



City of Palo Alto

City Council Staff Report

(ID # 5665)

Report Type: Consent Calendar

Meeting Date: 8/17/2015

Summary Title: Seismic Building Inventory Contract Award

Title: Approval to Award Contract Number C15158600 to Rutherford & Chekene in the Amount of \$129,432 for Identification of Potentially Seismically Vulnerable Buildings and Adoption of a Budget Amendment Ordinance Appropriating \$29,432

From: City Manager

Lead Department: Planning and Community Environment

Recommendation

Staff recommends that Council authorize the City Manager or his designee to enter into a contract with Rutherford + Chekene for an amount not to exceed \$129,432 to review and make recommendations on the City's current Seismic Hazards Identification program and inventory of potentially seismically vulnerable buildings (Attachment A) and approve a related Budget Amendment Ordinance in the General Fund for \$29,432 (Attachment B).

Executive Summary

Following City Council's direction, the Policy and Services Committee met on December 9, 2014 to discuss the City's seismic buildings inventory and program. Based on the Committee's discussion, staff prepared a Request for Proposal (RFP) for a specialized consultant to review and make recommendations on the City's Seismic Hazards Identification Program and inventory of structurally deficient buildings. The RFP also requested recommendations on how to approach a mandatory, voluntary or combination of both, compliance programs for seismic upgrades. Five proposals were received and carefully evaluated. Of the five proposals, staff has determined that the Rutherford + Chekene submittal was the proposal that best met the requirements of the RFP and that the firm will provide the vision, design expertise and experience, and communication tools to provide informative data and recommendations for future policy decisions.

Background

In 1986, the City adopted an ordinance categorizing seismically vulnerable buildings (Municipal Code Section 16.42). The ordinance required property owners to prepare an engineering analysis of their buildings and provided incentives for owners to address identified deficiencies.

Twenty-three (23) of the buildings on the inventory that remain have not received any type of retrofit to date and many of the retrofitted buildings may remain somewhat vulnerable. There are also building typologies that were not included in the original inventory which are now recognized as vulnerable, requiring additional analysis and an update to the City's inventory and ordinance.

On September 15, 2014, the City Council made a referral to the Policy and Services Committee to discuss the following:

1. Identify and prioritize buildings that pose potential risks in earthquakes, including soft-story buildings and other types of construction.
2. Review and summarize best practices from other government agencies regarding prioritization of various seismically vulnerable buildings, including retrofit incentives and requirements.
3. Review current or pending State legislation related to soft-story buildings and other structurally deficient buildings.

On December 9, 2014, the Policy and Services Committee (Staff Report 5293) recommended the City Council authorize an immediate Request for Proposal (RFP) to prepare an update to the City's Seismic Hazards Identification Program (Ordinance 3666) and update the inventory of structurally deficient buildings in the multi-family, commercial, and industrial areas of the city, categorizing building typologies as follows:

- a. URM (Unreinforced Masonry)
- b. Soft-Story
- c. Tilt-Up Construction
- d. Non-Ductile Concrete
- e. Steel Moment Resisting Frame

Discussion

Out of concern for Palo Alto's proximity to both the San Andreas and Hayward faults, the City Council adopted the Seismic Hazards and Identification Program (Municipal Code Section 16.42) in 1986. The ordinance was established to promote public safety by identifying those buildings in Palo Alto that exhibit structural deficiencies by determining the severity and extent of those deficiencies in relation to their potential for causing loss of life or injury. The ordinance created a mandatory evaluation and reporting program and incentives for property owners to voluntarily upgrade their structurally deficient buildings. Three categories of buildings were identified:

Category I Buildings: Buildings constructed of unreinforced masonry (except for those smaller than 1,900 square feet with six (6) or fewer occupants)

Category II Buildings: Buildings constructed prior to January 1, 1935 containing one hundred (100) or more occupants

Category III Buildings: Buildings constructed prior to August 1, 1976 containing three hundred (300) or more occupants

The categories were developed by a citizen’s committee, reviewed by staff and the City Council Policy and Services Committee, and adopted by the City Council. These categories were created to record known URM (unreinforced masonry) buildings and other potentially structurally-deficient buildings with high occupancies.

Since that time, significant progress has been made in the seismic safety field, including better understanding of other types of vulnerabilities. The recent 4.0 magnitude Fremont earthquake on July 21, 2015, the 6.0 magnitude Napa earthquake on August 24, 2014, and identification of over 150 seismically vulnerable buildings in the August 2014 Office of Emergency Service’s Threats and Hazard Identification and Risk Assessment Report, have highlighted the need for a review of the current ordinance and inventory, resulting in a more proactive approach to seismic safety.

The City released an RFP on March 20, 2015. Five proposals were received and evaluated by a panel of seven City and contracted staff. Interviews were conducted with the top three firms:

Firm	Base Cost Proposal
Rutherford + Chekene	\$99,532
Maffei	\$99,800
David Bonowitz	\$99,875

After careful analysis and verification of references, staff determined that Rutherford + Chekene had the most desirable proposal with the most relevant qualifications and experience. The proposal promised deliverables consistent with the intent of the RFP and references contacted from their past projects indicated Rutherford + Chekene was professional, timely, and cognizant of staying within budget. Rutherford + Chekene’s proposed team, including consultants, is made up of experts in the seismic management field from analysis and design to project management, construction managers and outreach experts. In the process of reviewing proposals, staff decided to include additional tasks for an additional \$29,900, bringing the total contract award to \$129,432. The additional tasks would allow for a more comprehensive survey and a more extensive review and analysis for greater insight into the seismic retrofit process.

Summary of Proposed Work

The contract calls for five primary tasks and 24 associated deliverables to be completed in 420 days, or a little over a year. The tasks and deliverables have been designed to review the City’s existing database of potential hazardous buildings, provide recommendations for further research on known seismic typologies and effected areas in the city, provide summaries of relevant existing and pending state legislation, a summary of present best practices from other

cities and agencies and provide recommendations for future ordinance and/or policy discussions to update Palo Alto's seismic hazard ordinance.

These efforts will be complemented via discussions between the consultant, city staff and an advisory group of approximately 5 -10 individuals consisting of representatives from the architecture, engineering, HOA and building ownership groups. The consultant will provide their expertise for community/stakeholder outreach and the required public hearings. The contract calls for up to six meetings with the public and up to ten meetings with the City, including the City Council and Policy and Services Committee, providing for multiple opportunities for discussion. Specifics on the tasks and deliverables can be found in the attached proposed contract (Attachment A).

Following the consultant's delivery of the database and recommendations, staff will return to the the Policy and Services Committee, as well as the entire Council, for a full discussion on key policy considerations, such as amortization and mandatory versus voluntary mitigation. The database, which provides an accurate background on the condition of hazardous buildings in the City, and the summary of existing legislation and best practices, will give the Council the necessary information to begin a robust and informed discussion about any potential ordinance or policy changes.

Contract milestones were established so as to track and observe progress of the scope of work and the required deliverables: 60 days, 120 days, 150, 180, 240, 300, 360, and 420 days of awarding the contract. These milestones are described in contract Exhibit B, Schedule of Performance.

Resource Impact

The Development Services Department will be taking the lead on this activity but the budget of \$100,000 was included in the Fiscal Year 2016 Adopted Operating Budget for the Planning and Community Environment Department (PCE). Since the contract exceeds the budget by \$29,432, staff requests that Council approve the attached Budget Amendment Ordinance (Attachment B) to appropriate an additional \$29,432 to the PCE Fiscal Year 2016 Operating Budget.

The additional amount has been justified by the following additional deliverables being requested of the consultant:

1. Based on review of a subset of available building records, they are to provide a document describing the existing seismic reports and quality of retrofits, including issues relevant to updating Palo Alto's seismic risk mitigation program. (\$1,920)
2. Provide a more extensive inventory database (for an additional 30 percent per class of vulnerable building type) with a higher level of data collection and analyses. (\$20,100)
3. Provide a document describing the prototypical buildings that were developed, with plans and sketches documenting the conceptual retrofits, and a cost estimate. The document will provide a general discussion of issues related to working in occupied buildings.

Environmental Review

Preparation of the report is not a project for the purposes of the California Environmental Quality Act. Implementation of report recommendations may require environmental review.

Attachments:

- Attachment A: Contract C16158600 Rutherford Chekene (PDF)
- Attachment B: Budget Amendment Ordinance (DOCX)

**CITY OF PALO ALTO CONTRACT NO. C16158600
AGREEMENT BETWEEN THE CITY OF PALO ALTO AND
RUTHERFORD & CHEKENE FOR PROFESSIONAL SERVICES**

This Agreement is entered into on this 17th day of August, 2015, (“Agreement”) by and between the CITY OF PALO ALTO, a California chartered municipal corporation (“CITY”), and RUTHERFORD & CHEKENE, a California corporation, located at 55 Second Street, Suite 600, San Francisco, California, 94105 (“CONSULTANT”).

RECITALS

The following recitals are a substantive portion of this Agreement.

A. CITY intends to develop a comprehensive inventory of potentially hazardous buildings in the City of Palo Alto (“Project”) and desires to engage a consultant to provide services in connection with the Project (“Services”).

B. CONSULTANT has represented that it has the necessary professional expertise, qualifications, and capability, and all required licenses and/or certifications to provide the Services.

C. CITY in reliance on these representations desires to engage CONSULTANT to provide the Services as more fully described in Exhibit “A”, attached to and made a part of this Agreement.

NOW, THEREFORE, in consideration of the recitals, covenants, terms, and conditions, in this Agreement, the parties agree:

AGREEMENT

SECTION 1. SCOPE OF SERVICES. CONSULTANT shall perform the Services described at Exhibit “A” in accordance with the terms and conditions contained in this Agreement. The performance of all Services shall be to the reasonable satisfaction of CITY.

SECTION 2. TERM.

The term of this Agreement shall be from the date of its full execution through December 31, 2016 unless terminated earlier pursuant to Section 19 of this Agreement.

SECTION 3. SCHEDULE OF PERFORMANCE. Time is of the essence in the performance of Services under this Agreement. CONSULTANT shall complete the Services within the term of this Agreement and in accordance with the schedule set forth in Exhibit “B”, attached to and made a part of this Agreement. Any Services for which times for performance are not specified in this Agreement shall be commenced and completed by CONSULTANT in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the CONSULTANT. CITY’s agreement to extend the term or the schedule for performance shall not preclude recovery of damages for delay if the extension is required due to the fault of CONSULTANT.

SECTION 4. NOT TO EXCEED COMPENSATION. The compensation to be paid to CONSULTANT for performance of the Services described in Exhibit “A”, including both payment for professional services and reimbursable expenses, shall not exceed One Hundred Twenty Nine Thousand Four Hundred Thirty Two Dollars (\$129,432.00). The applicable rates and schedule of payment are set out at Exhibit “C-1”, entitled “HOURLY RATE SCHEDULE,” which is attached to and made a part of this Agreement.

Additional Services, if any, shall be authorized in accordance with and subject to the provisions of Exhibit “C”. CONSULTANT shall not receive any compensation for Additional Services performed without the prior written authorization of CITY. Additional Services shall mean any work that is determined by CITY to be necessary for the proper completion of the Project, but which is not included within the Scope of Services described at Exhibit “A”.

SECTION 5. INVOICES. In order to request payment, CONSULTANT shall submit monthly invoices to the CITY describing the services performed and the applicable charges (including an identification of personnel who performed the services, hours worked, hourly rates, and reimbursable expenses), based upon the CONSULTANT’s billing rates (set forth in Exhibit “C-1”). If applicable, the invoice shall also describe the percentage of completion of each task. The information in CONSULTANT’s payment requests shall be subject to verification by CITY. CONSULTANT shall send all invoices to the City’s project manager at the address specified in Section 13 below. The City will generally process and pay invoices within thirty (30) days of receipt.

SECTION 6. QUALIFICATIONS/STANDARD OF CARE. All of the Services shall be performed by CONSULTANT or under CONSULTANT’s supervision. CONSULTANT represents that it possesses the professional and technical personnel necessary to perform the Services required by this Agreement and that the personnel have sufficient skill and experience to perform the Services assigned to them. CONSULTANT represents that it, its employees and subconsultants, if permitted, have and shall maintain during the term of this Agreement all licenses, permits, qualifications, insurance and approvals of whatever nature that are legally required to perform the Services.

All of the services to be furnished by CONSULTANT under this agreement shall meet the professional standard and quality that prevail among professionals in the same discipline and of similar knowledge and skill engaged in related work throughout California under the same or similar circumstances.

SECTION 7. COMPLIANCE WITH LAWS. CONSULTANT shall keep itself informed of and in compliance with all federal, state and local laws, ordinances, regulations, and orders that may affect in any manner the Project or the performance of the Services or those engaged to perform Services under this Agreement. CONSULTANT shall procure all permits and licenses, pay all charges and fees, and give all notices required by law in the performance of the Services.

SECTION 8. ERRORS/OMISSIONS. CONSULTANT shall correct, at no cost to CITY, any and all errors, omissions, or ambiguities in the work product submitted to CITY, provided CITY gives notice to CONSULTANT. If CONSULTANT has prepared plans and specifications or other design documents to construct the Project, CONSULTANT shall be obligated to correct

any and all errors, omissions or ambiguities discovered prior to and during the course of construction of the Project. This obligation shall survive termination of the Agreement.

SECTION 9. COST ESTIMATES (Not Applicable). If this Agreement pertains to the design of a public works project, CONSULTANT shall submit estimates of probable construction costs at each phase of design submittal. If the total estimated construction cost at any submittal exceeds ten percent (10%) of CITY's stated construction budget, CONSULTANT shall make recommendations to CITY for aligning the PROJECT design with the budget, incorporate CITY approved recommendations, and revise the design to meet the Project budget, at no additional cost to CITY.

SECTION 10. INDEPENDENT CONTRACTOR. It is understood and agreed that in performing the Services under this Agreement CONSULTANT, and any person employed by or contracted with CONSULTANT to furnish labor and/or materials under this Agreement, shall act as and be an independent contractor and not an agent or employee of CITY.

SECTION 11. ASSIGNMENT. The parties agree that the expertise and experience of CONSULTANT are material considerations for this Agreement. CONSULTANT shall not assign or transfer any interest in this Agreement nor the performance of any of CONSULTANT's obligations hereunder without the prior written consent of the city manager. Consent to one assignment will not be deemed to be consent to any subsequent assignment. Any assignment made without the approval of the city manager will be void.

SECTION 12. SUBCONTRACTING. Notwithstanding Section 11 above, CITY agrees that subconsultants may be used to complete the Services. The subconsultants authorized by CITY to perform work on this Project are:

Sharyl Rabinovici, PhD
Public Policy and Community Engagement Consultant
(650) 207-6544
sjmr12@yahoo.com

MMI Engineering
GIS, Inventory, and Loss Estimation Consultant
(714) 465-1391
HSeligson@MMIEngineering.com

Vanir Construction Management Cost Consulting
(916) 575-8888
Vahid.Sabati@vanir.com

CONSULTANT shall be responsible for directing the work of any subconsultants and for any compensation due to subconsultants. CITY assumes no responsibility whatsoever concerning compensation. CONSULTANT shall be fully responsible to CITY for all acts and omissions of a subconsultant. CONSULTANT shall change or add subconsultants only with the prior approval of the city manager or his designee.

SECTION 13. PROJECT MANAGEMENT. CONSULTANT will assign Bret Lizundia as the Principal-in-Charge to have supervisory responsibility for the performance, progress, and execution of the Services and Marko Schotanus as the Project Manger to represent CONSULTANT during the day-to-day work on the Project. If circumstances cause the substitution of the project director, project coordinator, or any other key personnel for any reason, the appointment of a substitute project director and the assignment of any key new or replacement personnel will be subject to the prior written approval of the CITY's project manager. CONSULTANT, at CITY's request, shall promptly remove personnel who CITY finds do not perform the Services in an acceptable manner, are uncooperative, or present a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property.

CITY's project manager is George Hoyt, Development Services Department, 285 Hamilton Avenue, Palo Alto, CA 94303, Telephone: (650) 329-2368. The project manager will be CONSULTANT's point of contact with respect to performance, progress and execution of the Services. CITY may designate an alternate project manager from time to time.

SECTION 14. OWNERSHIP OF MATERIALS. Upon delivery, all work product, including without limitation, all writings, drawings, plans, reports, specifications, calculations, documents, electronic files, other materials and copyright interests developed under this Agreement shall be and remain the exclusive property of CITY without restriction or limitation upon their use. CONSULTANT agrees that all copyrights which arise from creation of the work pursuant to this Agreement shall be vested in CITY, and CONSULTANT waives and relinquishes all claims to copyright or other intellectual property rights in favor of the CITY. Neither CONSULTANT nor its contractors, if any, shall make any of such materials available to any individual or organization without the prior written approval of the City Manager or designee. CONSULTANT makes no representation of the suitability of the work product for use in or application to circumstances not contemplated by the scope of work.

SECTION 15. AUDITS. CONSULTANT will permit CITY to audit, at any reasonable time during the term of this Agreement and for three (3) years thereafter, CONSULTANT's records pertaining to matters covered by this Agreement. CONSULTANT further agrees to maintain and retain such records for at least three (3) years after the expiration or earlier termination of this Agreement.

SECTION 16. INDEMNITY.

16.1. To the fullest extent permitted by law, CONSULTANT shall protect, indemnify, defend and hold harmless CITY, its Council members, officers, employees and agents (each an "Indemnified Party") from and against any and all demands, claims, or liability of any nature, including death or injury to any person, property damage or any other loss, including all costs and expenses of whatever nature including attorneys fees, experts fees, court costs and disbursements ("Claims") that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its officers, employees, agents or contractors under this Agreement, regardless of whether or not it is caused in part by an Indemnified Party.

16.2. Notwithstanding the above, nothing in this Section 16 shall be construed to require CONSULTANT to indemnify an Indemnified Party from Claims arising from the active negligence, sole negligence or willful misconduct of an Indemnified Party.

16.3. The acceptance of CONSULTANT's services and duties by CITY shall not operate as a waiver of the right of indemnification. The provisions of this Section 16 shall survive the expiration or early termination of this Agreement.

SECTION 17. WAIVERS. The waiver by either party of any breach or violation of any covenant, term, condition or provision of this Agreement, or of the provisions of any ordinance or law, will not be deemed to be a waiver of any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same or of any other term, covenant, condition, provision, ordinance or law.

SECTION 18. INSURANCE.

18.1. CONSULTANT, at its sole cost and expense, shall obtain and maintain, in full force and effect during the term of this Agreement, the insurance coverage described in Exhibit "D". CONSULTANT and its contractors, if any, shall obtain a policy endorsement naming CITY as an additional insured under any general liability or automobile policy or policies.

18.2. All insurance coverage required hereunder shall be provided through carriers with AM Best's Key Rating Guide ratings of A-VII or higher which are licensed or authorized to transact insurance business in the State of California. Any and all contractors of CONSULTANT retained to perform Services under this Agreement will obtain and maintain, in full force and effect during the term of this Agreement, identical insurance coverage, naming CITY as an additional insured under such policies as required above.

18.3. Certificates evidencing such insurance shall be filed with CITY concurrently with the execution of this Agreement. The certificates will be subject to the approval of CITY's Risk Manager and will contain an endorsement stating that the insurance is primary coverage and will not be canceled, or materially reduced in coverage or limits, by the insurer except after filing with the Purchasing Manager thirty (30) days' prior written notice of the cancellation or modification. If the insurer cancels or modifies the insurance and provides less than thirty (30) days' notice to CONSULTANT, CONSULTANT shall provide the Purchasing Manager written notice of the cancellation or modification within two (2) business days of the CONSULTANT's receipt of such notice. CONSULTANT shall be responsible for ensuring that current certificates evidencing the insurance are provided to CITY's Chief Procurement Officer during the entire term of this Agreement.

18.4. The procuring of such required policy or policies of insurance will not be construed to limit CONSULTANT's liability hereunder nor to fulfill the indemnification provisions of this Agreement. Notwithstanding the policy or policies of insurance, CONSULTANT will be obligated for the full and total amount of any damage, injury, or loss caused by or directly arising as a result of the Services performed under this Agreement, including such damage, injury, or loss arising after the Agreement is terminated or the term has

expired.

SECTION 19. TERMINATION OR SUSPENSION OF AGREEMENT OR SERVICES.

19.1. The City Manager may suspend the performance of the Services, in whole or in part, or terminate this Agreement, with or without cause, by giving ten (10) days prior written notice thereof to CONSULTANT. Upon receipt of such notice, CONSULTANT will immediately discontinue its performance of the Services.

19.2. CONSULTANT may terminate this Agreement or suspend its performance of the Services by giving thirty (30) days prior written notice thereof to CITY, but only in the event of a substantial failure of performance by CITY.

19.3. Upon such suspension or termination, CONSULTANT shall deliver to the City Manager immediately any and all copies of studies, sketches, drawings, computations, and other data, whether or not completed, prepared by CONSULTANT or its contractors, if any, or given to CONSULTANT or its contractors, if any, in connection with this Agreement. Such materials will become the property of CITY.

19.4. Upon such suspension or termination by CITY, CONSULTANT will be paid for the Services rendered or materials delivered to CITY in accordance with the scope of services on or before the effective date (i.e., 10 days after giving notice) of suspension or termination; provided, however, if this Agreement is suspended or terminated on account of a default by CONSULTANT, CITY will be obligated to compensate CONSULTANT only for that portion of CONSULTANT’s services which are of direct and immediate benefit to CITY as such determination may be made by the City Manager acting in the reasonable exercise of his/her discretion. The following Sections will survive any expiration or termination of this Agreement: 14, 15, 16, 19.4, 20, and 25.

19.5. No payment, partial payment, acceptance, or partial acceptance by CITY will operate as a waiver on the part of CITY of any of its rights under this Agreement.

SECTION 20. NOTICES.

All notices hereunder will be given in writing and mailed, postage prepaid, by certified mail, addressed as follows:

To CITY: Office of the City Clerk
City of Palo Alto
Post Office Box 10250
Palo Alto, CA 94303

With a copy to the Purchasing Manager

To CONSULTANT: Attention of the project director
at the address of CONSULTANT recited above

SECTION 21. CONFLICT OF INTEREST.

21.1. In accepting this Agreement, CONSULTANT covenants that it presently has no interest, and will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the Services.

21.2. CONSULTANT further covenants that, in the performance of this Agreement, it will not employ subconsultants, contractors or persons having such an interest. CONSULTANT certifies that no person who has or will have any financial interest under this Agreement is an officer or employee of CITY; this provision will be interpreted in accordance with the applicable provisions of the Palo Alto Municipal Code and the Government Code of the State of California.

21.3. If the Project Manager determines that CONSULTANT is a “Consultant” as that term is defined by the Regulations of the Fair Political Practices Commission, CONSULTANT shall be required and agrees to file the appropriate financial disclosure documents required by the Palo Alto Municipal Code and the Political Reform Act.

SECTION 22. NONDISCRIMINATION. As set forth in Palo Alto Municipal Code section 2.30.510, CONSULTANT certifies that in the performance of this Agreement, it shall not discriminate in the employment of any person because of the race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height of such person. CONSULTANT acknowledges that it has read and understands the provisions of Section 2.30.510 of the Palo Alto Municipal Code relating to Nondiscrimination Requirements and the penalties for violation thereof, and agrees to meet all requirements of Section 2.30.510 pertaining to nondiscrimination in employment.

SECTION 23. ENVIRONMENTALLY PREFERRED PURCHASING AND ZERO WASTE REQUIREMENTS. CONSULTANT shall comply with the CITY’s Environmentally Preferred Purchasing policies which are available at CITY’s Purchasing Department, incorporated by reference and may be amended from time to time. CONSULTANT shall comply with waste reduction, reuse, recycling and disposal requirements of CITY’s Zero Waste Program. Zero Waste best practices include first minimizing and reducing waste; second, reusing waste and third, recycling or composting waste. In particular, CONSULTANT shall comply with the following zero waste requirements:

- All printed materials provided by CONSULTANT to CITY generated from a personal computer and printer including but not limited to, proposals, quotes, invoices, reports, and public education materials, shall be double-sided and printed on a minimum of 30% or greater post-consumer content paper, unless otherwise approved by CITY’s Project Manager. Any submitted materials printed by a professional printing company shall be a minimum of 30% or greater post-consumer material and printed with vegetable based inks.
- Goods purchased by CONSULTANT on behalf of CITY shall be purchased in accordance with CITY’s Environmental Purchasing Policy including but not limited to Extended Producer Responsibility requirements for products and packaging. A copy of this policy is on file at the Purchasing Division’s office.
- Reusable/returnable pallets shall be taken back by CONSULTANT, at no

additional cost to CITY, for reuse or recycling. CONSULTANT shall provide documentation from the facility accepting the pallets to verify that pallets are not being disposed.

SECTION 24. NON-APPROPRIATION

24.1. This Agreement is subject to the fiscal provisions of the Charter of the City of Palo Alto and the Palo Alto Municipal Code. This Agreement will terminate without any penalty (a) at the end of any fiscal year in the event that funds are not appropriated for the following fiscal year, or (b) at any time within a fiscal year in the event that funds are only appropriated for a portion of the fiscal year and funds for this Agreement are no longer available. This section shall take precedence in the event of a conflict with any other covenant, term, condition, or provision of this Agreement.

SECTION 25. MISCELLANEOUS PROVISIONS.

25.1. This Agreement will be governed by the laws of the State of California.

25.2. In the event that an action is brought, the parties agree that trial of such action will be vested exclusively in the state courts of California in the County of Santa Clara, State of California.

25.3. The prevailing party in any action brought to enforce the provisions of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with that action. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by it as well as any attorneys' fees paid to third parties.

25.4. This document represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and contracts, either written or oral. This document may be amended only by a written instrument, which is signed by the parties.

25.5. The covenants, terms, conditions and provisions of this Agreement will apply to, and will bind, the heirs, successors, executors, administrators, assignees, and consultants of the parties.

25.6. If a court of competent jurisdiction finds or rules that any provision of this Agreement or any amendment thereto is void or unenforceable, the unaffected provisions of this Agreement and any amendments thereto will remain in full force and effect.

25.7. All exhibits referred to in this Agreement and any addenda, appendices, attachments, and schedules to this Agreement which, from time to time, may be referred to in any duly executed amendment hereto are by such reference incorporated in this Agreement and will be deemed to be a part of this Agreement.

25.8 If, pursuant to this contract with CONSULTANT, CITY shares with CONSULTANT personal information as defined in California Civil Code section 1798.81.5(d) about a California resident (“Personal Information”), CONSULTANT shall maintain reasonable and appropriate security procedures to protect that Personal Information, and shall inform City immediately upon learning that there has been a breach in the security of the system or in the security of the Personal Information. CONSULTANT shall not use Personal Information for direct marketing purposes without City’s express written consent.

25.9 All unchecked boxes do not apply to this agreement.

25.10 The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

25.11 This Agreement may be signed in multiple counterparts, which shall, when executed by all the parties, constitute a single binding agreement

IN WITNESS WHEREOF, the parties hereto have by their duly authorized representatives executed this Agreement on the date first above written.

CITY OF PALO ALTO

RUTHERFORD & CHEKENE

DocuSigned by:
Bret Lizundia
FBB18FEF1646400...

Executive Principal

APPROVED AS TO FORM:

Attachments:

- EXHIBIT “A”: SCOPE OF WORK
- EXHIBIT “B”: SCHEDULE OF PERFORMANCE
- EXHIBIT “C”: COMPENSATION
- EXHIBIT “C-1”: SCHEDULE OF RATES
- EXHIBIT “D”: INSURANCE REQUIREMENTS

EXHIBIT "A" **SCOPE OF SERVICES**

1. CONSULTANT shall develop a comprehensive inventory of potentially hazardous buildings in the City of Palo Alto, utilizing the existing CITY's Seismic Hazards Identification Program (Palo Alto Municipal Code Chapter 16.42) and more traditional building typology approaches, with concentration toward multi-family (3 units or more), commercial, and industrial structures within the CITY's boundaries.
 - a) Review the existing seismic hazards building documentation and associated engineering evaluation reports and letters of intent for currently identified seismic hazardous buildings within the CITY. Also extensively review the current evaluation reports and retrofit designs associated with the currently identified seismic hazardous buildings within the CITY that have been seismically retrofitted since their initial identification. In addition, provide a document describing the available reports and quality of retrofit inclusive of relevant issues to updating Palo Alto's seismic risk mitigation program.

DELIVERABLES:

- Provide an editable inventory document updating the status of Palo Alto's existing seismic hazardous inventories and the methods used to perform the previous seismic retrofits.
 - Based on review of a subset of available building records, provide a document describing report and quality of retrofit and relevant issues to updating Palo Alto's seismic risk mitigation program.
-
- b) Partially identify additional buildings in Palo Alto that may be vulnerable to seismic activity utilizing tax assessor's records, building department permitting records, CITY GIS, Google maps, and site visits. These may include buildings constructed before 1930; buildings built to codes later found inadequate; pre-1940s URM buildings; pre-1980s concrete frame buildings; older soft stories; unbraced cripple walls; irregular buildings; hillside homes; older tilt-ups or precast concrete parking structures; older steel buildings; shorter buildings adjacent to taller, and collapse prone structures;. The CITY will attempt to provide GIS data that is anticipated to include address, latitude/longitude, number of stories, square footage, occupancy type, date of construction, and an attribute such as fire class that can be mapped indirectly by CONSULTANT to a Hazus building type. CONSULTANT will review a limited number of construction documents made available by the CITY. Buildings, such as condominiums, which may have different addresses but are part of the same building structure will be addressed in a more limited way.

DELIVERABLES:

- Provide an inventory database of a representative sample (20 percent per class of vulnerable building type) of buildings including available attributes for all buildings in the sample to perform a loss estimate.

- Provide a more extensive inventory database (for an additional 30 percent per class of vulnerable building type) with a higher level of data collection and analyses.
2. Review existing and pending State legislation related to soft-story buildings and other structurally deficient buildings and provide a brief summary.

DELIVERABLES:

- Provide a concise review of relevant and pending state legislation, with a summary that can be presented at community and staff meetings or in reports to Council.
3. Review present best practices among the cities/agencies in this area that require seismic retrofitting and provide incentives, and deliver a brief summary.

DELIVERABLES:

- Provide a concise and practical written summary of what other cities and counties have done legislatively and programmatically to increase awareness about, assess, and motivate mitigation of seismically vulnerable buildings, both listing and helpfully classifying various approaches that have been used.
4. Advise the CITY of best practices for redeveloping the CITY's existing Seismic Retrofit Program.
 - a) Propose opportunities and strategies to engage Palo Alto's stakeholders in improving awareness about earthquake risk, and to develop dialogue and collaboration that will lead to informed decisions for managing the seismic risk posed by Palo Alto's buildings. The CITY will provide a list of stakeholder groups that should be considered.

DELIVERABLES:

- Provide a recommended set of strategies for stakeholder engagement, including meeting agendas coordinated with Tasks 6, 7, and 8. Formal written minutes and summaries of meetings held will be prepared by the City; the consultant will review and edit the minutes and summaries.
- b) Estimate size and nature of losses from scenario earthquakes.

DELIVERABLES:

- Initially, provide a report describing the expected losses in Palo Alto due to two scenario earthquakes, and a ranking of building classes for each type of loss quantity. Loss metrics will be damage ratio and dollar losses by building type. Later, a follow up report of results from cost-benefit analysis of mitigation

policies. An archived Hazus study region will be provided that can be opened with the Hazus software; It is assumed that the potential future user is sufficiently knowledgeable to use it .

- c) Identify the possible evaluation criteria and methodologies to evaluate potentially vulnerable buildings and determine relative risks.

DELIVERABLES:

- Provide a preliminary list of potential categories, quantitative comparisons using FEMA P-154, loss estimates by category, simplified loss summaries and relative comparisons for stakeholder discussions, final list of categories and priorities, and a discussion of criteria/methodologies for use in determining whether and individual buildings are part of the selected categories.
- d) Define earthquake performance and resilience goals as well as interim and long-term objectives for Palo Alto’s building stock.

DELIVERABLES:

- Proposed resilience goals and performance objectives for building categories pursuant to advancing community resilience, along with suggested timelines and targets that can be adopted as part of an overall seismic mitigation program.
- e) Prioritize identified buildings based on degree of expected risk. This will be addressed together with Task 4c; see Task 4c for description of deliverables.
- f) Suggest mandatory and/or voluntary measures to mitigate the identified risk and meet performance goals.

DELIVERABLES:

- Provide a list of potential measures and key features that can be used by the CITY and for stakeholder discussions and final list of recommended measures.
- g) Suggest timelines for evaluation and mitigation measures.

DELIVERABLES:

- Provide recommendations for categories and timelines to implement evaluation and mitigation measures that balance reducing risk with available capacity.
- h) Suggest various retrofit techniques based on industry standards.

DELIVERABLES:

- Provide a document listing and summarizing available resources on typical seismic retrofit techniques.
- i) Develop prototype detailed retrofit designs and create a cost estimate for each class of vulnerable prototype building. Also outline potential benefits by method and building type.

DELIVERABLES:

- Provide a document describing the recommended seismic improvements, and develop cost estimates for each class of vulnerable prototype building. Also identify the effectiveness of such improvements as to how it will meet Palo Alto's resilience goals.
 - Provide a document describing the prototypical buildings that were developed, with plans and sketches documenting the conceptual retrofits, and a cost estimate the document will provide a general discussion of issues related to working in occupied buildings.
- j) Provide a worst-case analysis (obstacles due to building proximity to other structures, prohibitively costly retrofit strategies). The strengths, weaknesses, opportunities and threats (SWOT) for each policy option will be evaluated.

DELIVERABLES:

- Provide a one-page summary of the results of the SWOT analysis for each of the policy options.
- k) Outline other key management considerations, including replacement of vulnerable buildings, emergency preparedness, fires following earthquakes, aftershock risks, water damage, nonstructural and contents losses, social and financial implications, earthquake insurance, green buildings, sustainability, and historic preservation.

DELIVERABLES:

- Provide a list and summary of other key management issues besides inventories, loss estimates, and seismic evaluation and retrofitting that should be considered in developing Palo's Alto updated Seismic Risk Mitigation Program.
- l) Develop a plan for the CITY to manage seismic upgrades and monitor progress for all identified vulnerable buildings over their life span.

DELIVERABLES:

- Provide a management plan with recommendations for managing and monitoring the progress of the seismic risk mitigation program.
- m) Define the roles, responsibilities, professional qualifications, and training of CITY staff and/or consultants needed to effectively manage the Program.

DELIVERABLES:

- The CONSULTANT team will work with CITY staff to clearly define roles and responsibilities and necessary staffing levels and approaches. This will be part of the management plan developed for Task 4l.
- n) Suggest outreach methods to educate building owners about earthquake resistance.

DELIVERABLES:

- Provide a summary of recommended outreach methods tailored to Palo Alto.
- o) Suggest possible incentive options that have been successfully employed in other communities. Work with Planning/Community Environment and Administrative Services Departments on potential incentives to provide upgrades. Communicate effectively with property owners and tenants on process results and incentives/methodologies.

DELIVERABLES:

- Provide a summary of potential incentive options that have been used in other communities and recommendations tailored specifically to Palo Alto based on CITY and stakeholder feedback.
5. Provide recommendations for retrofit and the potential hazard of single family dwellings consisting of adobe or hollow clay block construction, unbraced cripple walls and unreinforced masonry foundations and fireplace chimneys.

DELIVERABLES:

- Provide a concise and practical written summary of available prescriptive and performance based retrofit standards that may be used for retrofit of single-, two-, and three-family dwellings.
6. Conduct up to six meetings with a professional advisory group and citizens to discuss findings and recommendations from the study. The CITY will provide administrative support for meetings in Tasks 6, 7 and 8, including arranging for facilities, technical support at facilities, supplies, copies of documents, recruitment of participants, reminders, follow-ups, thank you notes, web updates and preparation of minutes. In addition, as the project evolves, the CITY and

consultant may jointly decide it is in the project interest to adjust the split of meetings between Tasks 6, 7, and 8, while keeping the total not to exceed to the same aggregate number.

DELIVERABLES:

- Participate in meetings and provide recommended agendas and presentation materials
7. Conduct up to six working meetings or conference calls with staff on development of the Seismic Risk Mitigation Program.

DELIVERABLES:

- Participate in meetings and provide recommended agendas and presentation materials
8. Prepare and present presentations at up to six to ten meetings with Staff, Policy and Services Committee, and CITY Council. It is anticipated that there will be up to two meetings with the Policy and Services Committee and up to two meetings with the CITY Council, with the remaining meetings involving preparation efforts with Staff.

DELIVERABLES:

Participate in meetings and provide recommended agendas and presentation materials

**EXHIBIT “B”
SCHEDULE OF PERFORMANCE**

CONSULTANT shall perform the Services so as to complete each milestone within the number of days/weeks specified below. The time to complete each milestone may be increased or decreased by mutual written agreement of the project managers for CONSULTANT and CITY so long as all work is completed within the term of the Agreement.

Interim Submittal Milestones and Deliverables	Timeline
Conduct initial meeting with City Staff and Advisory Group	Within 60 days of award of contract
Provide draft version of building inventory (Task 1 a and 1 b) and draft summaries for Tasks 2 and 3	Within 120 days of award of contract
Begin community engagement process with first public meeting besides Advisory Group meetings	Within 150 days of award
Provide final version of building inventory with prioritization (Task 1 a and 1 b) and final summaries for Tasks 2 and 3	Within 180 days of award of contract
Provide draft version of best practices for updating and enhancing the City's existing Seismic Retrofit Program (Task 4)	Within 240 days of award of contract
Complete process of obtaining community input	Within 300 days of award
Provide final documents and response to community concerns	Within 360 days of award
Develop supporting documents and assist in preparing staff reports for Policy and Services Committee and City Council Meetings. Also participate in meetings. (Task 8)	Within 420 days of award

EXHIBIT "C" COMPENSATION

The CITY agrees to compensate the CONSULTANT for professional services performed in accordance with the terms and conditions of this Agreement based on the hourly rate schedule attached as Exhibit C-1.

The compensation to be paid to CONSULTANT under this Agreement for all services described in Exhibit "A" ("Services") and reimbursable expenses shall not exceed \$129,432.00. CONSULTANT agrees to complete all Services, including reimbursable expenses, within this amount. Any work performed or expenses incurred for which payment would result in a total exceeding the maximum amount of compensation set forth herein shall be at no cost to the CITY.

REIMBURSABLE EXPENSES

The administrative, overhead, secretarial time or secretarial overtime, word processing, photocopying, in-house printing, insurance and other ordinary business expenses are included within the scope of payment for services and are not reimbursable expenses. CITY shall reimburse CONSULTANT for the following reimbursable expenses at cost. Expenses for which CONSULTANT shall be reimbursed are: None

All requests for payment of expenses shall be accompanied by appropriate backup information. Any expense shall be approved in advance by the CITY's project manager.

ADDITIONAL SERVICES

The CONSULTANT shall provide additional services only by advanced, written authorization from the CITY. The CONSULTANT, at the CITY's project manager's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort, and CONSULTANT's proposed maximum compensation, including reimbursable expenses, for such services based on the rates set forth in Exhibit C-1. The additional services scope, schedule and maximum compensation shall be negotiated and agreed to in writing by the CITY's Project Manager and CONSULTANT prior to commencement of the services. Payment for additional services is subject to all requirements and restrictions in this Agreement.

**EXHIBIT “C-1”
HOURLY RATE SCHEDULE**

PERSONNEL	*RATE PER HOUR
Executive Principals	\$210 to \$240
Principals	\$180 to \$210
Senior Engineers	\$135 to \$180
Design Engineers	\$105 to \$135
Revit/CADD Specialists.....	\$108 to \$160
OTHER PROJECT EXPENSES	
Mileage	Authorized IRS Reimbursement Rate
Incidental Expenses	Actual cost plus 10% (Reproduction, Processing, Postage, Delivery, etc.)

Sharyl Rabinovici Schedule of Rates

PERSONNEL	RATE PER HOUR
Sharyl Rabinovici.....	\$250

Vanir Construction Management Schedule of Rates

PERSONNEL	RATE PER HOUR
Principal	\$200
Senior Estimator/Associate	\$180

MMI Engineering Schedule of Rates

PERSONNEL	RATE PER HOUR
Associate	\$218

EXHIBIT "D"

INSURANCE REQUIREMENTS

CONTRACTORS TO THE CITY OF PALO ALTO (CITY), AT THEIR SOLE EXPENSE, SHALL FOR THE TERM OF THE CONTRACT OBTAIN AND MAINTAIN INSURANCE IN THE AMOUNTS FOR THE COVERAGE SPECIFIED BELOW, **AFFORDED BY COMPANIES WITH AM BEST'S KEY RATING OF A-VII, OR HIGHER, LICENSED OR AUTHORIZED TO TRANSACT INSURANCE BUSINESS IN THE STATE OF CALIFORNIA.**

AWARD IS CONTINGENT ON COMPLIANCE WITH CITY'S INSURANCE REQUIREMENTS, AS SPECIFIED, BELOW:

REQUIRE D	TYPE OF COVERAGE	REQUIREMENT	MINIMUM LIMITS	
			EACH OCCURRENCE	AGGREGATE
YES YES	WORKER'S COMPENSATION EMPLOYER'S LIABILITY	STATUTORY STATUTORY		
YES	GENERAL LIABILITY, INCLUDING PERSONAL INJURY, BROAD FORM PROPERTY DAMAGE BLANKET CONTRACTUAL, AND FIRE LEGAL LIABILITY	BODILY INJURY	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY & PROPERTY DAMAGE COMBINED.	\$1,000,000	\$1,000,000
YES	AUTOMOBILE LIABILITY, INCLUDING ALL OWNED, HIRED, NON-OWNED	BODILY INJURY	\$1,000,000	\$1,000,000
		- EACH PERSON	\$1,000,000	\$1,000,000
		- EACH OCCURRENCE	\$1,000,000	\$1,000,000
		PROPERTY DAMAGE	\$1,000,000	\$1,000,000
		BODILY INJURY AND PROPERTY DAMAGE, COMBINED	\$1,000,000	\$1,000,000
YES	PROFESSIONAL LIABILITY, INCLUDING, ERRORS AND OMISSIONS, MALPRACTICE (WHEN APPLICABLE), AND NEGLIGENT PERFORMANCE	ALL DAMAGES	\$1,000,000	
YES	THE CITY OF PALO ALTO IS TO BE NAMED AS AN ADDITIONAL INSURED: CONTRACTOR, AT ITS SOLE COST AND EXPENSE, SHALL OBTAIN AND MAINTAIN, IN FULL FORCE AND EFFECT THROUGHOUT THE ENTIRE TERM OF ANY RESULTANT AGREEMENT, THE INSURANCE COVERAGE HEREIN DESCRIBED, INSURING NOT ONLY CONTRACTOR AND ITS SUBCONSULTANTS, IF ANY, BUT ALSO, WITH THE EXCEPTION OF WORKERS' COMPENSATION, EMPLOYER'S LIABILITY AND PROFESSIONAL INSURANCE, NAMING AS ADDITIONAL INSURED CITY, ITS COUNCIL MEMBERS, OFFICERS, AGENTS, AND EMPLOYEES.			

I. INSURANCE COVERAGE MUST INCLUDE:

- A. A PROVISION FOR A WRITTEN THIRTY (30) DAY ADVANCE NOTICE TO CITY OF CHANGE IN COVERAGE OR OF COVERAGE CANCELLATION; AND
- B. A CONTRACTUAL LIABILITY ENDORSEMENT PROVIDING INSURANCE COVERAGE FOR CONTRACTOR'S AGREEMENT TO INDEMNIFY CITY.
- C. DEDUCTIBLE AMOUNTS IN EXCESS OF \$5,000 REQUIRE CITY'S PRIOR APPROVAL.

II. CONTACTOR MUST SUBMIT CERTIFICATES(S) OF INSURANCE EVIDENCING REQUIRED COVERAGE.

III. ENDORSEMENT PROVISIONS, WITH RESPECT TO THE INSURANCE AFFORDED TO "ADDITIONAL INSURED"

A. PRIMARY COVERAGE

WITH RESPECT TO CLAIMS ARISING OUT OF THE OPERATIONS OF THE NAMED INSURED, INSURANCE AS AFFORDED BY THIS POLICY IS PRIMARY AND IS NOT ADDITIONAL TO OR CONTRIBUTING WITH ANY OTHER INSURANCE CARRIED BY OR FOR THE BENEFIT OF THE ADDITIONAL INSURED.

B. CROSS LIABILITY

THE NAMING OF MORE THAN ONE PERSON, FIRM, OR CORPORATION AS INSUREDS UNDER THE POLICY SHALL NOT, FOR THAT REASON ALONE, EXTINGUISH ANY RIGHTS OF THE INSURED AGAINST ANOTHER, BUT THIS ENDORSEMENT, AND THE NAMING OF MULTIPLE INSUREDS, SHALL NOT INCREASE THE TOTAL LIABILITY OF THE COMPANY UNDER THIS POLICY.

C. NOTICE OF CANCELLATION

1. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR ANY REASON OTHER THAN THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A THIRTY (30) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

2. IF THE POLICY IS CANCELED BEFORE ITS EXPIRATION DATE FOR THE NON-PAYMENT OF PREMIUM, THE ISSUING COMPANY SHALL PROVIDE CITY AT LEAST A TEN (10) DAY WRITTEN NOTICE BEFORE THE EFFECTIVE DATE OF CANCELLATION.

NOTICES SHALL BE MAILED TO:

**PURCHASING AND CONTRACT ADMINISTRATION
CITY OF PALO ALTO
P.O. BOX 10250
PALO ALTO, CA 94303**

Ordinance No. XXXX

ORDINANCE OF THE COUNCIL OF THE CITY OF PALO ALTO AMENDING THE BUDGET FOR FISCAL YEAR 2016 BY TRANSFERRING \$29,432 FROM THE GENERAL FUND BUDGET STABLIZATION RESERVE TO THE PLANNING AND COMMUNITY ENVIRONMENT DEPARTMENT FOR A SEISMIC INVENTORY STUDY.

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. The Council of the City of Palo Alto finds and determines as follows:

A. Pursuant to the provisions of Section 12 of Article III of the Charter of the City of Palo Alto, the Council on June 15, 2015 did adopt a budget for fiscal year 2016; and

B. Following City Council direction, the Policy and Services Committee met on December 9, 2014 to discuss the City’s seismic buildings inventory and program; and

C. Based on the Committee’s discussion, staff prepared a Request for Proposal (RFP) to update to the City’s Seismic Hazards Identification Program and the inventory of structurally deficient buildings; and

D. Of the five proposals received, the Rutherford & Chekene submittal was the proposal that best met the requirements of the RFP at a cost of \$129,432; and

E. The Fiscal Year 2016 Planning and Community Environment department budget includes \$100,000 for this work. Therefore, an additional \$29,432 is required to complete the study.

SECTION 2. The Planning and Community Environment Department budget is hereby increased by Twenty-Nine Thousand Four Hundred Thirty Two Dollars (\$29,432) and the ending fund balance in the General Fund Budget Stabilization Reserve is reduced by Twenty-Nine Thousand Four Hundred Thirty Two Dollars (\$29,432).

SECTION 3. As provided in Section 2.04.330 of the Palo Alto Municipal Code, this ordinance shall become effective upon adoption.

SECTION 4. The actions taken in this ordinance do not constitute a project requiring environmental review under the California Environmental Quality Act (CEQA).

//
//
//
//

INTRODUCED AND PASSED: Enter Date Here

AYES:

NOES:

ABSENT:

ABSTENTIONS:

NOT PARTICIPATING:

ATTEST:

City Clerk

APPROVED AS TO FORM:

Senior Assistant City Attorney

Mayor

APPROVED:

City Manager

Director of Administrative Services

Director of Planning & Community
Environment