

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF SOUTH SAN FRANCISCO AND
ARUP US, INC.**

THIS AGREEMENT for consulting services is made by and between the City of South San Francisco ("City") and Arup US, Inc. ("Consultant") (together sometimes referred to as the "Parties") as of **August 29, 2025** (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as **Exhibit A** ("Services"), attached hereto and incorporated herein, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibit A**, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on **July 30, 2027** ("Term"). Consultant shall complete the Services described in **Exhibit A** prior to the end of the Term, unless that date is otherwise terminated or extended as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as provided for in Section 8. In the event that the Term covers more than one (1) fiscal year, funding for services beyond the current fiscal year will be included in future City budgets but is subject to City Council approval of future annual appropriations.
- 1.2 Standard of Performance.** Consultant shall perform all Services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged in the geographical area in which Consultant practices its profession. Consultant shall prepare all work products required by this Agreement to the standards of quality normally observed by a person practicing in Consultant's profession.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel consistent with Section 1.2 to perform the Services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons in order to ensure Consultant performs services in accordance with Section 1.2, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

Consultant has represented to City that **Brooke Dubose** will be the person primarily responsible for the performance of the services referred to in this Agreement. City has entered into this Agreement in reliance on that representation by Consultant. Consultant therefore agrees that **twenty five** percent (**25%**) or more of the time devoted by Consultant to the performance of services pursuant to this Agreement shall be that of the above-named person.

1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Sections 1.1 and 1.2 above and to satisfy Consultant's obligations hereunder.

1.5 **Public Works Requirements.** Because the Services include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the Labor Code applicable to public works, to the extent set forth in **Exhibit C**, and incorporated herein. Consultant shall waive, indemnify, hold harmless, and defend City concerning any liability arising out of Labor Code Section 1720 *et seq.* Consultant shall also complete the necessary registration process with the California Department of Industrial Relations as a contractor for eligibility to perform work under this Agreement.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed **One Million One Hundred Eighty Four Thousand Nine Hundred Forty Six Dollars (\$1,184,946.00)**, notwithstanding any contrary indications that may be contained in Consultant's proposal, for Services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, as reflected in the Scope of Work attached as **Exhibit A**, or Consultant's compensation schedule attached as **Exhibit B**, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the Services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Consultant shall submit invoices, not more often than once per month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information, unless otherwise waived by the Contract Administrator in writing:

- Serial identifications of progress bills (i.e., Progress Bill No. 1 for the first invoice);
- The beginning and ending dates of the billing period;

- A task summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder, as well as a separate notice when the total number of hours of work by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds eight hundred (800) hours, which shall include an estimate of the time necessary to complete the Services;
- The amount and purpose of actual expenditures for which reimbursement is sought;
- The Consultant's signature.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for reimbursable costs as authorized under Exhibit B and actually incurred. City shall have thirty (30) days from the receipt of an invoice that complies with all of the requirements above to pay Consultant. City shall have no obligation to pay invoices submitted ninety (90) days past the performance of work or incurrence of cost.

2.3 Total Payment. City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

2.4 Hourly Fees. Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto and incorporated herein as Exhibit B.

2.5 Reimbursable Expenses. Reimbursable expenses, if any, are specified in Exhibit B, and shall not exceed the amount set forth in Exhibit B. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement under Section 2 that shall not be exceeded.

- 2.6 Payment of Taxes, Tax Withholding.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. To be exempt from tax withholding, Consultant must provide City with a valid California Franchise Tax Board form 590 ("Form 590"), as may be amended and such Form 590 shall be attached hereto and incorporated herein as **Exhibit D**. Unless Consultant provides City with a valid Form 590 or other valid, written evidence of an exemption or waiver from withholding, City may withhold California taxes from payments to Consultant as required by law. Consultant shall obtain, and maintain on file for three (3) years after the termination of this Agreement, Form 590s (or other written evidence of exemptions or waivers) from all subcontractors. Consultant accepts sole responsibility for withholding taxes from any non-California resident subcontractor and shall submit written documentation of compliance with Consultant's withholding duty to City upon request.
- 2.7 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed in accordance with this Agreement as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets in order to verify costs incurred to that date.
- 2.8 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.
- 2.9 Prevailing Wage.** Where applicable, the wages to be paid for a day's work to all classes of laborers, workmen, or mechanics on the work contemplated by this Agreement, shall be not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where the work hereby contemplates to be performed as determined by the Director of Industrial Relations pursuant to the Director's authority under Labor Code Section 1770, et seq. Each laborer, worker or mechanic employed by Consultant or by any subcontractor shall receive the wages herein provided for. The Consultant shall pay two hundred dollars (\$200), or whatever amount may be set by Labor Code Section 1775, as may be amended, per day penalty for each worker paid less than prevailing rate of per diem wages. The difference between the prevailing rate of per diem wages and the wage paid to each worker shall be paid by the Consultant to each worker.

An error on the part of an awarding body does not relieve the Consultant from responsibility for payment of the prevailing rate of per diem wages and penalties pursuant to Labor Code Sections 1770 1775. The City will not recognize any claim for additional compensation because of the payment by the Consultant for any wage rate in excess of prevailing wage rate set forth. The possibility of wage increases is one of the elements to be considered by the Consultant.

- a. Posting of Schedule of Prevailing Wage Rates and Deductions. If this Section 2.10 applies and the schedule of prevailing wage rates is not attached hereto pursuant to Labor

Code Section 1773.2, the Consultant shall post at appropriate conspicuous points at the site of the project a schedule showing all determined prevailing wage rates for the various classes of laborers and mechanics to be engaged in work on the project under this contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

b. Payroll Records. If this Section 2.10 applies, each Consultant and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Consultant in connection with the public work. Such records shall be certified and submitted weekly as required by Labor Code Section 1776.

Section 3. PROVISION OF SERVICES.

- 3.1 Facilities and Equipment.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks and conference space, as may be reasonably necessary for Consultant's occasional use while consulting with City employees and reviewing records and other necessary information in possession of the City to provide services. The location, type, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

If necessary, the City may at its sole discretion provide Consultant access to City computer hardware or network files, or both, but only at the access level to strictly necessary to provide services under this Agreement as approved by the City. In the event that Consultant is provided such access, Consultant shall comply with the Electronic Use Addendum attached hereto and incorporated herein as **Exhibit G**.

- 3.2 Onsite Services and Location of Work.** Consultant shall perform the Services as to cause a minimum of interference with City's operations and the operations of other contractors, if any, at the location of work and to protect all persons and property thereon from damage or injury. Upon completion of the Services at the location of work, Consultant shall leave such site clean and free of all tools, equipment, waste materials and rubbish. Each location of work may include all buildings, offices, and other locations where Services are to be performed, including any access roads. Consultant shall be solely responsible for the safe transportation and packing in proper containers and storage of any equipment required for performing the Services, whether owned, leased or rented. City will not be responsible for any such equipment which is lost, stolen or damaged or for any additional rental charges for such equipment. Equipment left or stored at a location of work, with or without permission,

is at Consultant's sole risk. City may assume that anything left on at the work site an unreasonable length of time after said work is completed has been abandoned. Any transportation furnished by City shall be solely as an accommodation and City shall have no liability therefore. Consultant acknowledges and agrees that it shall assume the risk and is solely responsible for its use of any City owned equipment and property provided by City for the performance of Services. City shall have no liability to Consultant therefore. In addition, Consultant further acknowledges and agrees that it shall assume the risk and is solely responsible for its owned, non-owned and hired automobiles, trucks or other motorized vehicles as well as any equipment, tolls, or other property which is utilized by Consultant for each location of work in performing the Services.

3.3 [PLACEHOLDER REGARDING USE OF AI]

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide Certificates of Insurance, attached hereto and incorporated herein as **Exhibit E**, indicating that Consultant has obtained or currently maintains insurance that meets the requirements and under satisfactory forms of insurance set forth in this section, in all respects, to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein, unless otherwise waived or modified by the City's Risk Manager.

- 4.1 Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance in statutory limits and Employer's Liability Insurance for any and all persons employed by Consultant. The Employer's Liability Insurance shall be provided with limits of not less than ONE MILLION DOLLARS (\$1,000,000) per accident/employee. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Risk Manager and Consultant shall furnish information necessary for the Risk Manager to make such determination upon request.

The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, contractors, agents, representatives, and volunteers for loss arising from work performed under this Agreement. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer

The requirement to maintain Statutory Workers' Compensation and Employer's Liability Insurance may be waived by the City upon written verification that Consultant is a sole proprietor and does not have any employees. Consultant shall furnish information necessary for the Risk Manager to make such determination upon request and shall complete and submit to the City a Worker's Compensation Waiver Affidavit form attached hereto and incorporated herein as **Exhibit H**.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense and for the entire term and duration of this Agreement, shall maintain (1) Commercial General Liability insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) per occurrence and FIVE MILLION DOLLARS (\$5,000,000.00) in the aggregate; and (2) Automobile Liability Insurance in an amount not less than TWO MILLION DOLLARS (\$2,000,000.00) combined single limit/per accident. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement, or the general aggregate limit shall be at least twice the required occurrence limit, and such general aggregate limit shall not be less than the foregoing coverage amounts. Such coverage shall include, but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting there from, and damage to property resulting from activities performed under this Agreement, including the use of owned (or hired if Consultant does not own vehicles for professional uses) and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 00 01 (most recent edition) covering Commercial General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 00_01 (most recent edition) covering any auto (Code 1), or if Consultant has no owned autos, hired (code 8) and non-owned autos (Code 9). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage required hereunder or added as a certified endorsement to the policy:

- a. The Commercial General and Automobile Liability insurances shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary and non-contributory (at least as broad as ISO CG 20 01 04 13) with respect to the City, its officers, officials, employees, agents, and volunteers. Any insurance or self-

insurance maintained by the City, its officers, officials, employees, agents, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it. This requirement shall also apply to any Excess policies.

- c. Any failure of Consultant to comply with reporting provisions of the policy shall not affect coverage provided to City and its officers, officials, employees, agents, and volunteers.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per claim and in the aggregate covering the licensed professionals' negligent errors and omissions in the performance of the Services hereunder. Any deductible or self-insured retention shall not exceed ONE HUNDRED FIFTY THOUSAND DOLLARS \$150,000 per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the Agreement or the work.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must provide extended reporting coverage for a minimum of five (5) years after completion of the Agreement or the work.
- d. A copy of the claim reporting requirements must be submitted to the City upon request with reasonable notice in writing to Consultant.

4.4 Cybersecurity/Liability Insurance.

4.4.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement cybersecurity insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence and in the aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Consultant in this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade

dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for liabilities for financial loss resulting or arising from acts, errors, or omissions, in rendering technology services, as follows:

- a. Violation or infringement of any right of privacy, including breach of security and breach of security/privacy laws, rules or regulations globally, now or hereinafter constituted or amended;
- b. Data theft, damage, unauthorized disclosure, destructions, or corruption, including without limitation, unauthorized access, unauthorized use, identity theft, theft of personally identifiable information or confidential City information in whatever form, transmission of a computer virus or other type of malicious code; and participation in a denial of service attack on third party computer systems;
- c. Loss or denial of service; and
- d. The policy shall not contain a cyber terrorism exclusion.

The cybersecurity/liability insurance coverage required herein must include technology/professional liability including breach of contract, privacy and security liability, privacy regulatory defense and payment of civil fines, payment of credit card provider penalties, and breach response costs, including without limitation, notification costs, forensics, credit protection services, call center services, identity theft protection services, and crisis management/public relations services.

4.4.2 Security Breach Notification and Reporting. Consultant shall have policies and procedures in place for the effective management of Security Breaches, as defined below, which shall be made available to the City upon request. In the event of any actual security breach or reasonable belief of an actual security breach the Consultant either suffers or learns of that either compromises or could compromise the City's data (a "Security Breach"), Consultant shall notify the City within 48 hours of its discovery.

Consultant shall immediately determine the nature and extent of the Security Breach, contain the incident by stopping the unauthorized practice, recover records, shut down the system that was breached, revoke access and/or correct weaknesses in physical security. Following the initial notice, Consultant shall provide a root cause analysis report to the City identifying:

- i. The nature of the Security Breach;
- ii. The City data used or disclosed;
- iii. Who made the unauthorized use or received the unauthorized disclosure;
- iv. What the Consultant has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure; and

- v. What corrective action the Consultant has taken or shall take to prevent future similar unauthorized use or disclosure. Consultant shall provide such other information, including a written report, as reasonably requested by the City. Consultant shall analyze and document the incident and provide all notices required by applicable law.

4.5 All Policies Requirements.

4.5.1 Submittal Requirements. To comply with this Section 4, Consultant shall submit the following to City:

- a. Certificate of Liability Insurance in the amounts specified in the section, attached hereto and incorporated herein as **Exhibit E**;
- b. Additional Insured Endorsement as required for the General Commercial and Automobile Liability Policies;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.5.2 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.5.2 Timing and Content of Submittals. Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all documents listed in Subsection 4.5.1. All copies of endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them.

4.5.3 Notice of Reduction in or Cancellation/Non-Renewal of Coverage. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City. Consultant shall notify City within 14 days of notification from Consultant's insurer if such coverage is suspended, voided or reduced in coverage or in limits.

4.5.4 Additional insured; primary insurance. City and its officers, officials, employees, agents, and volunteers shall be covered as additional insureds with respect to each of the following: liability arising out of ongoing operations and activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant, as applicable; premises owned, occupied, or used by Consultant; and automobiles owned (or hired if no owned autos), leased, or used by the Consultant in the course of providing services pursuant to this Agreement. The coverage shall be at least as broad as ISO CG 2010 Scheduled form, or Automatic form CG 2038 for "ongoing operations", and at least as broad as ISO CG 2037 Scheduled form, or Automatic form CG 2040,

for “completed operations” contain no special limitations on the scope of protection afforded to City or its officers, officials, employees, agents, or volunteers.

All certified endorsement forms, as required herein must be attached to the certificate of insurance to evidence that all Additional Insured coverage is primary insurance with respect to the City and its officers, officials, employees and volunteers, and that no insurance or self-insurance maintained by the City shall be called upon to contribute to a loss under the coverage.

- 4.5.5 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. Further, if the Consultant’s insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer’s liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this Agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer’s liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible.

During the period covered by this Agreement, only upon the prior express written authorization of the Risk Manager, Consultant may increase such deductibles or self-insured retentions with respect to City, its officers, employees, agents, and volunteers. The Risk Manager may condition approval of an increase in deductible or self-insured retention levels with a requirement that Consultant procure a bond, guaranteeing payment of losses and related investigations, claim administration, and defense expenses that is satisfactory in all respects to each of them.

- 4.5.6 Subcontractors/Subconsultants.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein, and Consultant shall ensure that Entity is an additional insured on all coverages.

- 4.5.7 Wasting Policy.** No insurance policy required by Section 4 shall include a “wasting” policy limit except professional liability insurance.

- 4.5.8 Excess Insurance.** If Consultant maintains higher insurance limits than the minimum amounts required by this Agreement, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance

proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

4.5.9 Variation. The City may approve a variation in the foregoing insurance requirements, upon a determination that the coverage, scope, limits, and forms of such insurance are either not commercially available, or that the City's interests are otherwise fully protected.

4.6 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- c. Terminate this Agreement.

4.7 Notice of Claim. Consultant shall immediately notify City of any claim or loss against Consultant arising out of the work performed under this Agreement. City assumes no obligation or liability by such notice, but has the right to monitor the handling of any such claim.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.

5.1 General Requirement. To the fullest extent permitted by law, Consultant shall indemnify, defend with counsel approved by the City, and hold harmless the City and its officials, officers, employees, agents, and volunteers (collectively, "City Indemnitees") from and against any and all causes of action, losses, liability, claims, suits, actions, damages, expenses and costs ((including without limitation, attorney's fees, and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the Services under this Agreement, or its failure to comply with any of its obligations contained in this Agreement, or its failure to comply with any applicable law or regulation.

The foregoing obligation of Consultant shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the gross negligence or willful misconduct of the City or its officers, officials, employees, agents, or volunteers and (2) the actions of

Consultant or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

It is understood that the duty of Consultant to indemnify and hold harmless includes the duty to defend as set forth in Section 2778 of the California Civil Code. With respect to third party claims against Consultant, Consultant waives any and all rights of any type to express or implied indemnity against the Indemnitees.

Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Consultant from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any damages or claims for damages whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Consultant acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City in writing. If Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first. This requirement for acceptance or rejection of a tender of defense shall apply regardless of the application of any theories of comparative fault.

- 5.2 PERS Indemnification.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.
- 5.3 Design Professionals.** Notwithstanding Sections 5.1 and 5.2, to the extent that the services under this Agreement include design professional services subject to California Civil Code Section 2782.8, as may be amended from time to time, Consultant's duty to indemnify shall only be to the maximum extent permitted by California Civil Code Section 2782.8. The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8. Except as otherwise

authorized by Civ. Code § 2782.8, the cost to defend charged to any “design professional” shall not exceed the design professional’s proportionate percentage fault. Consultant shall furnish to the City, upon request in writing, any necessary information for determining whether Consultant qualifies as a “design professional” for the purposes for Civ. Code § 2782.8.

- 5.4 **Construction Contracts.** Notwithstanding Sections 5.1 and 5.2, to the extent this Agreement is a “construction contract” as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant’s services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant No Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent or to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement. Any action to enforce or interpret this Agreement shall be brought in a court of competent jurisdiction in the County of San Mateo, California.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Consultant’s failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall

comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

7.4 Licenses and Permits. Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals, including from City, of what-so-ever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

7.5 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, genetic information, marital status, sex or sexual orientation, gender or gender identity, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

7.6 Registration and Monitoring. Consultant shall be currently registered with the Department of Industrial Relations and qualified to perform public work consistent with Labor Code section 1725.5, except in limited circumstances as referenced in Labor Code section 1771.1(a). Additionally, Consultant is hereby notified that this Project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. This Section shall only apply if the Project set forth in this Agreement is a project for public work, as defined in Labor Code sections 1720 through 1720.6, inclusive.

Section 8. TERMINATION AND MODIFICATION.

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement for cause upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the date of notice of termination; City, however, may condition payment of such compensation upon Consultant delivering to City all materials described in Section 9.1.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the Term of this Agreement beyond the end date provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not assign or subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in **Exhibit A** not finished by Consultant; or

- 8.6.4** Charge Consultant the difference between the cost to complete the work described in **Exhibit A** that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.
- 8.6.5** No remedy mentioned in this Agreement is intended to be exclusive of any other right, power or remedy permitted by law. Neither the failure nor any delay on the part of the City to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder ("Work Product") shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement, and the City may use, reuse or otherwise dispose of the documents without Consultant's permission. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties unless required by law.

However, notwithstanding the foregoing, Consultant shall retain all rights, titles, and interests, including but not limited to all ownership and intellectual property rights, in all inventions, improvements, discoveries, methodologies, models, formats, software, algorithms, processes, procedures, designs, specifications, findings, and other intellectual properties developed, gathered, compiled or produced by Consultant prior to or independently of any of its services under this Agreement ("Background IP"), including such Background IP that Consultant may employ in the performance of this Agreement, or may incorporate into any part of the Work Product. Consultant grants City an irrevocable, non-exclusive, transferable, royalty-free license in perpetuity to use, disclose, and derive from such Background IP, but only as an inseparable part of the Work Product. Third-party content that may be used or incorporated in the Work Product shall not become the property of City. Consultant shall secure all licenses necessary to any third-party content incorporated into Consultant's Work Product for City to utilize Consultant's services and the Work Product for their intended purposes.

- 9.2 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 charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.

9.3 Inspection and Audit of Records. Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds TEN THOUSAND DOLLARS (\$10,000.00), the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of three (3) years after final payment under the Agreement.

9.4 Records Submitted in Response to an Invitation to Bid or Request for Proposals. All responses to a Request for Proposals (RFP) or invitation to bid issued by the City become the exclusive property of the City. At such time as the City selects a bid, all proposals received become a matter of public record, and shall be regarded as public records, with the exception of those elements in each proposal that are defined by Consultant and plainly marked as "Confidential," "Business Secret" or "Trade Secret."

The City shall not be liable or in any way responsible for the disclosure of any such proposal or portions thereof, if Consultant has not plainly marked it as a "Trade Secret" or "Business Secret," or if disclosure is required under the Public Records Act.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City may not be in a position to establish that the information that a prospective bidder submits is a trade secret. If a request is made for information marked "Trade Secret" or "Business Secret," and the requester takes legal action seeking release of the materials it believes does not constitute trade secret information, by submitting a proposal, Consultant agrees to indemnify, defend and hold harmless the City, its agents and employees, from any judgment, fines, penalties, and award of attorney's fees awarded against the City in favor of the party requesting the information, and any and all costs connected with that defense. This obligation to indemnify the City survives the City's award of the contract. Consultant agrees that this indemnification survives as long as the trade secret information is in the City's possession, which includes a minimum retention period for such documents.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 Attorneys' Fees. If a party to this Agreement brings any action, including arbitration or an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief

to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County San Mateo or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. 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.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve (12) months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code §1090 *et. seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to

criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 **Contract Administration.** This Agreement shall be administered by [REDACTED] ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 **Notices.** All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by email transmission or fax, if received during normal business hours before 5:00 p.m. on a business day (or if not, the next business day after delivery) provided that such email transmission or facsimile is legible and that at the time such email or fax is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Consultant

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Email: [REDACTED]

City:

City Clerk
City of South San Francisco
400 Grand Avenue
South San Francisco, CA 94080
Email: [REDACTED]

- 10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.

Seal and Signature of Registered Professional with
report/design responsibility.

- 10.12 Integration.** This Agreement, including all Exhibits attached hereto, and incorporated herein, represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral pertaining to the matters herein.
- 10.13 Counterparts.** This Agreement may be executed in counterparts and/or by facsimile or other electronic means, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.
- 10.14 Construction.** The headings in this Agreement are for the purpose of reference only and shall not limit or otherwise affect any of the terms of this Agreement. The parties have had an equal opportunity to participate in the drafting of this Agreement; therefore any construction as against the drafting party shall not apply to this Agreement.
- 10.15 Business License.** All consultants shall be required to maintain a current business license with the City of South San Francisco and attached as **Exhibit F.**
- 10.16 Force Majeure.** Consultant is not liable for any delay in performance or non-performance caused by acts of God, war, civil disturbance, government action, labor dispute, pandemic, government imposed travel restrictions or quarantine, trade embargoes, border closures, or another event that is beyond Consultant 's reasonable control or reasonable ability to foresee, and that cannot be mitigated with due diligence. The time of performance shall be extended for the duration of the above force majeure event necessary to proceed with or complete services. This provision does not otherwise relieve Consultant of applicable obligations not impacted by said force majeure event.

The Parties have executed this Agreement as of the Effective Date.

[Signatures on the Following Page]

CITY OF SOUTH SAN FRANCISCO

Consultants

City Manager

NAME:
TITLE:

Attest:

City Clerk

Approved as to Form:

City Attorney

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT B

COMPENSATION SCHEDULE AND REIMBURSABLE EXPENSES (IF ANY)

EXHIBIT C

PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 ET SEQ.

HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to eight hours during any one calendar day, and forty hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of eight hours during any one calendar day and forty hours during any one calendar week is permitted upon compensation for all hours worked in excess of eight hours during any one calendar day and forty hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.
- B. In accordance with Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply Labor Code Section 1775, which establishes a penalty of up to \$50 per day for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the

Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

- a. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
 - c. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
 - d. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
- a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.
- D. The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California

Labor Code Section 1776.

- E. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
- F. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Contractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

EXHIBIT D

FORM 590 (IF APPLICABLE)

EXHIBIT E

INSURANCE CERTIFICATES

EXHIBIT F
BUSINESS LICENSE

EXHIBIT G

Electronic Use Addendum Pursuant to Section 3.1

Pursuant to Section 3.1, if Consultant is provided access to City computer hardware or network files, or both, pursuant to this Agreement to provide services, Consultant shall agree to and comply with the following provisions:

- 1) The City's electronic communication equipment and resources (including but not limited to tablets, computers, laptops, fax, photocopier, phone, radio, other electronic or communications equipment, software, cloud storage, and internet access) are provided for the purpose of conducting City business and shall not be used for personal purposes.
- 2) All electronic communications that are created, received, transferred to or from the City, or maintained on City computer systems or other City electronic communication equipment and resources are the property of the City. If Consultant uses the City's electronic communication equipment and resources, Consultant will not have an expectation or right of privacy in such uses. The City reserves the right to monitor the use of such equipment and resources to ensure that they are being used for business purposes. Any use of the City's electronic equipment and resources constitutes consent to have such use monitored by the City at its discretion.
- 3) Reasonable care should be taken to prevent equipment loss or damage. Consultant shall be responsible for the cost of intentional damage or reckless loss of assigned communications equipment.
- 4) If Consultant is granted access to City network files or cloud storage, Consultant shall not access or retrieve, or attempt to access or retrieve, files or network drives and folders to which Consultant is not specifically authorized to do so. Consultant shall not make copies, download, or otherwise duplicate (or make attempts to do so), any City files, cloud storage, or network drive data. In no event shall Consultant download or install hardware or software on any City computer or network drive, nor shall Consultant store any files on City cloud storage.
- 5) Consultant shall not have access to any privileged communication, including attorney-client privileged communications, at any time.
- 6) Consultant shall not use equipment or resources to access secured websites without authorization. Nor shall Consultant use the equipment or resources without the knowledge or permission of City management to enter any secured on-line websites in which the City has a membership and/or an account. This includes all forms of hacking, or using another person's login name or password without authorization to access such websites.
- 7) Consultant shall comply with all federal, state, local laws and regulations, and all applicable City policies in accessing electronic communication equipment and resources.

EXHIBIT H

Worker's Compensation Exemption Affidavit

[ATTACH EXEMPTION FORM HERE]