment without regard to race, age, sex, creed, color, sexual orientation, marital status, or national origin. Such action shall include, but shall not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; lay-offs or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant further agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

Town Not Obligated to Third Parties. Town shall not be obligated or liable for payment hereunder to any party other than the Consultant.

Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that either party may have hereunder.

Severability. If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions

shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had not been contained herein.

Exhibits. The following exhibits are attached to this Agreement and incorporated herein by this reference:

- Exhibit A: Scope of Work
- Exhibit B: Schedule of Performance
- Exhibit C: Compensation
- Exhibit D: Consultants, Specialists, or Experts

Execution. This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

News Releases/Interviews. All Consultant and subconsultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by Town.

Applicable Law; Venue. This Agreement shall be construed and interpreted according to California law. In the event that suit is brought by either party, the parties agree that trial of such action shall be held exclusively in a state court in the County of San Mateo, California.

Authority. Each individual executing this Agreement on behalf of one of the parties represents that he or she is duly authorized to sign and deliver the Agreement on behalf of such party and that this Agreement is binding on such party in accordance with its terms.

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

TOWN OF ATHERTON

CONSULTANT
(CORPORATIONS REQUIRE (2)
SIGNATURES

By: _____
George Rodericks, City Manager

By: _____
Title: _____

Date:

Date:

APPROVED AS TO FORM:

By: _____
Title: _____

By: _____

William Conners, City Attorney

Date:

ATTEST:

By: _____
Theresa DellaSanta, City Clerk

EXHIBIT A
Scope of Work

Insert Final Version here.

EXHIBIT B

Schedule of Performance

All dates in 2015

Project Kick-off Meeting

Conceptual Design

Public Workshop

Town Council Workshop

35% Design

65% Design

95% Design

Final Design

Weekly Progress Meetings/Calls

Monthly Progress Meetings

EXHIBIT C

EXHIBIT D