

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
BKF ENGINEERS**

**PREAMBLE**

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and BKF Engineers, a California corporation, (Consultant). City and Consultant may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. City desires to secure the design professional services more fully described in this Agreement, at Exhibit A1, entitled "Scope of Services";
- B. "Design professional" includes licensed architects, licensed landscape architects, registered professional engineers and licensed professional land surveyors;
- C. Consultant represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- D. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

The Parties agree as follows:

**AGREEMENT TERMS AND CONDITIONS**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Consultant shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A1 – Scope of Services

Exhibit A2 – Corridor Images

Exhibit A3 – Milestones and Deadlines

Exhibit B1 – Schedule of Fees

Exhibit B2 – Fees By Task

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Addendum

Exhibit E - Title VI Assurances

Exhibit F – Notice of Exercise of Option to Extend Agreement Form

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

## **2. TERM OF AGREEMENT**

- A. Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on September 25, 2024 and terminate on September 30, 2026.
- B. After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for up to four (4) additional one-year terms through September 30, 2030 (“Option Period”), subject to budget appropriation. See Exhibit F for Notice of Exercise of Option to Extend Agreement Form.

## **3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

Consultant shall perform those Services specified in Exhibits A1 – A3 within the time stated in Exhibit A3. Time is of the essence.

- A. All reports, costs estimates, plans and other documentation which may be submitted or furnished by Consultant shall be approved and signed by an appropriate qualified licensed professional in the State of California.
- B. The title sheet for specifications and reports, and each sheet of plans, shall bear the professional seal, certificate number, registration classification, expiration date of certificate and signature of the design professional responsible for their preparation.

## **4. WARRANTY**

Consultant expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and

shall conform to the specifications, requirements and instructions upon which this Agreement is based. Consultant agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Consultant. If Consultant fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Consultant for the cost incurred by City.

## **5. QUALIFICATIONS OF CONSULTANT - STANDARD OF CARE**

Consultant represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Consultant's representations regarding its skills and knowledge. Consultant shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

## **6. COMPENSATION AND PAYMENT**

- A. In consideration for Consultant's complete performance of Services, City shall pay Consultant for all materials provided and Services rendered by Consultant in accordance with Exhibit B1, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is Section 1 of Exhibit B1, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Consultant's expense. Consultant shall not be entitled to any payment above the maximum compensation under any circumstance.
- B. No retainage will be held by the agency from progress payments due to the prime consultant. Prime consultants and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code for construction contracts, and Section 3321 of the California Civil Code for consultant contracts. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

## **7. TERMINATION**

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Consultant.
- B. Termination for Default. If Consultant fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Consultant.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Consultant will deliver to City all City information or material that Consultant has in its possession.

## **8. ASSIGNMENT AND SUBCONTRACTING**

City and Consultant bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Consultant shall not hire subcontractors without express written permission from City.

Consultant shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Consultant is for the acts and omissions of persons directly employed by it.

## **9. NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **10. INDEPENDENT CONSULTANT**

Consultant and all person(s) employed by or contracted with Consultant to furnish labor and/or materials under this Agreement are independent Consultants and do not act as agent(s) or employee(s) of City. Consultant has full rights to manage its employees in their performance of Services under this Agreement.

## **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant and shall not, without the prior written consent of City,

be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Consultant which is otherwise known to Consultant or becomes generally known to the related industry shall be deemed confidential.

## **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Consultant may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Consultant shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

## **13. RIGHT OF CITY TO INSPECT RECORDS OF CONSULTANT**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant compensation under this Agreement, including termination of Consultant. Consultant agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Consultant shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Consultant shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Consultant agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Consultant's Services hereunder.

## **14. HOLD HARMLESS/INDEMNIFICATION**

To the extent permitted by law, Consultant agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, to the extent arising out of, pertaining to, or related to the negligence, recklessness, or willful misconduct of the Consultant, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement. With respect to claims alleging Consultant's professional

negligence or professional liability, Consultant's duty to defend obligation shall be met by reimbursing an indemnified party for indemnified party's costs of defense following a determination of Consultant's proportionate percentage of fault.

## **15. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Consultant shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

## **16. WAIVER**

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

## **17. NOTICES**

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: Department of Public Works – Traffic Division  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at [schan@santaclaraca.gov](mailto:schan@santaclaraca.gov)

And to Consultant addressed as follows:

BKF Engineers  
Attn:  
1730 N. First Street, Suite 600  
San Jose, CA 95112  
and by e-mail at \* \_\_\_\_\_@XXX

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

## **18. COMPLIANCE WITH LAWS**

Consultant shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Consultant's attention is called to

the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.060), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Consultant has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

**19. CONFLICTS OF INTEREST**

Consultant certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Consultant and that no person associated with Consultant has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Consultant is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Consultant will advise City if a conflict arises.

**20. FAIR EMPLOYMENT**

Consultant shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**21. NO USE OF CITY NAME OR EMBLEM**

Consultant shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

**22. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**23. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**24. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

**25. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

**CONTINUED ON PAGE 8**



The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form:

Dated: \_\_\_\_\_

\_\_\_\_\_  
GLEN R. GOOGINS  
City Attorney

\_\_\_\_\_  
JOVAN D. GROGAN  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**BKF ENGINEERS**  
a California corporation

Dated: \_\_\_\_\_

By (Signature): \_\_\_\_\_  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Principal Place of  
Business Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Telephone: ( ) \_\_\_\_\_

Fax: ( ) \_\_\_\_\_

"CONSULTANT"

## **EXHIBIT A1**

### **SCOPE OF SERVICES**

The following Scope of Services defines the services and responsibilities of Consultant and City for professional and engineering services for bicycle facility planning, design, and environmental services for Phases 2 of the De La Cruz, Lick Mill, Scott Boulevards Bicycle Improvement Project (Project).

The Scope of Services, including Exhibit A1 and Consultant's proposal response dated June 27, 2024 and BAFO response dated August 7, 2024 provide context, supplemental information, and are incorporated by reference to the extent not inconsistent with the Agreement.

#### **1. GENERAL INFORMATION**

- 1.1.** Consultant will provide professional and engineering services for bicycle facility design, and environmental services Phase 2 of the De La Cruz, Lick Mill, Scott Boulevards Bicycle Improvement Project (Project). upon Bicycle and Pedestrian Advisory Committee recommendation and Council approval of Phase 1, Phase 2 of the Project can commence. The requested engineering design services for Phase 2 involve preliminary engineering, environmental clearance, preparation of construction documents (PS&E) for public works construction bidding, bid and award phase support, and construction/post-construction support.
- 1.2.** The Scope of Work includes bicycle facility design for the construction of multiple corridors throughout the City in alignment with the City's Bicycle Master Plan. Based on results of studies in Phase 1, bicycle facilities are planned to be implemented through roadway space reallocation (lane width modification), roadway reconfiguration (lane removal), and/or parking removal ("Project"). The Project corridors include the following three locations (refer to Exhibit A2 Corridor Images):
  - 1.2.1.** Project Location 1 includes De La Cruz Boulevard between Montague Expressway and W. Trimble Road
  - 1.2.2.** Project Location 2 includes Lick Mill Boulevard between Tasman Drive and Montague Expressway
  - 1.2.3.** Project Location 3 includes Scott Boulevard between Arques Avenue (City Border) and Saratoga Avenue

1.3. Details for each Project location are in Table A1 below:

**Table A1: Project Corridor Table**

Project Corridor				Study		
Roadway	From	To	Bike Facility Type	Road Reallocation	Lane Removal	Parking Removal
<b>Project Location 1</b>						
De La Cruz Blvd	Montague Expwy	Montague Park	Class II or IIB	X	X	X
De La Cruz Blvd	Montague Park	W. Trimble Rd	Class II, IIB, or IV	X	X	X
<b>Project Location 2</b>						
Lick Mill Blvd	Tasman Dr	Laird Circle (S)	Class IIB or IV		X	X
Lick Mill Blvd	Laird Circle (S)	Montague Expwy	Class IIB or IV		X	X
<b>Project Location 3</b>						
Scott Blvd	Arques Ave (City Border)	Central Expwy	Class IIB	X		
Scott Blvd	Central Expwy	Martin Ave	Class IIB	X	X	
Scott Blvd	Martin Ave	Monroe St	Class II or IIB	X	X	
Scott Blvd	Monroe St	Homestead Rd	Class II or IIB	X	X	X
Scott Blvd	Homestead Rd	Saratoga Ave	Class II or IIB	X	X	X

1.4. Phase 2 services shall be as specified below:

1.4.1. Phase 2: Design Phase, as follows:

1.4.1.1. Phase 2A: Preliminary Engineering and Environmental Documents

1.4.1.2. Phase 2B: Detailed Design

1.4.1.3. Phase 2C: Construction Engineering

### 1.5. City Assumptions

Consultant shall consider the City's following assumptions when reviewing the Scope of Services and preparing proposal:

- 1.5.1. The City's intent for the construction of Project is primarily signing and striping improvements within existing city ROW.
- 1.5.2. The City does not anticipate significant traffic signal modifications, pedestrian improvements (e.g. curb ramps or bulb-outs), median island modifications, or other intersection upgrades under this Project. If it is necessary to align construction costs with funding availability, striping may transition and change as necessary at intersections.
- 1.5.3. It is anticipated that the street pavement will require a preparatory slurry seal prior to placement of striping, and significant pavement rehabilitation is not expected for the Project.
- 1.5.4. Should a Preferred Alternative include Class IV facilities with physical separation, the physical separations should be assumed to be Class 1 flexible delineators and not concrete hardscape.
- 1.5.5. It is assumed that required design information for roadway geometry under Phase 2 can be obtained by Consultant through record research and site visits; topographical surveying or aerial photogrammetry are not anticipated to be required for the Project.
- 1.5.6. It is assumed that all three (3) Project Locations identified in Table 1 would be administered under one (1) construction contract.
- 1.5.7. The Project deadlines must be met to comply with the Federal Earmark funding requirements. See Exhibit A3 for Project deadlines and milestones. **The Federal Earmark Funding construction funding obligation deadline (Caltrans E-76 approval) is September 30, 2025.**

## 2. SCOPE OF SERVICES

Services include professional services required to achieve the City's Objective, including preliminary engineering and environmental documentation, and final design (plans, specifications, and engineer's estimate or PS&E) for public works bidding of the Project.

## 3. PHASE 2A: PRELIMINARY ENGINEERING AND ENVIRONMENTAL STUDIES

Upon identification of the Selected Alternative(s) under Phase 1, and after receiving a written Notice to Proceed from City, Consultant shall provide Design Phase (Phase 2) services. The Design Phase services are anticipated to be managed by staff from the City's Design Engineering Division and separate from City staff involved in Phase 1 of the services.

**3.1. Phase 2A: Task 1: Project Management** - Refer to the table below for tasks and deliverables for Phase 2A: Task 1 Consultant will be responsible for.

Task #	Task Description	Task Activities
<b>1</b>		<b>Project Management</b>
1.1	Project Management	<p>Consultant shall:</p> <p>(a) Manage its team and overall Project activities consistent with the direction from City in order to meet the Project design schedule and budget.</p> <p>(b) Coordinate with City, design team members, consultants, utility companies, other government agencies, and other affected parties as required throughout the duration of the Design Phase.</p> <p>(c) Prepare, monitor, and update progress schedule for Design Phase services in Microsoft ("MS") Project format beginning at the Design Phase kickoff meeting and ending at construction contract award. Schedule shall show significant milestones for the Project. Consultant shall notify City if there are delays in any task of the services. In such cases, Consultant shall make up the schedule in subsequent tasks or provide information to City substantiating a time extension. The schedule shall be maintained at all times and shall be updated each time progress and milestones are changed.</p> <p>(d) Meetings: Meetings shall be budgeted for and invoiced under each respective Task or activity requiring a meeting and not as Project management. Preparation for meetings shall be considered as included in the Task or activity for which the meeting is involved, except as follows:</p> <ul style="list-style-type: none"> <li>- A Design Phase kick-off meeting shall be conducted with designated City staff prior to beginning work to review anticipated Tasks and schedule, review available information and needs, and address any outstanding questions regarding the Project moving forward raised by City or Consultant.</li> <li>- During the course of services while there is</li> </ul>

Task #	Task Description	Task Activities
		<p>active work on the Project, Consultant shall schedule and attend brief bi-weekly conference calls with City. The purpose of the bi-weekly conference calls will be to keep City apprised on the Project's progress and address any issues that may arise during the course of services.</p> <p>- All other meetings, except as identified above, shall be budgeted and invoiced under the task for which the meeting is involved.</p> <p>(e) Provide monthly progress reports.</p> <p>(f) Stakeholder Coordination: Consultant shall coordinate with Project stakeholders as needed to inform each stakeholder of the Project work and incorporate any necessary accommodations into the construction documents.</p> <p>(g) Invoicing and Contract Administration: Consultant administrative staff time spent preparing invoices for services complete shall be considered as included in the overhead of the Consultant's basic hourly rates and shall not be billed. Additionally, addressing administrative issues regarding the professional services agreement, such as preparing additional services requests or budget modifications, shall also be considered as included in the overhead of the Consultant's basic hourly rates and shall not be billed.</p> <p>(h) Only the designated Project Manager or approved delegates performing Project Management duties shall charge time to Phase 2A: Task 1 Project Management (Design Phase). Consultant's technical staff working on other tasks for the Project shall not charge to the Project Management task. Additionally, if the Project Manager is performing technical work related to other tasks, time spent on those tasks shall be charged to the task and not to Project Management.</p>

Task #	Task Description	Task Activities
		(i) Consultant shall provide Project Management services for each task in Phase 2A and 2B, beginning with the Design Phase Notice to Proceed and ending upon completion of the Plans, Specifications, and Estimate task. Project Management for subsequent tasks (e.g. Bid Support, Construction Support and Project Closeout) shall be considered as incorporated in the services and fees provided under those tasks and not invoiced under the Project Management (Design Phase) task.
<b>Phase 2A: Task 1 Deliverables</b>		
1.1	Progress schedules in MS Project format (submitted electronically as an 11" x 17" pdf file and in native MS Project format). Progress reports and invoices (submitted electronically).	

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### **3.2. Phase 2A: Task 2. Preliminary Engineering And Environmental Clearance -**

Refer to the table below for tasks and deliverables for Phase 2A: Task 2  
Consultant will be responsible for.

Task #	Task Description	Task Activities
<b>2</b>	<b>Preliminary Engineering and Environmental Clearance</b>	
2.1	Preliminary Engineering	<p>Consultant shall:</p> <p>(a) Perform all necessary assessments and investigations to determine the existing conditions and improvements.</p> <p>(b) Review existing information, including previous studies and as-built drawings as available, for any potential issues associated with the Project installation. Notify City if there could be any expected issues based on review of the existing information.</p> <p>(c) Prepare a set of preliminary design plans (serves as 35% design level) for use in exhibits and contract drawings. At a minimum, the preliminary design plans shall include, but not limited to, City right-of-way lines, existing improvements such as sidewalk, curb, and gutter lines, existing roadway features, including existing roadway delineation markings and striping, and geometry and major features of proposed improvements. Plans shall be:</p> <ul style="list-style-type: none"><li>- Drawn to scale, on D-size (22" X 34") sheets, at an engineering scale up to 1" = 40' to 1"= 50' maximum, and conforming to City's Design Criteria. The City's design criteria can be found in the following link: <a href="https://www.santaclaraca.gov/Technical-Documents">Technical Documents   City of Santa Clara (santaclaraca.gov)</a></li><li>- Plans are to be produced by AutoCAD 2021 or earlier versions, using a City-provided AutoCAD template for title sheet and borders.</li><li>- May be prepared on aerial photo and/or GIS-based backgrounds and include all dimensioned striping elements of the bikeways, proposed green conflict striping and crosswalks configurations, advanced stop bars, and limits of pavement surface preparation. City provided aerial photos will be provided to Consultant, on request.</li></ul>



Task #	Task Description	Task Activities
		<p>- If any of the Selected Alternatives require civil improvements, such as concrete work, schematic display of said improvements.</p> <p>(d) Prepare a preliminary engineer's estimate based upon quantities of work.</p>
2.2	Environmental Clearance	<p>Consultant shall:</p> <p>(a) Serve as lead in securing environmental approvals required under Local Assistance Process in conformance with the Caltrans Local Assistance Procedures Manual (LAPM). Consultant shall be the lead in preparing all required documentation for City review, and City will submit documentation to Caltrans.</p> <p>(b) Complete the Field Review (FR) Form, including required attachments, and attend the Field Review meeting.</p> <p>(c) Complete the Preliminary Environmental Study (PES) form and all required documents per Caltrans LAPM Chapter 6 in compliance with California National Environment Policy Act (NEPA) and other applicable environmentally related laws. It is assumed Caltrans will be Lead Agency for NEPA and City will be Lead Agency for CEQA.</p> <p>- Environment Review (NEPA) – Exclusion: It is anticipated that the street and bicycle facility upgrades to be designed and constructed will be determined as Categorically Excluded under 23 USC 326.</p> <p>(d) Review the preliminary designs for the proposed improvements to recommend CEQA determination, and prepare a brief memorandum to document and support the recommendation.</p> <p>- Environment Review (CEQA) – Exemption: It is anticipated that the street and bicycle facility upgrades to be designed and constructed will be determined as either categorically exempt under the California Environment Quality Act (CEQA) Guidelines 15302 (c), Replacement or Reconstruction.</p>

Task #	Task Description	Task Activities
		<p>(e) In accordance with the anticipated CEQA exemption, Consultant shall prepare a Notice of Exemption for the improvements included in Project. The Notice of Exemption shall be submitted in draft for the City review and revised/finalized for submittal based on the City reviews. Consultant shall file the Notice of Exemption on behalf of City and filing fees (County filing fee and CDFW fees, if applicable) shall be considered as a reimbursable expense. Consultant shall also provide supporting documentation to City for City to submit to the State Clearinghouse under City's CEQANET account.</p> <p>- Should a revalidation of environmental documentation be required due to changes to the Project in future final design activities, Consultant shall provide any necessary support for the revalidation.</p>
<b>Phase 2A: Task 2 Deliverables</b>		
2.1	Preliminary Design Plans – One (1) PDF Preliminary Cost Estimate – One (1) PDF	
2.2	Field Review (FR) and Preliminary Environmental Study (PES) Forms. Field Review meeting notes, if requested Memorandum of CEQA Determination Recommendation, Draft and Final Notice of Exemption Recorded document for CEQA Filing Notice of Exemption	

#### 4. PHASE 2B: FINAL DESIGN

Upon completion of Phase 2A, and after receiving a written Notice to Proceed from City, Consultant shall provide Final Design and Construction Support for the Project. Services related to final design shall only proceed after receiving approval of required NEPA environmental documentation through Caltrans, per Federal-Aid requirements. The City's Design Engineering Division will have primary responsibility for the design phase of the Project.

**4.1. Phase 2B: Task 1: Agency Coordination & Permitting** - Refer to the table below for tasks and deliverables for Phase 2B: Task 1 Consultant will be responsible for. Consultant shall coordinate and secure permits required for the Project. Consultant shall serve as lead in obtaining all concurrence and approvals. The following agencies and permits listed in the table below are assumed to be required.

Task #	Task Description	Task Activities
<b>1</b>	<b>Agency Coordination and Permitting</b>	
1.1	Caltrans Encroachment Permit	<p>Project Location 1 (Scott Blvd) will cross El Camino Real which includes Caltrans right-of-way. Consultant shall apply for and obtain a standard Caltrans "Parent" encroachment permit, including associated forms required for the permit including but not limited to Caltrans forms TR-0100, TR-0402, TR-0405, and TR-0416 . Due to the simple nature of the improvements at this location, Consultant shall anticipate one round of reviews for implementation of Caltrans comments. It is anticipated that a DEER or PEER will not be required for the proposed improvements. It is also anticipated that the construction contractor would be required to obtain a "Rider" encroachment permit during construction.</p> <ul style="list-style-type: none"> <li>- Perform all necessary assessments and investigations to determine the existing conditions and improvements.</li> </ul>
1.2	Santa Clara County Roads & Airports (SCCRA) Encroachment Permit	<p>(a) The following locations are assumed to require coordination with SCCRA and associated permit(s):</p> <ul style="list-style-type: none"> <li>- Project Location 1 (De La Cruz Blvd) <ul style="list-style-type: none"> <li>• Intersection with Montague Expressway</li> </ul> </li> <li>- Project Location 2 (Lick Mill Blvd) <ul style="list-style-type: none"> <li>• Intersection with Montague Expressway</li> </ul> </li> <li>- Project Location 3 (Scott Blvd) <ul style="list-style-type: none"> <li>• Intersection with San Tomas Expressway</li> <li>• Intersection with Central Expressway</li> </ul> </li> </ul> <p>(b) Consultant shall perform the following activities culminating in obtaining an "Conditional Clearance" or "For Bidding Purposes" encroachment permit from the County for the work:</p> <ul style="list-style-type: none"> <li>- Coordination for County reviews at milestone submittals, beginning at preliminary design, and addressing all comments and necessary design</li> </ul>

Task #	Task Description	Task Activities
		<p>changes.</p> <ul style="list-style-type: none"> <li>- Preparation of truck turning template exhibits at each County intersection showing each turning movement for the existing and proposed lane geometry.</li> <li>- Preparation of exhibits showing lane alignment versus vehicle signal head alignment.</li> <li>- If required: Preparation of full traffic signal modification plans showing existing poles, equipment and conductor schedules, and the modifications, if any. Consultant shall understand that the County requires bicycle detector loops to have dedicated DLC to the cabinet. The existing signals have not been investigated by City at the time of preparation of this RFP.</li> </ul>
1.3	City Permits: Cities of San Jose and Sunnyvale	<p>(a) The following locations are assumed to require coordination with Cities of Sunnyvale and San Jose and associated permit(s):</p> <ul style="list-style-type: none"> <li>- Project Location 1 (De La Cruz Blvd</li> <li>• Intersection with Trimble Rd (San Jose)</li> <li>- Project Location 3 (Scott Blvd)</li> <li>• Terminus with Arques Ave (Sunnyvale)</li> </ul> <p>(b) Consultant shall perform the following activities culminating in obtaining an encroachment permit from the respective agency for the work:</p> <ul style="list-style-type: none"> <li>- Coordination for Cities of San Jose and Sunnyvale at milestone submittals, beginning at preliminary design, and addressing comments and required design changes.</li> <li>- Completing all forms and documentation required by Cities of San Jose and Sunnyvale, as required by the issuing agency, necessary for approval.</li> </ul>
1.4	City of Santa Clara Bicycle and Pedestrian Advisory Committee	<p>The project is assumed to be subject to the City's Complete Street Policy which requires that major transportation projects undergo a complete street review by the City's Bicycle and Pedestrian Advisory Committee (BPAC). Consultant is not expected to attend or present at the meeting, but will be required to support the City in providing information required for BPAC review. Consultant shall assume that one (1) review will take place at the 65% to 95% PS&amp;E design milestone, and that staff from the City's Traffic Engineering Division will</p>

Task #	Task Description	Task Activities
		complete all required complete streets checklists and agenda report.
<b>Phase 2B: Task 1 Deliverables</b>		
1.1 thru 1.3	Permit Application Documentation Secured Permit(s)	
1.4	Fill out the Complete Streets Checklist for the BPAC deliverable.	

**4.2. Phase 2B: Task 2: Caltrans Construction Authorization (E-76)** - Refer to the table below for tasks and deliverables for Phase 2B: Task 2 Consultant will be responsible for.

Task #	Task Description	Task Activities
<b>2</b>	<b>Caltrans Construction Authorization (E-76)</b>	
2.1	Caltrans Construction Authorization (E-76)	<p>Consultant shall coordinate and secure the E-76 request for Construction Authorization for the Project. Consultant shall be the lead in preparing all documentation for City review, and City will submit documentation to Caltrans. The following activities are assumed to be required to obtain the E-76 for construction, including but not limited to:</p> <ul style="list-style-type: none"> <li>- Calculation of Disadvantaged Business Enterprises contract goal (LAPM Chapter 9)</li> <li>- Preparation of PS&amp;E certification and checklist (LAPM Chapter 12)</li> <li>- Right of way certification, including utility certifications(s) (LAPM Chapters 13 and 14)</li> <li>- Consultant shall assume to prepare a draft Request for Authorization Package (RFA) for Caltrans courtesy review no later than the 95% PS&amp;E milestone, and final RFA for submittal in conjunction with 100% to Final Bid Set PS&amp;E.</li> </ul>
<b>Phase 2B: Task 2 Deliverables</b>		
2.1	DBE Goal Calculations PSE Certification and Checklist Right of Way Certification(s) Approved E-76 issued to City	

**4.3. Phase 2B: Task 3: Plans, Specifications, And Estimate** - Consultant shall perform engineering and design services to develop construction documents. Refer to the table below for tasks and deliverables for Phase 2B: Task 3 Consultant will be responsible for.

Task #	Task Description	Task Activities
<b>3</b>		<b>Plans, Specifications, and Estimate</b>
3.1	65% PS&E	<p>Consultant shall:</p> <p>(a) Prepare 65% construction documents (plans, specifications, and engineers estimate) and supporting information for City's review and approval.</p> <p>(b) Perform site visit(s) as necessary to identify feasibility of slurry seal pavement treatment and identify any failed pavement areas recommended to be improved prior to installing striping.</p> <p>(c) Construction details of proposed improvements shall be included in the 65% Plans.</p> <p>(d) Perform Utility Record Research including identifying utility operators, preparing, sending, and receiving notice letters to utility operators within the Project limits.</p> <p>- It is assumed that the pavement preparation for the bicycle striping will be slurry seal, and City will require all surface features (e.g. lids, covers, monuments) and required work to be displayed on the plans. Consultant shall expect items of construction work to adjust any low-facilities that exist in the pavement surface prior to and after the slurry seal treatment, including utilities within bike lanes.</p> <p>(e) Provide technical specifications.</p> <p>- Consultant shall be familiar with City's standard specifications and provide all Technical Specifications or Special Provisions such that they supplement, and do not conflict with, and are not redundant with the standard specifications. Changes to the City's boilerplate or deviations from the standard specifications shall be addressed by incorporating appropriate information into the Project Technical Specifications or Special Provisions.</p> <p>(f) Provide modified sections to City standard specifications as needed to suit the Project. Modified sections shall include, but not be limited to, general information, summary of work, measurement, and payment for bid items, permitting and agency regulatory requirements, etc.</p>

Task #	Task Description	Task Activities
		<p>(g) Prepare an updated engineering cost estimate.  - The Engineer's Cost Estimate shall be an itemized list of bid items and shall be accurate and prepared based upon current construction pricing and escalated to time of mid-construction using engineering judgement. Consultant shall review recent bids, and contact vendors, suppliers, and construction contractors as necessary to develop an accurate cost estimate.</p> <p>(h) Meet with City staff, as needed, to review City comments on 65% submittal and gain concurrence as to how the documents will be revised as appropriate to incorporate City comments in future submittals.</p> <p>(i) Plan, coordinate, schedule, attend meetings, and produce meeting minutes with action items for all meetings with City as deemed necessary to efficiently complete this task of the design in a timely manner.</p> <p>(j) Conduct a quality control (QC) review of design documents (Plans, Specifications, and Engineer's Cost Estimates).  - Provide required information to City's Project Specific Specification Book (Division 0, 1, and 2). Required information from Consultant for City's frontend specifications shall include, but not be limited to, the following:</p> <ul style="list-style-type: none"> <li>• Description of work</li> <li>• Type of Contractor's License required.</li> <li>• Construction Duration for substantial completion and final completion</li> <li>• Bid schedule</li> <li>• Requirements for Contractor's Statement of Qualifications (e.g., experience requirements for similar work and contract values)</li> <li>• Identification of any changes to City's standard specifications that are required.</li> </ul>

Task #	Task Description	Task Activities
3.2	95% PS&E	<p>(a) Prepare 95% construction documents (plans, specifications, and engineers estimate) and supporting information for City's review and approval.</p> <p>(b) The 95% submittal package shall incorporate comments received from City on the 65% submittal package. The submittal shall include a written response to City comments including a description of how the comments were/were not incorporated into the submittal package. All redlined drawings shall be returned with Consultant's response on the redlined drawings.</p> <p>(c) Consultant shall conduct a quality control (QC) review of the submittal in accordance with Consultant's Quality Assurance/Quality Control (QA/QC) program.</p> <p>(d) Consultant shall submit the 95% plans to affected utility owners for their use and information.</p> <p>(e) Meet with City staff, as needed, to review City comments on 95% submittal and gain concurrence as to how the documents will be revised as appropriate to incorporate City comments in future submittals.</p>
3.3	100% Final PS&E	<p>(a) Based on City's comments and direction on the 95% PS&amp;E, Consultant shall revise the 95% PS&amp;E to produce the 100% PS&amp;E. Consultant shall:</p> <ul style="list-style-type: none"> <li>- Prepare 100% construction documents and supporting documents.</li> <li>- Prepare an updated Engineering Cost Estimate with backups of quantity calculations and support for sources of unit pricing.</li> <li>- Provide Documents for City's PS&amp;E approval process. Required documents are, but not be limited to, engineer's estimate using the schedule of quantities format, recent similar project bid summaries to validate engineer's estimate, Consultant Peer Review Certification, Consultant Lessons Learned from other similar projects that were applied to Project.</li> <li>- 100%/Final PS&amp;E shall be Peer reviewed and Certification of Peer Review shall be submitted with</li> </ul>



Task #	Task Description	Task Activities
		<p>the 100% Submittal.</p> <ul style="list-style-type: none"> <li>- A statement to indicate Peer Review has been performed and name, signature, and title of the Engineer who performed it shall be added to the Plans Cover Sheet. Peer Review is defined as an independent review by an individual of equal or greater expertise and experience as the engineer of record. This individual should be independent from and not associated with the Project but may be from the same Consultant firm. It is further required that the Peer Review does not replace or limit Consultant's internal QA/QC procedures.</li> </ul> <p>The following paragraph shall be put on the company letter head, dated, and signed by the Peer Review Engineer.</p> <p>"The undersigned hereby certifies that a professional peer review of these plans and the required designs was conducted by me, a professional engineer with expertise and experience in the appropriate fields of engineering equal to or greater than the Engineer of Record, and that appropriate corrections have been made."</p> <ul style="list-style-type: none"> <li>- Provide written response matrix to City's comments on 95% PS&amp;E.</li> <li>- Consultant shall conduct a quality control (QC) review of the submittal in accordance with Consultant's Quality Assurance/Quality Control (QA/QC) program.</li> </ul>
3.4	Final Bid Set Documents	<p>(a) This submittal shall be considered as a limited submittal to formalize and sign the Final Bid Set documents, and resolution of any minor issues remaining from the 100%/Final PS&amp;E package. This submittal shall address any comments from City's internal departments and permitting agencies as needed.</p> <p>(b) The final submittal shall consist of final Plans and Specifications, signed, stamped and dated by Consultant in responsible charge for their preparation, including PEER Review Statement, and be considered ready to bid. The final submittal shall be ready for City staff approval signatures.</p>
<b>Phase 2B: Task 3 Deliverables</b>		

Task #	Task Description	Task Activities
3.1	65% Plans - One (1) PDF 65% Specifications - One (1) PDF and Native MS Word 65% Engineering Cost Estimate - One (1) PDF and Native MS Word	
3.2	95% Plans - One (1) PDF 95% Specifications - One (1) PDF and Native MS Word 95% Engineering Cost Estimate - One (1) PDF and Native MS Word	
3.3	100% Plans - One (1) PDF 100% Specifications - One (1) PDF and Native MS Word 100% Engineering Cost Estimate - One (1) PDF and Native MS Word	
3.4	Bid Set Plans, Specifications, and Estimate (PDF) and Native Files	

## 5. PHASE 2C: AS-NEEDED CONSTRUCTION ENGINEERING

All services completed within these tasks shall be on an as-needed basis and shall be specifically requested by City in writing prior to Consultant providing services. Services shall not be provided until the approved E-76 for Construction Engineering (CE) is provided to City through Caltrans and Consultant receives a written Notice to Proceed from City prior to providing services.

**5.1. Phase 2C: Task 1: As-Needed Bid And Award Support** - Consultant shall provide assistance to City during the construction bidding and award phase, answer questions from bidders, help and prepare exhibits for addenda when necessary, assist City in evaluation of bids received, and provide a written recommendation for the award of contract, when requested. All services completed within this task shall be on an as-needed basis and shall be specifically requested by City in writing prior to Consultant providing services. Refer to the table below for tasks and deliverables for Phase 2C: Task 1. Consultant will be responsible for if services are requested by the City.

Task #	Task Description	Task Activities
<b>1</b>		<b>As-Needed Bid and Award Support</b>
1.1	As-Needed Bid and Award Support	<p>Upon City's Request, Consultant shall:</p> <ul style="list-style-type: none"> <li>(a) Attend and conduct one Pre-Bid Conference/Site Visit.</li> <li>(b) Assist City with responses to bidder's inquiries through City's Project Manager.</li> <li>(c) Assist City with addenda to the construction documents as needed to respond to bidder's inquiries and clarify the intent of bid documents.</li> <li>(d) Within fourteen (14) days from the bid opening date, prepare and submit a conformed set of contract</li> </ul>

Task #	Task Description	Task Activities
		documents (Plans and Specifications) incorporating any and all addenda (if applicable).
<b>Phase 2C: Task 1 Deliverables</b>		
1.1		<ul style="list-style-type: none"> <li>- Written response to bidder's inquiries, if needed – Signed PDF.</li> <li>- Addenda to the Bid Documents, if needed – Signed PDF.</li> <li>- Written recommendation letter to award of contract for Project, if needed – Signed PDF.</li> <li>- Conformed Set, if needed – One (1) PDF of Plans and Specifications, one (1) AutoCAD file of Plans, and one (1) Microsoft Word file of Specifications.</li> </ul>

**5.2. Phase 2C; Task 2: As-Needed Construction Support** - The City's Field Services Division will have primary responsibility for construction management and inspection. Consultant's responsibility shall be to provide basic as-needed services for the construction phase under this Agreement commences with the award of construction contract and terminates on the date City approves the notice of completion of Project. All services completed within this Task shall be on an as-needed basis and shall be specifically requested by City in writing prior to Consultant providing services. Refer to the table below for tasks and deliverables for Phase 2C: Task 2 Consultant will be responsible for if services are requested by the City.

Task #	Task Description	Task Activities
<b>2</b>		<b>As-Needed Construction Support</b>
These services shall not be performed until a written Notice to Proceed for the services is provided by City and receipt of written approval from Caltrans of CE/CON phases for the Project.		
2.1	As-Needed Construction Support	<p>Upon City's Request, Consultant shall:</p> <ul style="list-style-type: none"> <li>(a) Attend the Pre-construction meeting and respond to pre-construction meeting questions.</li> <li>(b) Perform construction site visits.</li> <li>(c) Review technical submittals, shop drawings, product data, product samples, and product warranties from the contractor for conformance with the specifications and drawings. The Consultant's action shall be taken with such reasonable promptness so as to cause no delay in the work, while allowing sufficient time in Consultant's judgment to permit adequate review. Consultant will be allowed a maximum of seven (7) calendar days for review of submittals.</li> </ul>

Task #	Task Description	Task Activities
		<p>(d) Respond to Contractor's Request for Information (RFI) and Request for Substitution (RFS). Interpretations and decisions of Consultant shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. Consultant shall be allowed a maximum of seven (7) calendar days to respond to RFIs and RFSs that impact Project schedule or a maximum of fourteen (14) calendar days to respond to RFIs and RFSs that do not impact Project schedule.</p> <p>(e) Consultant shall prepare the Scope of Work, including sketches, for Field Instructions issued to the Contractor. When requested by City, Consultant shall review Change Order (CO) pricing and provide written responses for City's review and finalizing said COs.</p> <p>(f) When requested by City, Consultant shall conduct reviews to assist City to determine the date or dates of Substantial Completion and the date of Final Completion. Consultant's decisions with City approval on matters relating to aesthetic effect may be final if consistent with the intent expressed in the Contract Documents.</p> <p>(g) Upon request by City, in accordance with contract Specifications, for Substantial Completion and later Final Completion, Consultant shall assist City in determining if Project is ready for the stage of completion requested by the Contractor. Consultant shall provide City with a written recommendation.</p> <p>(h) Consultant shall perform a walk-through of Project site, review Contractor Punch List, and provide written response with status and action of items on the Punch List. Consultant shall attend final walk-through of Project site with City, verify Punch List completion, and provide written response with recommendation regarding Project acceptance and close-out.</p> <p>(i) Consultant shall review Contractor-supplied Operation and Maintenance manuals and Warranties</p>

Task #	Task Description	Task Activities
		to determine their completeness and compliance with Construction Contract and provide written recommendation for acceptance.
<b>Phase 2C: Task 2 Deliverables</b>		
2.1	<ul style="list-style-type: none"> <li>- Signed PDFs of Reviewed Contractor Submittals, Shop Drawings, RFIs, RFSs, and Field Instructions.</li> <li>- Signed PDFs of COs' recommendations.</li> <li>- Substantial Completion/Final Completion recommendations and Reviewed Punch List – One (1) signed PDF.</li> </ul>	

**5.3. Phase 2C: Task 3: Post-Construction Phase** - Refer to the table below for tasks and deliverables for Phase 2C: Task 3 Consultant will be responsible for if services are requested by the City.

Task #	Task Description	Task Activities
<b>3</b>	<b>As-Needed Post-Construction Phase</b>	
3.1	As-Needed Post-Construction Phase	<p>(a) If requested by City, provide a complete set of the Record Drawings and all X-ref files "bound," including other associated fonts, plot style files on AutoCAD, including electronic copies in PDF format. Consultant may, at its own expense, prepare and retain a copy of each drawing for its permanent file.</p> <p>(b) Record Drawings shall be based upon Redlines maintained by the construction contractor and provided to Consultant through the City.</p>
<b>Phase 2C: Task 3 Deliverables</b>		
3.1	Record Drawings – One (1) PDF and one (1) set of AutoCAD files on CD/DVD.	

## EXHIBIT A2 CORRIDOR IMAGES



**EXHIBIT A3**  
**DEADLINES AND MILESTONES**

Milestone	Date
<b>Phase 1: Planning</b>	
BPAC (2) – Draft Concept Designs	October 28, 2024
Community Survey/Meeting #1	October 2024
BPAC (3) – Traffic/Parking Analysis and Preferred Concept Recommendations	January 27, 2025
Community Survey/Meeting #2	November 2024
Draft Report	December 2024
City Council Study Session	January 2025
Final Draft Report	January 2025
City Council Preferred Alternatives/Report Adoption	February 2025
Final Report	February 2025
<b>Phase 2: Design</b>	
Design Phase Kickoff*	January 2025
E-76 Deadline	September 30, 2025

\*The City highly encourages design phase preparatory work (base mapping, standard provision preparation, and etc.) start before this date to meet project deadlines.

**EXHIBIT B1  
SCHEDULE OF FEES**

**1. MAXIMUM COMPENSATION**

- 1.1. The maximum amount payable for all services provided under this Agreement shall not exceed **Seven Hundred Sixty-Two Thousand Eight Hundred Twelve Dollars (\$762,812)**, during the term of the Agreement. No additional services will be performed unless both Parties execute an amendment outlining the services requested and the compensation agreed for such services.
- 1.2. All payments are based upon City's acceptance of Consultant's performance of services specified in Exhibit A1, Scope of Services. City shall have no obligation to pay unless Consultant has successfully completed the work for which payment is due.
- 1.3. The compensation to be paid by the City is specified below:

**Table B1: Total Compensation**

Description	Total
<b>Phase 2A - Preliminary Engineering and Environmental Studies</b>	
Task 1: Project Management	\$2,626
Task 2: Preliminary Engineering and Environmental Clearance	\$65,049
<b>Phase 2B - Final Design</b>	
Task 1: Agency Coordination and Permitting	\$62,469
Task 2: Caltrans Construction Authorization (E-76)	\$31,762
Task 3: Plans, Specifications and Estimate (PS&E)	\$430,499
<b>Phase 2C - As-Needed Construction Engineering</b>	
Task 1: As-Needed Bid and Award Support	\$10,649
Task 2: As-Needed Construction Support	\$32,215
Task 3: As-Needed Post Construction Phase	\$18,650
Other Direct Costs (Including subcontractor markup)	\$9,396
<b>TOTAL FOR ALL TASKS AND OTHER DIRECT COSTS</b>	<b>\$663,315</b>
Contingency	\$99,498
<b>TOTAL MAXIMUM COMPENSATION NOT-TO-EXCEED</b>	<b>\$762,812</b>

- 1.4. In the event, there is a need to move allocated hours from one task to a different task the City and Consultant must agree in writing to this change. This will not change the not-to-exceed maximum compensation of this Agreement.
- 1.5. See Exhibit B2 for task breakdown by cost and hours.



## 2. FEES

- 2.1. All hourly rates are fixed for the Term of the Agreement
- 2.2. The hourly rates for Consultant's and Subconsultant's Personnel are listed below in Table B2:

**Table B2**

Title	Hourly Rate
<b>BKF Engineers (Project Management, Civil Engineering, Right of Way, Permits)</b>	
Gordon Sweet	\$ 357.35
Marcelo Cosentino	\$ 299.26
Carmello Cecilio	\$ 266.41
Cheung Wong	\$ 240.05
Norm Dyer	\$ 247.29
Andrew Michel	\$ 299.26
Engineering Manager	\$ 247.26
Sr. Project Engineer/Sr. Project Surveyor	\$ 230.34
Project Engineer/Project Surveyor	\$ 194.10
Design Engineer/Staff Surveyor	\$ 160.87
Technician IV	\$ 190.52
Clerical/Admin Assistant	\$ 104.49
<b>David J. Powers &amp; Associates (DBE) (Environmental Support, Compliance, Permitting)</b>	
Principal Project Manager	\$ 266.78
Project Manager	\$ 16.69
Graphic Artist	\$ 104.20
Researcher	\$ 101.22
<b>TJKM (DBE) (Transportation and Design Support)</b>	
Nayan Amin	\$ 284.92
Sandeep Paparaju	\$ 221.90
Rutvij Patel	\$ 221.90
Andrew Dickson	\$ 145.52
Devyani Padubidri	\$ 98.06
Aayush Kalantri	\$ 95.89

### **3. INVOICING REQUIREMENTS**

- 3.1. Consultant shall invoice the City on a monthly basis for the percentage of services completed for each task by Consultant during the preceding month and provide the invoice in a format approved by the City, including but not limited to the information listed under Section 3.3 below.
- 3.2. City shall pay Consultant within thirty (30) days of City's receipt of an approved invoice.
- 3.3. Invoices shall include, at a minimum, the following:
  - 3.3.1. Identify the task services were provided for;
  - 3.3.2. Description of work performed;
  - 3.3.3. Deliverables completed;
  - 3.3.4. Amount for services provided by task with a detailed breakout of all costs incurred and supporting documentation, including direct labor, indirect costs, other direct costs, travel, etc.; and
  - 3.3.5. The not-to-exceed amount for the task, invoiced amount to date, amount for the current invoice, and remaining not-to-exceed amount for the task.

**EXHIBIT B2**  
**FEES BY TASK**

**1. PHASE 2A – PRELIMINARY ENGINEERING AND ENVIRONMENTAL STUDIES**

<b>TASK #</b>	<b>DESCRIPTION</b>	<b>BUDGETED HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>PHASE 2A: Preliminary Engineering and Environmental Studies</b>				
<b>1</b>	<b>Project Management</b>			
<b>1.1</b>	<b>Project Kick-Off Meeting</b>			<b>\$2,626</b>
	Gordon Sweet (BKF Engineers)	4	\$357.35	\$1,429
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
<b>TOTAL FOR TASK 1</b>		<b>8</b>		<b>\$2,626</b>
<b>2</b>	<b>Preliminary Engineering and Environmental Clearance</b>			
<b>2.1</b>	<b>Preliminary Engineering</b>			<b>\$27,281</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
	Cheung Wong (BKF Engineers)	12	\$240.05	\$2,881
	Project Engineer/Project Surveyor (BKF Engineers)	18	\$194.14	\$3,495
	Technician IV (BKF Engineers)	32	\$190.52	\$6,097
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	20	\$221.90	\$4,438
	Andrew Dickson (TJKM)	32	\$145.52	\$4,657
<b>2.2</b>	<b>Environmental Clearance</b>			<b>\$37,769</b>
	Marcelo Cosentino (BKF Engineers)	2	\$299.26	\$599
	Cheung Wong (BKF Engineers)	2	\$240.05	\$480
	Principal Project Manager (David J. Power & Associates)	30	\$266.78	\$8,003
	Project Manager (David J. Power & Associates)	140	\$169.69	\$23,757
	Graphic Artist (David J. Power & Associates)	24	\$104.20	\$2,501
	Researcher (David J. Power & Associates)	24	\$101.22	\$2,429
<b>TOTAL FOR TASK 2</b>		<b>358</b>		<b>\$65,049</b>

## 2. PHASE 2B – FINAL DESIGN

TASK #	DESCRIPTION	BUDGETED HOURS	HOURLY RATE	TOTAL
<b>1</b>	<b>Agency Coordination and Permitting</b>			
<b>1.1</b>	<b>Caltrans Encroachment Permit</b>			<b>\$17,553</b>
	Gordon Sweet (BKF Engineers)	4	\$357.35	\$1,429
	Marcelo Cosentino (BKF Engineers)	8	\$299.26	\$2,394
	Cheung Wong (BKF Engineers)	20	\$240.05	\$4,801
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	22	\$230.34	\$5,067
	Design Engineer/Staff Surveyor (BKF Engineers)	24	\$160.87	\$3,861
<b>1.2</b>	<b>Santa Clara County Roads &amp; Airports (SCCRA) Encroachment Permit</b>			<b>\$23,514</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
	Cheung Wong (BKF Engineers)	12	\$240.05	\$2,881
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	8	\$230.34	\$1,843
	Design Engineer/Staff Surveyor (BKF Engineers)	12	\$160.87	\$1,930
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	24	\$221.90	\$5,326
	Andrew Dickson (TJKM)	40	\$145.52	\$5,821
<b>1.3</b>	<b>City Permits: Cities of San Jose and Sunnyvale</b>			<b>\$9,026</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
	Cheung Wong (BKF Engineers)	12	\$240.05	\$2,881
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	10	\$230.34	\$2,303
	Design Engineer/Staff Surveyor (BKF Engineers)	12	\$160.87	\$1,930
<b>1.4</b>	<b>City of Santa Clara Bicycle and Pedestrian Advisory Committee</b>			<b>\$12,376</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
	Cheung Wong (BKF Engineers)	12	\$240.05	\$2,881
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	8	\$230.34	\$1,843
	Design Engineer/Staff Surveyor (BKF Engineers)	12	\$160.87	\$1,930
	Technician IV (BKF Engineers)	20	\$190.52	\$3,810
<b>TOTAL FOR TASK 1</b>		<b>294</b>		<b>\$62,469</b>

<b>TASK #</b>	<b>DESCRIPTION</b>	<b>BUDGETED HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>2</b>	<b>Caltrans Construction Authorization (E-76)</b>			
<b>2.1</b>	<b>Caltrans Construction Authorization (E-76)</b>			<b>\$31,762</b>
	Gordon Sweet (BKF Engineers)	4	\$357.35	\$1,429
	Marcelo Cosentino (BKF Engineers)	12	\$299.26	\$3,591
	Cheung Wong (BKF Engineers)	16	\$240.05	\$3,841
	Andrew Michel (BKF Engineers)	8	\$299.26	\$2,394
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	32	\$230.34	\$7,371
	Project Engineer/Project Surveyor (BKF Engineers)	32	\$194.14	\$6,212
	Principal Project Manager (David J. Power & Associates)	6	\$266.78	\$1,601
	Project Manager (David J. Power & Associates)	24	\$169.69	\$4,073
	Graphic Artist (David J. Power & Associates)	12	\$104.20	\$1,250
	<b>TOTAL FOR TASK 2</b>	<b>146</b>		<b>\$31,762</b>
<b>3</b>	<b>Plans, Specifications, and Estimate (PS&amp;E)</b>			
<b>3.1</b>	<b>65% PS&amp;E</b>			<b>\$128,506</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	16	\$299.26	\$4,788
	Carmelo Cecilio (BKF Engineers)	8	\$266.41	\$2,131
	Cheung Wong (BKF Engineers)	60	\$240.05	\$14,403
	Norm Dyer (BKF Engineers)	2	\$247.29	\$495
	Andrew Michel (BKF Engineers)	24	\$299.26	\$7,182
	Engineering Manager	34	\$247.26	\$8,407
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	54	\$230.34	\$12,438
	Project Engineer/Project Surveyor (BKF Engineers)	94	\$194.14	\$18,249
	Design Engineer/Staff Surveyor (BKF Engineers)	120	\$160.87	\$19,304
	Technician IV (BKF Engineers)	120	\$190.52	\$22,862
	Clerical Admin Assistant (BKF Engineers)	8	\$104.49	\$836
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	24	\$221.90	\$5,326
	Andrew Dickson (TJKM)	52	\$145.52	\$7,567
<b>3.2</b>	<b>95% PS&amp;E</b>			<b>\$114,251</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	16	\$299.26	\$4,788
	Carmelo Cecilio (BKF Engineers)	8	\$266.41	\$2,131
	Cheung Wong (BKF Engineers)	52	\$240.05	\$12,483
	Norm Dyer (BKF Engineers)	2	\$247.29	\$495

TASK #	DESCRIPTION	BUDGETED HOURS	HOURLY RATE	TOTAL
	Andrew Michel (BKF Engineers)	20	\$299.26	\$5,985
	Engineering Manager	30	\$247.26	\$7,418
	Sr. Project Engineer/Sr. Project Surveyor BKF Engineers)	42	\$230.34	\$9,674
	Project Engineer/Project Surveyor (BKF Engineers)	82	\$194.14	\$15,919
	Design Engineer/Staff Surveyor (BKF Engineers)	102	\$160.87	\$16,409
	Technician IV (BKF Engineers)	100	\$190.52	\$19,052
	Clerical Admin Assistant (BKF Engineers)	8	\$104.49	\$836
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	38	\$221.90	\$8,432
	Andrew Dickson (TJKM)	42	\$145.52	\$6,112
<b>3.3</b>	<b>100% PS&amp;E</b>			<b>\$104,573</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	16	\$299.26	\$4,788
	Carmelo Cecilio (BKF Engineers)	8	\$266.41	\$2,131
	Cheung Wong (BKF Engineers)	52	\$240.05	\$12,483
	Norm Dyer (BKF Engineers)	2	\$247.29	\$495
	Andrew Michel (BKF Engineers)	20	\$299.26	\$5,985
	Engineering Manager	28	\$247.26	\$6,923
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	36	\$230.34	\$8,292
	Project Engineer/Project Surveyor (BKF Engineers)	76	\$194.14	\$14,755
	Design Engineer/Staff Surveyor (BKF Engineers)	90	\$160.87	\$14,478
	Technician IV (BKF Engineers)	90	\$190.52	\$17,147
	Clerical Admin Assistant (BKF Engineers)	8	\$104.49	\$836
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	28	\$221.90	\$6,213
	Andrew Dickson (TJKM)	38	\$145.52	\$5,530
<b>3.4</b>	<b>Final Bid Set Documents</b>			<b>\$83,169</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	12	\$299.26	\$3,591
	Carmelo Cecilio (BKF Engineers)	6	\$266.41	\$1,598
	Cheung Wong (BKF Engineers)	24	\$240.05	\$5,761
	Norm Dyer (BKF Engineers)	2	\$247.29	\$495
	Andrew Michel (BKF Engineers)	18	\$299.26	\$5,387
	Engineering Manager	24	\$247.26	\$5,934

<b>TASK #</b>	<b>DESCRIPTION</b>	<b>BUDGETED HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	32	\$230.34	\$7,371
	Project Engineer/Project Surveyor (BKF engineers)	56	\$194.14	\$10,872
	Design Engineer/Staff Surveyor (BKF Engineers)	72	\$160.87	\$11,583
	Technician IV (BKF Engineers)	80	\$190.52	\$15,242
	Clerical Admin Assistant (BKF Engineers)	8	\$104.49	\$836
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	12	\$221.90	\$2,663
	Rutvij Patel (TJKM)	24	\$221.90	\$5,326
	Andrew Dickson (TJKM)	32	\$145.52	\$4,657
<b>TOTAL FOR TASK 3</b>		<b>2112</b>		<b>\$430,499</b>
<b>TOTAL FOR PHASE 2B</b>				<b>\$524,731</b>

### 3. PHASE 2C – AS-NEEDED CONSTRUCTION ENGINEERING

<b>TASK #</b>	<b>DESCRIPTION</b>	<b>BUDGETED HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>PHASE 2C: AS-NEEDED CONSTRUCTION ENGINEERING</b>				
<b>1</b>	<b>As-Needed Bid and Award Support</b>			
<b>1.1</b>	<b>As-Needed Bid and Award Support</b>			<b>\$10,649</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	8	\$299.26	\$2,394
	Cheung Wong (BKF Engineers)	12	\$240.05	\$2,881
	Project Engineer/Project Surveyor (BKF Engineers)	24	\$194.14	\$4,659
<b>TOTAL FOR TASK 1</b>		<b>46</b>		<b>\$21,297</b>
<b>2</b>	<b>As-Needed Construction Support</b>			
<b>2.1</b>	<b>As-Needed Construction Support</b>			<b>\$32,215</b>
	Gordon Sweet (BKF Engineers)	4	\$357.35	\$1,429
	Marcelo Cosentino (BKF Engineers)	12	\$299.26	\$3,591
	Cheung Wong (BKF Engineers)	28	\$240.05	\$6,721
	Sr. Project Engineer/Sr. Project Surveyor (BKF Engineers)	32	\$230.34	\$7,371
	Project Engineer/Project Surveyor (BKF Engineers)	36	\$194.14	\$6,989
	Design Engineer/Staff Surveyor (BKF Engineers)	38	\$160.87	\$6,113
<b>TOTAL FOR TASK 2</b>		<b>150</b>		<b>\$32,215</b>
<b>3</b>	<b>As-Needed Post Construction Phase</b>			

<b>TASK #</b>	<b>DESCRIPTION</b>	<b>BUDGETED HOURS</b>	<b>HOURLY RATE</b>	<b>TOTAL</b>
<b>3.1</b>	<b>As-Needed Post Construction Phase</b>			<b>\$18,650</b>
	Gordon Sweet (BKF Engineers)	2	\$357.35	\$715
	Marcelo Cosentino (BKF Engineers)	4	\$299.26	\$1,197
	Nayan Amin (TJKM)	4	\$284.92	\$1,140
	Sandeep Paparaju (TJKM)	20	\$221.90	\$4,438
	Rutvij Patel (TJKM)	28	\$221.90	\$6,213
	Andrew Dickson (TJKM)	34	\$145.52	\$4,948
<b>TOTAL FOR TASK 3</b>		<b>92</b>		<b>\$18,650</b>
<b>TOTAL FOR PHASE 2C</b>				<b>\$72,163</b>

#### 4. OTHER DIRECT COSTS

<b>Other Direct Costs</b>	
Postage/Delivery	\$200
Mileage/Travel	\$4,600
Printing/Reproduction (Internal)	\$0
Aerial Topography	\$0
Filing Fees	\$50
Subconsultant Markup 10%	\$4,546
<b>TOTAL FOR OTHER DIRECT COSTS</b>	<b>\$9,396</b>



## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

Without limiting the Consultant's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Consultant's insurance. The minimum coverages, provisions and endorsements are as follows:

#### **A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:  
  
\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Consultant; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Consultant to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Consultant included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Consultant or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Consultant. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Consultant's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85,

or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Consultant shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Consultant's insurance.
3. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
  - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

#### F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and City agree as follows:

1. Consultant agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Consultant, provide the same minimum insurance coverage required of Consultant, except as with respect to limits. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Consultant agrees

that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.

2. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Consultant in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Consultant, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Consultant shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

#### H. EVIDENCE OF COMPLIANCE

Consultant or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Consultant shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be emailed to:

[ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)

Or mailed to:

EBIX Inc.  
City of Santa Clara Department of Public Works  
P.O. Box 100085 – S2  
Duluth, GA 30096

Telephone number: 951-766-2280  
Fax number: 770-325-0409

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Consultant shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

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## **EXHIBIT D LABOR COMPLIANCE ADDENDUM**

This Agreement is subject to the requirements of California Labor Code section 1720 et seq. requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

### **A. Prevailing Wage Requirements**

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the City Clerk's office, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at [www.dir.ca.gov](http://www.dir.ca.gov).
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the City or its designee including, but not limited to: certified

payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.

6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.
7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors **MUST** be a registered "public works contractor" with the DIR **AT THE TIME OF BID**. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

#### B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is

practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

### C. Enforcement

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.
2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.

City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.



**EXHIBIT E**  
**TITLE VI ASSURANCES**

**APPENDIX A**

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - ii. cancellation, termination or suspension of the Agreement, in whole or in part.
- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

## **APPENDIX E**

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following nondiscrimination statutes and authorities, including, but not limited to:

### **Pertinent Non-Discrimination Authorities:**

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42
- U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);

- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C.1681 et seq).

## EXHIBIT F

### NOTICE OF EXERCISE OF OPTION TO EXTEND AGREEMENT FORM

<b>AGREEMENT TITLE:</b>	
<b>CONSULTANT:</b>	
<b>DATE:</b>	

Pursuant to Section \_\_\_ of the Agreement referenced above, the City of Santa Clara hereby exercises its option to extend the term under the following provisions:

<b>OPTION NO.</b>	<b># of #</b>
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#### NEW OPTION TERM

Begin date:	
End date:	

#### ☐ CHANGES IN RATE OF COMPENSATION

Percentage change in CPI upon which adjustment is based:	
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Pursuant to Section \_\_\_ of the Agreement the rates of compensation are hereby adjusted as follows:  
(use attachment if necessary)

<b>MAXIMUM COMPENSATION for New Option Term:</b>	
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For the option term exercised by this Notice, City shall pay Consultant an amount not to exceed the amount set forth above for Consultant's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of Santa Clara hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

Dated: \_\_\_\_\_

Approved as to Form: \_\_\_\_\_

\_\_\_\_\_  
GLEN R. GOOGINS  
City Attorney

\_\_\_\_\_  
JOVAN D. GROGAN  
City Manager  
City of Santa Clara  
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Santa Clara, CA 95050  
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