

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
BELLECCI & ASSOCIATES, INC.
FOR
CREEK TRAIL PAVEMENT MAINTENANCE AND REHABILITATION PROJECTS**

PREAMBLE

This Agreement is entered into between the City of Santa Clara, California, a chartered California municipal corporation (City) and Bellecci & Associates, Inc., a California corporation, (Contractor). City and Contractor 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 A, entitled “Scope of Services”;
- B. “Design professional” includes licensed architects, licensed landscape architects, registered professional engineers and licensed professional land surveyors;
- C. Contractor 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 Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Addendum (if applicable)

Exhibit E – Milestone Schedule (Summary of Key Tasks)

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

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 the date this Agreement is signed by both Parties and terminate on December 31, 2028. Services may commence upon City issuing a written notice to proceed.

Services for the Phase 2 and Phase 3 projects, as described in Exhibit A and Exhibit B, are optional services and shall not commence until City issues a written notice to proceed for each of the Phase 2 and Phase 3 projects.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

- A. All reports, costs estimates, plans and other documentation which may be submitted or furnished by Contractor 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

Contractor 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. Contractor 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 Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor 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 Contractor's representations regarding its skills and knowledge. Contractor 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

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is four hundred ninety four thousand one hundred ten dollars (\$494,110) 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 Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

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 Contractor.
- B. Termination for Default. If Contractor 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 Contractor.
- 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, Contractor will deliver to City all City information or material that Contractor has in its possession.

8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor 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. Contractor shall not hire subcontractors without express written permission from City.

Contractor 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 Contractor 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 CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor 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 Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor 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 Contractor which is otherwise known to Contractor 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 Contractor 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, Contractor 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 CONTRACTOR

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 Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this

Agreement, including termination of Contractor. Contractor 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. Contractor 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.

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

14. HOLD HARMLESS/INDEMNIFICATION

To the extent permitted by law, Contractor 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 Contractor, its employees, subcontractors, or agents in the performance, or non-performance, of Services under this Agreement.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor 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
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at engineering@santaclaraca.gov, and
manager@santaclaraca.gov

And to Contractor addressed as follows:

Bellecci & Associates, Inc.
Attention: Daniel Leary
7077 Koll Center Parkway, Ste. 210
Pleasanton, CA 94566
and by e-mail at dleary@bellecci.com

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

Contractor 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, Contractor'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 Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor 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. Contractor will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Contractor 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

Contractor 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 9

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

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

“CITY”

BELLECCI & ASSOCIATES, INC.
a California corporation

Dated: _____

By (Signature): _____

Name: _____

Title: _____

Principal Place of
Business Address: _____

Email Address: _____

Telephone: () _____

Fax: () _____

“CONTRACTOR”

EXHIBIT A SCOPE OF SERVICES

I. GENERAL

Description of Projects and Objective

CITY desires to engage CONSULTANT to provide engineering design services for developing bid documents (plans, specifications, and engineer's estimate - PS&E) for public works bidding of Creek Trail Pavement Maintenance and Rehabilitation Projects.

This Agreement provides for services for three (3) creek trail pavement maintenance and rehabilitation projects as follows:

- Phase 1: Guadalupe River Trail (River Oaks Bridge to Thamien Park), and San Tomas Aquino Creek Trail (SR 237 to Tasman Dr)
- Phase 2 (Optional): San Tomas Aquino Creek Trail (Tasman Dr to Scott Blvd)
- Phase 3 (Optional): San Tomas Aquino Creek Trail (Scott Boulevard to Homestead Road)

The projects shall be prosecuted and administered in the following sequence: Design delivery for the Phase 1 Project, then subsequently design delivery for the Phase 2 Project, then subsequently design delivery for the Phase 3 Project. Certain services, as specifically described in the Description of Services, will be completed upfront as part of the services provided for the Phase 1 project but will address the needs of the subsequent Phase 2 and Phase 3 projects.

The basic scope of services shall include design services for Phase 1. Design services for Phase 2 and Phase 3 shall be optional. CONSULTANT shall not begin services for the Phase 2 or Phase 3 project until CONSULTANT receives written confirmation from the City allowing CONSULTANT to proceed.

The above referenced three (3) construction projects may be referred to singularly or plurally as "Phase", "Package", or "Project" throughout this Agreement and shall be interpreted as having the same meaning and intent.

Project Team

CONSULTANT shall provide the services described herein through a project team, comprised of CONSULTANT and subconsultants as identified as follows:

- David J Powers & Associates: CEQA Services
- H.T Harvey & Associates: Ecology & Resource Agency Permitting
- 360 Aerial Surveying: Aerial Topographic Survey Mapping

Any changes to the project team through the course of the services shall be approved in writing by CITY.

Baseline Solution

The following documents were prepared by CITY and attached to the Request for Proposals and are incorporated herein to this Agreement by reference:

- Attachment H, Trail Segment Listing
- Attachment I1, Trail Segment Package Map
- Attachment I2, Trail Segment Section ID Map

The above documents provide for the presumed locations, construction costs, and pavement treatments for the projects and are based upon information derived from CITY's pavement management system, Streetsaver. These documents and information contained therein are considered preliminary and draft.

The Project segments and their respective treatments to be maintained under the project(s) will be further refined and determined through the course of Services dependent upon engineering and cost estimates provided by the Consultant to ensure the project(s) remain within desired budgets and schedules.

Throughout the course of Services, if the estimated construction cost of the project(s) or package(s) appears to be above or below the available budgets, then the project(s) or package(s) may be modified as needed at the discretion of the City. The City reserves the right to add, delete, or modify the trail segments to be designed throughout the course of Services based upon City's needs.

The City's anticipated budgets for the project(s) is as follows:

- Phase 1: \$575,000
- Phase 2: \$675,000
- Phase 3: \$485,000

The construction document packages and the list of segments with assumed pavement treatments listed above to be maintained and rehabilitated a baseline solution provided in this Scope of Services as a guideline to develop the Scope of

Services and Schedule of Fees for the project.

Deviations from the baseline solution that results in the need to prepare other than the three (3) construction document phases, or segments other than listed in the draft list of segments, or pavement treatments significantly different than originally assumed, changes to the Scope of Services and Schedule of Fees shall be addressed by CITY and CONSULTANT prior to commencing to the Construction Documents Task. Changes to the Scope of Services and Schedule of Fees will be permitted only in writing by an Amendment to the Agreement or an Additional Services Authorization, as determined by CITY.

City reserves the right to revise the limits of each phase and construction work contemplated in each phase from the Baseline Solution, including the Scope of Services and Schedule of Fees allocated to each phase. Such revisions shall be documented in writing between CITY and CONSULTANT as Additional Service Authorization(s).

II. RESPONSIBILITIES OF CITY

CITY will provide the following information and support regarding the project as-available and applicable:

- Record drawings (as-available)
- CITY's Standard Details, Specifications, Benchmark, and Design Criteria.
- Storm Drain (SD), Sanitary Sewer (SS), Electric, Fiber, Water and Recycled Water Block Book Maps (as-available).
- Geographic Information System (GIS) data including land parcels, street centerlines, City sanitary sewers, City storm drains, and aerial photographic tiles.
- Payment of permit application fees, if required.

III. DESCRIPTION OF SERVICES

The Basic Scope of Services includes all professional services required to prepare construction bid documents (plans, specifications, and engineer's estimate) for the Phase 1 project.

Optional Service (Phase 2): Based on the outcome of Phase 1, the City shall consider whether or not to move forward with Phase 2. Phase 2 shall include all professional services required to prepare construction bid documents (plans, specifications, and engineer's estimate) for the San Tomas Aquino Creek Trail (Tasman Dr to Scott Blvd) project.

Optional Service (Phase 3): Based on the outcome of Phase 1 and Phase 2, the City shall consider whether or not to move forward with Phase 3. Phase 3 shall include all professional services required to prepare construction bid documents

(plans, specifications, and engineer's estimate) for the San Tomas Aquino Creek Trail (Scott Boulevard to Homestead Road) project.

Hereinafter the term "project" may refer to either the Phase 1 project, Phase 2 project, or Phase 3 project, whichever project is underway and applicable at the time services are performed.

1. TASK 1: PROJECT MANAGEMENT AND COORDINATION

CONSULTANT shall:

- 1.1 Manage its team and overall project activities consistent with the direction from CITY in order to meet the project schedule and budget.
- 1.2 Coordinate with CITY, design team members, consultants, utility companies, other government agencies, and other affected parties as required throughout the duration of the project as well as the Quality Assurance/Quality Control (QA/QC) activities for project deliverables.
- 1.3 Prepare, monitor, and update progress schedule in MS Project format beginning at the kickoff meeting and ending at contract award for the last construction phase. Schedule shall show significant milestones for the project. CONSULTANT shall notify CITY if there are delays or potential delays in phase of the project. In such cases, CONSULTANT shall make up the schedule in subsequent phases of the project or provide information to CITY substantiating a request for time extension (which may not be approved). The schedule shall be maintained at all times and shall be updated each time progress and milestones are achieved and/or changed.
- 1.4 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. A 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 outstanding questions regarding the project moving forward raised by CITY or CONSULTANT.
- 1.5 Stakeholder Coordination: CONSULTANT shall coordinate with project stakeholders as needed to inform each stakeholder of the project work and incorporate necessary accommodations into the construction documents. Anticipated stakeholders include, but are not limited to:
 - Valley Water
 - Santa Clara Bicycle and Pedestrian Committee (BPAC)

- 1.6 Provide monthly progress reports.
- 1.7 Conduct QC reviews in accordance with its QA Program guidelines. CONSULTANT shall provide a copy of its QA Program guidelines and shall provide a QC report at the end of each Task. Time spent for QA-QC reviews for specific deliverables shall be budgeted and billed under each respective task requiring QA-QC review and not as Project Management.
- 1.8 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.
- 1.9 Only the designated Project Manager or approved delegates performing project management duties shall charge time to Task 1 Project Management. 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.
- 1.10 The Project Management task shall be considered active upon written Notice to Proceed and end upon completion of award of construction contract under Task 5 Bid Support Assistance. Thereafter, services provided consistent with the above provisions shall be billed to subsequent tasks, e.g. Task 6 Construction Support or Task 7 Record Drawings and Project Close-Out, whichever may be applicable at the time services are provided.

Deliverables:

1. Progress schedule in MS Project format (submitted electronically as an 11" x 17" pdf file and in native MS Project format).
2. QA Program guidelines and QC reports for each Task (in pdf file).
3. Meeting agendas, preparation materials, and meeting minutes for each project meeting (in pdf file), including kick-off meeting minutes.
4. Monthly progress reports and invoices (in pdf file).

2. TASK 2: PRELIMINARY ENGINEERING AND EVALUATION (35% DESIGN)

2.1. Data Collection & Field Review

CONSULTANT shall collect as-built record drawing information for the trail segments as necessary for subsequent project design. CONSULTANT shall review the information provided by CITY to verify completeness and identify missing information that is necessary for design. For information that is required for non-CITY maintained facilities, CONSULTANT shall contact the appropriate owner to obtain information, as needed.

CONSULTANT shall perform a field review of the trail segments proposed for maintenance and rehabilitation to evaluate and document existing conditions and shall prepare field notes for pavement condition, existing obstructions, and visible utility conflicts that will be identified and incorporated. Items to be reviewed include pavement condition, visible surface utility information, conditions, physical obstructions, and constructability.

CONSULTANT shall review existing ADA survey reports for the trail and determine if elements identified for correction should be incorporated into the project based upon the pavement maintenance treatment involved. Detailed design of the ADA features identified in the report and within the footprint of the project will be prepared by CONSULTANT in a subsequent task.

2.2. Utility Information

CITY maintains a list of known utility operators in CITY. CONSULTANT shall prepare a Notice of Intent to Construct (NOI) on CITY's standard NOI form and submit it to the known utility operators in order to gather records for existing utilities for each segment. Location map exhibits will be required to be submitted as part of the NOI. CONSULTANT shall provide CITY a draft copy of the NOI prior to sending it to the utility, maintain log of NOI sent and received, and provide CITY all information received from the NOI. The purpose of the collection of utility information is to identify ownership of surface features that will be impacted by the work, and also to identify if there are any high-risk utilities within the project limits that may be impacted by the work.

2.3. Treatment Selection, Preliminary Cost Estimating, Confirmation of Project Packaging

Based upon existing conditions, data collected, and field review, CONSULTANT shall propose recommended treatments for each trail segment identified for the project and prepare preliminary cost estimates. As part of this task, CONSULTANT shall also evaluate and recommend alternatives for treatment for CITY's consideration, such as recommending treatments with a

lower initial cost but shorter service life versus treatments at a higher initial cost but with a longer service life.

The preliminary estimate shall account for major work items that contribute to the cost. The purpose of the preliminary cost estimates is to ensure the project remains within budget and whether or not trail segments need to be added or removed from the project to remain within the established project budget. Based upon the cost estimates, the trail segments list shall be finalized at this stage.

The field assessment described in Task 2.1 above and this task herein shall be performed upfront for both the Phase 1 and Phase 2 project segments under the Initial Term.

CONSULTANT shall document the findings under this Task as a Preliminary plan with proposed pavement rehabilitation sections and recommendation notes, along with a construction cost estimate, for CITY's review and approval. CONSULTANT shall meet with CITY to review the results of the memorandum and anticipate up to two (2) rounds of CITY comments and revisions to the memorandum provided that the CONSULTANT incorporates the comments and revisions as appropriate for each round of revision.

The preliminary plan, recommendation notes, typical section and construction cost estimate is for documenting the final trail segment list, estimated costs, treatments, and construction document packaging for subsequent Tasks.

2.4. Base Mapping (35% Design)

Upon finalization of the trail segments list, CONSULTANT shall prepare base mapping for the project plans. Base maps shall only be prepared upon finalization of the trail segment treatment list to ensure maps are not prepared for segments that will not be included in the project.

CONSULTANT shall prepare base maps for use in exhibits and contract drawings. It is assumed that the trail limits (edge of pavement, shoulders, conform slopes and surface features) will need to be delineated through topographic survey and that such features cannot be accurately or completely displayed for plans purposes based upon GIS information. The scope of work includes an aerial topography survey prepared by a photogrammetrist. The aerial topographic survey will be prepared at the beginning of the project, and will include the limits of the three phases of the work. Work related to topographic surveying is described under the Topographic Survey task.

CITY will provide geographic information system (GIS) data to CONSULTANT. The GIS data is limited to street centerlines, edge of pavement, land parcels,

City storm drains, City water lines, City sanitary sewer lines, and aerial photographic tiles. It is noted that the GIS data is approximate.

Base maps shall be prepared in AutoCAD format and these drawings will be used for subsequent design and construction document preparation. CITY's preferred base drawing format is 22" x 34" sized sheets at a legible scale. Regardless of the number of sheets and sizes of sheets, all base maps required for the Project shall be considered as included in the Basic Scope of Services. Requests for Additional Services related to the size and number of sheets required to bid the project will not be considered.

At a minimum, the 35% design plans shall include, but not limited to, existing utilities, right-of-way lines, existing improvements such as sidewalk, curb, and gutter, roadway, curb ramps, existing traffic equipment/signals, including existing roadway delineation markings and striping.

2.5. Topographic Survey

CONSULTANT shall be fully responsible to coordinate, obtain, and pay fees for encroachment permit(s) needed from Valley Water to conduct topographic surveys.

CONSULTANT shall perform topographic survey to support the design of the pavement maintenance and rehabilitation work. It is anticipated that the topographic survey will include, at minimum, the following features:

- Edges and centerline of pavement, at intervals determined necessary by CONSULTANT
- Edges of gravel shoulders, where applicable
- Adequate slope points and ground features to determine adjacent surfaces, including creek & levee slopes
- Major surface features (e.g. bollards, signs, utilities, etc.)
- Changes in pavement types (e.g. asphalt pavement to concrete pavement)
- Pavement delineation

CONSULTANT shall set horizontal and vertical control based on City's horizontal control survey. The elevation will be based on City's benchmarks. Phase 1 and Phase 2 will include two days of supplemental field surveying, while Phase 3 will include one day of field surveying as an optional service. The timing of the field surveying will be determined by the engineer during design, and will occur after the completion of the aerial topographic survey.

Deliverables:

1. Notice of Intent to Construct (NOI) forms, tracking log, and information received
2. Base Maps (PDF)
3. Field Survey Data
4. Preliminary Engineering Plan and Construction Cost Estimate for Phase 1 and Phase 2 (as a single complete PDF)

3. TASK 3: CEQA ANALYSIS & AGENCY PERMITTING

3.1. CEQA Analysis

It is anticipated that the project will be exempt from CEQA pursuant to Section 15301 of the State CEQA Guidelines. Section 15301, Existing Facilities, applies to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. Section 15301 provides several examples of projects that this exemption category is applicable, including existing streets, sidewalks, gutters, bicycle and pedestrian trails, and pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes.

CONSULTANT shall evaluate the work proposed under the project for conformance to CEQA guidelines and prepare a memorandum justifying and documenting the project's qualification as exempt. As shown on CONSULTANT's Cost Proposal dated May 18, 2023 and incorporated herein by reference, the scope of work includes an environmental consultant with a budget allowance to prepare a Categorical Exemption for the three phases of the project as part of one document under the Phase 1 services.

If CONSULTANT's evaluation does not support an exempt finding, preparation of additional environmental clearance work shall be considered by CITY under Additional Services.

3.2. Agency Permitting

CONSULTANT shall be responsible for obtaining required permits necessary to bid and construct the project. CITY will pay permit fees per Section II., Responsibilities of City, of this Scope of Services. CONSULTANT shall provide each permitting agency with a project description including the appropriate project plans along with the permitting applications and necessary supporting documentation. CONSULTANT shall submit the permitting package to CITY for signature and CONSULTANT shall submit to the permitting agencies.

It is noted that both the Guadalupe River Trail and San Tomas Aquino Creek Trail are on Valley Water land and operated by CITY under Joint Use Agreements. Coordinating and gaining approval of the pavement maintenance

and rehabilitation work by Valley Water is a key requirement for the project. CONSULTANT shall be lead and ensure Valley Water's approval for the work. CONSULTANT will prepare a separate application for each Phase of the work. The design of the pavement rehabilitation will be adjusted to minimize impacts to Valley Water jurisdiction which will cause additional permitting.

CONSULTANT shall respond in writing to questions and comments raised by the permitting agencies. Copies of comments and/or questions received and draft responses shall be submitted to CITY for approval prior to submittal to the agencies. Final permit requirements shall be incorporated into the project's contract documents.

The following is a list of potential permits that may be required for the project. If additional permits are required or if additional agencies are identified other than those on the list below, they shall be considered included as part of the Basic Scope of Services and not as Additional Services.

- Santa Clara Valley Water District (SCVWD): Phases 1, 2, and 3
- State of California Department of Transportation (Caltrans): Phase 1
- San Francisco Public Utility Commission (Hetch-Hetchy): Phase 2
- County of Santa Clara: Phase 3

The following permits are explicitly assumed as not being required for the project or included in the Basic Scope of Services. Should these permits become required, subsequent to the site reconnaissance survey described below, services related to securing these permits will be considered as an Optional Task, as described in Task 8 Optional Tasks:

- State of California Department of Fish and Wildlife (CADFW)
- US Army Corps of Engineer (ACOE)
- Regional Water Quality Control Board (RWQCB)

Permits shall be submitted at the appropriate time in accordance within the project schedule to ensure permits are issued and final to be incorporated into the construction documents prior to bid.

Site Reconnaissance Survey:

During the preliminary design of Phase 1, the biological consultant for the design team, HT Harvey, will review all three phases of the project, in coordination with the consultant pavement engineers. The CONSULTANT team will recommend pavement rehabilitation options that will minimize permitting from CADFW and ACOE. Reconnaissance survey and mapping of top-of-bank along selected segments of San Tomas Aquino Creek Trail: this survey would focus on areas where the trail dips below top of bank, and where project activities would be performed. A wetlands ecologist would map the top

of bank in those areas to determine whether/where work would be performed below top of bank and prepare a map and brief memo (with photos) describing findings.

Deliverables:

1. CEQA Memorandum
2. Permit application packages with necessary supporting documentation.
3. Final permits.

4. TASK 4: CONSTRUCTION DOCUMENTS (65%, 95%, 100%, and FINAL BID SET SUBMITTALS)

Upon CITY's approval of the Preliminary Engineering Plans and Construction Cost Estimate in Task 2 that defines the treatment approach and construction document packaging for the project, CONSULTANT shall prepare biddable and constructible construction contract documents. The subtasks outlined below shall be required for each construction package to be prepared as identified in the preliminary engineering memorandum. Phase 3 of the pavement rehabilitation will be approximately 50% mill and fill, and 50% slurry seal.

If changes in the Scope of Services or Schedule of Fees under this Task are required due to changes in the baseline solution identified during Task 2, changes shall be proposed by CONSULTANT and approved in writing by CITY prior to commencement of this Task.

Under each submittal, Consultant shall evaluate the project for requirements under the State General Construction Permit, and the RWQCB Municipal Regional Permit (MRP) and provide necessary services to ensure the project is compliant and incorporate requirements into the project bid documents. This includes determination of project type and risk level if necessary, and analysis and requirements under provision C.3. The anticipated method of storm water treatment, if required, is to sheet flow the asphalt trail drainage onto the adjacent vegetated area per the MRP, to be considered a self-treating facility. In areas which require stormwater treatment, the sheetflow will be achieved by regrading the trail, as part of the pavement rehabilitation, to drain onto the existing vegetated area..

The PROJECT does not contemplate, nor include, evaluation or replacement of trail amenities such as benches, trail heads, fencing, scenic overlooks, interpretive signs, or other similar architectural features. However, CONSULTANT shall evaluate the surfacing at trail heads (e.g. brick pavers) for condition and smooth surfacing and include replacement if warranted.

4.1. 65% Construction Documents Package

CONSULTANT shall perform engineering and design activities to develop a 65% level of completion construction documents. The 65% submittal shall be considered as a complete package necessary to bid the PROJECT, and subsequent submittals shall provide opportunities to further refine the contract documents.

4.1.1. Construction Documents

The 65% construction documents submittal shall follow the guidelines of the most current City Design Criteria and Standard Details and shall include Plans, Specifications, Engineer's Cost Estimate, and Probable Project Construction Schedule, in accordance with the following:

4.1.1.1. The Plans shall be complete and show property lines, existing high-risk utilities, and major construction features.

4.1.1.2. CITY's preferred plan format is 22" x 34" sized sheets at a legible scale.

4.1.1.3. Specifications shall include Technical Specifications or Special Provisions required to construct the project. CITY will prepare the "upfront" contract specifications, i.e. Divisions 0 and 1 specifications of CITY's boilerplate. CONSULTANT shall provide information required for CITY to complete the boilerplate. This information includes:

- Description of work
- Type of Contractor's License required
- Schedule of Bid Prices
- Requirements for Contractor's Statement of Qualifications (e.g. experience requirements for previous construction contracts and contract values).
- Recommendations for appropriate Liquidated Damages
- Identification of changes to the CITY's boilerplate that are required

4.1.1.4. CONSULTANT shall be familiar with CITY's standard specifications and provide Technical Specifications or Special Provisions such that they supplement, and do not conflict with, and are not redundant with the standard specifications. Consultant to provide support to the City for 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. Examples of design related items to be reviewed and edited by the Consultant include working days, traffic control, and construction surveying.

4.1.1.5. CITY BPAC Review: Per the CITY's complete streets policy, the project is required to undergo a review by the CITY's Bicycle and Pedestrian Advisory Committee (BPAC). CONSULTANT shall attend the BPAC meeting in which the project is reviewed, and address recommendations made by BPAC. It is assumed that this BPAC review will be completed at the 65% level, and that the 65% plans will be of sufficient quality and completeness to facilitate BPAC review.

4.1.1.6. 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 bid using engineering judgement. CONSULTANT shall review recent bids, to develop an accurate cost estimate.

4.1.1.7. The probable construction schedule will be used to establish the construction contract duration (e.g. number of working days) in the project specifications. The construction schedule does not need to be detailed, but it should contain enough information to accurately determine the contract duration.

4.1.1.8. CONSULTANT shall conduct a quality control (QC) review of the submittal in accordance with CONSULTANT's Quality Assurance/Quality Control (QA/QC) program.

4.1.2. Response to Comments

4.1.2.1. CITY will circulate the submittal package of the documents in PDF format to internal CITY departments for review and comments. CONSULTANT shall be responsible for submitting the package to external stakeholders if required. CONSULTANT shall prepare written responses to all written comments received. Redlined drawings in PDF shall be returned with CONSULTANT's response on the redlined drawings.

4.1.2.2. CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY

comments that cannot be resolved. CONSULTANT shall conduct a 65% comments review meeting with CITY to discuss comments on the submittal package, to identify significant design issues, and gain concurrence as to how the submittal shall be revised as appropriate to incorporate CITY's comments. The review meeting will be held at CITY or via MS Teams as determined by the City.

Deliverables:

1. 65% Design Submittal Package (Plans, Specifications, Engineer's cost estimate, and project construction schedule).
2. Written response to comments.
3. 65% review meeting agenda and meeting minutes.

4.2. 95% Construction Documents Package

CONSULTANT shall perform engineering and design activities to develop a 95% level of completion construction documents that include updated Plans, Specifications, Engineer's Cost Estimate, Probable Project Construction Schedule, in accordance with the following:

4.2.1. Construction Documents:

4.2.1.1. 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. Redlined drawings shall be returned with CONSULTANTS response on the redlined drawings.

4.2.1.2. CONSULTANT shall conduct a quality control (QC) review of the submittal in accordance with CONSULTANT's Quality Assurance/Quality Control (QA/QC) program.

4.2.1.3. CONSULTANT shall submit the 95% plans to affected utility owners for their use and information.

4.2.2. Response to Comments

4.2.2.1. CITY will circulate the submittal package to internal CITY departments for comments. CONSULTANT shall be responsible for submitting the package to external stakeholders if required. CONSULTANT shall prepare

written responses to comments received. Redlined drawings shall be returned with CONSULTANTS response on the redlined drawings. CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY comments that cannot be resolved. CONSULTANT shall conduct a 95% comments review meeting with CITY to discuss comments on the submittal package and gain concurrence as to how the submittal shall be revised as appropriate to incorporate CITY's comments. The review meeting will be held at CITY.

Deliverables:

1. 95% Design Submittal Package (Plans, Specifications, Engineer's cost estimate, and project bid and construction schedule), submitted electronically as PDF.
2. Written response to CITY comments on the 95% design submittal.
3. 95% review meeting agenda and meeting minutes.

4.3. 100% Construction Documents Package

CONSULTANT shall finalize the Plans, Specifications, Engineer's cost estimate, and construction schedule based on the 95% review comments from CITY. All outstanding comments and issues from previous submittals shall be incorporated into the 100% construction document package. The 100% Construction documents shall be considered as complete.

The 100% construction package shall include final Plans, Specifications, Engineer's Cost Estimate, and Probable Project Construction Schedule, in accordance with the following:

- 4.3.1. The 100% construction package shall incorporate comments received from CITY on the 95% 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. Redlined drawings shall be returned with CONSULTANTS response on the redlined drawings.
- 4.3.2. CONSULTANT shall conduct a quality control (QC) review of the submittal in accordance with CONSULTANT's Quality Assurance/Quality Control (QA/QC) program.
- 4.3.3. PEER Review: Peer review shall have been accomplished by this

stage, with the statement and signature on the cover sheet. The professional shall sign, date and seal the following Certification of Peer Review on a letterhead document with the transmittal of the final plans and specifications:

“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.”

4.3.4. Based on previous projects of agencies near the CITY, prepare a list of potential bidders for the project.

4.3.5. Response to Comments

CITY will circulate the submittal package to internal CITY departments for comments. CONSULTANT shall be responsible for submitting the package to external stakeholders if required. CONSULTANT shall prepare written responses to all comments received. Redlined drawings shall be returned with CONSULTANTS response on the redlined drawings. CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY comments that cannot be resolved. CONSULTANT shall conduct a 100% comments review meeting with CITY to discuss comments on the submittal package and gain concurrence as to how the submittal shall be revised as appropriate to incorporate CITY’s comments. The review meeting will be held at CITY.

Deliverables:

1. 100% Design Submittal Package (Plans, Specifications, Engineer’s cost estimate, and project bid and construction schedule).
2. Written response to CITY comments on the 100% design submittal.
3. 100% review meeting agenda and meeting minutes.
4. List of potential bidders in MS Excel format and shall include the company’s name, email address, contact number, and address of business.

4.4. Final Bid Set Documents

The submittal shall be considered as a limited submittal to formalize and sign the Final Bid Set documents, and resolution of minor issues remaining from the 100% Design Submittal package.

The final submittal shall consist of final Plans and Specifications, signed, stamped and dated by CONSULTANT in responsible charge for their preparation and be considered ready to bid. The final submittal shall be ready for CITY staff approval signatures.

Deliverables:

1. Stamped, signed, and dated Final Plans for CITY signature (two original hard copies and electronic files in AutoCAD and PDF formats).
2. Stamped, signed, and dated Final Specifications and supporting documents meeting CITY's requirements for bidding purposes (two original hard copies and electronic files in MS Word and .PDF formats).
3. Final Engineer's cost estimate (two hard copies and electronic files in MS Excel and .PDF formats).
4. Final construction schedule (two hard copies and electronic files in MS Project and .PDF formats).

5. TASK 5: BID SUPPORT ASSISTANCE

Upon written request by CITY, CONSULTANT shall provide the following services up to the budget allowance for bid support:

- 5.1 Provide clarifications and assistance during the bidding phase to satisfactorily answer questions from prospective bidders, if requested by CITY. CITY to reproduce and distribute Contract Documents, maintain a planholder's list and log of bidder's questions and responses.
- 5.2 Attend Pre-Bid Meeting, if required by Project. CONSULTANT shall coordinate with CITY to prepare agenda and meeting minutes.
- 5.3 Prepare Addenda to Construction Documents, if needed. CITY to reproduce and distribute all addenda.
- 5.4 Assist CITY in evaluating bids and preparation of recommendation letter to award the contract, if needed.

- 5.5 If addenda are issued, prepare a conformed set of documents that incorporated addenda into the documents.

Deliverables:

1. Written clarifications and response to prospective bidders, if needed
2. Addenda to the Bid Documents, if needed.
3. Written recommendation for award of contract, if needed.
4. Conformed construction documents, if needed.

6. TASK 6: CONSTRUCTION SUPPORT

THE CITY's construction management team will have primary responsibility for construction management and inspection. Upon written request by CITY, CONSULTANT shall provide the following services up to the budget allowance for construction support:

- 6.1 Attend Pre-Construction Meeting upon request by CITY and respond to pre-construction meeting questions.
- 6.2 Review and approve shop drawings and submittals, including mix designs. Assuming four rounds of reviews and comments for each submittal.
- 6.3 Review Contractor's request for information (RFI's) and furnish additional drawings and/or specifications for supplementing, clarifying, and/or correcting purposes.
- 6.4 Attend meetings and site visits when necessary as determined and requested by CITY. Meetings and site visits shall be coordinated whenever possible.
- 6.5 Assist CITY with the review of construction, and other activities, as requested.
- 6.6 Prepare, review, and recommend approval of design related change orders, as requested.

Deliverables:

Listed below are services which will be performed within the construction support services budget allowance:

1. Shop drawing and submittal comments.
2. RFI responses.
3. Site visit memoranda, as required. Limited to 4 visits plus punch-list walk-thru.
4. Drawings and specifications for supplementing, clarifying, and/or correcting the contract documents and for design related change orders.
5. Change orders, as required.

7. TASK 7: RECORD DRAWINGS AND PROJECT CLOSE-OUT

CONSULTANT shall:

- 7.1 Upon request by CITY, in accordance with Bid Documents, CONSULTANT shall assist CITY in determining if the Project is ready for the stage of completion requested by the Contractor (Substantial and Final Completion). As part of the allowance for construction support services, the City may request Consultant to attend the Final Walkthrough to provide input to final "punch list" and help determine if the work is ready for CITY acceptance. CONSULTANT shall provide CITY with a written recommendation.
- 7.2 At Final Completion of the Project, provide CITY with one set of reproducible Record Drawing that reflects the changes to the work during construction based upon marked up prints, drawings, and other data furnished by the Contractor, CITY, and Consultants. If CONSULTANT adds additional sheets to the plans, these shall be properly numbered, properly referenced on other affected drawings, and included in the drawing sheet index.
- 7.3 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.
- 7.4 CONSULTANT shall provide to the City of Santa Clara, relevant digital products and related information (e.g. notes, recommendations, photographs, etc.), including land survey records and data (e.g. tridimensional geodetic and/or geographic coordinates).

Deliverables:

1. CD containing PDF copies of all submittals received during construction phase.

8. TASK 8: OPTIONAL TASKS

If deemed necessary during the course of services, this Task provides for CONSULTANT to perform Optional Tasks as part of the Basic Scope of Services. Optional Tasks shall be authorized in writing prior to performing work, and shall only be invoiced if agreed by CITY

8.1. OPTIONAL TASK: ADDITIONAL ENVIRONMENTAL ALLOWANCE (PHASE 1 PROJECT)

This tasks provides for additional environmental services, including resource agency permitting, if following the reconnaissance surveys it is determined that resource agency permits are required. The following is an example of the services covered by this Optional Task:

CONSULTANT shall prepare CDFW/RWQCB permit applications and associated materials. For efficiency and cost-effectiveness, CONSULTANT would prepare a single CDFW application and a single RWQCB application for all areas where work would be performed below top of bank (rather than applying for multiple permits from each agency). This task includes time to coordinate with each agency during permit processing. In anticipation of a requirement from Valley Water that verification from the U.S. Army Corps of Engineers that no Clean Water Act Section 404 permit is needed, this task also includes USACE coordination.

Additionally, this task includes an allowance for environmental services related to obtaining approvals from Valley Water.

This task shall only be invoiced if agreed by CITY and CONSULTANT in writing prior to performing work.

8.2. OPTIONAL TASK: ADDITIONAL TOPOGRAPHIC SURVEYS (PHASE 1 AND PHASE 2 PROJECTS).

This task provides for additional field surveys, to be performed consistent with the provisions described for field surveys in the Basic Services in this Scope of Services for field surveys. Additional field surveys may become necessary to identify additional details and constraints based upon the work involved beyond the assumptions for field surveys in the Basic Services. This is considered a budget allowance and prior to performing any work under this Task, CONSULTANT shall provide a written description and estimate of hours for the additional surveys.

The budget allowance assumes 3 additional days total for the Phase 1 and Phase 2 projects, and 1 additional day for the Phase 3 project. This Optional Task is included in the Schedule of Fees under the Phase 1 project and Phase 3 project.

This task shall only be invoiced if agreed by CITY and CONSULTANT in writing prior to performing work.

EXHIBIT B
SCHEDULE OF FEES

I. GENERAL PAYMENT

Billing shall be on a monthly basis based on the services performed for each task. Consultant shall, during the term of this Agreement, invoice the City for hours and dollars of work completed under this Agreement. The invoice shall describe the Task invoiced, percent complete of the Task, time and materials expended by Task, and total amount during the invoice period. The invoice shall also show the total to be paid for the invoice period. All invoices shall provide a written description of work performed during the invoice period, deliverables completed, and progress to date on Tasks being invoiced in order to support the amount invoiced. City will pay Consultant within thirty (30) days of City's receipt of an approved invoice.

The Phase 1, Phase 2, and Phase 3 projects shall be administered as separate and distinct projects per the fees as described herein. City may reallocate fees between the projects as necessary in City's sole discretion throughout the course of Services, which shall be in writing. Reallocation of fees between the projects will be administered as Additional Service Authorization(s) as needed and in CITY's discretion.

Phase 1 Project

For the Phase 1 Project ("Phase 1 Project"), the total payment to the Consultant for Basic Services, as stated in **Exhibit A**, shall not exceed \$227,123. The amount billed to City for pre-approved Additional Services shall not exceed the sum of \$22,712. In no event shall the amount billed to City by Consultant for services under this Agreement exceed \$249,835 for the Phase 1 Project, subject to budget appropriations.

Phase 2 Project (Optional Service)

For the Phase 2 Project ("Phase 2 Project"), the total payment to the Consultant for Basic Services, as stated in **Exhibit A**, shall not exceed \$134,732. The amount billed to City for pre-approved Additional Services shall not exceed the sum of \$13,473. In no event shall the amount billed to City by Consultant for services under this Agreement exceed \$148,205 for the Phase 2 Project, subject to budget appropriations.

Phase 3 Project (Optional Service)

For the Phase 3 Project ("Phase 3 Project"), the total payment to the Consultant for Basic Services, as stated in **Exhibit A**, shall not exceed \$87,335. The amount billed to City for pre-approved Additional Services shall not exceed the sum of \$8,735. In no event shall the amount billed to City by Consultant for services under this Agreement exceed \$96,070 for the Phase 3 Project, subject to budget appropriations.

The total combined amount for all projects (Phase 1, Phase 2, and Phase 3) billed to City by Consultant for Services under this Agreement shall not exceed \$494,110 subject to budget appropriations.

II. SERVICES

The total payment to Consultant for all work necessary for performing all Tasks, as stated in Exhibit A, shall be in proportion to services rendered and on a time and materials not-to-exceed basis.

The Consultant fee allocated to each Task, as shown below, shall be the Consultant's full compensation for all the Consultant services required by this Agreement, as directed by the City, and no additional compensation shall be allowed. City may reallocate budget from Tasks to other Tasks or to or from additional services. In addition to the above, City may also reallocate budget from phase to phase. The Consultant shall bill time and materials spent on a Task under the appropriate Task and will not be allowed to charge to future or inactive tasks unless approved in writing by City. The Consultant shall provide a summary of dates and hours charged per date by individual, and individual timesheets, if requested by City. The hours and amounts charged to each Task shall be proportionate to the services rendered.

Tasks denoted as Optional Tasks, as stated in Exhibit A, require pre-approval in writing by CITY prior to performing any services under the task. Payment for any Optional Task is allowed only if written authorization is given by the City in advance of the work to be performed. Fees for Optional Tasks shall be considered as Basic Services.

The total amount of all the Tasks is a not-to-exceed amount. Figures in the following table include all subconsultant costs, reimbursable expenses, and administrative markups. The following table is a summary of the Tasks based upon the negotiated Cost Proposal, submitted by Bellecci & Associates, Inc. on May, 18, 2023 and agreed by CITY and CONSULTANT, attached to this Exhibit B and incorporated herein by reference.

CONSULTANT shall invoice time and expenses according to the subtasks identified in the Proposal. The time and expenses billed for subtasks may vary above or below the fees identified on the Estimated Project Cost provided that the total billed for all subtasks billed under a Task remains within the Fee established for the Task. Upon mutual agreement between CITY and CONSULTANT in writing, subtasks may be combined as needed to facilitate CONSULTANT's invoicing.

Phase 1 Project:

Description		Amount
Task 1	Project Management and Coordination	\$ 10,880
Task 2	Preliminary Engineering and Evaluation (35% Design)	\$ 82,716
Task 3	CEQA Analysis & Agency Permitting	\$ 28,517
Task 4	Construction Documents (65%, 95%, 100%, and Final Bid Set Submittals)	\$ 52,452
Task 5	Bid Support Assistance	\$ 1,800
Task 6	Construction Support	\$ 5,160
Task 7	Record Drawings and Project Close-Out	\$ 1,160
Task 8	Optional Tasks	\$ 44,438
Total		\$ 227,123

For the Phase 1 project, in no event shall the amount billed to City by Consultant for Basic Services under this Agreement exceed two hundred twenty seven thousand one hundred twenty three dollars (\$227,123), subject to budget appropriations.

Phase 2 Project (Optional Service):

Description		Amount
Task 1	Project Management and Coordination	\$ 13,352
Task 2	Preliminary Engineering and Evaluation (35% Design)	\$ 34,840
Task 3	Agency Permitting	\$ 8,122
Task 4	Construction Documents (65%, 95%, 100%, and Final Bid Set Submittals)	\$ 68,252
Task 5	Bid Support Assistance	\$ 3,030
Task 6	Construction Support	\$ 5,672
Task 7	Record Drawings and Project Close-Out	\$ 1,464
Task 8	Optional Tasks	\$ 0
Total		\$ 134,732

For the Phase 2 project, in no event shall the amount billed to City by Consultant for Basic Services under this Agreement exceed one hundred thirty four thousand seven hundred thirty two dollars (\$134,732), subject to budget appropriations.

Phase 3 Project (Optional Service):

Description		Amount
Task 1	Project Management and Coordination	\$ 5,620
Task 2	Preliminary Engineering and Evaluation (35% Design)	\$ 0
Task 3	Agency Permitting	\$ 7,544
Task 4	Construction Documents (65%, 95%, 100%, and Final Bid Set Submittals)	\$ 58,835
Task 5	Bid Support Assistance	\$ 3,030
Task 6	Construction Support	\$ 1,956
Task 7	Record Drawings and Project Close-Out	\$ 1,508
Task 8	Optional Tasks	\$ 4,008
Total		\$ 87,335

For the Phase 3 project, in no event shall the amount billed to City by Consultant for Basic Services under this Agreement exceed eighty seven thousand three hundred thirty five dollars (\$87,335), subject to budget appropriations.

III. REIMBURSABLE EXPENSES

Reimbursable Expenses shall not be billed by the Consultant or subconsultant under this Agreement. Full compensation for all expenses shall be considered included in the hourly rates.

IV. ADDITIONAL SERVICES

Additional Services consists of work not included in the Scope of Services outlined within this Agreement. Pre-approved Additional Services shall be billed to City at the fixed hourly rates shown below in Section V, RATE SCHEDULE, or at an agreed negotiated price. Monthly billing for Additional Services shall be consistent with the terms set forth in this Agreement. Payment for any Additional Services is allowed only if written authorization is given by the City Engineer in advance of the work to be performed. Additional Services shall not exceed the following amounts:

Phase 1 Project:	\$22,712
Phase 2 Project:	\$13,473
Phase 3 Project:	\$8,735

In no event shall the total combined amount for Additional Services for all projects (Phase 1, Phase 2, and Phase 3) billed to City by Consultant under this Agreement exceed forty four thousand nine hundred twenty dollars (\$44,920), subject to budget appropriations. Additional Services that exceed the above amounts will require a written amendment to the Agreement.

City may reallocate fees between projects or between Basic Services and Additional Services, as necessary in City's sole discretion throughout the course of Services, which shall be in writing.

V. RATE SCHEDULE

Charges for personnel engaged in professional and/or technical work are based on the actual hours directly chargeable to the project.

Rates by classification are listed below and shall be fixed through December 31, 2023. Any classifications added, or staff members changing classifications, shall be approved in writing by City.

After December 31, 2023 rates may be adjusted as described herein. CONSULTANT shall propose any adjusted rates in writing for CITY's consideration and acceptance in writing. Adjusted rates shall be no more than the percentage of difference between the Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-Hayward, CA, area between the effective date of this Agreement and the CPI as may be available and nearest to and in advance of the month in which the adjustment is contemplated and shall be capped at a maximum of 3% for each adjustment. Rates changed by calculation shall be rounded to the nearest whole dollar. Only one adjustment is allowed per annum.

Consultant understands and agrees that adjustments to rates does not cause an adjustment in the Fees established for tasks or adjustment to the maximum compensation under this agreement. Consultant shall be required to provide the full services as described in Attachment A in accordance with the Fees established in this Attachment B, regardless of adjustments to rates.

Consultant Bellecci & Associates (2023 Rates):

Classification	Hourly Rate
Principal I/Project Manager	\$ 240
Principal II/Peer Reviewer	\$ 270
Prof. Engr I	\$ 204
Eng III	\$ 190
Eng II	\$ 174
Eng I	\$ 164
Asst. Engineer II	\$ 150
Asst. Engineer I	\$ 130
Senior PW Inspecto	\$ 174
Survey Tech III	\$ 174
Land Surveyor	\$ 220
Survey, Chief of Party	\$ 174
Survey Rodman	\$ 110
Survey, Appren II	\$ 84

Sub-consultant David J. Powers and Associates: See attached page.

Sub-consultant H.T. Harvey & Associates: See attached page.

Sub consultant 360 Aerial: the budgets set forth in this agreement are budget allowances. CONSULTANT shall submit to CITY the quotation from 360 Aerial to CONSULTANT prior to authorizing the work for CITY's approval in writing. In no circumstance shall the quotation from 360 Aerial exceed the budget allowance unless approved in writing by CITY.

Bellecci & Associates, Inc. will bill subconsultants at actual cost plus a maximum allowable markup of 10%.



CHARGE RATE SCHEDULE

<u>Title</u>	<u>Hourly Rate</u>
Senior Principal	\$ 330.00
Principal Project Manager	\$ 304.00
Senior Environmental Specialist	\$ 258.00
Senior Project Manager	\$ 237.00
Environmental Specialist	\$ 221.00
Project Manager	\$ 211.00
Associate Project Manager	\$ 185.00
Assistant Project Manager	\$ 155.00
Researcher	\$ 134.00
Graphic Artist	\$ 124.00

Materials, outside services and subconsultants include a 15% administration fee.
 Mileage will be charged per the current IRS standard mileage rate at the time costs occur.
 Subject to revision January 1, 2024.



H. T. HARVEY & ASSOCIATES

Ecological Consultants

50 years of field notes, exploration, and excellence

Professional Fees

Fees Effective October 1, 2022

Personnel Classification	Hourly Billing Rate
Principal	\$ 299–341
Senior Associate Ecologist	\$ 268
Associate Ecologist	\$ 249
Senior Ecologist 2	\$ 226
Senior Ecologist 1	\$ 204
Ecologist 2	\$ 177
Ecologist 1	\$ 156
Field Biologist 2	\$ 136
Field Biologist 1	\$ 113
Senior GIS Analyst	\$ 167
GIS Analyst	\$ 142
Technical Editor	\$ 136
Technical Support	\$ 109
Clerical Support	\$ 90
Deposition and Testimony	Two times standard rate
Subcontractual Consultants	Cost plus 10%
Direct Expenses	Cost plus 10%
Transportation	Current IRS Federal Standard Mileage Rate <i>(62.5¢ / mile as of July 2022)</i>
Travel (Cost plus 10%)	~ \$319/day <i>(based on federal per diem rate)</i>
Field Equipment Operation	Variable

Billing rates are subject to annual increases and will be adjusted at the beginning of each calendar year.

EXHIBIT C
INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor 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 Contractor'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 Contractor; 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 Contractor 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 Contractor 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 Contractor 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 Contractor. 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 Contractor'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 Contractor 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 Contractor'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

Contractor and City agree as follows:

1. Contractor 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 Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor 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. Contractor 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. Contractor 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 Contractor for the cost of additional insurance coverage required

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 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.
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 you 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
MILESTONE SCHEDULE (SUMMARY OF KEY TASKS)

This Exhibit contains a summary the key tasks from CONSULTANT's proposed project schedule for completing the Services as part of its proposal dated March 24, 2023 and subsequent discussions between CITY and CONSULTANT. The dates for key tasks as shown in this Exhibit shall not be exceeded without prior written approval by CITY.

DESCRIPTION	COMPLETE NO LATER THAN
<u>Phase 1 Project</u>	
Notice to Proceed (Assumed)	8/1/2023
Bid Set PS&E Submittal	1/22/2024
Field Construction Window (Assumed)	4/15/2024 to 10/15/2024
 <u>Phase 2 Project</u>	
Notice to Proceed (Assumed)	4/1/2024
Bid Set PS&E Submittal	12/1/2024
Field Construction Window (Assumed)	4/15/2025 to 10/15/2025
 <u>Phase 3 Project</u>	
Notice to Proceed (Assumed)	4/1/2025
Bid Set PS&E Submittal	12/1/2025
Field Construction Window (Assumed)	4/15/2026 to 10/15/2026