

**DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN CITY OF
SUNNYVALE AND BFS LANDSCAPE ARCHITECTS FOR DESIGN
AND CONSTRUCTION SUPPORT SERVICES FOR BAYLANDS PARK
INFRASTRUCTURE**

THIS AGREEMENT, dated _____, is by and between the CITY OF SUNNYVALE ("CITY"), a California chartered municipal corporation, and BFS LANDSCAPE ARCHITECTS ("CONSULTANT"), a California corporation.

WHEREAS, CITY advertised a Request for Proposals (RFP) F26-105 on September 23, 2025 for Baylands Park Infrastructure Project; and

WHEREAS, CONSULTANT submitted a proposal on October 28, 2025; and

WHEREAS, CITY desires to secure professional services necessary for investigation, analysis, design, preparation of construction drawings and contract specifications, consultation, services during construction and other services for a project known as Baylands Park Infrastructure Project; and

WHEREAS, CONSULTANT represents that it, and its sub-consultants, if any, possess the professional qualifications and expertise to provide the required services and are licensed by the State of California to practice engineering in the required disciplines;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS AGREEMENT.

1. Services by CONSULTANT

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "Scope of Work." All exhibits referenced in this Agreement are attached hereto and are incorporated herein by reference. To accomplish that end, CONSULTANT agrees to assign Elizabeth Matz to this project, to act in the capacity of Project Manager and personally direct the professional services to be provided by CONSULTANT.

Except as specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise to perform all operations necessary and required to satisfactorily complete the services required in this Agreement.

2. Notice to Proceed/Completion of Services

- A. CONSULTANT shall commence services upon receipt of a Notice to Proceed from CITY. Notice shall be deemed to have occurred three (3) calendar days after deposit in the regular course of the United States mail.
- B. When CITY determines that CONSULTANT has satisfactorily completed the services defined in Exhibit "A," CITY shall give CONSULTANT written Notice of Final Acceptance, and CONSULTANT shall not incur any further costs hereunder. CONSULTANT may request this determination of completion

when, in its opinion, it has satisfactorily completed the Scope of Work (Exhibit "A"), and if so requested, CITY shall make this determination within fourteen (14) days of such request.

3. Project Schedule

The Project Schedule is set forth in the attached Exhibit "A-1."

4. Payment of Fees and Expenses

Payments shall be made to CONSULTANT on a monthly basis as set forth in the attached Exhibit "B" entitled "Compensation Schedule." All compensation will be based on monthly billings as provided in Exhibit "B." Compensation will not be due until said detailed billing is submitted to CITY within a reasonable time before payment is expected to allow for normal CITY processing. An estimate of the percent of total completion associated with the various categories of the services shall be furnished by CONSULTANT with said billing. When applicable, copies of pertinent financial records will be included with the submission of billing(s) for all direct reimbursables. Compensation shall not exceed the amounts set forth in Exhibit "B" for each phase. In no event shall the total amount of compensation payable under this agreement exceed the sum of Four Hundred Seventy-Nine Thousand Three Hundred Eighty-Four and No/100 Dollars (\$479,384.00) for the duration of the contract, as well as optional services in an amount not to exceed Forty-One Thousand Four Hundred Sixty-Four and No/100 Dollars (\$41,464.00) unless upon written modification of this Agreement in accordance with Section 30 below. In no event shall the total amount of compensation payable under this agreement exceed the sum of Five Hundred Twenty Thousand Eight Hundred Forty-Eight and No/100 Dollars (\$520,848.00). All invoices, including detailed backup, shall be sent to City of Sunnyvale, attention Accounts Payable, P.O. Box 3707, Sunnyvale, CA 94088-3707.

CONSULTANT will be reimbursed as promptly as fiscal procedures will permit upon receipt by the CITY of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated in the Compensation Schedule and shall reference the project title. The final invoice must contain the final cost and all credits due CITY. The final invoice should be submitted within 60 calendar days after completion of CONSULTANT's work.

5. No Assignment of Agreement

CONSULTANT bind themselves, their partners, successors, assigns, executors, and administrators to all covenants of this Agreement. Except as otherwise set forth in this Agreement, no interest in this Agreement or any of the work provided for under this Agreement shall be assigned or transferred, either voluntarily or by operation of law, without the prior written approval of CITY. However, claims for money due to or to become due to CONSULTANT from CITY under this Agreement may be assigned to a bank, trust

company or other financial institutions, or to a trustee in bankruptcy, provided that written notice of any such assignment or transfer shall be first furnished to CITY. In case of the death of one or more members of CONSULTANT's firm, the surviving member or members shall complete the services covered by this Agreement. Any such assignment shall not relieve CONSULTANT from any liability under the terms of this Agreement.

6. Consultant is an Independent Contractor

CONSULTANT is not an agent or employee of CITY but is an independent contractor with full rights to manage its employees subject to the requirements of the law. All persons employed by CONSULTANT in connection with this Agreement will be employees of CONSULTANT and not employees of CITY in any respect. CONSULTANT is responsible for obtaining statutory Workers' Compensation coverage for its employees.

7. Consultant's Services to be Approved by a Registered Professional

All reports, costs estimates, plans and other documents which may be submitted or furnished by CONSULTANT shall be approved and signed by a qualified registered professional in the State of California. The title sheet for calculations, 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 professional responsible for their preparation.

8. Standard of Workmanship

CONSULTANT represents and maintains that it is skilled in the professional calling necessary to perform the services and its duties and obligations, expressed and implied, contained herein, and CITY expressly relies upon CONSULTANT's representations regarding its skills and knowledge. CONSULTANT shall perform such services and duties in conformance to and consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California.

The plans, designs, specifications, estimates, calculations reports and other documents furnished under the Scope of Work (Exhibit "A") shall be of a quality acceptable to CITY. The criteria for acceptance of the work provided under this Agreement shall be a product of neat appearance, well-organized, 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 CITY for similar projects.

9. Responsibility of CONSULTANT

CONSULTANT shall be responsible for the professional quality, technical accuracy and the coordination of the services furnished by it under this Agreement. Neither CITY's review, acceptance nor payment 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 CITY in accordance with applicable law for all damages to CITY caused by CONSULTANT's negligent performance of any of the services furnished under this Agreement.

Any acceptance by CITY of plans, specifications, calculations, construction contract documents, reports, diagrams, maps and other material prepared by CONSULTANT shall not, in any respect, absolve CONSULTANT for the responsibility CONSULTANT has in accordance with customary standards of good engineering practice in compliance with applicable Federal, State, County and/or municipal laws, ordinances, regulations, rules and orders.

10. Right of CITY to Inspect Records of CONSULTANT

CITY, through its authorized employees, representatives, or agents, shall have the right, at any and all reasonable times, to audit the books and records including, but not limited to, invoices, vouchers, canceled checks, time cards of CONSULTANT for the purpose of verifying any and all charges made by CONSULTANT in connection with this Agreement. CONSULTANT shall maintain for a minimum period of three (3) years from the date of final payment to CONSULTANT or for any longer period required by law, sufficient books and records in accordance with generally accepted accounting practices to establish the correctness of all charges submitted to CITY by CONSULTANT. Any expenses not so recorded shall be disallowed by CITY.

11. Confidentiality of Material

All ideas, memoranda, specifications, plans, calculations, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for CONSULTANT and all other written information submitted to CONSULTANT in connection with the performance of this Agreement shall be held confidential by CONSULTANT and shall not, without the prior written consent of CITY be used for any purposes other than the performance of the Project services, nor be disclosed to an entity not connected with the performance of the Project services. Nothing furnished to CONSULTANT which is otherwise known to CONSULTANT or is or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall not use CITY's name, insignia or distribute exploitative publicity pertaining to the services rendered under this Agreement in any magazine, trade paper, newspaper or other medium without the express written consent of CITY.

12. No Pledging of CITY's Credit

Under no circumstances shall CONSULTANT have the authority or power to pledge the credit of CITY or incur any obligation in the name of CITY.

13. 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 CITY, but CONSULTANT may retain and use copies thereof.

CITY shall not be limited, in any way, in its use of said material, at any time, for work associated with Project. 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 for work other than on Project.

14. Hold Harmless/Indemnification

Pursuant to the full language of California Civil Code §2782, Consultant/Design Professional agrees to indemnify, including the cost to defend, City and its officers, officials, employees, and volunteers from and against any and all claims, demands, costs, or liability that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant and its employees or agents in the performance of services under this contract, but this indemnity does not apply to liability for damages arising from the sole negligence, active negligence, or willful acts of City; and does not apply to any passive negligence of City unless caused at least in part by the Consultant. City agrees that in no event shall the cost to defend charged to the Consultant exceed that professional's proportionate percentage of fault. This duty to indemnify shall not be waived or modified by contractual agreement or acts of the parties. 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 in this agreement. Consultant's responsibility for such defense and indemnity obligations shall survive the termination or completion of this agreement.

15. Insurance Requirements

The City requires that CONSULTANT maintain insurance requirements on the electronic insurance verification system. CONSULTANT shall procure and maintain, at its own expense, during the life of this Agreement, policies of insurance as specified in Exhibit "C" attached and incorporated herein by reference and shall provide all certificates and endorsements as specified in Exhibit "C" for approval by the City Risk Manager prior to CONSULTANT (or subcontractor) commencing any work under this Agreement.

16. Wage Rates

Pursuant to Sections 1770, 1771, 1774 – 1776, 1777.5, 1813, and 1815 of the California Labor Code, the successful bidder shall pay not less than the prevailing rate of per diem wages as determined by the Director of the State of California Department of Industrial Relations. Copies of such prevailing wage rates are available for review at the office of City's Director of Public Works, 456 West Olive Avenue, Sunnyvale, California 94086. Wage rates can also be obtained through the California Department of Industrial Relations website at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Bidders shall promptly notify the person identified on the cover page of this bid invitation,

in writing, about all labor classifications not listed in the prevailing wage determinations but necessary for the performance of the work described in the bid documents.

The successful bidder/contractor, and each subcontractor shall keep accurate payroll records, and comply in all respects with Labor Code section 1776, including the timely response to written notices requiring copies of such records, as provided for in such section. In the event the contractor or subcontractor fails to comply within the ten day period, that contractor or subcontractor shall forfeit one hundred dollars (\$100.00) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated, as provided by Labor Code section 1776(h).

Neither the notice inviting bids nor this Agreement shall constitute a representation of fact as to the prevailing wage rates upon which the CONTRACTOR or any subcontractor may base any claim against CITY.

It shall be mandatory upon CONTRACTOR and upon any subcontractor to pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the Contract. It is further expressly stipulated that CONTRACTOR shall, as a penalty to CITY, forfeit two hundred dollars (\$200.00) for each calendar day, or portion thereof, for each laborer, worker, or mechanic paid less than the stipulated prevailing rates for any work done under this Contract by CONTRACTOR or by any subcontractor; and CONTRACTOR agrees to comply with all provisions of Section 1775 of the Labor Code.

In case it becomes necessary for CONTRACTOR or any subcontractor to employ on the project under this Agreement any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, CONTRACTOR shall immediately notify CITY who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish CONTRACTOR with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

17. No Third Party Beneficiary

This Agreement shall not be construed or deemed 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 hereunder for any cause whatsoever.

18. Notices

All notices required by this Agreement, other than invoices for payment which shall be sent directly to Accounts Payable, shall be in writing, and sent by first class with postage prepaid, or sent by commercial courier, to address below.

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by email, to accomplish timely communication. Each party may change the address by written notice in accordance with this paragraph. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of three business days after mailing.

To CITY: Dennis Ng, Interim Director of Public Works
Department of Public Works
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONSULTANT: BFS Landscape Architects
Attn: Elizabeth Matz
425 Pacific Street Ste 201
Monterey, CA 93940

19. Waiver

CONSULTANT agrees that waiver by CITY of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement.

20. Integrated Agreement

This Agreement embodies the agreement between CITY and CONSULTANT and its terms and conditions. No verbal agreements or conversation with any officer, agent or employee of CITY prior to execution of this Agreement shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement. Any such verbal agreement shall be considered as unofficial information and in no way binding upon CITY.

21. Conflict of Interest

CONSULTANT shall avoid all conflicts of interest, or appearance of conflict, in performing the services and agrees to immediately notify CITY of any facts that may give rise to a conflict of interest. CONSULTANT is aware of the prohibition that no officer of CITY shall have any interest, direct or indirect, in this Agreement or in the proceeds thereof. During the term of this Agreement, CONSULTANT shall not accept employment or an obligation which is inconsistent or incompatible with CONSULTANT'S obligations under this Agreement.

CONSULTANT'S duties and services under this agreement shall not include preparing or assisting the CITY with any portion of CITY'S preparation of a request for proposals, request for qualifications, or any other solicitation regarding a subsequent or additional contract with the CITY. The CITY shall at all times retain responsibility for public contracting, including with respect to any subsequent phase of this project. CONSULTANT participation in the planning, discussions, or drawing of project plans or specifications shall be limited to conceptual, preliminary, or initial plans or specifications. CONSULTANT shall cooperate with CITY to ensure that all bidders for a subsequent contract on any subsequent phase of this project have access to the same information,

including all conceptual, preliminary, or initial plans or specifications prepared by contractor pursuant to this agreement.

Pursuant to CITY's Conflict of Interest Code, Council Policy 7.3.7, CITY has determined that, depending on the position, certain individuals performing services under this Agreement may be required to file a Statement of Economic Interest (Form 700), which can be found at www.fppc.ca.gov. If applicable, to facilitate electronic submittal of Form 700, CONSULTANT shall send the following information to cityclerk@sunnyvale.ca.gov: 1) first and last name(s) of CONSULTANT's employee(s); 2) email address(es) of CONSULTANT's employee(s); 3) date when CONSULTANT's employee(s) will begin work under this contract; and 4) (if known) date when CONSULTANT's employee(s) will cease work under this contract.

Government Code Section 91013 provides that any person who files a statement after its deadline shall be liable in the amount of \$10 per day, up to a maximum of \$100, in addition to any administrative penalty (up to the statutory maximum, currently \$5,000) imposed by the Fair Political Practices Commission (FPPC). If any of CONSULTANT's employee(s) is required to submit Form 700, and CITY does not receive CONSULTANT's Form 700, then CITY is required to refer this matter to the FPPC or other appropriate enforcement agency.

22. Governing Law, Jurisdiction and Venue

This Agreement shall be governed by and construed in accordance with the laws of the State of California, excluding its conflict of law principles. Proper venue for legal actions will be exclusively vested in a state court in the County of Santa Clara. The parties agree that subject matter and personal jurisdiction are proper in state court in the County of Santa Clara, and waive all venue objections.

23. Records, Reports and Documentation

CONSULTANT shall maintain complete and accurate records of its operation, including any and all additional records required by CITY in writing. CONSULTANT shall submit to CITY any and all reports concerning its performance under this Agreement that may be requested by CITY in writing. CONSULTANT agrees to assist CITY in meeting CITY's reporting requirements to the state and other agencies with respect to CONSULTANT's work hereunder. All records, reports and documentation relating to the work performed under this Agreement shall be made available to City during the term of this Agreement.

24. Termination of Agreement

- A. If CONSULTANT defaults in the performance of this Agreement, or materially breaches any of its provisions, CITY at its option may terminate this Agreement by giving written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of satisfactory services performed or materials furnished (in relation to the total

which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.

- B. Without limitation to such rights or remedies as CITY shall otherwise have by law, CITY also shall have the right to terminate this Agreement for any reason upon ten (10) days' written notice to CONSULTANT. In the event of such termination, CONSULTANT shall be compensated in proportion to the percentage of services performed or materials furnished (in relation to the total which would have been performed or furnished) through the date of receipt of notification from CITY to terminate. CONSULTANT shall present CITY with any work product completed at that point in time.
- C. If CITY fails to pay CONSULTANT, CONSULTANT at its option may terminate this Agreement if the failure is not remedied by CITY within (30) days after written notification of failure to pay.

25. Subcontracting

None of the services covered by this Agreement shall be subcontracted without the prior written consent of CITY. Such consent may be issued with notice to proceed if subcontract consultants are listed in the project work plan.

26. Fair Employment

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

27. Changes

CITY or CONSULTANT may, from time to time, request changes in the terms and conditions of this Agreement. Such changes, which are mutually agreed upon by CITY and CONSULTANT, shall be incorporated in amendments to this Agreement by Section 30 below.

28. Other Agreements

This Agreement shall not prevent either Party from entering into similar agreements with others.

29. Severability Clause.

In case any one or more of the provisions contained herein 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.

30. Captions

The captions of the various sections, paragraphs and subparagraphs, of the contract are for convenience only and shall not be considered nor referred to for resolving questions of interpretation.

31. Entire Agreement; Amendment

This writing constitutes the entire agreement between the parties relating to the services to be performed or materials to be furnished hereunder. No modification of this Agreement shall be effective unless and until such modification is evidenced in writing as an amendment to this Agreement signed by all parties. If the amendment is signed electronically, the digital signatures must comply with the requirements of California Government Code Section 16.5.

32. Miscellaneous

Time shall be of the essence in this Agreement. Failure on the part of either party to enforce any provision of this Agreement shall not be construed as a waiver of the right to compel enforcement of such provision or any other provision.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____

By _____

City Clerk

City Manager

BFS LANDSCAPE ARCHITECTS
("CONSULTANT")

APPROVED AS TO FORM:

By _____

Name/Title

City Attorney

By _____

Name/Title



Exhibit A

**SCOPE OF WORK FOR
Baylands Park Infrastructure
PR-25-06**

I. General

The City of Sunnyvale is seeking proposals from licensed Engineering or Architectural firms to provide professional services for infrastructure assessment, design, preparation of bid documents and construction support for the Baylands Park Infrastructure Project. The scope of work generally includes preparation of: preliminary design, design development, bid documents, and bidding/construction support for Public Works competitive bidding. Ancillary work includes: environmental needs assessment and document preparation, construction cost estimating, schedule monitoring, preparation of reports and recommendations, and project management.

II. Project Information

A. Description

This project is for the assessment, rehabilitation and/or replacement of various infrastructure components at Baylands Park, which may include but are not limited to the irrigation systems, drainage system, and three restroom buildings. The project will include an assessment of this park infrastructure along with recommendations for rehabilitation or replacement. Below are the prioritized improvements identified by City Staff.

- Replacement of Irrigation System in the North end of the Park
- Repair of a portion of the drainage system causing flooding issues
- Rehabilitation of the three park restroom buildings

Based on the assessment to be performed, the project may be refined or expanded according to available funds.

B. Location

Baylands Park is located at 999 E. Caribbean Drive, CA 94089, and is a Santa Clara County owned park that is leased to the City of Sunnyvale. Attachment 1, Baylands Park Map and Attachment 2, Project Location Map are attached for reference.

C. Existing Conditions

Baylands Park encompasses 177 acres of open space consisting of trails, native plant communities, seasonal wetlands, and wildlife habitats. Current park uses include hiking, jogging, bicycling, bird watching, and picnicking.

The existing drip irrigation system in the North end of the park has been damaged by the wildlife and is no longer functional. Currently, there is a drainage issue in the South end of the park along the bike trail that causes flooding during the rainy season. There are three existing restroom buildings within the park, one restroom is currently nonfunctional while the other two restrooms are functioning, but are in need of rehabilitation. Attachment 2, Project Location Map, shows the locations of the issues described.

III. Consultant Scope of Services

The consultant will perform all engineering and project management related work necessary to prepare plans and specifications suitable for Public Works bidding.



Consultant services shall include, but are not limited to: Project management, preliminary design, design development, bid documents, bidding support, and construction support services, as further detailed below:

A. *Project Management*

The consultant will be the primary responsible party for managing the project's schedule and consultant contract budget. In addition, the consultant is expected to attend a monthly progress meeting and prepare action item logs for subsequent follow-up. The consultant is expected to maintain frequent and timely communication with City staff throughout the duration of the project.

All project schedules shall be prepared in Gantt chart format, utilizing Microsoft Project software. Three weeks for each City review shall be included. Schedule updates shall be provided at all progress meetings.

Consultant's own team should have provisions for quality assurance/quality control over work product prepared for the City. A statement of peer review will be required for overall constructability, coordination, and reasonable reduction in errors and omissions.

The total project budget, including both design and construction as well as all contingencies is \$3,200,000. Consultant is expected to design a project that can be constructed within the budget and communicate often and early with respect to the schedule and budget.

The consultant shall submit the plans at the 75% submittal stage to the Building Division, per the instructions in *Attachment 3: Bldg. Dept Electronic Plan Check Submittal*. Consultant will also be responsible for making appointments (as necessary) and delivering all subsequent submittals to the Building Division.

The consultant shall take the lead in coordinating between the City and the County of Santa Clara for approval of proposed improvements per Attachment 4, Baylands Park Lease Agreement.

E-Builder license and training: Consultant will be required to use e-Builder™ software and protocols included in that software during this project. Consultant shall coordinate with City staff for training materials and e-Builder introduction. City will provide consultant one e-Builder software license for the duration of the project. e-Builder software shall be utilized for all project management documentation and correspondence. The use of project management communications herein described is in addition to and does not replace or change any contractual responsibilities of the consultant.

B. *Preliminary Design*

The preliminary design phase will include a field condition assessment and environmental assessment.

Field Condition Assessment:

Consultant shall perform a detailed field investigation to confirm existing conditions and identify any major issues and remaining lifespan of infrastructures within the site, including the irrigation systems, drainage system, and restroom buildings. A review of the site for suitability to add electric vehicle charging infrastructure shall also be performed. Consultant shall be



responsible for contacting utility companies, regulatory agencies, and other stakeholders to gather additional background information as part of this assessment.

Consultant shall compile and detail the findings into a technical memorandum with a detailed assessment and evaluation of existing park components. The memo shall indicate current conditions and recommended improvements for the park components, along with preliminary cost estimates. The memo shall first prioritize the improvement areas identified by City staff and include additional irrigation areas if funding allows. At a minimum, this memorandum shall include an assessment on the following:

- Irrigation Systems (Heads, coverage, materials, pressure, booster pump, controllers, and communication)
- Storm Drain System
 - Assessment of the drainage issue at the south end of the park.
- Three Restrooms
 - Assessment of necessary repairs and/or replacement of all interior plumbing, fixtures, stall partitions, doors, lighting, hand dryers, photocells, timers, and electrical panels along with transformers & other associated components.
 - Assessment of structure and roofing
- Electric Vehicle Charging Infrastructure
 - Assessment for the suitability to add electric vehicle charging infrastructure in the project.

Deliverables: A draft technical memorandum and a final technical memorandum shall be submitted for stakeholder review and comments. All submittals shall include digital copies (PDF and native format) of all documents. Two submittals of the draft technical memorandum shall be provided, and each City review will be three weeks. Technical memorandums should include prioritization of improvements, preliminary cost estimates of identified improvements, and project schedules.

Environmental Assessment:

Consultant shall provide environmental assessments and constraints mapping within the park to guide the project development with the goal of avoiding CEQA impacts and regulatory risks. Consultant shall provide a biological constraints memo and an archeological sensitivity memo to identify and document any biological culturally sensitive areas within the project boundaries.

C. *Design Development*

Consultants shall be the Engineer of Record and responsible for design and preparation of complete plans and technical specifications for the project. The consultant must perform an adequate field investigation to confirm existing conditions.

All work is to comply with all applicable rules, regulations, code, law, and good practice for public facilities. When possible, the Consultant shall incorporate “green” building/construction practices, sustainability, energy efficiency, and low operations and maintenance costs into recommendations and subsequent design.

Use of contractors, and all applicable subcontractors which are required to pay prevailing wages, requires registration with the State of California, Department of Industrial Relations (DIR) through the Public Works Contractor Registration Program (PWC Registration) before bidding, being awarded, or performing work on public works projects in California. This includes those performing



surveying work, material testing, inspection, trucking, boring, potholing, concrete deliveries and temporary service companies who provide workers to prevailing wage contractors. **For complete details, please refer to Attachment 5: Labor Compliance.**

Plans and specifications shall provide sufficient detail to result in a good quality product while allowing competitive pricing where possible and appropriate, and provide options to the contractor where appropriate to obtain the same good level of quality for the best bid price. Plans and specifications shall not specify proprietary products or services. Specifications shall be prepared in CSI 2020 format.

Coordination and preparation of documentation to facilitate permits and outreach with utility companies, County of Santa Clara, regulatory agencies, Building Division, and other stakeholders will also be consultant responsibility. If a Storm Water Management Plan (SWMP) is required for the project, the consultant shall prepare the SWMP and hire and pay a certified third party reviewer from the SCVURPPP list of prequalified consultants as required for the building permit.

Optional Service A – Electric Vehicle Charging Infrastructure Design: Consultant shall include an optional task in the fee proposal for design and construction support of electric vehicle charging infrastructure in the project if it is found to be suitable for this park and separate funding is available. This task shall include furnishing any needed grant deed dedication documents for any required easements.

Optional Service B – Geotechnical Services: Consultant shall include an optional task in the fee proposal for geotechnical services should they be required to support project design.

Optional Service C – Utility Locating Services: Consultant shall include an optional task in the fee proposal for utility locating services should they be required to support project design.

All submittals shall include digital copies (PDF and native format) of all documents. Consultant shall conduct a page-turn meeting with City staff at the 30%, 75%, and 100% submittal stage.

1. **30% Submittal:** Submit electronic PDF file package:
 - a. 30% plans: Cover sheet and plan sheet with base mapping and preliminary details.
 - b. Cut sheets for equipment/appurtenances.
 - c. Documentation of outreach with franchise utility companies for facilities needed to be relocated or adjusted to grade as a result of the proposed construction activities.
 - d. Project schedule update.
 - e. 30% construction cost estimate.
 - f. Brief memorandum of determination of project's CEQA needs.
 - g. Brief memorandum of determination if the project's construction activities are within the NPDES Construction General Permit. Include project type and risk level.
 - h. Table of Contents list for technical specifications.
2. **75% Submittal:** All major issues have been resolved prior to this stage. The intent of this submittal is to provide plans and project documents in sufficient detail to allow for thorough and complete review.

Submit electronic PDF file package:



- a. 75% Plans: All subcontracted work shall be accounted for in this submittal. All project details have been accounted for.
 - b. 75% specifications:
 - Technical specifications
 - Special Provisions, with recommended changes in track changes format. The Special Provisions shall also include the following:
 - Bid item descriptions and measurement and payment provisions
 - A list of minimum required submittals during construction
 - List of information available to Bidders, with disclaimer
 - A table listing all material testing and associated responsibility
 - A table list of materials requiring warranties, and associated warranty periods
 - c. Project schedule update.
 - c. 75% construction cost estimate in the form of the bid schedule.
 - d. The Stormwater Management Plan has been submitted to the City's approved third-party reviewer.
 - e. Stormwater management and compliance with NPDES C.3 requirements have been incorporated into the project
 - f. Submit 75% plan set to building division review
 - g. Utility conflicts have been resolved or a timeline for resolution of issues has been determined.
 - h. CEQA Exemption documentation along with a qualification memo that documents the project's qualification for an exemption, suitable for filing at the County Recorder's Office.
 - i. Responses to the City's review comments on the 30% submittal, along with return of mark-ups.
 - j. Other supporting documentation as necessary.
3. 100% Submittal: All issues, prior comments, and concerns must be addressed in this submittal.

Submit electronic PDF file package:

- a. 100% plans
 - Peer review shall have been accomplished by this stage, with the statement and signature on the cover sheet. The professional shall sign, date, and seal the following Certification of Peer Review on a letterhead document with the transmittal of the final plans and specifications:

"The undersigned hereby certifies that a professional peer review of these plans and the required designs was conducted by me, a professional engineer with expertise and experience in the appropriate fields of engineering equal to or greater than the Engineer of Record, and that appropriate corrections have been made."

- b. 100% specifications
 - Reviewed bid instructions
 - Finalized technical specifications
 - Finalized Special Provisions
 - Project schedule update.
- c. 100% construction cost estimate.
- d. Submit 100% plan set to building division review.



- e. Responses to the City's review comments on the 75% submittal, along with return of mark-ups.
- f. Storm Water Management Plan third party certification.
- g. Other supporting documentation as necessary.

D. Bid Package

The bid package shall be finalized upon incorporation of the City's final comments from the 100% submittal, and incorporation of all Building Division comments.

Submit hard copies and digital format (PDF and native format) of each of the documents listed below:

1. One hard copy of full sized plans (24" x 36"), stamped and signed on each sheet by the Engineer/Architect of Record and by discipline.
2. One digital copy of the specifications.
 - a. Technical specifications, with cover sheet stamped and signed by all necessary disciplines.
3. Final project schedule update.
4. Final construction cost estimate.

E. Bidding Services

Consultant will respond to all bidder's requests for information (RFIs), and support the City's coordination efforts to inform plan-holders of significant responses to RFIs and prepare addenda as necessary. During bidding, all proposers' communications will be directed through the City's Purchasing Officer.

If addenda to bid documents are extensive and are as a result of consultant's work product, conformed documents shall be prepared at no expense to the City. City will provide reproduction services.

F. Construction Support Services

The City's construction management team will have primary responsibility for construction management and inspection. The consultant's point of contact will be the City's construction manager, not the contractor.

The following is a minimum list of services and submittals required.

1. Attend and prepare information for an internal handoff meeting from the design team to the construction management team. Consultant shall be prepared to address: possible construction pitfalls, items for the construction management team to be aware of (special working hours, shortened timelines for submittal reviews, etc.).
2. Attend the pre-construction meeting.
3. Attend 5 periodic construction progress meetings.
4. Participate in the final inspection and development of punch lists.
5. Respond to RFIs, which includes clarifying or providing revisions or additional detail where necessary on the plans and specifications. Response to RFIs shall be timely in order to avoid construction delays and claims.
6. For projects with a building permit, the consultant shall stamp and sign any revisions to the contract plans as a result of responses to RFIs or as a result of executed change orders.



Consultant shall ensure that all changes comply with the applicable codes. Coordination with the Building Department may be necessary.

7. Review and respond to all submittals within the period allocated in the contract documents and as necessary to avoid construction delays and claims.
8. Review proposed substitutions, if any, for conformance to plans and technical specifications.
9. Review and make recommendations on proposed changes to the contract (Request for Quotations and Contract Change Orders).
10. Prepare Record Drawings based upon red-lines provided by the contractor and field reviews. All changes shall be indicated in red and clouded. All plan sheets shall be stamped with red "Record Drawings" stamp. The stamp shall include Engineer of Record Company Name, name of Engineer of Record, date of the Record Drawing update, and standard disclaimer. See suggested stamp below:

RECORD DRAWINGS
COMPANY NAME:
ENGINEER OF RECORD:
DATE:
THE RECORD DRAWINGS HAVE BEEN PREPARED BASED ON INFORMATION PROVIDED BY OTHERS. THE ENGINEER HAS NOT VERIFIED THE ACCURACY OF THIS INFORMATION AND SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS WHICH MAY BE INCORPORATED AS A RESULT.

The Record Drawings shall be prepared digitally, using AutoCAD. Final Record Drawings shall be submitted electronically, in PDF and CAD format.

11. Participate in the "Lessons Learned Meeting" with all parties at the end of the project.

IV. Available Documents

The below list of information is available for information only:

- Record drawings. The City does not guarantee the accuracy or completeness of record drawings. Consultant shall verify all information to their professional satisfaction.
 - PR-91-17 Baylands Park Construction Drawings
- Utility block maps for City sanitary sewer and storm drain are available on the City's website. City staff will provide water facilities block maps as necessary.
<https://www.sunnyvale.ca.gov/city-services/online-services/maps-and-gis/utility-maps>
- Benchmarks for vertical control are listed on the City's website:
<https://www.sunnyvale.ca.gov/home/showpublisheddocument/1590/637820851886430000>
City standard specifications and details are available on the City's website - Details:
<https://www.sunnyvale.ca.gov/home/showpublisheddocument/2920/637822741794530000>
Specifications:
<https://www.sunnyvale.ca.gov/home/showpublisheddocument/1606/637820851912670000>

The below information will be provided during design to the consultant.

- GIS data for property lines, street center lines, and two (2) foot contours
- Aerial photographs from 2023 (ArcGIS format)



- City standard plan cover sheet

V. Reimbursable Expenses and Markups

For preparation of the cost proposal template and invoicing during the project, no markups shall be allowed on reimbursable expenses and the maximum markup on each subconsultant shall be 5%.

VI. Proposal

The proposal shall be limited to a maximum of 15 pages of single sided 8.5" x 11" paper for the Qualifications and Experience, Project Overview, Project Approach, and Project Innovations sections of the report. Cover letter, Project Team and Staffing Plan, and Schedule sections of the proposal are excluded from the page limit and may be printed on 11" x 17" paper by consultant. All subconsultant work shall be identified within each task item. Proposal shall be bound and organized by tabs as outlined below to facilitate review:

1. Cover Letter
2. Project Team and Staffing Plan (including any subconsultants, if any)
3. Qualifications and Experience
4. Project Overview
5. Project Approach – *specify anticipated CEQA determination*
6. Project Innovations (if any) and Optional Services Proposed
7. Project schedule (see item III.A, above)

The cost proposal shall be submitted as a separate, sealed item. The cost proposal shall include hour and fee breakdown by the tasks detailed in Section III, Consultant Scope of Services, and per Attachment 6, Cost Proposal Template.

Optional services shall include:

1. Optional Service A – Electric Vehicle Charging Infrastructure Design
2. Optional Service B – Geotechnical Services
3. Optional Service C – Utility Locating Services
4. Additional services as proposed by the consultant may be included as separate line items in the cost proposal.

VII. Attachments

1. Baylands Park Map
2. Project Location Map
3. Bldg. Dept Electronic Plan Check Submittal.
4. Baylands Park Lease Agreement.
5. Labor Compliance
6. Cost Proposal Template

Activity Name	Duration (Days)	Start Date	Finish Date	Apr 26	May 26	Jun 26	Jul 26	Aug 26	Sept 26	Oct 26	Nov 26	Dec 26	Jan 27	Feb 27	Mar 27	Apr 27	May 27	Jun 27	Jul 27	Aug 27	Sept 27	Oct 27	Nov 27	Dec 27	Jan 28	Feb 28	Mar 28	Apr 28	May 28						
1 PROJECT MANAGEMENT	550.00	4/15/26	5/23/28	[Gantt bar from Apr 15, 2026 to May 23, 2028]																															
2 Task Preliminary Design	78.00	4/15/26	7/31/26	[Gantt bar from Apr 15, 2026 to Jul 31, 2026]																															
3 Task 30% Design	65.00	8/3/26	10/30/26	[Gantt bar from Aug 3, 2026 to Oct 30, 2026]																															
4 Task 75% Design	75.00	11/2/26	2/12/27	[Gantt bar from Nov 2, 2026 to Feb 12, 2027]																															
5 Task 100% Design	50.00	2/15/27	4/23/27	[Gantt bar from Feb 15, 2027 to Apr 23, 2027]																															
6 Task Bid Package	35.00	4/26/27	6/11/27	[Gantt bar from Apr 26, 2027 to Jun 11, 2027]																															
7 Bidding Services	50.00	6/14/27	8/20/27	[Gantt bar from Jun 14, 2027 to Aug 20, 2027]																															
8 Construction Support	197.00	8/23/27	5/23/28	[Gantt bar from Aug 23, 2027 to May 23, 2028]																															

City of Sunnyvale

Consultant Name: BFS LANDSCAPE ARCHITECTS

Proposal For: Baylands Park Infrastructure

RFP NO. F26-105/PR-25-06

Tasks		Labor								Subconsultants						ODCs	Total	
Task #	Task Description	Project Manager	Q/A Manger	PM	Designer	Support / Admin	N/A	N/A	Total Hours	Total Labor Costs	Survey / Civil	Enviro.	Architect / MP	Electrical	Structural	Geotech	Other Direct Costs	Total Fee
		E. Matz	A. Pal	-	-	-	-	-			Sandis	DJ Powers	HGHB	Aurum	D.C. Urfer	Cornerstone		
		\$216	\$216	\$180	\$148	\$89	\$0	\$0			Lump Sum	Lump Sum	Lump Sum	Lump Sum	Lump Sum	Lump Sum		
1	Project Management	40	-	-	-	80	-	-	120	\$15,760	-	-	-	-	-	-	-	\$15,760
2	Preliminary Design	40	-	40	72	-	-	-	152	\$26,496	\$11,250	\$30,310	\$25,000	\$5,500	\$3,000	-	\$750	\$102,306
3	30% Design	32	8	80	80	-	-	-	200	\$34,880	\$9,000	\$3,425	\$20,000	\$3,000	\$1,200	-	\$250	\$71,755
4	75% Design	40	12	72	80	-	-	-	204	\$36,032	\$11,250	\$34,585	\$25,000	\$3,500	\$3,000	-	\$250	\$113,617
5	100% Design	32	8	40	80	-	-	-	160	\$27,680	\$7,500	-	\$18,750	\$2,000	\$1,200	-	\$3,000	\$60,130
7	Bid Package	24	4	40	40	-	-	-	108	\$19,168	\$2,625	-	\$12,500	\$1,800	\$800	-	\$250	\$37,143
8	Bidding Services	8	-	20	20	-	-	-	48	\$8,288	\$1,875	-	\$5,000	\$1,200	\$1,000	-	\$500	\$17,863
9	Construction Support Services	100	-	20	64	-	-	-	184	\$34,672	\$8,338	-	\$10,000	\$3,500	\$1,800	-	\$2,500	\$60,810
Proposal Subtotal		316	32	312	436	80	0	0	1176	\$202,976	\$51,838	\$68,320	\$116,250	\$20,500	\$12,000	\$0	\$7,500	\$479,384
Optional Services																		
A	Addition of E.V. Charging Infrastructure	8	-	16	16	-	-	-	40	\$6,976	\$2,500	-	\$7,500	-	-	-	-	\$16,976
B	Geotechnical Services	4	-	-	-	-	-	-	4	\$160	-	-	-	-	\$16,700	-	-	\$16,860
C	Utility Locating Services	4	-	-	-	-	-	-	4	\$128	\$7,500	-	-	-	-	-	-	\$7,628
Total Optional Services		16	0	16	16	0	0	0	48	\$7,264	\$10,000		\$0	\$7,500	\$0	\$16,700	\$0	\$41,464
Total Including Optional Services		332	32	328	452	80	0	0	1,224	\$210,240	\$61,838		\$116,250	\$75,820	\$12,000	\$16,700	\$7,500	\$520,848
Notes:																		
1	Original Fee Proposal: \$613,756 (Base Scope) / \$781,284 (Total with Add Services)																	
2	Proposed Fee Reduction: \$134,372.50 (Base Scope) / \$260,437 (Total with Add Services)																	
3	Percentage of reduction 22% / 33% respectively																	
4																		

Exhibit C

INSURANCE REQUIREMENTS

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work by the Contractor, their agents, representatives, or employees.

Minimum Scope and Limits of Insurance. Contractor shall maintain limits not less than:

1. **Commercial General Liability:** coverage written on an occurrence basis with limits not less than \$2,000,000 per occurrence and \$4,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form shall be at least as broad as CG 0001.
2. **Automobile Liability:** coverage with a combined single limit of not less than \$2,000,000 per occurrence applying to all owned, non-owned, or hired vehicles used in conjunction with this contract for bodily injury and property damage. ISO Form shall be at least as broad as CA 0001.
3. **Workers' Compensation:** Statutory Limits and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.

Industry Specific Coverages. If checked below, the following insurance is also required:

- Professional Liability / Errors and Omissions Liability coverage with limits not less than \$2,000,000 per claim.
- Valuable Papers and Electronic Data Processing with limits not less than \$10,000 each.
- Pollution Liability coverage** with limits not less than \$2,000,000 per occurrence.
- MCS-90 Endorsement to Business Automobile insurance for transportation of hazardous materials and pollutants.
- Builder's Risk / Course of Construction coverage written on an "all risk" basis with limits equal to the completed value of the project and no coinsurance penalty provisions.
- Installation Floater coverage written on an "all risk" basis with limits equal to the completed value of the project and no coinsurance penalty provisions.

Deductibles, Self-Insured Retentions and Other Coverages:

Any deductibles or self-insured retentions must be declared and reviewed by the City of Sunnyvale, Risk Manager. The Contractor shall guarantee payment of any losses and related investigations, claim administration and defense expenses within the deductible or self-insured

retention. Policies containing any self-insured retention provision shall provide, or be endorsed to provide, that the SIR may be satisfied by either the Named Insured or the City.

The aforementioned insurance requirements can be met through any combination of self-insured, primary and excess/umbrella policies that fulfill the stipulated coverage as cited above.

Other Insurance Provisions:

1. During the term of the contract, the City of Sunnyvale, its officers, officials, employees, agents, and volunteers are to be covered as an additional insured in the Contractor's commercial general liability policy (and if industry specific coverage box is indicated above, valuable papers, electronic data processing, pollution liability, builder's risk, and installation floater policies) with respect to liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, officials, employees, agents, or volunteers.

Additional Insured Endorsement for ongoing operations at least as broad as ISO CG 20 10 Scheduled, or automatic CG 20 38 and completed operations shall be at least as broad as ISO CG 20 37 scheduled or automatic ISO CG 20 40.

2. During the term of the contract, the Contractor's Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Sunnyvale.
3. For all Architects, Engineers and Design Professionals - If Industry Specific Coverage box is checked above **and** if the Contractor's Professional Liability/Errors and Omissions coverage is written on a claims made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided *for at least three (3) years after completion of the contract of work.*
 - c. If coverage is canceled or non-renewed, and not *replaced with another claims-made policy form with a Retroactive Date* prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of *three (3) years* after completion of contract work
4. If Industry Specific Coverage box is checked above, during the term of the contract, the Contractor's Builder's Risk / Course of Construction or Installation Floater policy shall provide coverage for any building, structures, machinery or equipment that is damaged, impaired, broken or destroyed during the performance of the Work, including during transit, installation and testing. The policy shall name the City of Sunnyvale as a Loss Payee with respect to any repairs or replacement of any damaged property or other amounts payable under the policy.

5. For any claims related to this project, the Contractor's insurance shall be primary. Any insurance or self-insurance maintained by the City of Sunnyvale, its officers, officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not contribute with it and shall be at least as broad as ISO CG 20 01 04 13.
6. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Sunnyvale, its officers, officials, employees, agents or volunteers.
7. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
8. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by email to riskmanagement@sunnyvale.ca.gov, has been given to the City.
9. Any umbrella or excess Insurance Liability policies shall be true "following form" of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this document, including the additional insured, SIR, and primary and non-contributory insurance requirements for the benefit of City (if agreed to in a written contract or agreement) until all coverage carried by or available to the Contractor's primary and excess liability policies are exhausted and before the City's own Insurance or self-insurance shall be called upon to contribute to a loss.
10. The policy limits of coverage shall be made available to the full limits of the policy. The minimum limits stated above shall not serve to reduce the Contractor's policy limits of coverage. Therefore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in this agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured and also available to the Additional Insured, whichever is greater.

Acceptability of Insurers:

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than Superior or Excellent, and who are admitted and authorized to do business and in good standing in California unless otherwise acceptable to the City of Sunnyvale's Risk Manager.

Verification of Coverage:

City utilizes an electronic insurance verification system to track and verify all insurance related documents. City is no longer accepting insurance documents by mail and will only accept electronic insurance documents. City will email the Contractor requesting proof of insurance for this Agreement through an electronic insurance verification system, which includes instructions on how to upload insurance documents electronically. Contractor shall furnish the City with an electronic Certificate of Insurance effecting the coverage required. The certificates are to be signed by a person authorized by that insurer to bind coverage on its behalf and name City of Sunnyvale, Attn: Risk Management, 456 W. Olive Ave, Sunnyvale, CA 94088 as the certificate holder. All

certificates are to be received and approved by the City, Risk Manager prior to commencement of work.

The Contractor shall provide certificate(s) evidencing renewals of all insurance required herein prior to the expiration date of any such insurance. Contractor shall submit insurance certificates, reflecting the policy renewals through the City's electronic insurance verification system. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

Subcontractors:

Contractor shall require and verify that all subcontractors or other parties hired for this Work, purchase and maintain coverage for indemnity and insurance requirements as least as broad as specified in Subcontractors Minimum scope, Limits and Provisions of Insurance herein, to the extent they apply to the scope of the subcontractor's work with the same Certificate of Insurance requirements and naming as additional insureds all parties to this Contract. Failure of Contractor to verify existence of subcontractor's insurance shall not relieve Contractor from any claim arising from subcontractors work on behalf of Contractor.

Contractor shall include the following language in their agreement with Subcontractors: "Subcontractors hired by Contractor agree to be bound to Contractor and City in the same manner and to the same extent as Contractor is bound to City under the Agreement Documents and provide a valid certificate of insurance and the required endorsements included in the Agreement as proof of compliance prior to commencement of any work and to include this same requirement for any subcontractors they hire for this work. A copy of the Insurance provisions will be furnished to the Subcontractor upon request." Contractor shall provide proof of such Compliance and verification to the City upon request.

Exhibit D LABOR COMPLIANCE REQUIREMENTS

Contractor Registration with the State of California – Contractors, and all applicable subcontractors which are required to pay prevailing wages, must be registered with the State of California, Department of Industrial Relations (DIR) through the Public Works Contractor Registration Program (PWC Registration) before bidding, being awarded, or performing work on public works projects in California. This includes those performing surveying work, material testing, inspection, trucking, boring, pot holing, concrete deliveries and temporary service companies who provide workers to prevailing wage contractors. Registration must remain current throughout the project entirety. It is the contractor's responsibility to not allow their PWC Registration to lapse during the project and to ensure all Subcontractor's registrations remain current. The Labor Commissioner can assess penalties to public works contractors of up to \$10,000, in addition to the registration fee, for failure to register. Awarding agencies are also subject to penalties of \$100 a day, up to a maximum of \$10,000, for having an unregistered contractor perform work on a public works project. If any penalties are issued to the City for unregistered subcontractors or for a lapse in a contractor/subcontractor's PWC Registration, these penalties will be passed onto the contractor. A contractor that allows an unregistered subcontractor to work on the project is also subject to penalties of \$100 a day up to \$10,000. Contractors shall list all applicable PWC registration numbers on the Bid Form.

Hours of Work – Pursuant to Labor Code, Section 1810, eight hours of labor during any one calendar day and forty hours of labor during any one calendar week shall constitute the maximum hours of service upon all work done hereunder, and it is expressly stipulated that no laborer, worker, or mechanic employed at any time by the contractor or by any subcontractor or subcontractors under this Contract, upon the work or upon any part of the work contemplated by this Contract, shall be required or permitted to work thereon more than eight hours during any one calendar day and forty hours during any one calendar week, except, as provided by Section 1815 of the Labor Code of the State of California, work performed by employees of contractors in excess of eight hours per day and forty hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay. It is further expressly stipulated that for each and every violation of Sections 1811-1815, inclusive, of the Labor Code of the State of California, all the provisions whereof are deemed to be incorporated herein, Contractor shall forfeit, as a penalty to the City, twenty-five dollars (\$25.00) for each laborer, worker, or mechanic employed in the execution of this Contract by Contractor, or by any subcontractor under this Contract, for each calendar day during which the laborer, worker, or mechanic is required or permitted to work more than eight hours in any one calendar day and forty hours in any one calendar week in violation of the provisions of the Sections of the Labor Code. Such forfeiture amounts may be deducted from the contract sum.

Contractor and each Subcontractor shall keep, or cause to be kept, an accurate record showing the actual hours worked each calendar day and each calendar week by each worker employed on the project, which record shall be kept open at all reasonable hours to the inspection of the City, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

Wage Rates – Pursuant to Sections 1770, 1771 and 1774 of the Labor Code of the State of California, or any applicable local law, contractors shall not pay less than the prevailing rate of per diem wages as determined by the Director of the Department of Industrial Relations. The City has ascertained the general prevailing rate per diem wages and rates for holidays, and overtime work in the city, for each craft, classification or type of laborer, worker, or mechanic needed to execute this Contract. The City has adopted, by reference, the general prevailing rate of wages applicable to the work to be done under the Contract, as adopted and published by the Division of Labor Standards Enforcement and Labor Statistics and Research of the State of California, Department of Industrial Relations, to which reference is hereby made for a full and detailed description. A copy of the prevailing wage rates may be reviewed in the office of the Director of Public Works, City of Sunnyvale, 456 West Olive Avenue, Sunnyvale, California. Wage rates can also be obtained through the California Department of Industrial Relations website at: <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>

Neither the notice inviting bids nor this Contract shall constitute a representation of fact as to the prevailing wage rates upon which the Contractor or any subcontractor may base any claim against the City.

In case it becomes necessary for Contractor or any subcontractor to employ on the project under this Contract any person in a trade or occupation (except executives, supervisory, administrative, clerical, or other non-manual workers as such) for which no minimum wage rate is herein specified, Contractor shall immediately notify the City who will promptly thereafter determine the prevailing rate for such additional trade or occupation and shall furnish Contractor with the minimum rate based thereon. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

Prevailing Wage – As identified in the Notice to Bidders, the work contemplated by this agreement is a public work subject to prevailing wages under California Labor Code, Sections 1720 et. seq. The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the work is to be performed for each craft, classification, or type of worker required to perform the work. A schedule of the most recent general prevailing per diem wage rates made available to the City will be on file at the City's principal facility office and will be made available to any interested party upon request. This prevailing wage rate schedule is provided by the City for Bidder's information only and is not guaranteed by the City to be current. Contractor is obligated to verify all appropriate prevailing wage rates and pay those rates as required. By this reference the verified current schedule of prevailing wage rates is made part of the Contract Documents. Contractor shall pay not less than the prevailing per diem wage rates, as specified in the schedule and any amendments thereto, to all workers employed by contractor in the execution of the work. Contractor shall cause all subcontracts to include the provision that all subcontractors shall pay not less than the specified prevailing per diem wage rates to all workers employed by such subcontractors in the execution of the work.

Contractor shall forfeit to the City, as a penalty, no more than two hundred dollars (\$200.00) for each calendar day or portion thereof for each worker that is paid less than the specified prevailing per diem wage rates for the work or craft in which the worker is employed for any portion of the work done by contractor or any subcontractor in violation of the provisions of the Labor Code, and in particular Sections 1770 to 1781 thereof, inclusive. Such forfeiture amounts may be deducted

from the contract sum. Contractor shall also pay to any worker who was paid less than the specified prevailing per diem wage rate for the work or craft for which the worker was employed for any portion of the work, for each calendar day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

The City will not recognize any claim for additional compensation because of the payment by the Contractor for any wage rate in excess of prevailing wage rates set forth in the Agreement, including payment in excess of the prevailing wage for extra work paid by force account. The possibility of wage increases is one of the elements to be considered by the Contractor in determining the contractor's bid and will not, under any circumstances be considered as the basis of a claim against the City under the Agreement.

Certified Payroll Records – Pursuant to Labor Code, Sections 1776 et. Seq., contractor and all subcontractors shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the work. All payroll records shall be certified as being true and correct by contractor or subcontractors keeping such records; and the payroll records shall be provided to the City no later than three weeks after closing of payroll for City-funded projects, and no later than one week for federal aid projects. The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in Labor Code section 1776 (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Certified payroll records shall be made available at reasonable hours at the contractor's principal office to the persons authorized to inspect such records pursuant to Labor Code section 1776. Certified payroll shall also be made available for inspection upon request by the State of California Division of Labor Standards Enforcement, or the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.

Each contractor and every lower-tier subcontractor will be required to submit certified payrolls and labor compliance documentations electronically via the software LCPtracker. Contractor shall cause all subcontracts to include the provision that all subcontractors submit certified payrolls and labor compliance documentation electronically via LCPtracker. Electronic submission will be a web-based system, accessed on the World Wide Web by a web browser. Each contractor user will be given a Log-On identification and password to access the City's reporting system. Access will be coordinated by a City representative.

Apprentice Program – Attention is directed to State of California Labor Code, Sections 3095, 1777.5, 1777.6, and 1777.7 and Title 8, California Code of Regulations, Section 200, and the applicable Sections that follow. Responsibility for compliance with these requirements lies with the contractor. To ensure compliance and complete understanding of the law requiring apprentices, and specifically the required ratio thereunder, contractor or subcontractors should, where some question exists, contact the Division of Apprenticeship Standards, 525 Golden Gate Avenue, San Francisco, California, or one of its branch offices prior to commencement of the work. In the event contractor willfully fails to comply with this section, it will be considered in violation of the requirements of the Contract.

Contractor and all of its subcontractors shall abide by the provisions of California Labor Code Section 1777.6 prohibiting discrimination in the acceptance of otherwise qualified apprentices; and California Labor Code Section 3095 which declares the unlawful discrimination in any recruitment or apprenticeship program on stated grounds. City shall be entitled to retain and withhold all penalties as authorized pursuant to California Labor code, Division 2, Part 7, Chapter 1, commencing with Section 1720 and following, in accordance with the provisions of that Chapter, and the regulations established by the Director of Industrial Relations pursuant to the statutory authority of such chapter.