



REQUEST FOR PROPOSALS (RFP)

The City of Foster City ("City") is requesting proposals from qualified consulting firms for the work entitled:

REQUEST FOR PROPOSALS FOR REACH CODE CONSULTANT SERVICES INCLUSIVE OF DEVELOPING AND ADOPTING A LOCAL ENERGY REACH CODE AND A PERFORMING AN ELECTRICAL CAPACITY STUDY OF THE CITY OF FOSTER CITY.

Date of Issuance: August 15, 2022

Questions Due: September 8, 2022

Due Date: September 19, 2022

Award of Contract: Tentative date October 3, 2022

Proposals shall be submitted by qualified consultants that have demonstrated verifiable experience in preparing local Reach Code ordinance, executing project management, and conducting public outreach for similar projects as outlined in the scope of work described in this RFP.

The proposals shall be addressed to:

Marty Cooper, Chief Building Official
City of Foster City
Community Development Department
610 Foster City Boulevard
Foster City, CA 94404

Subject: Response to RFP for Reach Code Consultant Services for the City of Foster City.

Proposals shall be submitted by email to mcooper@fostercity.org so that it is received not later than 5:00 P.M. on Monday September 19, 2022.

All inquiries regarding the project and this RFP shall be directed to Martin Cooper, Chief Building Official, via telephone at (650) 286-3227, or, preferably, via email at mcooper@fostercity.org.

I. PROJECT BACKGROUND

The City of Foster City, through this Request for Proposals (“RFP”) seeks a qualified consultant to provide consultation services for the adoption of a local Energy Reach Code. If adopted, the Energy Reach Code would align with the 2022 California Energy code and the 2022 California Green Building (CALGreen) Standards. The City is seeking consulting services to assist staff in developing and adopting policies to meet the Energy Reach Code goal. Consultation services would include advisory, policy development, and other services to assist the city staff. **Please see Section 2, below, for a full description of the services required.** It is a Proposer’s responsibility to review the entire RFP in order to submit a complete and responsive proposal. The highest ranked Proposer, based on the written response to the RFP, as well as any interviews, if scheduled, will be invited to negotiate a contract with Foster City. The target start date and contract duration for the proposed services is subject to negotiation of a final agreement.

This RFP seeks the submission of proposals from interested and qualified Proposers. The City of Foster City seeks to obtain the listed services in a manner that maximizes the quality of services while also maximizing value to Foster City and, by extension, its residents and businesses. Proposers must be able to show that they are capable of performing the services requested. Such evidence includes, but is not limited to, the respondent's demonstrated competency and experience in delivering services of a similar scope and type and local availability of the Proposer's personnel and equipment resources. Proposals must be submitted by the submittal deadline, as follows:

Submitted by electronic mail to mcooper@fostercity.org so that it is received **no later than 5:00 P.M. on Monday September 19, 2022**. Inquiries can be directed to the following address:

City of Foster City
Attn: Martin Cooper
Chief Building Official
610 Foster City Blvd.
Foster City CA 9440

II. SCOPE OF WORK

a. Background

The City of Foster City is seeking qualified consulting services to provide local green building and Energy Reach Code ordinance development support for the 2022 building code cycle. In the City of Foster City, all electrical services are underground and most electrical service panels are 100 Amp. The cost of underground electrical services was not considered within the 2022 Statewide Cost-Effectiveness Studies. The RFP scope includes providing technical support to develop ordinance language and present to City Council for adoption. The Consultant will collaborate with city staff and stakeholder groups in creation of new green building and energy policies and guidelines and provide other similar services such as the services identified in this RFP. The goal of this scope of work is to provide policy development and adoption consulting services to support the City to adopt a local Energy Reach Code ordinance in accordance with the requirements of the California Energy Commission (CEC) and reflective of the local building department permit data. The top priority is to ensure that the Reach Code will achieve long-term goals within the City's Climate Action Plan (CAP) and ultimately result achieving energy efficiency and reducing Greenhouse Gas Emissions (GHGs).

b. Scope Of Work

The Workplan is organized into the following tasks and is based on developing greater energy performance levels for mixed fuel and all-electric buildings; CALGreen Tier 1 and Tier 2 Performance Requirements; efficiency, renewable, or electrification measures; photovoltaic and solar thermal measures; third party green building certification, including energy audits; sustainable roofs ; recycled water, rainwater, or treated graywater; "EV-Capable" and/or "EV-ready" parking spaces beyond mandatory CALGreen requirements for private and public improvements; Bay Area Water Supply and Conservation Agency (BAWSCA) Model Water Efficient Landscape Ordinance (MWELO) :

Task 1 – Program Initiation and Project Management

Task 2 – Perform and Report Initial Research

Task 3 – Community Outreach & Develop Draft Policy Criteria

Task 4 – Local Policy Adoption, State Agency Coordination and Rollout

Task 5 – Permit Application Technical Support

Task 6 – Electrical Capacity Study

Task 1: Program Initiation and Project Management

Organize and attend a conference call with the City staff project team to discuss strategy and overall project. Assumes meeting prep with agenda, attend meeting, and deliver meeting minutes and project schedule. Organize and attend a project kick-off with City Staff to discuss the project scope, goals, timeline and deliverables. Assumes meeting prep with agenda and presentations, attend meeting, and deliver meeting minutes. Attend monthly project meetings with City Staff to discuss progress to date on the Workplan and

address any coordination items and technical requirements.

Task 2 – Perform and Report Initial Research

Collaborate with City Staff to obtain relevant permit data of the past two calendar years. Perform an analysis of the permit data and suggest permit type(s) that would be most relevant for application of an Energy Reach Code in the City. The report will cover relevant state and local building codes, best practices related to building electrification and energy efficiency of new and existing buildings. The report will contain a range of energy saving building policies feasible for implementation in Climate Zone 3. The Consultant will prepare and provide a memorandum summarizing the permit data analysis and Energy Reach Code policy suggestions including preparing presentation materials to the City Council Economic Development and Sustainable Subcommittee and the City Council. The style of content will target a non-technical audience without specialized knowledge in energy codes.

Task 3 – Community Outreach & Develop Draft Policy Criteria

Industry Stakeholder Engagement Meetings Agenda Development, Marketing, and Technical Support. Attend and facilitate at least two (2) 90-minute industry stakeholder engagement meetings with local contractors, architects, and building owners for gathering feedback on the Energy Reach Code regulation. For each meeting the following will be prepared: a) community meeting agendas, b) visual presentations, c) webpage for signup, d) email blast to stakeholders e) correspondence with community members via email as directed by City staff, f) meeting minutes and g) surveys. Assemble results into a summary table and narrative paragraphs to use in the staff report.

Community Engagement Meetings Agenda Development, Marketing, and Technical Support. Attend and facilitate at least two (2) 90-minute community engagement meetings with local members of the community for gathering feedback on the Energy Reach Code regulations. For each meeting the following will be prepared: a) community meeting agendas, b) visual presentations, c) webpage for signup, d) email blast to stakeholders e) correspondence with community members via email as directed by City staff, f) meeting minutes and g) surveys. Assemble results into a summary table and narrative paragraphs to use in the staff report.

Develop Policy Direction Matrix with Model Code Regulation in Excel and Update throughout Tasks 2 and 3. Using the list of ideal policy requirements from City Staff, create the outline of the policy language to be used as a baseline. The matrix is a tool to house and think through the details of the possible model code language, the interested community organizations, educational aspects, compliance process, related municipal code sections, etc. The matrix will house the cost-effectiveness results. The intent will be to update and revise the document as the project evolves. Assumes initially one iteration and three (3) rounds of comments and updates.

Policy Development, Cost-Effectiveness & Research Support. Coordinate project

outcome to align with the results of the cost-effectiveness study. Perform policy research to support the changes to the policy criteria in the local municipal code. Perform State and Federal policy research for amendment to the State code within the municipal code. Communicate with State and Federal agency staff, as needed, regarding the evolving policy development direction.

Statewide Cost-Effectiveness Study Analysis and Local Electrical Capacity Study. Perform policy research and analysis on the results and recommendations from the 2022 Statewide Cost-Effectiveness Studies and a localized neighborhood by neighborhood cost-benefit, energy savings and economic impact analysis with respect to local stakeholder input. Provide feedback and recommendations on next steps in summary memorandum. Provide data collection support for a local electrical capacity study.

Task 4 – Local Policy Adoption, State Agency and Rollout

Codification Support. Deliver the Final Policy Matrix to the project team. Attend one meeting with City Staff to finalize the regulation requirements in coordination with the cost-effectiveness study. The final version in the Policy Direction Matrix will house the final model code language. It is assumed that the final code will be written and approved by the City Attorney.

Staff Report Writing & City Council Meeting Technical Support for Code Adoption/Public Hearing. Provide technical writing support to assemble Staff Report for model code language. Provide PowerPoint Presentation for Council meeting. Attend two (2) City Council meetings and provide presentation support to City Staff for code adoption. Assume City Council packet is due six (6) weeks prior to City Council meeting. Assume PowerPoint Presentation is due one (1) week prior to City Council meeting.

Submittal to the CEC. Provide technical writing support to assemble a cover letter to be sent by City Staff to the CEC. Work with staff to obtain a wet signature to the City Council approved ordinance. The Submittal to the CEC shall include the Cover letter, Staff Report, Ordinance with wet signatures, and Energy Savings and Cost-Effectiveness Study. Remain in regular communication with the Chief Building Official regarding obtaining notice of receipt from CEC. Work with staff to request assignment of a public comment period and preliminary CEC business meeting date. Note: The CEC will only grant a spot on the Business Meeting agenda after the close of the public comment period.

Support Staff During Statewide Public Comment Period. Provide technical support to City Staff during the statewide public comment period administered by the CEC. Address specific questions posed by the CEC and community members during the comment period and before the Business Meeting.

Request CEC Business Meeting Date & Attend CEC Business Meeting by Phone. Attend CEC Business Meeting, via conference call, to witness approval of local code and to be available to CEC staff immediately following the Business Meeting to address questions. Once approved, work with City Staff to obtain formal letter from CEC for submission to

the Building Standards Commission. The City may be required to wait up to two (2) months to appear on CEC Business Meeting agenda. Assumes 60 Days to complete this task to include waiting time to get on agenda. In the event that updates are needed to the ordinance.

Support staff to submit to Building Standards Commission. Support staff to obtain official letter from the CEC to submit to the Building Standards Commission to gain permission to enforce the ordinance. Provide example letter for submittal.

Staff Stakeholders List & Coordination Matrix. Work with senior staff to create an internal coordination matrix as a staff management tool to define coordinated efforts for each type of electrical and sustainable related permit. Document operational procedures and all existing forms, worksheets, checklists and identify new documents to create. Assumes initially one iteration and one (1) round of comments and updates.

Task 5 – Permit Application Technical Support

Create a video summarizing the Energy Reach Code & Electrification Topic Areas. Create technical content, audio voiceover, and editing for a 5-minute compliance video summarizing the Energy Reach Code, sustainable, and electrification related permit processes.

Launch Web Page, Video & News Release. Launch program webpage as developed in Task 2. Work with City Staff to incorporate content, upload guideline, video, and contact info. Provide News Release content for email blasting announcing the new regulation.

Energy Reach Code "Green Carpet Service" Technical Support via Phone, Email, and Virtual Counter. Provide initial technical support to building permit applicants and City Staff by phone, email, and virtual counter support services. Assumes an average of 2-3 hours a week of program support and assumes 2 hours of scheduled "virtual counter hours" each week for the first three months of the program. Deliver a monthly inquiry log that summarizes program activities.

Task 6 - Electrical Capacity Study

Develop hourly profiles for mixed fuel and all-electric buildings to represent the major building types within Foster City. Both residential and non-residential building types will be evaluated up to five total. Consultant will use standard prototypes developed for other purposes, such as state and local code development. Electric vehicles will be accounted for.

Calculate the increase in load going from the status quo to fully electrified for each building type. Estimate the impact across the existing building stock on a neighborhood basis. Consultant will work with Foster City staff to segment the city into neighborhood regions that reflect the existing capacity considerations of Foster City.

Review the capacity of the existing utility infrastructure and estimate how much additional distribution capacity is required to support a fully electrified city. This will be evaluated at the neighborhood level as determined under item 2 above as well as at the city-level.

Provide a report and/or presentation to city staff summarizing the results of the study. Provide Background calculations and spreadsheets as requested by the City of Foster City.

III. PROJECT BUDGET

Contract will be on a Not to Exceed time and material basis for labor and travel per diem expenses. All tasks within the enclosed Scope of Work shall be included within the proposal's fee schedule and itemized according to duration and total hours for each task. Provide a complete description of the expected expenditure of funds for the proposed work. The cost detail should include a breakdown of expenses by task and key personnel. The cost proposal should also include options for reducing or adding services. All costs should reflect not to exceed amounts per task.

IV. PROPOSAL REQUIREMENTS

All proposals submitted to the City must contain the following minimum information:

- A. A cover letter with contact information.
 - a. A description and statement of the firm's qualifications for this project, as well as those of any subconsultants.
- B. Project team
 - a. Organizational chart of the project team.
 - b. Names, qualifications and resumes of all project team members who will directly participate in the project.
- C. A detailed statement regarding each of the following items:
 - a. A statement of overall problem/task as viewed by the firm.
 - b. An explanation of the general approach to the project, and any suggested modifications to the project tasks.
 - c. A proposed work plan including a step-by-step breakdown of the tasks to be carried out, with estimates of personnel time allotted for each task.
 - d. A project schedule indicating the proposed timeframe in which specific tasks will be completed, including major milestones.
 - e. A rate schedule by position, including an explanation of the basis for billing.
 - f. Any proposed program components as perceived necessary by the consultant based upon understanding of the RFP, but not necessarily stated within.
 - g. Other pertinent information deemed appropriate by the firm.
 - h. A minimum of three (3) references, from within the past five (5) years, for which the consultant has provided consulting services (preferably of a project similar to the one that is the subject of this RFP), including address and telephone number of each, identifying a contact person with whom the

firm has provided similar services, and including a description of projects completed.

V. EVALUATION CRITERIA

All proposals will be evaluated using the following criteria:

- A. Quality and completeness of proposal
- B. Quality of the proposed services to be provided
- C. Ability and experience of team members assigned to work on the project
- D. Technical experience in performing work of a closely similar nature
- E. Methodology and work program, including knowledge of local needs and the ability to work closely with City staff, the project team, Planning Commission and City Council
- F. Consultant availability, including ability to attend and make presentations at public, committee, and staff-level work meetings
- G. Creativity and insight of proposal
- H. Timing of work program and ability to perform the work within the time specified
- I. Project cost
- J. Ability to produce high-quality and easy-to-read graphic information

A. EVALUATION PROCEDURE

Evaluation of the proposals will be performed by City staff who will assess the qualifications, experience and ability to perform the work of each consultant based on the criteria listed above. An oral interview with one or more of firms may be requested after written proposals have been received and reviewed by the City. At the time of the interview, representatives of the consulting firm shall be prepared to clarify and elaborate on the details set forth in the firm's proposal.

The City of Foster City Community Development Department will administer the contract. The decision to accept any proposal shall be made not later than thirty (30) calendar days after the deadline for proposals to be submitted. Consultants whose proposals have not been accepted shall be so notified.

B. GENERAL INFORMATION FOR PROPOSALS

- The prospective property management firm shall submit one (1) soft (digital) copy by email of its proposal to the City not later than September 19, 2022 at 5:00 P.M.*
- Any questions related to the project and/or this RFP shall be directed to **Martin Cooper, Chief Building Official by email to mcooper@fostercity.org so that it is received not later than 5:00 P.M. on Monday September 19, 2022.**
- The proposal shall be signed by an authorized official of the firm.
- All costs incurred in the preparation of the proposal shall be the sole

- responsibility of the consultant.
- The City reserves the right to reject any and all proposals and to request additional information concerning any proposal for purposes of clarification.
 - If awarded a contract, the consultant shall maintain insurance coverage, including worker's compensation, reflecting the minimum amounts and conditions specified by the City.
 - The terms and scope of the contract shall be arranged on the basis of professional negotiations between the City and the prospective consultant. If the City and the prospective consultant fail to reach a contractual agreement, the City may then renegotiate with any other consultant.
 - The consultant will comply with access of records, conflict of interest, and other provisions as required.

C. TERMS AND CONDITIONS

Issuance of this RFP does not commit the City to award a contract for services or to pay any costs incurred in the preparation of a response to this request. The City retains the right to reject any and all submittals. Once submitted, the proposals become the property of the City.

The consultant selected to perform the scope of services described in this RFP will be required to obtain a Foster City Business License. For more information regarding the Business License process, or to obtain a Business License application packet, please visit the City's Business License webpage at:

<https://www.fostercity.org/finance/page/business-license-application>.

Exhibit A: Standard Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT
FOR
REACH CODE CONSULTANT SERVICES

This Agreement is made and entered into as of the _____ day of _____, 20____
by and between the City of Foster City hereinafter called "CITY" and
_____ hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

WHEREAS, CITY desires to engage CONSULTANT to provide professional services in the CITY;

WHEREAS, CONSULTANT is qualified to provide such services to the CITY and;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT. (b) Notwithstanding the provisions of (a) above, CITY may with or without cause, direct CONSULTANT to suspend, delay or interrupt Services, in whole or in part, for such periods of time as CITY may determine in its sole discretion. (c) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should CONSULTANT commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of CITY's written notice to CONSULTANT demanding such cure, in which case

CONSULTANT shall be liable to CITY for all loss, cost, expense, damage and liability resulting from such breach and termination. (d) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever CITY determines that such termination is in CITY's best interests, in which case CONSULTANT shall be entitled to recover its costs expended up to the termination date plus reasonable profit thereon to the termination date as this Agreement would otherwise provide, but may recover no other cost, damage or expense. CONSULTANT shall continue its work throughout the course of any dispute, and CONSULTANT's failure to continue work during a dispute shall be a material breach of this Agreement.

3. Compensation; Expenses; Payment. CITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule marked Exhibit "B" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum of (\$_____). Invoices for amounts in excess of (\$_____) shall not be paid unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) evidenced by motion duly made and carried and a written contract amendment having been executed.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to CITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of CITY including, without limitation, CONSULTANT's transmittal of all deliverables to CITY required by EXHIBIT A.

CITY shall not incur any charges under this Agreement, nor shall any payments become due to CONSULTANT for any payment period on the Project, until CITY receives all deliverables required under Exhibit A, SCOPE OF WORK AND SCHEDULE, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where CONSULTANT has partially completed one or

more deliverables due during a payment period, and if CONSULTANT demonstrates diligent progress thereon, then CITY may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon CITY. CITY shall not be liable for, and CONSULTANT shall not be entitled to, any payment for Services performed before this Agreement's execution.

4. Additional Services. In the event CITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. Records. CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to CITY for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.
6. Authorization. This Agreement becomes effective when endorsed by both parties in the space provided below.
7. Reliance on Professional Skill of CONSULTANT. CONSULTANT represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

CONSULTANT represents that it has reviewed Exhibit A and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Exhibit A and within the times specified for each individual Project.

CONSULTANT represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.

The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of CONSULTANT for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.
9. Relationship of Parties. CONSULTANT is an independent Contractor and does not act as City's agent in any capacity, whatsoever. CONSULTANT is not entitled to any benefits that CITY provides to CITY employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the CONSULTANT's provision of Services, not the means, methods, or scheduling of the CONSULTANT's work. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Agreement. CONSULTANT shall pay all payroll taxes imposed by any governmental entity and shall pay all other taxes not specifically identified in this Agreement as CITY's responsibility.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to CITY of CITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless CITY and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees, directors, volunteers and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, injury (including, without limitation, economic harm, injury to or death of any person, including an employee of CONSULTANT or its Subconsultants), cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, at law or equity, which may be brought against, or suffered or sustained by, City of Foster City or Estero Municipal Improvement District, its Council, boards, commissions, officers, employees, directors, volunteers or agents that arise out of, pertain to, or relate to any negligence, recklessness, or willful misconduct of CONSULTANT, any Subconsultant, anyone directly or indirectly employed or retained by them, or anyone that they control. In the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the CONSULTANT shall meet and confer with other parties regarding unpaid defense costs.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONSULTANT to indemnify City of Foster City and Estero Municipal Improvement District, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

12. Insurance. Prior to execution of this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in EXHIBIT C, Insurance, which are attached and made a part of this Agreement. CONSULTANT shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in EXHIBIT C. In the event CONSULTANT fails to maintain any required insurance, and

notwithstanding Paragraph 3 above, CITY may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONSULTANT under this Agreement (or CONSULTANT shall promptly reimburse CITY for such expense).

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONSULTANT certifies that he will comply with such provisions before commencing the performance of the work of this agreement.
14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.
15. Notice. All notices required by this Agreement shall be given to the CITY and CONSULTANT in writing, by first class mail, postage prepaid, addressed as follows:

CITY: City of Foster City
610 Foster City Boulevard
Foster City, CA 94404-2299
Attention: Martin Cooper

CONSULTANT:

(Fill in CONSULTANT Name, Address, Phone Number, Project Manager and Email Address for CONSULTANT)

16. Non-Assignment. This Agreement is not assignable either in whole or in part.
17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.
18. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
19. Governing Law. This Agreement shall be deemed to have been executed in the County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Any suit or action initiated by either party shall be brought in the County of San Mateo, California unless the parties agree otherwise in a written amendment to this Agreement. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.
20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.
21. Conflict of Interest. CONSULTANT represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of work and services required under this Agreement. Without limitation, CONSULTANT represents to and agrees with CITY that CONSULTANT has disclosed any potential conflict of interest, and will have no future conflict of interest, in providing CITY services hereunder, including but not limited to, any interest (financial, share ownership, shared management, shared directors, or reporting responsibilities) CONSULTANT may presently have, or will have in the future, with respect to any other person or entity (including but not limited to potential suppliers, vendors, consultants, contractors, or regulatory agency) which may have an interest in the subject matter of the Services.

22. Liability of CITY.

Except as provided in Exhibit A, Services to be Provided by CONSULTANT and Exhibit C, Insurance, CITY's obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 1, 3, and 4 of this Agreement,

Notwithstanding any other provision of this Agreement, in no event shall CITY be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

CITY shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented or loaned to CONSULTANT by CITY. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and shall exonerate, indemnify, defend and save harmless CITY from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, CITY employees or third parties, or to property belonging to any of the above.

Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY or CONSULTANT may have under this Agreement or any applicable law. All rights and remedies of CITY or CONSULTANT, whether under this Agreement or other applicable law, shall be cumulative.

23. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

24. Force Majeure. Except for defaults of subconsultants at any tier, CONSULTANT shall not be liable for any excess costs if the failure to perform the Agreement arises from causes beyond the control and without the fault or negligence of CONSULTANT, including without limitation failure to reasonably mitigate any adverse impacts (Force Majeure). Force Majeure events include the following:

Acts of God, fires, floods, earthquake, other natural disasters, epidemics and pandemics (other than COVID-19 or variants), abnormal weather conditions beyond the parameters otherwise set forth in this Article, nuclear accidents, strikes, lockouts, freight embargos, interruptions in service by a regulated utility, or governmental statutes or regulations enacted or imposed after the fact (together, “force majeure events”).

[For consideration if applicable:] Any Force Majeure event with a duration in excess of [TBD by Owner—recommend not less than 30] days entitles either party to terminate this Agreement with written notice to the other party, without further penalty or compensation.

25. Entire Agreement. This Agreement, including Exhibits A, B, C, and D comprises the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

Dated: _____

Richa Awasthi, Mayor

ATTEST:

Dated: _____

Priscilla Schaus, City Clerk

APPROVED AS TO FORM

Dated: _____

Benjamin Stock, City Attorney

CONSULTANT

Dated: _____

Type Name & Title of CONSULTANT
Authorized to Sign

DRAFT

EXHIBIT A

SERVICES TO BE PROVIDED, PAYMENTS, PROJECTS AND SCHEDULE, AND DELIVERABLES FOR

[ENTER PROJECT TITLE]

[EITHER COMPLETE EXHIBIT A OR ATTACH A PROPOSAL/SCOPE OF WORK THAT CONTAINS
ALL THE INFORMATION BELOW AND DELETE THE TEXT BELOW]

SERVICES TO BE PROVIDED

This is an Exhibit attached to, and made a part of and incorporated by reference to the Agreement dated [Date of Agreement](#), by and between [Consultant Name](#), hereinafter referred to as "**CONSULTANT**" and the City of Foster City, hereinafter referred to as "**CITY**" providing for professional services.

1. **Description of the Project:**

1.1 DESCRIPTION: [Description of Project](#)

2. **Basic Services:**

The CITY has developed a general scope of work as described below.

2.1 Task 1 – [Description of Task 1](#)

2.2 Task 2 – [Description of Task 2](#)

2.3 Task 3 – [Description of Task 3](#)

PAYMENTS

1. The maximum payment to CONSULTANT under this Agreement for the Project shall be:
[Maximum Payment Amount](#)

2. METHODS OF PAYMENT FOR CONSULTANT'S SERVICES AND EXPENSES:
[List Methods of Payment](#)

3. TIMES OF PAYMENTS.
[List Times of Payments](#)

PROJECTS AND SCHEDULE

[List Project Schedule](#)

DELIVERABLES

CONSULTANT's deliverables under the Agreement are enunciated throughout the Professional Services Agreement and include but are not limited to the following:

1. **PROJECT DELIVERABLES**

1.1 **DELIVERABLES:** [List of Deliverables](#)

1.2 **OTHER:**

2. **CONSULTANT SERVICES.** The deliverables considered part of CONSULTANT's professional services are defined as, but are not limited to, the following deliverables:

2.1 **SERVICES:** [List of Services](#)

END OF EXHIBIT A

EXHIBIT B
FEE SCHEDULE

[Specify Consultant's hourly rates for which services hereunder shall be performed]

DRAFT

EXHIBIT C

INSURANCE FORMS

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in herein on the attached form. No substitute form will be accepted.

This is an Exhibit to, and made a part of and incorporated by reference to the Agreement dated Date of Agreement, by and between Consultant Name, hereinafter referred to as "**Consultant**", and the City of Foster City, hereinafter referred to as "**City**", providing for professional services.

1. **Consultant's Duty to Show Proof of Insurance.** Consultant, in order to protect City and its Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

1.1 Insurance Requirements

Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least five million dollars (\$5,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

*Please note, the City will require a separate additional insured endorsement for the Commercial General Liability policy, listing the "City of Foster City, its Council members, officials, agents, officers, and employees".

[FOR THE FOLLOWING INSURANCE REQUIREMENTS, PLEASE CONSIDER IF EACH IS APPROPRIATE FOR THE SERVICE TO BE PROVIDED AND FOR THE CONSULTANT. UNCHECK THE CHECKBOX FOR ANY INSURANCE REQUIREMENT THAT IS NOT APPLICABLE. PLEASE CONTACT THE CITY MANAGER'S OFFICE WITH ANY QUESTIONS.]

☒ Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

☒ Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

☒ Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than five million dollars (\$5,000,000) per occurrence and five million dollars (\$5,000,000) aggregate.

1.2 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

1.3 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. **City as Additional Insured**

On Consultant's Commercial General Liability and Automobile policies, the City, its Council members, officers, directors, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

3. **Insurance terms and conditions:**

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

ATTACHED

1. Insurance Coverage Form
- EXHIBIT C**

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

Named Insured: _____ Effective Work Date(s): _____

Description of Work/Locations/Vehicles: _____

ADDITIONAL INSURED: **City of Foster City/Estero Municipal Improvement District (CITY)**
610 Foster City Boulevard, Foster City, CA 94404
Attention: _____

Contract Administrator

Endorsement and Certificates of Insurance Required The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> General Liability: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/> Auto Liability: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/> Other:		
Certificates of Insurance Required (no endorsement needed) (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> Workers Compensation: work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/> Professional Liability:		

PRIMARY/NON-CONTRIBUTORY: This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

SEVERABILITY OF INTEREST: The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS: Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

CANCELLATION NOTICE: The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____ TITLE: _____

ADDRESS: _____

TELEPHONE: () _____ DATE ISSUED: _____

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EXHIBIT D
COVID-19 AMENDMENT/ATTACHMENT
(Consulting Agreement Form)

This COVID-19 Amendment/Attachment amends the Agreement between _____
("City") and _____ ("Consultant") dated _____.

1. Definitions

A. The 2019 novel coronavirus and the disease it causes are collectively referred to herein as **"COVID-19"**.

B. A **"COVID-19 Condition"** is something attributable to COVID-19 not caused by the Consultant (which for purposes herein includes all subconsultants) and beyond its reasonable control including but not limited to COVID-19 Proclamations and supply chain disruptions due to COVID-19, and other circumstances concerning COVID-19 not caused by the Consultant and which are beyond its reasonable control.

C. A **"COVID-19 Proclamation"** includes but is not limited to orders, directives and guidance concerning COVID-19 that have been issued, and which may be issued from time to time, by public agencies or regulatory bodies, the CDC or OSHA or Cal/OSHA, including without limitation the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards. Consultant acknowledges that those orders, directives and guidance may require the Project to shut down or otherwise increase the Consultant's cost or time of performance by calling for things such as social distancing and the use of personal protective equipment. In the event of conflicting COVID-19 Proclamations, the Consultant shall follow the most applicable, restrictive and newest COVID-19 Proclamations.

D. An **"Unknown COVID-19 Condition"** is a COVID-19 Condition the Consultant did not know about, and reasonably should not have known about, as of the date the Consultant submitted its proposal. The requirements contained in COVID-19 Proclamations issued before submission of a proposal are not Unknown COVID-19 Conditions, and the Consultant will be deemed to have knowledge of those requirements.

E. An **"Unknown COVID-19 Cost"** is a cost that: (i) is solely attributable to an Unknown COVID-19 Condition; (ii) is reasonable and unavoidable under the circumstances; (iii) is not the result of the Consultant's failure to comply with the contract documents or a COVID-19 Proclamation; and (iv) is not the result of a subconsultants failure to comply with a COVID-19 Proclamation in connection with the performance of the Services.

2. COVID-19 Conditions and Proposal. Consultant is expected to know and is deemed to have known about COVID-19 Conditions when it submits its proposal, and COVID-19 Conditions must be accounted for in the Consultant's price and schedule. In order to be entitled to any relief from a COVID-19 Condition, the Consultant must demonstrate that the issue, cost or delay is due to an Unknown COVID-19 Condition.

3. Compliance with COVID-19 Proclamations.

A. Consultant shall comply with COVID-19 Proclamations in the performance of the Services, irrespective of when the COVID-19 Proclamations are issued, and as they pertain to performance of

the Services. The cost of such compliance is non-compensable, except as otherwise expressly stated herein.

B. Consultant is responsible to ensure that its subconsultants and suppliers comply with COVID-19 Proclamations at all times in connection with the performance of their Services.

4. Delay. The Consultant is entitled to a reasonable time extension for an Unknown COVID-19 Condition. Such time extension is non-compensable.

5. City Directed Suspension. The City may suspend Services due to COVID-19 health concerns, even though the Consultant may be allowed to proceed with the Services based on COVID-19 Proclamations. The City may suspend the Services for its convenience. The Consultant is entitled to a time extension for a City Directed Suspension, and the contract amount will be equitably adjusted if and to the extent Consultant incurs increased costs that are Unknown COVID-19 Costs.

6. Compensation for COVID-19 Costs. City will reimburse the Consultant for Unknown COVID-19 Costs that are not included in the schedule of values.

7. Safe Work Practices. Consultant shall implement safe work practices recommended by CDC or OSHA or Cal/OSHA, which may include, inter alia, screening all employees, subconsultants, or others ("worker(s)") at all locations where Services are performed for signs and symptoms of COVID-19; adopting staggered work schedules, e.g., providing alternating workdays or extra shifts, to reduce the total number of employees on a site at any given time and to ensure physical distancing; identifying choke points where workers are forced to stand together, such as hallways and elevators, ingress and egress points, break areas, and buses, and implement policies to maintain social distancing; coordinating deliveries in line with the employer's minimal contact and cleaning protocols; and instituting a rigorous housekeeping program to reduce dust levels at all exterior locations. Consultant remains fully responsible for following and complying with changes to recommended safe work practices from time to time.

8. Monitoring and Reporting. City may require the Consultant to actively monitor the health of its workers through temperature checks and questionnaires of major COVID-19 symptoms, including but not limited to cough, fever above 100.4 degrees Fahrenheit and shortness of breath. Consultant shall immediately report to City any outbreaks of COVID-19 among its workers. The Consultant shall not knowingly allow any worker who has tested positive with COVID-19 to enter a City building. In the event of an outbreak or an exposure to COVID-19, the City may impose appropriate mitigation strategies which may be in consultation with the public health officer.

9. Conflicts. In the event of an inconsistency between this COVID-19 Amendment and the Agreement, this Addendum shall control.

[Signatures on Next Page]

IN WITNESS WHEREOF, the City and Consultant have executed this Covid-19 Amendment as of the date set forth above.

CONSULTANT:

CITY:

Signature

Signature

Print Name & Title

Print Name & Title

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