

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
SAFE MOVES  
FOR  
SANTA CLARA NON-INFRASTRUCTURE SR2S PHASE 2 PROJECT  
PREAMBLE**

This agreement for the performance of services ("Agreement") is by and between Safe Moves, Inc., a 501c.3 non-profit California Corporation, with its principal place of business located at 15500 Erwin Street, Suite 2451, Van Nuys, California 91411 ("Consultant"), and the City of Santa Clara, California, a chartered California municipal corporation with its primary business address at 1500 Warburton Avenue, Santa Clara, California 95050 ("Local Agency"). Local Agency and Consultant may be referred to individually as a "Party" or collectively as the "Parties" or the "Parties to this Agreement."

**RECITALS**

- A. Local Agency desires to secure design professional services more fully described in this Agreement, at Exhibit A, entitled "Scope of Services"; and,
- B. "Design professional" includes licensed architects, licensed landscape architects, registered professional engineers, and licensed professional land surveyors; and,
- C. Consultant represents that it, and its sub-consultants, 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 Local Agency; 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 PROVISIONS**

**1. SERVICES TO BE PROVIDED.**

Except as specified in this Agreement, Consultant shall furnish all technical and design professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as "Services") to satisfactorily complete the work required by Local Agency at his/her own risk and expense. Services to be provided to Local Agency are more fully described in Exhibit A entitled "SCOPE OF SERVICES." All of the exhibits referenced in this Agreement are attached and are incorporated by this reference. Consultant acknowledges that the execution of this Agreement by Local

Agency is predicated upon representations made by Consultant in that certain document entitled "Proposal for the Santa Clara Non-Infrastructure SR2S Phase 2 Project" dated December 23, 2016 ("Proposal") parts of which have been approved by the Local Agency and set forth in Exhibit A, which constitutes the basis for this Agreement.

Consultant shall incorporate the Local Agency's latest Standard Specifications, Details, Design Criteria, and any Caltrans' approved environmental documents into the Plans, Specifications, and Estimates (PS&E) of the proposed scope of work. Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner (SEP) signs the Categorical Exclusion (CE), a Caltrans Deputy District Director signs the Finding of No Significant Impact (FONSI), or the Caltrans District Director signs the Record of Decision (ROD).

**2. TERM OF AGREEMENT.**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on **December 31, 2020**.

The Consultant is advised that any recommendation for contract award is not binding on the Local Agency until the contract is fully executed and approved by the Local Agency.

**3. CONSULTANT'S SERVICES TO BE APPROVED BY A LICENSED DESIGN PROFESSIONAL.**

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

**4. QUALIFICATIONS OF CONSULTANT - STANDARD OF WORKMANSHIP.**

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

The PS&E, designs, calculations, reports and other documents furnished under Exhibit A shall be of a quality acceptable to Local Agency. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well organized, that is technically and grammatically correct, checked and having the maker and checker identified. The minimum standard of appearance, organization and content of the drawings shall be that used by Local Agency for similar projects.



**5. ASSIGNMENT OF DUTIES.**

The Consultant's Project Manager for this Agreement is Pat Hines and Local Agency's Project Manager (or Administrator) is Marshall Johnson.

No other person(s) will be assigned from Consultant other than the approved Project Manager listed in this Section and the approved staff identified on Exhibit B, SCHEDULE OF FEES. It is agreed by and between the Parties that should it be desirable for any other person to work under this Agreement, such person may only be added with the express written consent of Local Agency.

**6. MONITORING OF SERVICES.**

Local Agency, the State, and Federal Highway Administration (FHWA) (collectively the "Monitoring Parties") may monitor the Services performed under this Agreement, including the daily review and inspection, to determine whether Consultant's operation conforms to Local Agency policy and to the terms of this Agreement. Monitoring Parties may also monitor the Services to be performed to determine whether financial operations are conducted in accord with applicable Local Agency, County, State, and FHWA requirements. If any action of Consultant constitutes a breach, Local Agency may terminate this Agreement pursuant to the provisions described herein.

**7. WARRANTY.**

Consultant expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect, and shall conform to the specifications, requirements, and instructions upon which this Agreement is based. Consultant agrees to promptly replace or correct any incomplete, inaccurate, or defective Services at no further cost to Local Agency when defects are due to the negligence, errors or omissions of Consultant. If Consultant fails to promptly correct or replace materials or services, Local Agency may make corrections or replace materials or services and charge Consultant for the cost incurred by Local Agency.

**8. PERFORMANCE OF SERVICES.**

Consultant shall perform all requested services in an efficient and expeditious manner and shall work closely with and be guided by Local Agency. Consultant shall be as fully responsible to Local Agency for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Consultant is for the acts and omissions of persons directly employed by it. Consultant will perform all Services in a safe manner and in accordance with all federal, state and local operation and safety regulations.

**9. BUSINESS TAX LICENSE REQUIRED.**

Contractor must comply with Santa Clara City Code section 3.40.060, as that section may be amended from time to time or renumbered, which requires that any person who transacts or carries on any business in the City of Santa Clara pay business license tax to the City. A business tax certificate may be obtained by completing the Business Tax

Affidavit Form and paying the applicable fee at the Santa Clara City Hall Municipal Services Division.

**10. RESPONSIBILITY OF CONSULTANT.**

Consultant shall be responsible for the professional quality, technical accuracy and coordination of the Services furnished by it under this Agreement. Neither Local Agency's review, acceptance, nor payments for any of the Services required under this Agreement shall be construed 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 and Consultant shall be and remain liable to Local Agency in accordance with applicable law for all damages to Local Agency caused by Consultant's negligent performance of any of the Services furnished under this Agreement.

Any acceptance by Local Agency of plans, specifications, construction contract documents, reports, diagrams, maps and other material prepared by Consultant shall not in any respect absolve Consultant from the responsibility Consultant has in accordance with customary standards of good professional practice in compliance with applicable federal, state, county, and/or municipal laws, ordinances, regulations, rules and orders.

**11. FUNDING REQUIREMENTS.**

- A. It is mutually understood between the Parties that this Agreement may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both Parties, in order to avoid program and fiscal delays that would occur if the Agreement were executed after that determination was made.
- B. This Agreement is valid and enforceable only if sufficient funds are made available to the Local Agency for the purpose of this contract. In addition, this Agreement is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature or Local Agency governing board that may affect the provisions, terms, or funding of this Agreement in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this Agreement may be amended to reflect any reduction in funds. The Local Agency has the option to terminate the contract under the 30-day cancellation clause, or by mutual agreement to amend the Agreement to reflect any reduction of funds.

**12. COMPENSATION AND PAYMENT.**

In consideration for Consultant's complete performance of Services, Local Agency shall pay Consultant for all materials provided and services rendered by Consultant at the rate per hour for labor and cost per unit for materials, including travel and per diem, unless otherwise expressly so provided, as outlined in Exhibit B, entitled "SCHEDULE OF FEES."

Consultant will bill Local Agency on a monthly basis for Services provided by Consultant during the preceding month, subject to verification by Local Agency. Invoices



submitted shall include, but not limited to, description of work/task performed, percentage of completion for each task, amount for current invoice, previous invoiced amount, invoiced-to-date amount, contract amount, and remaining contract amount (or in format acceptable by the Local Agency), and all supporting documentation for amount requested for payments. Local Agency will pay Consultant within thirty (30) days of Local Agency's receipt of invoice and all supporting documentations.

**13. CONTINGENT FEE.**

Consultant warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by the Consultant for the purpose of securing business. For breach or violation of this warranty, the Local Agency has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

**14. PROGRESS SCHEDULE.**

The Progress Schedule will be as set forth in the attached Exhibit F, entitled "MILESTONE SCHEDULE" if applicable.

**15. TERMINATION OF AGREEMENT.**

Either Party may terminate this Agreement without cause by giving the other Party written notice ("Notice of Termination") which clearly expresses that Party's intent to terminate the Agreement. In the event of such termination, the Local Agency may proceed with the work in any manner deemed proper by the Local Agency. Notice of Termination shall become effective no less than thirty (30) calendar days after a Party receives such notice. After either Party terminates the Agreement, Consultant shall discontinue further services as of the effective date of termination, and Local Agency shall pay Consultant for all Services satisfactorily performed up to such date, unless the cost of completion to the Local Agency exceeds the funds remaining in the contract. In which case the overage shall be deducted from any sum due the Consultant under this agreement and the balance, if any, shall be paid the Consultant upon demand.

**16. NO ASSIGNMENT OR SUBCONTRACTING OF AGREEMENT.**

Local Agency and Consultant bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of Local Agency. Consultant shall not hire or substitute sub-consultants without express written permission from Local Agency.

The Consultant shall perform the Services with resources available within its own organization; and no portion of the Services pertinent to this Agreement shall be subcontracted without written authorization by the Local Agency, except that which is expressly identified in the Local Agency's approved Cost Proposal. Any subcontract in

excess of \$25,000 entered into as a result of this Agreement, shall contain all the provisions stipulated in this Agreement to be applicable to sub-consultants.

**17. 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.

**18. INDEPENDENT CONSULTANT.**

Consultant and all person(s) employed by or contracted with Consultant to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of Local Agency. Consultant has full rights, however, to manage its employees in their performance of Services under this Agreement. Consultant is not authorized to bind Local Agency to any contracts or other obligations.

**19. NO PLEDGING OF LOCAL AGENCY'S CREDIT.**

Under no circumstances shall Consultant have the authority or power to pledge the credit of Local Agency or incur any obligation in the name of Local Agency. Consultant shall save and hold harmless the Local Agency, its Local Agency Council, its officers, employees, boards and commissions for expenses arising out of any unauthorized pledges of Local Agency's credit by Consultant under this Agreement.

**20. CONFIDENTIALITY OF MATERIAL.**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Consultant and all other written information submitted to Consultant in connection with the performance of this Agreement shall be held confidential by Consultant and shall not, without the prior written consent of Local Agency, be used for any purposes other than the performance of the Services, nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Consultant which is otherwise known to Consultant or becomes generally known to the related industry shall be deemed confidential.

**21. USE OF LOCAL AGENCY NAME OR EMBLEM.**

Consultant shall not use Local Agency'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 Local Agency.

**22. OWNERSHIP OF MATERIAL.**

All material, including information developed on computer(s), which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports and other material developed, collected, prepared or caused to be prepared under this



Agreement shall be the property of Local Agency but Consultant may retain and use copies thereof. Local Agency shall not be limited in any way or at any time in its use of said material. However, Consultant shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

**23. RIGHT TO INSPECT RECORDS OF CONSULTANT.**

Local Agency, through its authorized employees, representatives or agents; the State; and FHWA shall have the right during the term of this Agreement and for three (3) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Consultant for the purpose of verifying any and all charges made by Consultant in connection with Consultant compensation under this Agreement, including termination of Consultant. Consultant agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to Local Agency. Any expenses not so recorded shall be disallowed by Local Agency.

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

**24. CORRECTION OF SERVICES.**

Consultant agrees to correct any incomplete, inaccurate or defective Services at no further costs to Local Agency, when such defects are due to the negligence, errors or omissions of Consultant.

**25. FAIR EMPLOYMENT.**

Consultant shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, gender, sexual orientation, age, disability, religion, ethnic background, or marital status, in violation of state or federal law.

**26. DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION.**

Consultants are strongly encouraged to use services offered by financial institutions owned and controlled by Disadvantaged Business Enterprise (DBE) firms. Consultant will be required to submit "Local Agency Proposer DBE Information (Consultant Contracts)" or written statement explaining why DBE firms were not utilized in its proposal.

The term "Disadvantaged Business Enterprise" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).

The term "Small Business" (SB) is as defined in 49 CFR 26.65.

**27. HOLD HARMLESS/INDEMNIFICATION.**

To the extent permitted by law, Consultant agrees to protect, defend, hold harmless and indemnify Local Agency, 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 reasonable attorney's fees in providing a defense to any claim arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the Consultant, its employees, sub-consultants, or agents in the performance, or non-performance, of services under this Agreement.

**28. INSURANCE REQUIREMENTS.**

During the term of this Agreement, and for any time period set forth in Exhibit C, Consultant shall provide and maintain in full force and effect, at no cost to Local Agency insurance policies with respect to employees and vehicles assigned to the Performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in Exhibit C.

**29. AMENDMENTS.**

This Agreement may be amended only with the written consent of both Parties. Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by the Local Agency.

**30. INTEGRATED DOCUMENT.**

This Agreement represents the entire agreement between Local Agency and Consultant. No other understanding, agreements, conversations, or otherwise, with any representative of Local Agency prior to execution of this Agreement shall affect or modify any of the terms or obligations of this Agreement. Any verbal agreement shall be considered unofficial information and is not binding upon Local Agency.

**31. 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.

**32. WAIVER.**

Consultant agrees that waiver by Local Agency 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.

**33. NOTICES.**

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



City of Santa Clara  
Attention: Craig Temple  
1500 Warburton Avenue  
Santa Clara, California 95050  
or by facsimile at (408) 985-7936

And to Consultant addressed as follows:

Pat Hines, Safe Moves  
15500 Erwin Street, Suite 2451  
Van Nuys, California 91411  
or by facsimile at (818) 786-4631

If notice is sent via facsimile, a signed, hard copy of the material shall also be mailed. The workday the facsimile was sent shall control the date notice was deemed given if there is a facsimile machine generated document on the date of transmission. A facsimile transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following Monday.

**34. CAPTIONS.**

The captions of the various sections, paragraphs and subparagraphs of this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation.

**35. LAW GOVERNING CONTRACT 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.

**36. RETENTION OF RECORDS/AUDIT.**

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Agreement pursuant to Government Code 8546.7; the Consultant, sub-consultants, and the Local Agency shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the Agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three (3) years from the date of final payment under the Agreement. The state, the State Auditor, Local Agency, FHWA, or any duly authorized representative of the federal government shall have access to any books, records, and documents of the Consultant that are pertinent to the Agreement for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

**37. AUDIT REVIEW PROCEDURES.**

- A. Any dispute concerning a question of fact arising under an interim or post audit of this Agreement that is not disposed of by agreement, shall be reviewed by the Local Agency's Director of Finance.
- B. Not later than 30 days after issuance of the final audit report, the Consultant may request a review by the Local Agency's Director of Finance of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by the Local Agency will excuse the Consultant from full and timely performance, in accordance with the terms of this Agreement.

**38. CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR.**

- A. If claims are filed by the Local Agency's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from the Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with the Local Agency's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. Consultant's personnel that the Local Agency considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from the Local Agency. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for the Consultant's personnel services under this Agreement.
- C. Services of the Consultant's personnel in connection with the Local Agency's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to finally resolve the claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.

**39. NATIONAL LABOR RELATIONS BOARD CERTIFICATION.**

In accordance with Public Contract Code Section 10296, the Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Consultant within the immediately preceding two-year period, because of the Consultant's failure to comply with an order of a federal court that orders the Consultant to comply with an order of the National Labor Relations Board.



**40. DISPUTE RESOLUTION.**

- A. Unless otherwise mutually agreed to by the Parties, any controversies between Consultant and Local Agency regarding the construction or application of this Agreement, and claims arising out of this Agreement or its breach, shall be submitted to mediation within thirty (30) days of the written request of one Party after the service of that request on the other Party.
- B. The Parties may agree on one mediator. If they cannot agree on one mediator, the Party demanding mediation shall request the Superior Court of Santa Clara County to appoint a mediator. The mediation meeting shall not exceed one day (eight (8) hours). The Parties may agree to extend the time allowed for mediation under this Agreement.
- C. The costs of mediation shall be borne by the Parties equally.
- D. For any contract dispute, mediation under this section is a condition precedent to filing an action in any court. In the event of mediation which arises out of any dispute related to this Agreement, the Parties shall each pay their respective attorney's fees, expert witness costs and cost of suit, through mediation only. In the event of litigation, the prevailing party shall recover its reasonable costs of suit, expert's fees and attorney's fees.

**41. COMPLIANCE WITH ETHICAL STANDARDS.**

Consultant shall:

- A. Read Exhibit D, entitled "ETHICAL STANDARDS FOR CONSULTANTS SEEKING TO ENTER INTO AN AGREEMENT WITH THE LOCAL AGENCY (CITY OF SANTA CLARA), CALIFORNIA"; and,
- B. Execute Exhibit E, entitled "AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS."

**42. CONFLICT OF INTERESTS.**

- A. This Agreement does not prevent either Party from entering into similar agreements with other parties. To prevent a conflict of interest, Consultant certifies that to the best of its knowledge, no Local Agency officer, employee or authorized representative has any financial interest in the business of Consultant and that no person associated with Consultant has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Consultant is familiar with the provisions of California Government Code Section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Consultant will advise Local Agency if a conflict arises.
- B. Consultant shall disclose any financial, business, or other relationship with Local Agency that may have an impact upon the outcome of this Agreement, or any ensuing Local Agency construction project. Consultant shall also list current

clients who may have a financial interest in the outcome of this contract, or any ensuing Local Agency construction project, which will follow.

- C. Any subcontract in excess of \$25,000 entered into as a result of this Agreement, shall contain all of the provisions of this Article.
- D. The Consultant hereby certifies that neither Consultant, nor any firm affiliated with the Consultant will bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.
- E. Except for sub-consultants whose services are limited to providing surveying or materials testing information, no sub-consultants who has provided design services in connection with this Agreement shall be eligible to bid on any construction contract, or on any contract to provide construction inspection for any construction project resulting from this Agreement.

#### **43. AFFORDABLE CARE ACT OBLIGATIONS**

To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.

#### **44. DEBARMENT AND SUSPENSION CERTIFICATION.**

The Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the Consultant has complied with Title 49, Code of Federal Regulations, Part 29, Debarment and Suspension Certificate, which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to the Local Agency. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.

#### **45. REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION.**

Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any Local Agency employee. For breach or violation of this warranty, Local Agency shall have the right in its discretion; to terminate the Agreement without liability; to pay only for the value of



the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

**46. PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING.**

A. Consultant certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of the Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; **Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying"** in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, US. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

C. Consultant also agrees by signing this Agreement that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000, and that all such sub recipients shall certify and disclose accordingly.

**47. STATEMENT OF COMPLIANCE**

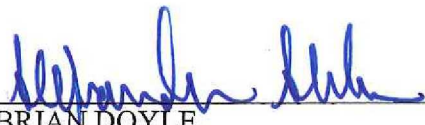
The Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that the Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Code of Regulations, Section 8103.

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; and, the Parties agree that signatures on this Agreement, including those transmitted by facsimile, shall be sufficient to bind the Parties.


The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives. The Effective Date is the date that the final signatory executes the Agreement. It is the intent of the Parties that this Agreement shall become operative on the Effective Date.

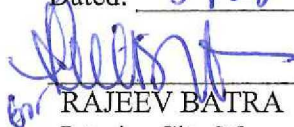
**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

APPROVED AS TO FORM:

  
for **BRIAN DOYLE**  
Interim City Attorney

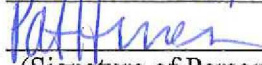
ATTEST:

  
**ROD DIRIDON, JR.**  
City Clerk

Dated: 3/23/2017  
  
for **RAJEEV BATRA**  
Interim City Manager  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**SAFE MOVES**  
a 501c.3 Non-Profit California Corporation

Dated: March 10, 2017  
By:   
(Signature of Person executing the Agreement on behalf of  
Consultant)  
Name: Pat Hines  
Title: Founder/Executive Director  
Local Address: 15500 Erwin Street, Suite 2451  
Van Nuys, California 91411  
Email Address: phinesafety@aol.com  
Telephone: (818) 786-4614  
Fax: (818) 786-4631

"CONSULTANT"

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**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
SAFE MOVES  
FOR  
SANTA CLARA NON-INFRASTRUCTURE SR2S PHASE 2 PROJECT**

**EXHIBIT A**

**SCOPE OF SERVICES**

THE FOLLOWING SCOPE OF SERVICES IS TO BE PROVIDED TO LOCAL AGENCY BY CONSULTANT UNDER THIS AGREEMENT:

**I. GENERAL**

The Local Agency desires to engage a professional Consultant for the services described in the below BASIC SCOPE OF SERVICES.

Consultant shall be expected to provide complete, professional, high-quality services and products; to provide consultation and work with the City staff and others who are involved with the Project; and to provide the expertise, guidance, advice, assistance in accomplishing the work.

**II. BACKGROUND AND PROJECT**

**A. BACKGROUND:**

Previously, the City of Santa Clara administrated a "Safe Routes to School" program where 7 Santa Clara schools participated resulting in an increase in the number of students walking or riding their bike to and from school along with an increased awareness of the benefits of doing so. These 7 schools from Santa Clara Unified School District included Bowers, Briarwood, Haman, Montague, Scott Lane, and Sutter elementary schools and Cabrillo middle school. The City would like to continue this effort with the original schools and extend its reach to 5 additional schools which are Bracher, Hughes, Washington, and Westwood elementary schools and Don Callejon (K-8) middle school. We are moving forward with the full support of the City Council and the Santa Clara Unified School District with the goal of reaching more students.

**B. PROJECT:**

A self-sustaining safe route to school program to encourage students to walk or bicycle to school (Project). The focus in establishing this program will be on 10 elementary schools and two middle schools in the City of Santa Clara and emphasize the Education, Encouragement, and Evaluation aspects of the Safe Routes to School Program to help reduce vehicle trips related to schools. This phase of the program will be over a two-year period starting in the spring of 2017 and ending in June of 2019.

The 10 participating elementary schools are Bowers, Bracher, Briarwood, Haman, Hughes, Montague, Scott Lane, Sutter, Washington, and Westwood and the two participating middle schools are Cabrillo and Don Callejon.

Major components of this Project will feature developing Safe Routes to School Maps; Educational and Encouragement elements; Outreach to schools, Parents, Parent Teacher Associations (PTAs), neighbors, and students; and before and after Surveys. Safe Routes to School Maps will only need to be developed for the five schools not previously involved.

### **III. BASIC SCOPE OF SERVICES**

The basic services shall include all tasks necessary to develop and implement the Program. The basic services shall include the following:

#### **1. Task 1.0: Project Management**

- 1.1 Administration
- 1.2 Program Evaluation

Deliverables:

- 1. Create, distribute, analyze, and tabulate "Classroom" and "Parent" before and after surveys on a yearly basis for each participating school.
- 2. First Year and Final Evaluation Reports.

#### **2. Task 2.0: Education**

- 2.1 Develop "Safe Routes to School" maps

Deliverables:

Provide maps for Bracher, Hughes, Washington, and Westwood elementary schools and Don Callejon (K-8) middle school in "PDF" format.

- 2.2 Curriculum Development (up to 3 language translations)

Deliverables:

- 1. Workshop or classroom training curriculum
- 2. Parent/Coordinator/Teacher training handbook
- 3. Safe Routes To School Toolkit
- 4. Training of Parents/Coordinator/Teacher representative for each school

- 2.3 Skills Training for students

Deliverables:

Bicycle and Pedestrian Rodeos



### **3. Task 3.0: Encouragement**

#### **3.1 Promotional Activities**

##### **Deliverables:**

1. Anticipate 1-2 large yearly events for each school
2. Multiple smaller challenge events
3. Walking School buses

### **4. Task 4.0: Engineering**

#### **4.1 Infrastructure Needs**

##### **Deliverables:**

1. Identify needed infrastructure improvements (Traffic Signals, Hawks, crosswalks, missing sidewalks, etc.)
2. Letters of support for future infrastructure improvements

### **5. Task 5.0: Outreach**

##### **Deliverable aspects to promote and sustain program:**

- 5.1 Meeting with parents, teachers, PTAs, law enforcement, and community leaders
- 5.2 Website material
- 5.3 Advertisement of events
- 5.4 Exploring alternative funding sources to sustain program beyond life of grant

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**EXHIBIT B**

**SCHEDULE OF FEES**

Consultant shall provide a schedule of rates and fees which includes all billing amounts and costs as follows (if applicable), such as:

**I. ORIGINAL PAYMENT AMOUNT**

The total payment to the Consultant for all work necessary for performing all tasks, as stated in **Exhibit A**, shall not exceed \$491,420.55, plus authorized Reimbursable Expenses, which shall not exceed the sum of \$8,579.45. Billing shall be on a monthly basis proportionate to the services performed for each task completed. In no event shall the amount billed to Local Agency by Consultant for services under this Agreement exceed \$500,000.00, subject to budget appropriations.

**II. REIMBURSABLE EXPENSES**

Reimbursable Expenses are in addition to compensation for Basic and Additional Services. Reimbursable Expenses shall be billed at cost plus ten percent (10%). The following items 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
- Local Travel Expenses
- Faxes
- Telephone Expenses
- US Mail
- Paper Cost
- Copying Cost
- Plotting Cost

Reimbursable Expenses may include but are not limited to:

- Outside Duplication Cost for PS&E as specified in Section III, BASIC SCOPE OF SERVICES, of Exhibit A
- Presentation Materials, Art works, News letters
- Overnight Delivery Services when requested by the Local Agency
- Courier Services when requested by the Local Agency



All Reimbursable Expenses, other than those listed above, shall be approved in advance by the Local Agency.

Reimbursable Expenses shall not exceed \$8,579.45 without approval by the Local Agency. The Consultant shall notify the Local Agency when approximately 75% of the Reimbursable Expenses budget has been billed to the Local Agency and shall provide a revised estimate of Reimbursable Expenses through Project completion. Local Agency may review estimate and may approve all or part of additional cost. The Local Agency shall be under no obligation to provide any Reimbursable Expenses in excess of the approved maximum reimbursable budget

### **III. PAY RATE SCHEDULE**

#### **Basic Services:**

- Compensation shall be in proportion to services rendered and shall be billed monthly as percentages of completion for each phase listed below. Fees shall be lump sum and not-to-exceed (LS, nte) per task as identified in Section III, BASIC SCOPE OF SERVICES, of Exhibit A and listed below on the following page:

**CHAPTER 8: PROPOSAL COSTS SHEET & RATES**

TASKS / DELIVERABLES	Hourly Rate	Safe Moves Program Manager Pat Hines	Safe Moves Program Coordinator/ Scheduler Barbara Sheppard	Safe Moves Instructor Bill Howard	Safe Moves Instructor Wendy Mata	Safe Moves Instructor Josh Calvin	Fehr & Peers Project Manager Ryan McClain	Fehr & Peers Project Designer Carrie Modi	Fehr & Peers Junior Engineer	Fehr & Peers Graphics/Admin	TOTAL HOURS	FEE ESTIMATE
<b>Task 1 Project Management</b>												
1.1. Administration	150	100	0	0	0	0	0	0	0	0	250	\$ 22,000.00
1.2. Program Evaluation & Data Management	125	250	50	50	50	0	0	0	0	0	525	\$ 38,250.00
<b>SUBTOTAL:</b>	<b>275</b>	<b>350</b>	<b>50</b>	<b>50</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>775</b>	<b>\$ 60,250.00</b>
<b>Task 2 Education</b>												
2.1. Develop "Safe Routes to School" maps	0	0	0	0	0	5	10	29	10	10	54	\$ 7,455.00
2.2.a. Curriculum Development	150	120	0	0	0	0	0	0	0	0	270	\$ 23,400.00
2.2.b. Parent/Coordinator/Teacher Training Handbook	110	95	0	0	0	0	0	0	0	0	205	\$ 17,650.00
2.2.c. SRTS Toolkit	110	150	0	0	0	0	0	0	0	0	260	\$ 21,500.00
2.2.d. Parent/Coordinator/Teacher Representative Training	95	75	0	0	0	0	0	0	0	0	170	\$ 14,750.00
2.3.a. Bicycle and Pedestrian Rodeos	95	250	250	250	250	0	0	0	0	0	1095	\$ 68,250.00
<b>SUBTOTAL:</b>	<b>560</b>	<b>690</b>	<b>250</b>	<b>250</b>	<b>250</b>	<b>5</b>	<b>10</b>	<b>29</b>	<b>10</b>	<b>10</b>	<b>2054</b>	<b>\$ 153,005.00</b>
<b>Task 3 Encouragement</b>												
3.1. Promotional Activities	0	0	0	0	0	0	0	0	0	0	0	\$ -
3.1.a. Large School Events	150	150	100	100	100	0	0	0	0	0	600	\$ 42,000
3.1.b. Smaller School Events	150	150	100	100	100	0	0	0	0	0	600	\$ 42,000
3.1.c. Walking School Buses/Bicycle Trains	150	150	100	100	100	0	0	0	0	0	600	\$ 42,000
<b>SUBTOTAL:</b>	<b>450</b>	<b>450</b>	<b>300</b>	<b>300</b>	<b>300</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1800</b>	<b>\$ 126,000.00</b>
<b>Task 4 Engineering</b>												
4.1. Infrastructure Needs Assessment	0	0	0	0	0	40	88	165	81	81	374	\$ 53,040.00
<b>SUBTOTAL:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>40</b>	<b>88</b>	<b>165</b>	<b>81</b>	<b>81</b>	<b>374</b>	<b>\$ 53,040.00</b>
<b>Task 5 Outreach</b>												
5.1. Stakeholders Meeting	150	100	0	0	0	36	24	29	16	16	355	\$ 39,460.00
5.2. Website Material	75	115	0	0	0	0	0	0	0	0	190	\$ 15,550.00
5.3. Event Advertisements	125	150	0	0	0	0	0	0	0	0	275	\$ 23,000.00
5.4. Funding Sources	110	75	0	0	0	0	0	0	0	0	185	\$ 16,250.00
<b>SUBTOTAL:</b>	<b>460</b>	<b>440</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>36</b>	<b>24</b>	<b>29</b>	<b>16</b>	<b>16</b>	<b>1005</b>	<b>\$ 94,260.00</b>
<b>TOTAL HOURS</b>	<b>1745</b>	<b>1930</b>	<b>600</b>	<b>600</b>	<b>600</b>	<b>81</b>	<b>122</b>	<b>223</b>	<b>107</b>	<b>107</b>	<b>6008</b>	
<b>TOTAL FEE AMOUNT</b>	<b>\$ 174,500.00</b>	<b>\$ 135,100.00</b>	<b>\$ 33,000.00</b>	<b>\$ 33,000.00</b>	<b>\$ 33,000.00</b>	<b>\$ 18,225.00</b>	<b>\$ 20,130.00</b>	<b>\$ 26,760.00</b>	<b>\$ 12,840.00</b>	<b>\$ 12,840.00</b>		<b>\$ 486,555.00</b>
Printing												\$ 4,865.55
<b>GRAND TOTAL</b>												<b>\$ 491,420.55</b>



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**EXHIBIT C**

**INSURANCE REQUIREMENTS**

Without limiting the Consultant's indemnification of the Local Agency, and prior to commencing any of the Services required under this Agreement, the Consultant shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the Local Agency, 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 Local Agency so that any other coverage held by the Local Agency shall not contribute to any loss under Consultant's insurance. The minimum coverages, provisions and endorsements are as follows:

**A. COMMERCIAL GENERAL LIABILITY INSURANCE**

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office (ISO) form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:  
  
\$1,000,000 Each Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Products/Completed Operations Aggregate  
\$1,000,000 Personal Injury
2. Exact structure and layering of the coverage shall be left to the discretion of Consultant; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Consultant to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;

- b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
- c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

**B. BUSINESS AUTOMOBILE LIABILITY INSURANCE**

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, ISO 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, Consultant 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 ISO 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 Consultant included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for 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 Local Agency, its City Council, commissions, officers, employees, volunteers and agents.

**D. PROFESSIONAL LIABILITY**

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Consultant. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per occurrence 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. Local Agency, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Consultant's work for Local Agency, using ISO Endorsement CG 20 10 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Consultant shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Consultant's insurance.
3. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to Local Agency 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 Local Agency at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit C, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Consultant and Local Agency agree as follows:

1. Consultant agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Consultant, provide the same minimum insurance coverage required of Consultant, except as with respect to limits. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Consultant agrees that upon request by Local Agency, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to Local Agency for review.
2. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge Local Agency or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to Local Agency. It is not the intent of Local Agency to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against Local Agency for payment of premiums or other amounts with respect thereto.
3. The Local Agency reserves the right to withhold payments from the Consultant in the event of material noncompliance with the insurance requirements set forth in this Agreement.

#### G. EVIDENCE OF COVERAGE

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

#### H. EVIDENCE OF COMPLIANCE

Consultant or its insurance broker shall provide the required proof of insurance compliance, consisting of 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 Local Agency, or its representative as set forth below, at or prior to execution of this Agreement. Upon Local Agency's request, Consultant shall submit to Local Agency 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 Local Agency pursuant to this Agreement shall be mailed to:



John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

## I. QUALIFYING INSURERS

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

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**EXHIBIT D**

**ETHICAL STANDARDS FOR CONSULTANTS SEEKING TO ENTER INTO  
AN AGREEMENT WITH THE LOCAL AGENCY (CITY OF SANTA CLARA),  
CALIFORNIA**

**Termination of Agreement for Certain Acts.**

- A. The Local Agency may, at its sole discretion, terminate this Agreement in the event any one or more of the following occurs:
1. If a Consultant<sup>1</sup> does any of the following:
    - a. Is convicted of operating a business in violation of any Federal, State or local law or regulation;
    - b. Is convicted<sup>2</sup> of a crime punishable as a felony involving dishonesty<sup>3</sup>;
    - c. Is convicted of an offense involving dishonesty or is convicted of fraud or a criminal offense in connection with: (1) obtaining; (2) attempting to obtain; or, (3) performing a public contract or subcontract;
    - d. Is convicted of any offense which indicates a lack of business integrity or business honesty which seriously and directly affects the present responsibility of a Local Agency consultant or sub-consultant; and/or,

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<sup>1</sup> For purposes of this Agreement, the word "Consultant" (whether a person or a legal entity) also refers to "Contractor" and means any of the following: an owner or co-owner of a sole proprietorship; a person who controls or who has the power to control a business entity; a general partner of a partnership; a principal in a joint venture; or a primary corporate stockholder [i.e., a person who owns more than ten percent (10%) of the outstanding stock of a corporation] and who is active in the day to day operations of that corporation.

<sup>2</sup> For purposes of this Agreement, the words "convicted" or "conviction" mean a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere within the past five (5) years.

<sup>3</sup> As used herein, "dishonesty" includes, but is not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, failure to pay tax obligations, receiving stolen property, collusion or conspiracy.



- e. Made (or makes) any false statement(s) or representation(s) with respect to this Agreement.
  - 2. If fraudulent, criminal or other seriously improper conduct of any officer, director, shareholder, partner, employee or other individual associated with the Consultant can be imputed to the Consultant when the conduct occurred in connection with the individual's performance of duties for or on behalf of the Consultant, with the Consultant's knowledge, approval or acquiescence, the Consultant's acceptance of the benefits derived from the conduct shall be evidence of such knowledge, approval or acquiescence.
- B. The Local Agency may also terminate this Agreement in the event any one or more of the following occurs:
- 1. The Local Agency determines that Consultant no longer has the financial capability<sup>4</sup> or business experience<sup>5</sup> to perform the terms of, or operate under, this Agreement; or,
  - 2. If Local Agency determines that the Consultant fails to submit information, or submits false information, which is required to perform or be awarded a contract with Local Agency, including, but not limited to, Consultant's failure to maintain a required State issued license, failure to obtain a Local Agency business license (if applicable) or failure to provide and maintain bonds and/or insurance policies required under this Agreement.
- C. In the event a prospective Contractor (or bidder) is ruled ineligible (debarred) to participate in a contract award process or a contract is terminated pursuant to these provisions, Contractor may appeal the City's action to the City Council by filing a written request with the City Clerk within ten (10) days of the notice given by City to have the matter heard. The matter will be heard within thirty (30) days of the filing of the appeal request with the City Clerk. The Contractor will have the burden of proof on the appeal. The Contractor shall have the opportunity to present evidence, both oral and documentary, and argument.

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<sup>4</sup> Consultant becomes insolvent, transfers assets in fraud of creditors, makes an assignment for the benefit of creditors, files a petition under any section or chapter of the federal Bankruptcy Code (11 U.S.C.), as amended, or under any similar law or statute of the United States or any state thereof, is adjudged bankrupt or insolvent in proceedings under such laws, or a receiver or trustee is appointed for all or substantially all of the assets of Consultant.

<sup>5</sup> Loss of personnel deemed essential by the Local Agency for the successful performance of the obligations of the Contractor to the Local Agency.

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**EXHIBIT E**

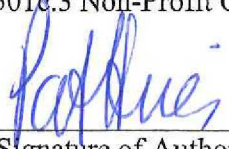
**AFFIDAVIT OF COMPLIANCE WITH ETHICAL STANDARDS**

I am Founder/Executive Director of Safe Moves and I hereby state that I have read and understand the language, entitled "Ethical Standards" set forth in Exhibit D. I have the authority to make these representations on my own behalf or on behalf of the legal entity identified herein. I have examined appropriate business records, and I have made appropriate inquiry of those individuals potentially included within the definition of "Consultant" contained in Ethical Standards at footnote 1.

Based on my review of the appropriate documents and my good-faith review of the necessary inquiry responses, I hereby state that neither the business entity nor any individual(s) belonging to said "Consultant" category [i.e., owner or co-owner of a sole proprietorship, general partner, person who controls or has power to control a business entity, etc.] has been convicted of any one or more of the crimes identified in the Ethical Standards within the past five (5) years.

The above assertions are true and correct and are made under penalty of perjury under the laws of the State of California.

**SAFE MOVES,**  
a 501c.3 Non-Profit California Corporation

By:   
Signature of Authorized Person or Representative

Name: 

Title:  President

**NOTARY'S ACKNOWLEDGMENT TO BE ATTACHED**

Please execute the affidavit and attach a notary public's acknowledgment of execution of the affidavit by the signatory. If the affidavit is on behalf of a corporation, partnership, or other legal entity, the entity's complete legal name and the title of the person signing on behalf of the legal entity shall appear above. Written evidence of the authority of the person executing this affidavit on behalf of a corporation, partnership, joint venture, or any other legal entity, other than a sole proprietorship, shall be attached.



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

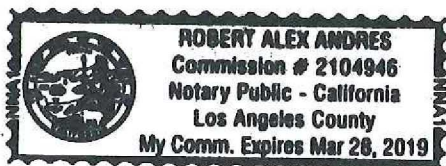
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of Los Angeles )  
 On 03/10/17 before me, Robert A. Andres, Notary Public,  
 Date Here Insert Name and Title of the Officer  
 personally appeared Patricia Ann Hines  
 Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Signature]  
 Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_ Document Date: \_\_\_\_\_  
 Number of Pages: \_\_\_\_\_ Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer Is Representing: \_\_\_\_\_

**AGREEMENT FOR DESIGN PROFESSIONAL SERVICES  
BY AND BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA  
AND  
SAFE MOVES  
FOR  
SANTA CLARA NON-INFRASTRUCTURE SR2S PHASE 2 PROJECT**

**EXHIBIT F**

**MILESTONE SCHEDULE**

**Chapter 5: Project Schedule**

Tasks	17-Apr	May-17	Jun-17	Jul-17	Aug-17	Sep-17	Oct-17	Nov-17	Dec-17	Jan-18	Feb-18	Mar-18	Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
<b>Task 1 Project Management</b>																											
1.1. Administration																											
1.2. Program Evaluation & Data Management																											
<b>Task 2 Education</b>																											
2.1. Develop "Safe Routes to School" Maps																											
2.2.a Curriculum Development																											
2.2.b. Parent/Coordinator/Teacher Training Handbook																											
2.2.c. SRTS Toolkit																											
2.2.d. Parent/Coordinator/Teacher Representative Training																											
2.3.a. Bicycle and Pedestrian Rodeos																											
<b>Task 3 Encouragement</b>																											
3.1. Promotional Activities																											
3.1.a. Large School Events																											
3.1.b. Smaller School Events																											
3.1.c. Walking School Buses/Bicycle Trains																											
<b>Task 4 Engineering</b>																											
4.1. Infrastructure Needs Assessment																											
<b>Task 5 Outreach</b>																											
5.1. Stakeholders Meeting																											
5.2. Website Material																											
5.3. Event Advertisements																											
5.4. Funding Sources																											



**COUNCIL AND AUTHORITIES  
AGENDA MATERIAL ROUTE SHEET**

Council Date: March 21, 2017

**SUBJECT:** Agreement for Design Professional Services with Safe Moves (Consultant) for the  
Santa Clara Non-Infrastructure SR2S Phase 2 Project

**PUBLICATION REQUIRED:**

The attached Notice/Resolution/Ordinance is to be published \_\_\_\_\_ time(s) at least \_\_\_\_\_ days before the scheduled meeting/public hearing/bid opening/etc., which is scheduled for \_\_\_\_\_.

**AUTHORITY SOURCE FOR PUBLICATION REQUIREMENT:**

**Federal Codes:**

Title \_\_\_\_\_ U.S.C. § \_\_\_\_\_  
(Titles run 1 through 50)

**California Codes:**

Code \_\_\_\_\_ § \_\_\_\_\_  
(i.e., Government, Street and Highway, Public Resources)

**Federal Regulations:**

Title \_\_\_\_\_ C.F.R. § \_\_\_\_\_  
(Titles run 1 through 50)

**California Regulations:**

Title \_\_\_\_\_ California Code of Regulations § \_\_\_\_\_  
(Titles run 1 through 28)

**City Regulations:**

City Charter § \_\_\_\_\_  
(i.e., 1310. Public Works Contracts. Notice published at least once at least ten days before bid opening)


City Code § \_\_\_\_\_

**Reviewed and approved:**

1. As to City Functions, by

  
\_\_\_\_\_  
Department Head

2. As to Legality, by

  
\_\_\_\_\_  
City Attorney's Office/CAO Assign. No 17.0342

3. As to Environmental Impact Requirements, by

\_\_\_\_\_  
Director of Community Development

4. As to Substance, by

  
\_\_\_\_\_  
Interim City Manager

\* Agenda Material Route Sheet required for all agreements, contracts, resolutions, ordinances, notices requiring publication, master plan reports and grant applications

