

competing firms. There will be no public opening and reading of quotes. Overall responsiveness to the RFQ is an important factor in the evaluation process.

The criteria used as a guideline in the evaluation will include, but not be limited to, the following:

- Qualifications and experience of the firm, including capability and experience of key personnel and experience with other public agencies to provide such reporting services.
- Responsiveness to the RFQ process and general provisions and understanding of the Scope of Work as evidenced by submitted proposal.
- Understanding of the SBWMA service area.
- History of successfully performing similar services for public agencies.
- Ability to meet any necessary timelines or other requirements.
- References
- Costs

Attachment A: Qualification Certification

FIRM NAME	
ADDRESS	
TELEPHONE #	
CONTACT EMAIL	
CONTACT NAME AND TITLE	

FIRM REPRESENTATIONS

1. Firm additionally certifies that neither firm nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency, any California State agency, or any local governmental agency.
2. Firm certifies that they did not receive unauthorized information from any RethinkWaste staff member, contractor or Board Member during the RFQ response period except as provided for in this RFQ package or through formal addenda, if any, issued by RethinkWaste.
3. The firm certifies that they do not have any conflicts of interest, whether actual or perceived, and has disclosed any such work in its response to this RFQ.
4. The firm hereby certifies that the information contained in the Proposal and all accompanying documentation is true and correct.
5. Please check the appropriate box below:
 - If an *individual* submits a response to this RFQ, he or she shall sign it. If he or she is doing business under a fictitious name, the response shall so state.
 - If a response to this RFQ is submitted by a *partnership*, the full names and addresses of all members and the address of the partnership shall be stated and the response shall be signed for all members by one or more members thereof.
 - If a *corporation* submits a response to this RFQ, an authorized officer or officers of the corporation shall sign it in the corporate name.
 - If a *limited liability company (LLC)* submits a response to this RFQ, an authorized officer or officers shall sign it in the LLC's name.
 - If a response to this RFQ is signed by a *joint venture*, the full names and addresses of all members of the joint venture shall be stated and a representative of each individual entity shall sign it.

Attachment A – Qualification Certification (continued)

By signing below, the submittal pursuant to this RFQ shall be deemed a representation and certification by the client that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and that the client has read and understands the RFQ.

Authorized Representative Name: (Signature)
Authorized Representative Name: (Print name)
Authorized Representative Title and Entity: (Print title and entity)
Complete additional signatures below as required.
Authorized Representative Name: (Signature)
Authorized Representative Name: (Print name)
Authorized Representative Title and Entity: (Print title and Entity)
Authorized Representative Name: (Signature)
Authorized Representative Name: (Print name)
Authorized Representative Title and Entity: (Print title and entity)

Attachment B: Client Reference Form

Provide the names and contact information of at least three (3) references for which similar services have been provided in the last three (3) years.

Previous Client Reference Worksheet

Name of Company or Agency	
Address	
Customer Contact Name(s), Address, Phone Number(s) and Email	
Brief description of work performed for this client (use additional sheets if necessary):	



PROFESSIONAL SERVICES AGREEMENT
FOR
[ENTER PROJECT TITLE]

This Agreement is made and entered into as of the day day of Month, 20 Year by and between the SOUTH BAYSIDE WASTE MANAGEMENT AUTHORITY hereinafter called "AUTHORITY" and Consultant Name hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

- A. That AUTHORITY desires to engage CONSULTANT to provide professional services;
- B. That CONSULTANT is qualified to provide such services to the AUTHORITY and;
- C. That the AUTHORITY has elected to engage the services of CONSULTANT upon the terms and conditions as hereinafter set forth.

- 1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

- 2. Term; Termination.
 - (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT.

(b) Notwithstanding the provisions of (a) above, either party may terminate this Agreement without cause by giving written notice not less than ten (10) days prior to the effective date of termination, which date shall be included in said notice. In the event of such termination, AUTHORITY shall compensate CONSULTANT for services rendered, and reimburse CONSULTANT for costs and expenses incurred, to the date of termination, calculated in accordance with the provisions of paragraph 3. In ascertaining the services actually rendered to the date of termination,



consideration shall be given both to completed work and work in process of completion. Nothing herein contained shall be deemed a limitation upon the right of AUTHORITY to terminate this Agreement for cause, or otherwise to exercise such rights or pursue such remedies as may accrue to AUTHORITY hereunder.

3. Compensation; Expenses; Payment. AUTHORITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule included in Exhibit A, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum **written NTE Amount (\$NTE Amount)** unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by AUTHORITY's Executive Director (for contracts less than \$50,000) or AUTHORITY Board (for contracts \$50,000 or more) evidenced by motion duly made and carried.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to AUTHORITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed as per Exhibit B.

4. Additional Services. In the event AUTHORITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by AUTHORITY's Executive Director (for contracts less than \$50,000) or AUTHORITY Board (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to AUTHORITY for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.

6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONSULTANT. CONSULTANT represents that it has the necessary professional skills to perform the services required and the AUTHORITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.
8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to AUTHORITY, become the property of AUTHORITY.
9. Relationship of Parties. It is understood that the relationship of CONSULTANT to the AUTHORITY is that of an independent contractor and all persons working for or under the direction of CONSULTANT are its agents or employees and not agents or employees of the AUTHORITY.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that AUTHORITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to AUTHORITY of AUTHORITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless AUTHORITY, its boards, officers, employees and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, which may be brought against, or suffered or sustained by, AUTHORITY, its boards, officers, employees, and agents caused by, or alleged to have been caused by, the negligence, intentional tortuous act or omission, or willful misconduct of CONSULTANT, its officers, employees, subcontractors or agents in the performance of any services or work pursuant to this Agreement.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

12. Insurance. CONSULTANT shall acquire and maintain Workers' Compensation, employer's liability, commercial general liability, owned and non-owned and hired automobile liability, and professional liability insurance coverage relating to CONSULTANT's services to be performed hereunder covering AUTHORITY's risks in form subject to the approval of the AUTHORITY Attorney and/or AUTHORITY's Risk Manager. The minimum amounts of coverage corresponding to the aforesaid categories of insurance per insurable event, shall be as follows:

<u>Insurance Category</u>	<u>Minimum Limits</u>
Workers' Compensation	statutory minimum
Employer's Liability	\$1,000,000 per accident for bodily injury or disease
Commercial General Liability	\$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per accident for bodily injury and property damage (coverage required to the extent applicable to CONSULTANT's vehicle usage in performing services hereunder)
¹ Professional Liability	\$1,000,000 per claim and aggregate

It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the AUTHORITY as an Additional Insured. Furthermore, the requirements for coverage and limits shall be the greater of either (1) the minimum coverage and limits specified in this Agreement or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named Insured.

¹ Note: Professional liability insurance coverage is not required if the CONSULTANT is not providing a service regulated by the state. (Examples of service providers regulated by the state are insurance agents, professional engineers, doctors, certified public accountants, lawyers, etc.) Please check and initial the following if professional liability is **NOT** required for this agreement. Recommended _____
[Project Manager] Approved _____ [Risk Manager]

CONSULTANT agrees to include with all subcontractors in their subcontracts the same requirements and provisions of this agreement including the indemnity and insurance requirements to the extent they apply to the scope of the subcontractor's work. Subcontractors hired by CONSULTANT shall agree to be bound to CONSULTANT and AUTHORITY in the same manner and to the same extent as CONSULTANT is bound to AUTHORITY under this Agreement and its accompanying documents. Subcontractors shall further agree to include these same provisions with any sub-subcontractors. A copy of the indemnity and insurance provisions of this Agreement will be furnished to the Subcontractor upon request. CONSULTANT shall require all subcontractors to provide a valid certificate of insurance and the required endorsements included in the subcontract agreement and will provide proof of compliance to the AUTHORITY prior to commencement of any work by the subcontractor.

Concurrently with the execution of this Agreement, CONSULTANT shall, on the Insurance Coverage form provided in Exhibit C, or equivalent, furnish AUTHORITY with certificates and copies of information or declaration pages of the insurance required hereunder and, with respect to evidence of commercial general liability and automobile liability insurance coverage, original endorsements:

- (a) Precluding cancellation or reduction in per occurrence limits before the expiration of thirty (30) days (10 days for nonpayment) after AUTHORITY shall have received written notification of cancellation in coverage or reduction in per occurrence limits by first class mail;
- (b) Naming the South Bayside Waste Management Authority, its officers, boards, employees, and agents, as additional insureds; and
- (c) Providing that CONSULTANT's insurance coverage shall be primary insurance with respect to South Bayside Waste Management Authority, its officers, boards, employees, and agents, and any insurance or self-insurance maintained by AUTHORITY for itself, its officers, boards, employees, and agents shall be in excess of CONSULTANT's insurance and not contributory with it. CONSULTANT and its insurer may not seek contribution from AUTHORITY's insurance or self-insurance.

The limits of insurance required in this agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of AUTHORITY, to the extent required by this Agreement, before the AUTHORITY's insurance or self-insurance may be called upon to protect AUTHORITY as a named Insured.

All self-insured retentions (SIR) must be disclosed to AUTHORITY for approval and shall not reduce the limits of liability coverage. Policies containing and SIR provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named CONSULTANT/Named Insured or AUTHORITY.

AUTHORITY reserves the right to obtain a full certified copy of any insurance policy and endorsements. Failure to exercise this right shall not constitute a waiver of right to exercise later.

Any and all Subcontractors shall agree to be bound to CONSULTANT and AUTHORITY in the same manner and to the same extent as CONSULTANT is bound to AUTHORITY under this Agreement. Subcontractors shall further agree to include the same requirements and provisions of this Agreement, including the indemnity and insurance requirements, in any agreement with sub-subcontractors to the extent that they apply to the scope of the sub-subcontractor's work. A copy of the indemnity and insurance provisions of this Agreement shall be furnished to any subcontractor upon request.

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the AUTHORITY at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he is aware of the provisions of the Labor Code of the State of California 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 CONSULTANT certifies that he will comply with such provisions before commencing the performance of the work of this agreement.

14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONSULTANT agrees to post in conspicuous places available to

employees and applicants for employment any notices provided by the AUTHORITY setting forth the provisions of this non-discrimination clause.

15. Notice. All notices required by this Agreement shall be given to the AUTHORITY and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

AUTHORITY: Rethink Waste
610 Elm Street, Suite 202
San Carlos, CA 94070
Attention: **Program Manager Name and Title**
Grant Ligon, Management Analyst III

CONSULTANT: **Contractor**
Contact
Address
Phone:
Email:

16. Non-Assignment. This Agreement is not assignable either in whole or in part.
17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
18. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
19. Governing Law. This Agreement shall be governed by the laws of the State of California and any suit or action initiated by either party shall be brought in the County of San Mateo, California. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.
21. Conflict of Interest. VENDOR may serve other clients, but none that would place VENDOR in a "conflict of interest" as that term is defined in State law.

