

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
BELLECCI & ASSOCIATES, INC.**

**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 for the **PUBLIC RIGHT-OF-WAY ADA IMPROVEMENTS (SETTLEMENT AGREEMENT) PROJECT**, 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

## 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 September 29, 2020 and terminate on December 31, 2024.

### **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. REMEDY FOR DEFECTS**

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 the documented requests from the City, City may make corrections to the 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 nine hundred seventeen thousand five hundred thirty four dollars (\$917,534), 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](mailto:engineering@santaclaraca.gov),  
[vluchessi@santaclaraca.gov](mailto:vluchessi@santaclaraca.gov), and  
[manager@santaclaraca.gov](mailto:manager@santaclaraca.gov)

And to Contractor addressed as follows:

Bellecci & Associates, Inc.  
Attention: Daniel Leary  
7077 Koll Center Parkway, Ste. 210  
and by e-mail at [daniel@bellecci.com](mailto:daniel@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.

**26. STATEMENT OF ECONOMIC INTERESTS**

Due to the nature of the Services to be performed, Contractor shall promptly file a Statement of Economic Interests (Form 700) upon commencement of the Agreement in accordance with California Government Code section 87200, et seq.

**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:

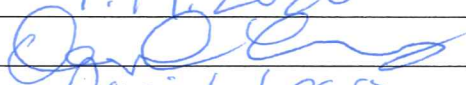
Dated: \_\_\_\_\_

\_\_\_\_\_  
BRIAN DOYLE  
City Attorney

\_\_\_\_\_  
DEANNA J. SANTANA  
City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**BELLECCI & ASSOCIATES, INC.**  
a California corporation

Dated: 9.14.2020  
By (Signature):   
Name: Daniel Leary  
Title: Principal  
Principal Place of Business Address: 2077 Koll Center Parkway #210  
Pleasanton CA 94566  
Email Address: daniel@bellecci.com  
Telephone: ( ) 925. 685. 4885  
Fax: ( ) 925. 685. 4838  
"CONTRACTOR"



## **EXHIBIT A SCOPE OF SERVICES**

### **I. OBJECTIVE**

The City of Santa Clara (hereinafter "CITY") desires to engage Bellecci & Associates (hereinafter "CONSULTANT") to provide engineering design services for the Public Right-of-Way ADA Improvements (Settlement Agreement) Project (hereinafter "Project"). The Project generally involves construction of improvements to remove barriers to accessibility in the public right-of-way in the northern portions of the City near and about routes serving Levi's Stadium and includes work related to concrete sidewalks, curb ramps, driveways, asphalt repairs, pedestrian street crossings, parking lots, landscape areas, rail crossings, traffic signals, and other miscellaneous barriers.

CITY is implementing the Project in order to satisfy terms of a settlement agreement (Nevarez v. 49ers, et al.) to remove barriers to accessibility by certain deadlines.

The objective of this Scope of Services is to provide the engineering design services necessary for the construction of the barrier removals such that the construction is completed by the deadlines identified under the settlement agreement.

### **II. GENERAL**

CITY solicited a Call for Proposals for the Project dated June 16, 2020. This Scope of Services is based upon CONSULTANT's proposal dated July 8, 2020 and subsequent discussions between CITY and CONSULTANT that amended the CONSULTANT's proposal in order to meet the project objective as mutually agreed by CITY and CONSULTANT. CITY and CONSULTANT agree that this Scope of Services incorporates CONSULTANT'S professional qualifications and experience and will meet the CITY's objective.

#### **Project Background**

CITY is party to a settlement agreement based on litigation (Nevarez v. 49ers, et al.) that requires CITY to construct improvements in the public right-of-way in order to remove barriers to accessibility under the Americans with Disabilities Act (ADA). The settlement agreement includes two distinct lists of work (Exhibit H and Exhibit I) to be completed within certain deadlines.

The following documents have been attached to the Call for Projects and are incorporated herein by reference:

- Settlement Agreement Exhibit H
- Settlement Agreement Exhibit I
- Vague Barriers List

The Project will remove the barriers as identified on Exhibit H, Exhibit I, and Vague Barriers List. The aforementioned documents are collectively referred to herein as the "Barrier Lists."

### **Project Deadlines**

The anticipated deadlines for construction completion of those items identified in Exhibit H is tentatively July 16, 2022 and January 16, 2023 for those items identified in Exhibit I. The Scope of Services described herein should be conducted along a timeframe such that adequate time is allotted for construction to be completed by the aforementioned deadlines.

As part of its proposal, CONSULTANT proposed a project schedule entitled "City of Santa Clara ADA Settlement Improvements Project," dated August 5, 2020 and incorporated herein by reference. Exhibit E, Milestone Schedule (Summary of Key Tasks), contains a summary the key tasks from CONSULTANT's proposed project schedule for completing the Services. The dates for key tasks as shown in Exhibit E shall not be exceeded without prior written approval by CITY.

### **Baseline Solution**

For the purposes of this Scope of Services, CITY and CONSULTANT anticipate that multiple construction bid document packages will be prepared for the project. CONSULTANT's proposal dated July 8, 2020 proposed the preparation of four (4) separate and complete bid document packages with specific work elements from the Barrier Lists being allocated to each of the four (4) bid documents packages. The bid document packages are referred to as Packages 1, 2, 3, and 4 in this Scope of Services.

The construction bid document packaging will be further evaluated and determined through the course of services dependent upon recommendations made by CONSULTANT during the Project Programming, Confirmation of Design & Construction Packages task.

The construction bid document packages from CONSULTANT's proposal represent 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.

CITY discourages changes to the Scope of Services and Schedule of Fees after agreement execution and expects that this project will be completed within the Scope of Services and Schedule of Fees for the Project. However, if deviations from the baseline solution results in the need to prepare other than the assumed four (4) construction bid document packages, or additional improvements not identified on Exhibit H, Exhibit I, or Vague Barriers List become required, 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 addressed in writing by an Additional Services

Authorization to either add or delete Scope and Fee based upon the findings of the Project Programming, Confirmation of Design & Construction Packages task.

The Schedule of Fees for the Project does not specifically assign fees to each individual construction bid document package and the fees are considered as a total inclusive of all packages. CONSULTANT shall be responsible for ensuring that charges for each individual construction bid document package is proportionate to the work completed in each package and remains within the total for all packages.

### **Project Team**

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

- West Coast Code Compliance – WC3      Accessibility Review, Certified Access Specialist
- Exp      Traffic Engineering; Railroad Engineering
- Rincon Consulting      CEQA; Environmental Permitting
- Duquette Engineering      Structural Engineering
- Gates + Associates      Landscape Architecture & Irrigation
- 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.

### **III. RESPONSIBILITIES OF CITY**

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

- Record drawings (as-available)
- CITY's Standard Details, Specifications, Survey Benchmarks, and Design Criteria
- Storm Drain (SD), Sanitary Sewer (SS), Electric, Fiberoptic, 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, City water lines, City electric utilities, and aerial photographic tiles
- Payment of permit application fees, if required

### **IV. BASIC SCOPE OF SERVICES**

The Basic Scope of Services includes all professional services required to prepare construction bid documents (plans, specifications, and engineer's estimate or PS&E) for public works bidding and construction of the Project. The Tasks described herein

apply to each of the four (4) construction bid document packages. It is assumed that the design of Packages 1 and 2 will be performed concurrently as the initial packages, and that the design of Packages 3 and 4 will be performed concurrently as the subsequent packages.

## **1. TASK 1: PROJECT MANAGEMENT AND COORDINATION MEETINGS**

CONSULTANT will attend meetings with City staff, property owners and utility coordination meetings as required by the City. The meetings will include, but are not limited to:

- One (1) Project 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.
- Four (4) design review meetings for each construction package with City staff at preliminary design (35%), 65%, 95% and Final 100% Bid submittals. Consultant will prepare the agenda for meeting, organize and conduct the meetings. The design review meetings will be held concurrently for Packages 1 and 2 together, and concurrently Packages 3 and 4 together (8 meetings total).
- Two (2) public meetings with the public and affected property owners ('Public Meetings').
- One (1) field review meeting ('Field Review Meeting').
- Up to five (5) meetings with individual stakeholders or property owners ('Individual Stakeholder Meetings').

For meetings, CONSULTANT will prepare exhibits and handouts as needed, and meeting minutes. In addition, CONSULTANT will provide status reports (project progress updates) on a monthly basis. The report will include accomplishments, anticipated problems or issues and the resulting recommended actions, schedule updates, project percent complete, budget expended/remaining, work performed during the period, deliverables, work anticipated for next month, any changes to the scope of work, and any recommendations or action items.

Meetings are 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.

CONSULTANT shall prepare, monitor, and update a project progress schedule in MS Project format beginning at the kickoff meeting and ending at contract award

for the last construction package. The project schedule will be submitted to City for review and approval. The project schedule shall show significant milestones for the project. CONSULTANT shall notify CITY if there are delays in any 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 time extension. The schedule shall be maintained at all times and shall be updated each time progress and milestones are changed.

In addition, CONSULTANT will provide cost reports with the invoices that highlight the approved budget, budget remaining, and amount invoiced for the invoicing period, estimated cost at completion and an estimate of the percent complete. All invoices will be delineated with the City's Purchase Order (PO) number for reference.

Only the designated Principal in Charge, 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 or task specific work related to other tasks, time spent on those tasks shall be charged to the task and not to project management.

CONSULTANT administrative support staff time spent preparing invoices for services completed 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.

Deliverables:

1. Monthly Progress reports.
2. Invoices.
3. Updated MS Project Schedules.
4. Meeting agendas, materials, and minutes for each project meeting.

## **2. TASK 2: DATA GATHERING, LAND SURVEYING & BASE MAPPING**

### **2.1 TOPOGRAPHIC SURVEYS**

CONSULTANT's union survey crews will collect necessary field topographic information, within the limits of work, including; visible utility locations, invert elevation, striping, existing curb and gutter, sidewalks, asphalt dikes, ramps, driveways, fences, edge of pavement, retaining walls, trees, poles, signs, traffic signal loops, pedestrian push buttons, in order to complete the base map

information using the City Benchmarks and Coordinate system. The topographic survey will help identify the existing curb return profiles and drainage patterns.

The Bellecci local 3 union field crew will utilize GPS survey equipment to establish the project survey control from our subscribed California GNSS network, and robotic total station survey equipment will be used to collect the topographic survey points. Licensed PLS may use GPS for topographic survey as appropriate, to be determined on a site by site basis. The CAD drawing will be completed by the office survey staff under the direction of the professional land surveyor.

The topographic survey is critical at the conform locations along each ramp and sidewalk segment to be replaced. The detailed survey will allow the civil engineers to design the concrete slopes and grades to conform to adjacent grades. This field surveying will be focused on the areas of the barrier removal improvements.

The survey control information will be included in the project construction bid documents for subsequent use by the construction contractors. The specifications will require the contractor to submit a CAD release form prior to construction.

### **Aerial Survey**

CONSULTANT's subconsultant, 360 Aerial, will fly the site, and a photogrammetrist will prepare the aerial planimetric survey using field points to rectify the survey points from the project licensed land surveyor. The aerial topographic survey in CAD will provide a scaled base map for the conceptual design. Bellecci field crew will use the same field control as the aerial topographic survey to perform supplemental field surveying. The field survey will be the basis for the existing elevations for the project design, as the aerial planimetric survey is for scale, street and sidewalk locations, and design background.

### **Deliverable:**

1. PDF copy of the scaled Topographic Survey stamped and signed by a Licensed Land Surveyor licensed in the State of California.

## **2.2 DATA COLLECTION**

### **Record Maps - Right of Way**

The right of way will be shown based on record maps, APN maps and other record maps which CONSULTANT will obtain from CONSULTANT's subscription to Parcel Quest. This project does not anticipate any right of way acquisition and the property lines will be shown using the best available information, without field boundary research, surveying and obtaining title reports. CONSULTANT will also review subdivision maps or other right-of-way records available from the City.

**Deliverable:** None (right-of way lines to be shown on project plans in subsequent tasks)

### **Obtain Utility Information**

CONSULTANT will coordinate with owners of the utilities (including City owned facilities) in the project areas to obtain their utility base maps for use in developing the plans. The approximate locations of the utilities will be added to the base map from the information provided by the utility companies. CONSULTANT will also coordinate with the utility companies that have facilities that are in conflict with the proposed improvements. The utility covers in the limits of work will be identified on the plans, and construction notes will state the action required by the Contractor or the utility company.

#### **Deliverable:**

1. Copies of the correspondence with the utility companies and their submitted utility information/base maps.

### **Review Existing Plans and Data**

CONSULTANT will collect record maps from the City and utility maps obtained from utility companies; and include existing as-built mapping information on the project plans. Initially the utility line work is mapped into CAD, using the record maps. Then the engineer will adjust the utility lines in CAD based on the topographic survey points of the utility box lids, manholes, valves, and USA markings that were also captured as part of the field survey.

Deliverable: None (utility lines to be shown on project plans in subsequent tasks)

## **2.3 NOTICE TO OWNER LETTERS (NTO)**

CONSULTANT will prepare and send letters to utility companies for relocation or adjustment of utility boxes in sidewalk or other utility conflicts, including Silicon Valley Power (SVP), on behalf of the City. Consultant will also include notification letters to utility companies regarding adjusting any utility boxes during construction.

#### **Deliverable:**

1. Notice to Owner Letters.

## **3. TASK 3: PROJECT PROGRAMMING, ENVIRONMENTAL CLEARANCE, & BARRIER LISTS INFORMATION MANAGEMENT**

### **3.1 PROJECT PROGRAMMING, CONFIRMATION OF DESIGN & CONSTRUCTION PACKAGES**

CONSULTANT will perform a review of all the locations identified in Exhibit H and Exhibit I and prepare a programmatic approach, where the City can put projects out to bid. These projects will be developed based on Packages 1, 2, 3 and 4

identified in the Call for Proposals and the type of improvements. The City and Consultant will review options for the breakdown of bid packages: Examples of bid packages may include separating concrete sidewalk work from the signalized intersections and railroad improvements. CONSULTANT will coordinate with the City Staff prior to preparing a programmatic approach and assigning the locations to various packages and summarizing with a planning level cost estimate.

CONSULTANT will provide two or three options for packaging the work. The two or three options presented to the City will include: a) outline of the different areas to be packaged separately, b) listing of the trades required within each package (electrical, concrete, undergrounding, and landscape), c) preliminary construction cost estimate for each package, and d) pros and cons for each packaging scenario.

The programming package will initially be prepared prior to obtaining the aerial planimetric, using an on-line aerial photograph or GIS background. The Programming Plan will be updated and resubmitted after the aerial survey and field survey is completed.

CONSULTANT shall solicit input from and cooperate with CITY regarding other CITY or development projects that may perform work in areas overlapping with the Project and shall annotate and maintain the 'Exhibit H' and 'Exhibit I' work lists as necessary to reflect which barriers will be removed by the Project or by other projects.

Deliverable:

1. One to two-page Memorandum for Project Programming.

### **3.2 ENVIRONMENTAL CLEARANCE**

CONSULTANT's subconsultant, Rincon, will prepare a Notice of Exemption (NOE) pursuant to Sections 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. Based on our understanding the proposed improvements, this example is applicable, and a Categorical Exemption will be the appropriate level of CEQA documentation. Rincon will document the compliance of the project with this exemption category.

Rincon will prepare a brief memorandum to accompany the NOE that briefly describes the compliance of the project with the requirements of State CEQA



Guideline Section 15301. The memoranda will also address project compliance with State CEQA Guidelines Section 15300.2, which contains limitations on the use of Categorical Exemptions in certain circumstances. Example limitations described in Section 15300.2 include projects occurring on or affecting State Scenic Highways or projects having a potentially significant impact. Because the proposed improvements involve ground disturbance potentially encountering cultural resources, Rincon will prepare a cultural resources letter report to document less than significant impacts. Rincon assumes that other technical studies, such as biological or air quality, greenhouse gas emissions or noise modeling, will not be required for the project, although these issue areas would be briefly covered in the memorandum. The memorandum will be submitted in administrative draft form for review and comment by the City. Within two weeks of receipt of all City comments on the administrative draft document Rincon will revise the memorandum and address City comments to create the final Categorical Exemption memorandum. The final memorandum and NOE will be submitted to the City in a digital PDF format. CONSULTANT assumes that the City will review the administrative draft document a single time. CONSULTANT also assumes that a Categorical Exemption will be the appropriate level of CEQA review and that all proposed improvements can be covered under a single Notice of Exemption.

Deliverable:

1. Draft and Final Report for CEQA CE + Cultural Resources Screening memo.
2. Completed NOE form

### **3.3 BARRIER LISTS INFORMATION MANAGEMENT**

CITY will furnish the Exhibit H, Exhibit I, and Vague Barrier Lists in excel format. CONSULTANT shall continuously maintain and update the Exhibit H, Exhibit I, and Vague Barrier Lists in excel format throughout the course of the project with such additional information as to which construction bid package each barrier will be constructed in, if the barrier will be removed by others and not included in the project, or any other information deemed useful by CITY or CONSULTANT. CONSULTANT shall verify that each item listed in Exhibit H, Exhibit I, and Vague Barrier list is included in the Project design and construction bid documents. Towards the completion of each bid package, CONSULTANT shall add information to the Exhibit H, Exhibit I, and Vague barrier lists that identifies which sheet number from the project plans that the construction of the barrier removal is located.

CITY and CONSULTANT shall work cooperatively to implement a cross referencing system to relate the barrier lists to the project construction plans.

Should it become apparent during the course of services that an element shown on the Barrier Lists is not feasible for removal in the Project, CONSULTANT shall notify CITY as soon as practicable such that CITY can address the issue.

Deliverable:

1. Throughout duration of project: Updated Exhibit H, Exhibit I, and Vague Barrier Lists in MS Excel format, as requested by CITY.
2. Upon construction contract completion: Final Exhibit H, Exhibit I, and Vague Barrier Lists in MS Excel format with final disposition of all items (e.g. items complete).

#### **4. TASK 4: PRELIMINARY DESIGN (35%)**

##### **4.1 COORDINATION WITH ADJACENT LANDOWNERS (TWO OPEN HOUSE MEETINGS)**

###### **Field Review & Individual Stakeholder Meetings**

Once the base map is complete, CONSULTANT will visually inspect the project sites to assess possible constraints or issues including but not limited to the following:

- Determine the existing geometric and physical constraints at the project site
- Determine the limits of work and identify possible conform issues
- Identify existing drainage patterns
- Identify visible utilities (valves, manholes, monuments, etc.)
- Assess private property impacts, including existing walls, driveways, decorative concrete, and trees.
- Coordinate with private property owners for the irrigation information and prepare irrigation reconnection notes on plans.

At sites with apparent constraints or issues, CONSULTANT will meet with City staff in the field to review those sites. CONSULTANT will provide notes and track the decisions from the City site review. Stakeholder meetings with individual property owners and/or tenants, if needed, may be held before the public meetings. The individual stakeholder meetings will be determined based on the number of property conforms to be discussed further on a one-on-one basis. The Schedule of Fees assumes five (5) individual stakeholder meetings.

Deliverable:

1. Notes from City site review and individual stakeholder meetings.

###### **Public Meetings**

CONSULTANT will attend up to two (2) public meetings to present 35% design plan concepts to the public and abutting property owners. The public meetings are anticipated to be an open house format. CONSULTANT will lead the public meetings allowing members of the public to provide input and responding to questions. CITY will be responsible for preparing meeting notices/flyers to private property owners affected with this project. CONSULTANT will support CITY in

identifying the limits of noticing based upon the work areas involved in the Project. The exhibits used for the public meetings will be plans from the 35% submittal and one exhibit reflecting the overall extents of the project.

Alternative methods to conduct the public meetings due to State of California and County of Santa Clara Shelter in Place Orders (COVID crisis) include a video presentation with questions posted online which will be responded by the design team. However, if social distancing is still in place, design team would propose an open house in a large room with only few members of public allowed at a time. If needed, the event could be held over 2 days or over a three (3) hour period from 5:30pm to 8:30pm or meeting could be held via video conferencing over the internet where CONSULTANT will share the screen for the impacted property owners.

The CONSULTANT will propose to the City two options for the public meeting strategy, goals, outline and presentation agenda. The two public meeting options will be reviewed and discussed with City staff, and a final decision will be made for the public meeting approach. The two options will depend on whether the meeting will be in person or by video conferencing.

Deliverable:

1. Provide one copy of Preliminary Plans and Exhibits for the Meeting.  
Electronic files in PDFs will also be provided with the submittal.

**Acquire/Process Public Input**

CONSULTANT will take notes during the public meetings, collect notes prepared by other consultants and city staff in attendance, and prepare the compiled meeting notes following the meeting. CONSULTANT will arrange a conference call with CITY to discuss the input from the public. Comments from the public will be incorporated into the design as appropriate.

Deliverable:

1. Meeting notes from public meetings.

**4.2 COORDINATION AND PERMITTING WITH AGENCIES (VTA, CPUC, SFPUC HETCH HETCHY, & VALLEY WATER)**

CONSULTANT shall be responsible for coordinating with and obtaining required permits from non-CITY agencies necessary to bid and construct the project.

For permits that are required to be obtained by CITY's construction contractor after contract award, CONSULTANT shall coordinate and make necessary arrangements with the permitting agency during design to ensure the project will be permitted when CITY's construction contractor applies for the permit.

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.

#### **VTA & CPUC**

CONSULTANT will coordinate with Valley Transportation Authority (VTA) for work near the light rail along Tasman Drive. It is anticipated that the modifications of concrete slab near the light rail at the intersection of Great America Parkway and Tasman Drive will require a GO 88-B Modification of an Existing Crossing application with documentation submitted to California Public Utilities Commission, and will require a Construction Access Permit from VTA.

#### **SFPUC Hetch Hetchy**

CONSULTANT will coordinate with SFPUC for Hetch Hetchy Corridor at Patrick Henry Drive, Old Ironside Drive and Great America Parkway. It is anticipated that a Letter of Consent will be required from SFPUC for work occurring within SFPUC easement or fee title parcels. CONSULTANT shall prepare the project review application and attend a project review committee meeting should they become required.

#### **Valley Water**

CONSULTANT will coordinate with Valley Water regarding improvements at the bridges or maintenance ramp approaches on Great America Parkway at San Tomas Aquino Creek, on Tasman Drive at San Tomas Aquino Creek, and on Tasman Drive at Calabazas Creek. It is anticipated that the coordination effort will involve a courtesy submittal and review and an encroachment permit is not anticipated to be required.

#### Deliverable:

1. Correspondence with permitting agencies.
2. Permit applications and final permits.

### **4.3 PRELIMINARY 35% PLANS AND ESTIMATES**

CONSULTANT will combine the topographic survey information collected at the project site, the existing utilities and the results of the detailed field investigation to produce a set of preliminary 35% plans along with a corresponding estimate of probable construction costs. A set of preliminary 35% plans will be provided for each construction package (Package 1, 2, 3, and 4 as described under the Baseline Solution).

The estimate will be based on the preliminary plans and the proposed project limits and will include a summary breakdown of the anticipated project cost. CONSULTANT will incorporate any plan line comments on the Preliminary 35%

Plans from the City for the Public Outreach meetings. The improvements to be included on the Preliminary 35% Plans will be per the Exhibit H, Exhibit I and Vague Barriers list.

The objective of the 35% plans is to identify the limits of work for each site and the construction cost estimate for each site. The construction details and grading design will be part of the final design submittals.

CONSULTANT's subconsultant WC3's Certified Access Specialist (CAsp) will provide design input during the preliminary design phase as part of the Quality Control and Quality Assurance, per the Schedule of Fees.

CONSULTANT's Landscape Architect subconsultant will provide tree inventory of project site cataloging all tree species, caliper, health and provide final recommendations in an Arborist Report.

### **Response to Comments**

CITY will circulate the submittal package 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. Comments received via redlines on plans shall be addressed directly on the redlined plans in a different color and do not need to be transcribed into writing. All redlined drawings shall be returned with CONSULTANT's response on the redlined drawings.

CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY any comments that cannot be resolved. CONSULTANT shall conduct a 35% comments review meeting with CITY to discuss comments on the submittal package, to identify any significant design issues, and gain concurrence as to how the subsequent 65% submittal shall be revised as appropriate to incorporate CITY's comments. The review meeting will be held at CITY, or via conference over the internet. A final response to 35% comments will be submitted with the subsequent 65% submittal.

### **Deliverable:**

1. 1 set of the Preliminary Plans and Estimates (high resolution PDFs: Full size & half size).
2. Arborist Report

## **5. TASK 5: CONSTRUCTION DOCUMENTS (65%, 95% AND FINAL 100% BID SUBMITTALS)**

The following will be performed for each construction package (Package 1, 2, 3, and 4 as described under the Baseline Solution). The specific work to be designed

in each construction document package will be per the findings of the previous Project Programming, Confirmation of Design & Construction Packages task.

### **5.1 65% PLANS, SPECIFICATIONS AND ESTIMATES**

The plans, specifications and bid items will be compiled in standard City format providing detailed design.

CONSULTANT will provide the CITY with a 65% submittal. A 65% submittal shall be defined as a complete package with the design of all major project elements done, and subsequent submittals shall provide opportunities to further refine the contract documents. Detailed design will include curb & gutter, driveway, sidewalk, conform grading at back of work, regrading hills, replacing pedestrian push buttons, miscellaneous minor repairs (add expansion joint material etc.) along the bridges, performance notes for detector loop replacement, curb ramp replacement, restoration of concrete at VTA rail crossings and restriping. The landscape architecture design and structural design will be plan view callouts, construction notes, and hatching at this stage of the design. For the landscape and structural design, the goal is to have type selection, location, limits of work, and cost at the 65% design stage and further detailing will occur in subsequent submittals.

Engineer's estimates will be provided with the 65% submittal and will be provided in CITY format in MS Excel spreadsheet.

Specifications will be prepared utilizing the latest City and Caltrans Standard Specifications and will be prepared in MS Word format.

A probable construction schedule will be prepared in order to ensure the construction work can be completed within the durations established for the construction contract.

The construction documents shall be prepared in accordance with the following:

- The Plans shall be complete and show property lines, existing topographic features, existing high-risk utilities, and major construction features.
- ADA Curb Ramps: CONSULTANT shall provide detailed design of replacement ADA curb ramps. The detailed design should show the type of ramp to be installed, elevations, design slopes, and any pavement reconstruction required to meet ADA requirements. CONSULTANT shall open existing utility boxes that may need to be adjusted to accommodate the curb ramp to verify that adjustment of the boxes is feasible.
- If complex traffic handling is required to perform the work, CONSULTANT shall include traffic handling plans in the construction documents that are consistent with the Manual on Uniform Traffic Control Devices (MUTCD) and Caltrans guidelines. These traffic handling plans are for work that cannot be completed

under a typical temporary traffic control system for lane closure that would normally be submitted per the requirements of the CITY's specifications by the construction contractor. CONSULTANT shall also ensure that the design accommodates continuous access to properties during construction and will place appropriate provisions within the construction documents.

- Specifications shall include all Technical Specifications or Special Provisions required to construct the project. CITY will prepare the "frontend" contract specifications, i.e. Divisions 0 and 1 specifications of CITY's boilerplate. CONSULTANT shall provide all information required for CITY to complete the boilerplate. This information includes:
  - CONSULTANT's professional engineer seal and signature (required at Final Bid Submittal)
  - 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).
  - Working Days
  - Recommendations for appropriate Liquidated Damages
  - Identification of any changes to the CITY's boilerplate that are required
- 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.
- CONSULTANT shall coordinate with CITY's traffic engineering division and determine allowable work hours, and allowable lane closure hours based on constructability and cost impacts, to be incorporated into the project documents.
- 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, and contact vendors, suppliers, and contractors as necessary to develop an accurate cost estimate.
- The probable construction schedule will be used to confirm that the construction contract duration (e.g. number of working days) in the project

specifications is adequate and will meet the settlement agreement deadlines. The construction schedule does not need to be detailed, but it should contain enough information to accurately determine the construction contract duration.

CONSULTANT's Landscape Architect subconsultant will prepare planting and irrigation restoration plans along Patrick Henry Drive between Democracy Way and Old Ironsides Drive. The areas of landscape and irrigation design are between the edge of the parking lot improvements and the back of curb ("PATRICK HENRY LANDSCAPE" - PHL). PHL design is intended to update the planting and walkway along Patrick Henry Drive, due to the trees and landscape mounds which are impacting the sidewalks for ADA compliance. Rather than retrofit the walkways around the tree roots and other aging walls and facilities, the design would level the landscape area similar to other segments of Patrick Henry Drive. PHL design will include coordination with private property owners during the stakeholder review meetings and the public meetings. The property owners or occupants/site managers will be provided a PDF copy of the planting and irrigation plans. The property owners or occupants/site managers will be requested to identify modifications to the private property irrigation systems.

### **Response to Comments**

CITY will circulate the submittal package 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. Comments received via redlines on plans shall be addressed directly on the redlined plans in a different color and do not need to be transcribed into writing. All redlined drawings shall be returned with CONSULTANT's response on the redlined drawings.

CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY any comments that cannot be resolved. CONSULTANT shall conduct a 65% comments review meeting with CITY to discuss comments on the submittal package, to identify any significant design issues, and gain concurrence as to how the subsequent 95% submittal shall be revised as appropriate to incorporate CITY's comments. The review meeting will be held at CITY, or via conference over the internet. A final response to 65% comments will be submitted with the subsequent 95% submittal.



Deliverable:

Description	Size	File Type
Plans	22" x 34"	PDF
Specification	8.5" x 11"	PDF & MS Word
Estimates	8.5" x 11"	PDF & MS Excel
Probable Construction Schedule	11"x17"	PDF
Response to 35% Comments	As needed	PDF

**5.2 95% PLANS, SPECIFICATIONS AND ESTIMATES**

The plans, specifications and bid items will be compiled in standard City format. CONSULTANT will provide the CITY with a 95% submittal. Engineer's estimates will be provided with the 95% submittal and will be provided in CITY format in MS Excel spreadsheet. Specifications will be prepared utilizing the latest Caltrans Standard Specification and will be prepared in MS Word format. The 95% submittal will include the structural engineering details, and the updated civil engineering details with more specificity included on the drawings.

**Response to Comments**

CITY will circulate the submittal package 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. Comments received via redlines on plans shall be addressed directly on the redlined plans in a different color and do not need to be transcribed into writing. All redlined drawings shall be returned with CONSULTANT's response on the redlined drawings.

CONSULTANT shall be responsible for resolving comments from each commenter and shall identify to CITY any comments that cannot be resolved. CONSULTANT shall conduct a 95% comments review meeting with CITY to discuss comments on the submittal package, to identify any significant design issues, and gain concurrence as to how the final 100% submittal shall be revised as appropriate to incorporate CITY's comments. The review meeting will be held at CITY, or via conference over the internet. A final response to 95% comments will be submitted with the subsequent 100% submittal.

Deliverable:

Description	Size	File Type
Plans	22" x 34"	PDF
Specification	8.5" x 11"	PDF & MS Word
Estimates	8.5" x 11"	PDF & MS Excel
Response to 65% Comments	As needed	PDF

### **5.3 FINAL 100% BID PLANS, SPECIFICATIONS AND ESTIMATES**

The plans, specifications and bid items will be compiled in standard City format providing sufficient information to obtain comprehensive contractor bids and to construct the project. The final 100% plans will be developed from the 95% plans and incorporate the comments received from the City on the 95% plans. CONSULTANT will provide the City with a final response to 95% comments and a final bid set. Engineer's estimates will be provided with each submittal. All outstanding comments and issues from previous submittals shall be incorporated into the 100% construction document package. The final 100% Bid Set documents shall be considered as complete with no future revisions planned nor deemed necessary, or "bid ready."

Prior to submitting the final 100% bid set, CONSULTANT shall perform an internal PEER Review by a licensed professional from within its organization who is independent from the project. A statement of PEER Review shall be placed on the title sheet of the plans. The professional shall sign, date and seal the following Certification of Peer Review on the final plans:

"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."

Refer to scope of work requirements in the 65% submittal related to performance notes on the plans and performance specifications for the landscape and irrigation.

SWPPP Risk Level Calculations for Risk Assessment: Risk Level Calculations will be prepared based on the project location, project duration and receiving water information, as part of basic services. CONSULTANT will include specification language in the special provisions requiring the Contractor to submit a SWPPP prior to construction.

#### **Deliverable:**

1. Response to 95% comments.
2. One (1) set of 22"x34" plans with Consultant's professional engineering stamp and signature ready for printing, Final Bid Specifications and Estimates at the final 100% submittal. Electronic files in a (searchable text) PDF, MS Word, and MS Excel formats will also be provided with the submittal.

### **Quality Assurance and Quality Control**

CONSULTANT's subconsultant WC3's Certified Access Specialist (CAsp) will perform a QA/QC review. In addition to the outside subconsultant's review, CONSULTANT will perform internal quality control to check for the following.

- Detailed plan checks
- Quantity Checks
- Comparison of Bid Form and Pay Clauses
- Management review of scope of work

## **6. TASK 6: BID SUPPORT ASSISTANCE**

The following will be performed for each construction package (Package 1, 2, 3, and 4 as described under the Baseline Solution).

### **Bid Advertising Support**

During the bidding phase, CONSULTANT will provide the City with engineering support and assistance to answer any Contractor questions pertaining to the plans and specifications. CONSULTANT will prepare and issue one (1) contract addenda, as needed. CONSULTANT will support the City construction manager in the response to RFI's. Responses to RFIs of the bid documents will be made within two days of receipt. If requested by CITY, CONSULTANT will prepare an Excel spreadsheet that tabulates the bid prices for bids received.

#### Deliverable:

1. Copies of all addenda and correspondence.

## **7. TASK 7: CONSTRUCTION SUPPORT**

The following will be performed for each construction package (Package 1, 2, 3, and 4 as described under the Baseline Solution).

### **Construction Engineering Support**

CONSULTANT will attend pre-construction meetings with the contractor, City staff and applicable utility companies for each construction package. CONSULTANT will review the contractor submittals for compliance with the specifications and respond within 5-7 working days. Listed below are examples of construction support services

- Respond to RFI's
- Review Change orders
- Attend field meetings
- Attend additional construction progress meetings, as requested by City.
- Participate in the final inspection and development of punch list items.

- Respond to RFI's, which includes clarifying or providing revisions or additional detail where necessary on the Contract Documents.
- Review proposed substitutions, if any for conformance to plans and technical specifications.
- Review and make recommendations on proposed changes to the Contract.
- Final punch list meeting

The allowance for hours to be expended on construction engineering support and bid support is per the Schedule of Fees. CONSULTANT to inform the City when the schedule of fees/hours allocation is nearing completion.

Deliverable:

1. Copies of project correspondence.

## **8. TASK 8: RECORD DRAWINGS AND PROJECT CLOSE-OUT**

The following will be performed for each construction package (Package 1, 2, 3, and 4 as described under the Baseline Solution).

### **RECORD DRAWINGS**

CONSULTANT will update the plans to prepare record drawings based on the as-built red lined mark ups received from the Contractor. The project specifications will instruct the Contractor to maintain red line mark-ups to be reviewed periodically by the project inspector for neatness, clarity, and correctness.

Deliverable:

1. Electronic files in a PDF and native AutoCAD formats will also be provided with the closeout submittal.

## **9. TASK 9: OPTIONAL TASKS (REQUIRES CITY AUTHORIZATION)**

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 and CONSULTANT in writing prior to performing work. Fees for Optional Tasks shall be considered as part of the Fees for the Basic Services.

### **9.1 OPTIONAL TASK: - ENVIRONMENTAL SUPPORT - TECHNICAL STUDIES**

The Schedule of Fees also includes an allowance for environmental permitting and technical studies in Optional Tasks. CONSULTANT's environmental subconsultant

will provide environmental support related to tree removals. Pre-construction nesting bird surveys could be required if the City and design team incorporate tree removal into the project. Rincon Consultants will provide guidance on survey protocols and documentation for the tree removals. Rincon will assist with the preparation of the technical specifications for the contractor prepared nesting bird surveys, if required. The optional service may also include one-time visit by a natural resources biologist to review the trees in support of the project arborist.

Deliverable:

1. Technical Memorandum for Nesting of Birds Survey.

## **9.2 OPTIONAL TASK: POST-CONSTRUCTION ADA REVIEW**

CITY's Project construction inspector and construction management staff will be responsible for monitoring construction of the improvements for compliance with the contract documents. To support this effort, the Schedule of Fees includes an allowance for Post Construction ADA Review in Optional Tasks.

Upon authorization by the CITY, CONSULTANT's CASp, will perform a field review of the improvement as constructed to ensure they have been constructed in compliance with accessibility standards and terms of the settlement agreement. As part of the construction bid items, there may be incorporated a bid item for the contractor to field survey select locations on the project for as-built slopes, landing dimensions, longitudinal slopes and grade. The results of the field survey will be reviewed by CONSULTANT CASp. The CASp will also visit the site to evaluate positioning of the truncated domes, the asphalt variance at the lip of gutters, and the position of the pedestrian push buttons. The findings of the CAPs will be summarized on a table of the sites and described in this scope of work, along with a cover memorandum identifying the corrections to be made or substantial compliance with the plans and specifications, by the CASp. This review is intended to occur prior to final completion of each construction contract to allow corrections to be completed by the construction contractor, if required. The detailed work plan breakdown for ADA review will be finalized at the end of the construction to meet the schedule of fees/hours allocation, depending on the final project design plans, areas changed during construction and other site specific factors.

The Schedule of Fees included in Attachment B is a budget allowance. Prior to performing any work under this task, CONSULTANT shall provide a written estimate of hours required to provide professional services associated with the post-construction ADA review and certification. This task shall only be invoiced if agreed by CITY and CONSULTANT in writing prior to performing work. If this Task is approved, the budget allowance shown on the Schedule of Fees will be reallocated to and invoiced under Tasks 1 through 8 as agreed in writing by CITY and CONSULTANT.

Deliverable:

1. Signed memorandum summarizing results of post-construction ADA review.

**9.3 OPTIONAL TASK: ADDITIONAL IMPROVEMENTS BEYOND BASELINE SOLUTION**

If deemed necessary by CITY, CONSULTANT shall perform engineering services consistent with Tasks 1 through 8 of this Scope of Services for additional improvements added to the project or for additional construction document packages beyond the Baseline Solution. The Schedule of Fees included in Attachment B is a budget allowance, as set by CITY. Prior to performing any work under this task, CONSULTANT shall provide a written estimate of hours required to provide professional services associated with the additional improvements. This task shall only be invoiced if agreed by CITY and CONSULTANT in writing prior to performing work. If this Task is approved, the budget allowance shown on the Schedule of Fees will be reallocated to and invoiced under Tasks 1 through 8 as agreed in writing by CITY and CONSULTANT.

## **EXHIBIT B**

### **SCHEDULE OF FEES**

#### **I. GENERAL PAYMENT**

The total payment to the Consultant for Basic Services, as stated in Exhibit A, shall not exceed \$797,856, inclusive of any authorized Reimbursable Expenses. The amount billed to City for pre-approved Additional Services shall not exceed the sum of \$119,678. In no event shall the amount billed to City by Consultant for services under this Agreement exceed \$917,534, subject to budget appropriations.

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.

#### **II. BASIC 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. 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 August 25, 2020 and agreed by CITY and CONSULTANT, 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.

<b>Description</b>		<b>Amount</b>
Task 1	Project Management and Meetings	\$ 16,345
Task 2	Data Gathering, Land Surveying, and Base Mapping	\$ 106,295
Task 3	Project Programming	\$ 29,405
Task 4	Preliminary Design (35%)	\$ 108,460
Task 5	Construction Documents (65%, 95%, & Final Bid)	\$ 378,780
Task 6	Bid Support Assistance	\$ 12,050
Task 7	Construction Support	\$ 61,600
Task 8	Record Drawings and Project Close-Out	\$ 6,785
Task 9	Optional Tasks	\$ 78,136
<b>Total</b>		<b>\$ 797,856</b>

In no event shall the amount billed to City by Consultant for Basic Services under this Agreement exceed seven hundred ninety seven thousand eight hundred fifty six dollars (\$797,856), subject to budget appropriations.

### **III. REIMBURSABLE EXPENSES**

Reimbursable Expenses shall not exceed \$3,680 without prior written approval by the City. The amount allocated for Reimbursable Expenses is included within the fee amount described for Basic Services. The amount allocated for Reimbursable Expenses shall be the Consultant's full compensation for all Reimbursable Expenses required for the Project and by this Agreement, as directed by the City, and no additional compensation shall be allowed. Reimbursable expenses shall be billed at cost plus a maximum 10% markup. Receipts and invoices detailing the Reimbursable Expenses shall be included with each billing where a Reimbursable Expense is invoiced.



Reimbursable Expenses are in addition to compensation for Basic and Additional Services. The following is a sample of items that are included as part of the Basic Services and are not considered Reimbursable Expenses:

- Basic Office Expenses such as overhead, paper, pens, pencils, ink cartridges
- Insurance Expenses, Applicable Taxes, Computer Time
- Travel Expenses (local and long distance), including meals and gas
- Faxes
- Local and Long Distance Telephone Expenses (land lines and cellular phones)
- US Mail
- Paper Cost
- Copying Cost
- Plotting Cost

Reimbursable Expenses may include:

- Outside Duplicating Cost for Plans and Reports as specified in Section III, Scope of Work, of Exhibit A
- Presentation Materials
- Delivery Services, when requested by City.
- Courier Services when requested by City.

City may re-allocate remaining budget from reimbursable expenses to additional services. All reimbursable costs, other than those listed above, shall be approved in advance by City.

#### **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 \$119,678 without approval by the City.

#### **V. RATE SCHEDULE**

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

Standard hourly rate sheets for CONSULTANT and subconsultants are attached to this Exhibit B and incorporated herein by reference (hereinafter 'Rates'). Any discrepancies between the Rates and this Exhibit B shall be resolved in favor of this

Exhibit B. Any classifications added, or staff members changing classifications, shall be approved in writing by City.

Rates shall be per the attached standard hourly rate sheets through December 31, 2022. On January 1, 2023, Rates may be adjusted as described herein. The adjustment of rates shall be submitted by CONSULTANT and agreed in writing by City prior to any adjustment being made. The adjusted Rates shall be no more than the percentage difference between the Consumer Price Index (CPI) of January of the preceding year and the CPI as may be available nearest to and in advance of the month and year in which the adjustment is made, and shall be capped at a maximum of 3% for each adjustment per year. The CPI shall be defined as the San Francisco-Oakland-Hayward urban wage earners and clerical workers (W). Rates changed by calculation shall be rounded to the nearest whole dollar.

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

#### **RATES ATTACHED ON FOLLOWING PAGE**

## STANDARD HOURLY RATES



### EXHIBIT B

#### TIME AND MATERIALS HOURLY RATE SCHEDULE

ENGINEERING & PLANNING SERVICES	Thru Dec 31 <sup>st</sup> , 2021	After Jan 1st 2022
Principal	\$206	\$216
Project Manager	\$190	\$200
Professional Engineer	\$180	\$190
Design Engineer/Associate Engineer/Project Engineer	\$135	\$145
Assistant Engineer	\$125	\$135
Engineering/Surveying Technician	\$125	\$135
LAND SURVEYING SERVICES		
Professional Land Surveyor	\$184	\$200
Survey Technician	\$125	\$135
2-Man Survey Party	\$278	\$294

#### REIMBURSABLE EXPENSES

Mileage (per current IRS reimbursement rate)

In House Printing: PDF only

Outside Printing & Delivery Services: Cost + 10%

Subcontractors: Cost + 10%

Overtime work will be charged at 135% of the standard hourly rates, however, no overtime will be charged without prior authorization by the client.

#### CONCORD

2290 Diamond Blvd. Suite 100  
Concord, CA 94520-5744  
Tel. 925.685.4569

#### PLEASANTON

7077 Koll Center Parkway, Suite 210  
Pleasanton, CA 94566-3128  
Tel. 925.681.4885

Civil Engineering Land Surveying  
Construction Management



<u>CHARGE RATE SCHEDULE</u>	
Principal/Technical Specialist	\$300.00
Project Manager	\$150.00
Engineering Manager	\$190.00
Project Engineer	\$130.00
Assistant Engineer	\$110.00
Junior Engineer	\$100.00
Senior Computer Drafter	\$90.00
Construction Manager	\$280.00



LANDSCAPE ARCHITECTURE • LAND PLANNING • URBAN DESIGN

#### HOURLY RATES

Hourly Fees for Services of:	Rate Per Hour:
Partner	\$190.00-\$220.00
Principal	\$160.00 - \$190.00
Associate Principal	\$140.00 - \$160.00
Senior Associate	\$130.00 - \$140.00
Job Captain	\$120.00 - \$130.00
Sr. Irrigation Designer	\$145.00 - \$165.00
Irrigation Design Technician	\$95.00-\$110.00
Sr. Visual Communications Designer	\$130.00 - \$150.00
Marketing Coordinator	\$95.00-\$140.00
Administrative/Drafter	\$90.00 - \$120.00



## Hourly Rates and Fees for Fiscal Year 2020/21

TABLE OF HOURLY BILLING RATES	
POSITION	HOURLY RATE
Principal	\$237 / Hour
Project Manager	\$200 / Hour
Senior Disabled Access Reviewer (CASP)	\$230 / Hour
Land Surveyor	\$190/ Hour
Senior Civil Engineer	\$190 / Hour
Associate Civil Engineer	\$170 / Hour
Assistant Engineer and Plan Reviewer	\$150 / Hour
Administrative Assistant	\$80 / Hour
Public Works Inspector <i>(Prevailing Wage Rate, daytime hours)</i>	\$160 / Hour
Public Works Inspector <i>(Prevailing Wage Rate, 8pm to 5am)</i>	\$185 / Hour

**Miscellaneous:** *Proposed Hourly Rates are for Fiscal Year 2020/21. Rates are subject to a 3% Cost of Living increase on each new fiscal year of the contract. Reimbursable expenses will be at Cost plus 15% and may include specialized equipment rental and printing costs. Cost for mileage will be at the Federal Rate in effect. . Reimbursable expenses are not to exceed the contract amount.*

*Any work performed under prevailing wage is subject to the State of California labor regulations. Public Works Inspections in excess of Forty (40) Hours a week, overtime work, holiday work, weekend work, etc. will be invoiced as follows:*

- **Overtime** – One Hundred Fifty Percent (150%) of regular rates. Overtime is defined as working more than Forty (40) Hours a week or more than Eight (8) Hours a day or more than Six (6) consecutive days in a week.
- **Double Overtime** – Two Hundred Percent (200%) of regular rates. Double Overtime is defined as working more than Twelve (12) hours a day or working more than Eight (8) hours on the seventh consecutive day of work.
- **Holidays and Weekends** – Two Hundred Percent (200%) of regular rates.

*A four (4) hour daily minimum is required for Public Works inspections.*



## Rincon Consultants, Inc.

### Standard Fee Schedule for Environmental Sciences and Planning Services

Professional, Technical & Support Personnel*	Hourly Rate
Principal II	\$240
Director II	\$240
Principal I	\$220
Director I	\$220
Senior Supervisor II	\$205
Supervisor I	\$195
Senior Professional II	\$175
Senior Professional I	\$160
Professional IV	\$145
Professional III	\$130
Professional II	\$115
Professional I	\$105
Associate III	\$95
Associate II	\$90
Associate I	\$82
Project Assistant	\$75
Senior GIS Specialist	\$140
GIS/CADD Specialist II	\$125
GIS/CADD Specialist I	\$112
Technical Editor	\$112
Production Specialist	\$88
Clerical	\$75

\*Professional classifications include: environmental scientists, urban planners, biologists, geologists, marine scientists, GHG verifiers, sustainability experts, cultural resources experts and other professionals. Expert witness services consisting of depositions or in-court testimony are charged at the hourly rate of \$350.

Direct Costs	Rate
Photocopies – Black and White	\$0.20 (single sided) & \$0.36 (double sided)
Photocopies – Color	\$1.50 (single sided) & \$3.20 (double sided)
Photocopies – 11 x 17	\$0.80 (B & W) & \$3.20 (color)
Oversized Maps	\$8.00/square foot
Reproduction: CDs and USB Flash Drive	\$10 / disc and \$15/flash drive
Light duty /Passenger Vehicles**	\$85/day
4-WD/Off-Road Vehicles**	\$135/day

\*\* \$0.65/mile for mileage over 50 and for all miles incurred in employee-owned vehicles.

**Other direct costs** associated with the execution of a project, that are not included in the hourly rates above, are billed at cost plus 15%. These may include, but are not limited to, laboratory and drilling services, subcontractor services, authorized travel expenses, permit charges and filing fees, mailings and postage, performance bonds, sample handling and shipment, rental equipment and vehicles other than covered by the above charges.

**Annual Escalation** – Standard rates subject to annual escalation

**Payment Terms** – All fees will be billed to Client monthly and shall be due and payable upon receipt. Invoices are delinquent if not paid within ten (10) days from receipt.





Equipment	Day Rate
<b>Environmental Site Assessment</b>	
Brass Sample Sleeves, Bailers, Disposable Bailers	\$25
Water Level Indicator, DC Purge Pump	\$40
Hand Auger Sampler	\$55
Oil-Water Interface Probe	\$85
Four Gas Monitor or Photo-Ionization Detector	\$120
Soil Vapor Extraction Monitoring Equipment	\$140
Flame Ionization Detector	\$200
<b>Natural Resources Field Equipment</b>	
Trimble GPS (sub-meter accuracy)	\$190
UAS Drone	\$250
Pettersson Bat Ultrasound Detector/Recording Equipment	\$150
Spotting or Fiberoptic Scope	\$150
Amphibian/Vernal Pool Field Package: (digital camera, GPS, thermometer, decon chlorine, waders, float tube, hand net, field microscope)	\$150
Remote Field Package, (digital camera, GPS, thermometer, binoculars, tablet and mifi, Delorme Satellite Beacon, 24-Hour Safety Phone)	\$125
Sound Level Metering Field Package: anemometer, tripod and digital camera.	\$100
Standard Field Package (digital camera, GPS, thermometer, binoculars, tablet, safety equipment, and botanic collecting equipment)	\$95
Fisheries Equipment Package: (waders, wetsuits, dip nets, seine nets, bubblers, buckets)	\$50
Water Quality Equipment (DO, pH, Turbidity, refractometer, temperature)	\$55
Large Block Nets	\$100
Minnow trap	\$85
Infrared Sensor Digital Camera or Computer Field Equipment	\$50
Scent Station	\$20
Laser Rangefinder/Altitude	\$10
Net, Hand/Large Seine	\$10/\$50
Pit-fall Traps, Spotlights, Anemometer, GPS Units, Sterilized Sample Jar	\$8
Mammal Trap, Large/Small	\$1.50/\$.50
<b>Water &amp; Marine Resources Equipment</b>	
Refractometer (salinity) or Turbidity Meter	\$35
Multi Parameter Sonde (Temp, Cond, Turbidity, DO, pH) with GPS	\$150
Boat (20 ft. Boston Whaler or Similar)	\$300
Boat (26 ft. Radon or Similar)	\$550
Side Scan or Single Beam Sonar	\$700
Underwater & Marine Sampling Gear includes: U/W Photo/Video Camera, SCUBA Equipment (Tanks, BCD, Regulators, Wetsuits, etc.)	\$50/diver
Marine Field Package: (Personal Flotation Devices (PFDs), 100 ft. Reel Tapes w/ Stainless Carabiners, Pelican Floats, Underwater Slates, Thermometer, Refractometer, Anemometer, various Field Guides)	\$50
<b>Insurance, Hazard &amp; Safety Fees</b>	
L & H Dive Insurance	\$50/diver
Hazard Premium (In or Underwater ONLY per/hour)	\$1.25 X hourly
Level C Health and Safety	\$60 person

## **DUQUETTE ENGINEERING**



### **STRUCTURAL ENGINEERS**

Mr. Duquette has been providing structural engineering services as a licensed structural engineer since 1990. As President of Duquette Engineering he has become experienced in all areas of an engineering practice, client development, project management and employee relations, in addition to experience with providing structural analysis, construction documents, and quality assurance.

Duquette Engineering is a full-service engineering company specializing in residential and small to mid-size commercial projects. Steven Duquette started Duquette Engineering as a sole proprietor in January of 1990. Currently our staff consists of 1 structural engineer, 1 staff engineer, 4 engineering assistants, 2 CAD draftsman and 1 office support staff.

Duquette Engineering has a variety of experience working with architects, building owners, public agencies, and developers on a wide variety of projects, which include residential, commercial, educational, and historic buildings. We have thirty years of specialized experience in the rehabilitation, seismic retrofit, and modification of existing structures. Our varied experience with gives Duquette Engineering a unique ability to provide the proper level of engineering to both large and small projects.

### **PROFESSIONAL SERVICES RATES:**

Principal Engineer	\$260.00/hr.
Project Engineer	\$180.00/hr.
Staff Engineer	\$145.00/hr.
CAD/Engineering Assistant	\$125.00/hr.
Administrative Assistant	\$105.00/hr.



*1171 Homestead Road, Suite 275, Santa Clara 95050  
[www.duquette-eng.com](http://www.duquette-eng.com)*

## **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.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of one million dollars (\$1,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

#### 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 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 Contractor 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, Contractor, 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. Contractor 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

Contractor 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, Contractor 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 mailed to:

EBIX Inc.

City of Santa Clara Department of Public Works

P.O. Box 100085 – S2

or 1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280  
Fax number: 770-325-0409  
Email address: ctsantaclara@ebix.com

I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor 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.

*EXHIBIT C-06 Professional Service Contract*

## **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 include 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)**

As part of its proposal, CONSULTANT proposed a project schedule entitled “City of Santa Clara ADA Settlement Improvements Project,” dated August 5, 2020. This Exhibit contains a summary the key tasks from CONSULTANT’s proposed project schedule for completing the Services. The dates for key tasks as shown in this Exhibit shall not be exceeded without prior written approval by CITY.

<b>DESCRIPTION</b>	<b>COMPLETE NO LATER THAN</b>
Notice to Proceed (Assumed)	11/3/2020
Programming Approach – Packaging Options	1/4/2021
Bid PS&E Package (Package 1 & 2)	7/14/21
Bid PS&E Package (Package 3 & 4)	12/29/21