

**DRAFT CONSULTANT SERVICES AGREEMENT BETWEEN CITY OF
SUNNYVALE AND MARK THOMAS & COMPANY FOR THE CARIBBEAN
DRIVE PARKING AND TRAIL ACCESS ENHANCEMENTS PROJECT**

THIS AGREEMENT dated _____ is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY"), and MARK THOMAS & COMPANY a California corporation. ("CONSULTANT").

WHEREAS, CITY desires to secure professional services necessary for development of a safe and efficient design, preparation of bid documents for Public Works competitive bidding, and construction support for the Caribbean Drive Parking and Trail Access Enhancements project in conjunction with Request for Proposal F17-041; 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 Shawn O'Keefe 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. Time for Performance

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, and shall include base services as identified in Exhibit "A" an amount not-to-exceed One Hundred Fifty Nine Thousand Seven Hundred Twenty Seven and No/Dollars (\$159,727.00), for the duration of the contract, and optional services in an amount not to exceed One Hundred Fifty Nine Thousand Nine Hundred Thirty Five and No/Dollars (\$159,935.00) for the duration of the contract. In no event shall the total amount of compensation payable under this agreement exceed the sum of Three Hundred Nineteen Thousand Six Hundred Sixty Two and No/Dollars (\$319,662.00) unless upon written modification of this Agreement. 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 become property of CITY following payment in-full for the Services performed by the CONSULTANT, 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 or modification made 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

To the extent permitted by law (including, without limitation, California Civil Code section 2782.8), CONSULTANT agrees to indemnify, defend and hold harmless CITY, its officers and employees from any and all claims, demands, actions, causes of action, losses, damages, liabilities, known or unknown, and all costs and expenses, including reasonable attorneys' fees in connection with any injury or damage to persons or property to the extent arising out of any negligence, recklessness or willful misconduct of CONSULTANT, its officers, employees, agents, contractor, subcontractors or any officer, agent or employee thereof in relation to

CONSULTANT's performance under this Agreement. Such defense and indemnification shall not apply in any instance of and to the extent caused by the sole negligence, recklessness or willful misconduct of CITY, its officers, employees, agents or representatives.

15. Insurance Requirements

CONSULTANT shall take out and maintain during the life of this Agreement policies of insurance as specified in Exhibit "C" attached and incorporated by reference, and shall provide all certificates and/or endorsements as specified in Exhibit "C."

16. 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.

17. 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 shall be personally delivered, sent by first class with postage prepaid, or sent by commercial courier, addressed as follows:

To CITY: Allie Hood, Senior Engineer
Department of Public Works
CITY OF SUNNYVALE
P. O. Box 3707
Sunnyvale, CA 94088-3707

To CONSULTANT: Mark Thomas & Comany
Attn: Sasha Dansky
2290 N. First Street, Suite 304
San Jose, CA 95131

Nothing in this provision shall be construed to prohibit communication by more expedient means, such as by telephone or facsimile transmission, to accomplish timely communication. However, to constitute effective notice, written confirmation of a telephone conversation or an original of a facsimile transmission must be sent by first class mail, by commercial carrier, or hand-delivered. 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 days after mailing, unless such date is a date on which there is no mail service. In that event communication is deemed to occur on the next mail service day.

18. 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.

19. Amendments

No alterations or changes to the terms of this Agreement shall be valid unless made in writing and signed by both parties.

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.

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

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.

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.

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, color, creed, national origin, sex, age, condition of physical handicap, religion, ethnic background or marital status, in violation of state or federal 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.

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 by writing signed by all parties.

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. This Agreement shall be governed and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, the parties have executed this Agreement.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

MARK THOMAS & COMPANY
("CONSULTANT")

By _____
City Attorney

By _____

Name/Title

By _____

Name/Title

Exhibit A
SCOPE OF WORK FOR
Caribbean Drive Parking and Trail Access Enhancements

I. General

The City of Sunnyvale is seeking proposals from licensed Engineering firms to provide professional services for design and preparation of bid documents and construction support for the Caribbean Drive Parking and Trail Access Enhancements 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: preparing and submitting California Environmental Quality Act (CEQA) documentation, permit applications, closure of Carl Road, parking on Caribbean Drive (with the possible addition of grant funded Green Street work), performing traffic counts and signal timing modifications, construction cost estimating, schedule monitoring, preparation of reports and recommendations, and project management.

II. Project Information

A. Description

Program Description

The City has prepared a Master Plan for the Sunnyvale Clean Water Program (Program) to guide improvements to the Water Pollution Control Plant (Plant) facilities and operations over the next 30 or more years. The Master Plan was developed to address several challenges facing the Plant today and into the future, as well as to support City policies. These challenges include; aging infrastructure; changes in regulatory requirements; and increases in population, flows and loads. The Master Plan identifies capital improvement projects, estimates costs, and recommends implementation approaches to achieve the planning objectives. The City has adopted a final program environmental impact report (PEIR) for the Master Plan in compliance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines.

Currently, the Plant is already proceeding with the replacement of the Headworks and Primary Treatment under a separate Mitigated Negative Declaration. Construction of the Primary Treatment facility is expected to be underway for the duration of the Caribbean Drive Parking and Trail Access Enhancements project.

Caribbean Drive Parking and Trail Access Enhancements is one of the first projects in the implementation of the Program. Information related to this project can be found in the Program documents under the title "New Access to Bay Trail". The Caribbean Drive Parking and Trail Access Enhancements project must be completed prior to beginning construction on the New Administration and Maintenance Building in summer 2019. Exerts of relevant information that was prepared for the Programmatic Environmental Impact Report and the Master Plan in relation to the Caribbean Drive Parking and Trail Access Enhancements has been pulled out and included in ATTACHMENT 1.

Project Description

The project includes providing engineering design and support services for the relocation of the San Francisco Bay Trail trailhead from Carl Road to Caribbean Drive. In general the following elements of the project include:

- Performing all necessary outreach and work associated with closing Carl Road to the public and vacating the Public Right of Way

- Converting approximately 950 linear feet (LF) of one lane of westbound travel on Caribbean Drive to parallel parking spaces, including necessary ADA spaces (minimum of 1)
- Modifying the bicycle lane on Caribbean Drive
- Adding a minimum 6 foot wide sidewalk on Caribbean Drive connecting to the existing trail
- Striping modifications for transitioning from three lanes to two and back to three on westbound Caribbean Drive.
- Converting the right-hand lane to an auxiliary turn lane on westbound Caribbean Drive, approaching the intersection with Borregas
- Performing traffic counts on Caribbean Drive and Borregas Avenue
- Retiming the existing traffic signal at Caribbean Drive and Borregas Avenue as necessary
- Modifying existing City facility signage outside the Plant and at the intersection; adding new Bay Trail signage at the relocated trailhead
- Fencing modifications and the installation of gates (pedestrian and vehicle) at the Caribbean Drive trail entrance

B. Location

The project site is on Caribbean Drive, between North Mathilda Avenue and Borregas Avenue, and Carl Road, west of Borregas Avenue, in Sunnyvale, CA. Caribbean Drive is a divided arterial with three travel lanes and a dedicated bike lane in each direction. At the intersection with Borregas Avenue, both westbound and eastbound directions on Caribbean have dedicated left turn lanes with phased light timing. There are currently no sidewalks.

The land located between Caribbean Drive and Carl Road is the closed Sunnyvale Landfill. The landfill was capped and closed in phases, beginning in the 1980s, with the last closure phase certified in 1994. Carl Road currently provides access to the Bay Trail with 15 dedicated parking spaces.

C. Existing Conditions

The City is engaged in a Program to renovate the existing Plant to a new facility suitable to treat and dispose of municipal sewage, over the next 30 or more years. At present, the public uses Carl Road, which fronts the Plant, to access the San Francisco Bay Trail (Bay Trail). The Bay Trail is an over 400-mile regional park path system, including 3.45 miles in the City of Sunnyvale, linking 47 cities around the shoreline of the San Francisco Bay.

Since 2010, parking and a trailhead on the west side of the Plant along Carl Road have provided the public with access to a 2.4-mile segment (the "Moffett Connector") that connects the Sunnyvale Baylands to the Stevens Creek Trail. The Association of Bay Area Governments (ABAG) is the planning entity responsible for implementing the Bay Trail system, which includes establishing design guidelines and performing public outreach for the trail system (e.g. leading tours, publishing maps, and announcing temporary closures on their website). The City is looking to enhance the entrance of the Bay Trail by relocating it to Caribbean Drive for several reasons which include:

- Currently, due to space constraints along Carl Road, there is no opportunity for expanding the public parking to meet the demands of increased Bay Trail use.

- The current access point is located in an area heavily trafficked with regular Plant deliveries which inconveniences both the public and Plant.
- The construction related to the Program as well as future changes with Plant site layout will increase the congestion in the area adding to current public and Plant inconveniences.

Aerial, topographic, and boundary surveys are available for the site (see ATTACHMENT 2) , as well as mapping showing the approximate locations of subsurface groundwater and landfill gas migration monitoring wells associated with landfill post-closure monitoring (see ATTACHMENT 3). Some of the groundwater monitoring wells and landfill gas migration probes are located in or adjacent to the project work area which are monitored periodically by the City. Consultant shall perform supplemental survey as needed to complete the design.

Additionally, the following existing conditions are relevant to the design:

- PG&E owns and operates a 36-inch high pressure gas transmission pipeline in the project work area. This pipeline runs east-west throughout the project work area, behind the northern curb of Caribbean Drive.
- Average weekday daily traffic volume on Caribbean in the vicinity of the project site is 13,248 vehicles per day. It currently functions at level of service (LOS) D. See ATTACHMENT 4.

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 to include the following items:

1. CEQA documents and permit applications
2. Closure of Carl Road (including public outreach)
3. Parking on Caribbean Drive
 - a. Potential grant funded Green Street work to be performed under *Optional Service F*
4. Traffic counts and signal timing modification

Consultant services shall include, but are not limited to: Project management, preliminary design, public outreach, permit applications, 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 bimonthly 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.

The City has engaged a program management consultant (PMC) who provides management services to the City's Public Works Department and oversight of all projects in the Sunnyvale Clean Water Program. This design project will be managed by City staff and the Consultant will also be required to coordinate with the PMC as necessary.

All on-site investigations including potholing, traffic counts, survey or other work performed by the Consultant shall be scheduled and coordinated with the City.

Design Consultant shall be responsible for the following items:

- Meeting Management: Meeting agendas should be prepared prior to all meetings with City staff and e-mailed at least three days prior to each meeting. Agendas should identify the purpose of each meeting and who is required (or optional) to attend from City staff. Meeting minutes should be provided by the consultant within one week of each meeting and e-mailed to all meeting participants. Consultant shall prepare a final set of meeting minutes that incorporate any comments and shall distribute them to all meeting participants.
- Public Outreach: Develop a plan that identifies all public meetings and opportunities for public input in relation to the project, particularly for the closure of Carl Road.
- Project Schedules: All project schedules shall be prepared in Gantt chart format, utilizing Microsoft Project software. Schedules shall include three weeks for City review of each design submittal and adequate time for review of permit applications. Schedule updates shall be provided at all progress meetings.
- Quality Assurance/Quality Control: The 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.
- Document Management: Unifier is the records management system for the Program. Consultant shall use Unifier to submit invoices and deliverables, and to log action items and design decisions made during meetings and ad hoc communications. One hour of training and licenses for up to 2 users will be provided to Consultant by the PMC.
- Pay Applications: Consultant shall submit monthly invoices. Invoices shall include complete back-up of all project costs and include a cover page listing the total budget, amount authorized by NTP, previous billed-to-date, current billing, and total billed-to-date for each task. Invoice shall be accompanied by a brief progress report which lists the work accomplished in the previous month.

In addition to the construction projects in the Program, Santa Clara Valley Water District (SCVWD) is constructing the East/West Channel project. Elements of this project include:

- Replacement of the bridge-class culvert between the existing trailhead and the terminus of Carl Road;
- Reconstruction of headwalls on the West Sunnyvale Channel culvert at Caribbean Drive;
- Construction of floodwalls and access roads on both sides of West Sunnyvale Channel, along the existing Bay Trail alignment;
- Raising of the levees, with fill slopes extending further East and West of the current levees; and
- Construction of access road ramps on the north side of Caribbean Drive.

The Consultant selected shall coordinate the work of this contract with the SCVWD, its Engineer, and its Contractor for the East/West Channel project.

Deliverables:

- Meeting Agendas/Minutes
- Public Outreach Plan
- Project Schedule with minimum monthly updates

B. Design Development

Consultant 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 be in compliance 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.

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 2012 format.

The Consultant shall submit versions of the plans and specifications at Conceptual Design (30%), 75%, 100%, and Final (Bid Package) completion. A design presentation shall be made to the City at each submittal. Comments on the 30%, 75%, and 100% submittals will be compiled and provided to the Consultant. Consultant shall respond to each comment and tabulate the responses in a spreadsheet within two weeks of receipt. Schedule shall allow three weeks for City review of each design submittal.

Consultant shall perform 12-hour complete turning movement counts at the intersection of Caribbean Drive and Borregas Avenue. Counts shall occur on a Tuesday, Wednesday, or Thursday under normal weather conditions. Counts shall be delivered in a Microsoft Excel spreadsheet, accompanied by a brief narrative describing counting method and quality assurance procedure.

For deliverables other than design submittals (i.e. permit applications, assessment of traffic impacts, CEQA documentation, etc.) Consultant shall submit Draft and Final versions. Compiled comments on the Draft version will be provided to the Consultant in a spreadsheet. Consultant shall respond to each comment in the spreadsheet within one week of receipt. Schedule shall allow two weeks for City review of each design submittal.

Coordination and preparation of documentation to facilitate permits and outreach with utility companies, regulatory agencies, and other stakeholders will also be consultant responsibility. Permitting and outreach to include the following items:

- Consultant shall prepare a memorandum to file, which documents the activities, impacts, and mitigation measures in the Program's PEIR that are applicable to this project. It is anticipated that the project will have no effects beyond those analyzed in the PEIR and that no new environmental document or public notice will be required. Consultant is responsible for confirming this assumption. Should the project require additional CEQA needs, these services shall be priced and

included in Section G. Initial Study and Tiered Negative Declaration—Optional Services.

- Because West Sunnyvale Channel is tidally influenced and the project involves grading within 100 feet of the bank, a permit from the Bay Conservation and Development Commission (BCDC) is anticipated to be required. Consultant shall prepare Draft and Final permit application for the City to submit to BCDC.
- Consultant shall plan on attending two meetings with ABAG, to present the project. The Consultant shall be responsible for preparing agendas, PowerPoint presentation and meeting minutes.
- Consultant shall review and compile all existing property boundaries and easements along Caribbean Drive and Carl Road near the West Sunnyvale Channel for use in vacating public access to the Bay Trail via Carl Road west of Borregas Avenue. The Consultant shall be responsible for preparing agendas, PowerPoint presentation, meeting minutes, and outreach for a minimum of two public outreach meetings to engage applicable property owners, Bay Trail users and other interested parties in the project. In addition, the Consultant shall assist with preparations and attend two City Council meetings. Consultant shall follow and fulfill all requirements for the vacation of Carl Road under all applicable Street and Highways Code Sections 2381, 8300-8363 and Government Code Section 65402(a) and the City of Sunnyvale Municipal Code.

Deliverables:

- 12-Hour Traffic count movements
- Draft and final CEQA Initial Study checklist
- Categorical Exemption CEQA (additional CEQA as determined in Optional Services)
- Draft and final BCDC permit application
- Two (2) ABAG meeting agendas, PowerPoint presentation, and meeting minutes
- Compilation of existing property boundaries and easements near project site
- Two (2) public outreach meeting agendas, PowerPoint presentation, and meeting minutes for the vacation of Carl Road
- Attend two (2) City Council meeting

All design submittals shall include hardcopies (number specified below) and digital copies (PDF and native format) of all documents.

1. 30% Submittal: Submit two (2) 24" x 36" and four (4) 11" x 17" hardcopies of the drawings and six (6) hardcopies of the specifications table of contents, cost estimate, and construction schedule.
 - a. 30% plans:
 - Cover sheet and plan sheet with base mapping and supplemental survey, horizontal and vertical control, monuments, and benchmarks.
 - Preliminary project site plan, including limits of grading, curb ramp and gate, and SCVWD work area (if applicable)
 - General notes
 - Preliminary staging plan
 - Typical section (existing and proposed)

- Line diagram showing number of lanes, lane drops, and location of signs
 - Cut sheets for equipment/appurtenances.
 - List of details to be included in the final design.
- b. Traffic counts
 - c. Signal light timing at intersection of Caribbean and Borregas
 - d. Assessment of traffic impacts during construction
 - e. Construction speed zone recommendation
 - f. Lane transition length calculations
 - g. 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.
 - h. Project schedule update.
 - i. 30% construction cost estimate.
 - j. Draft Initial Study checklist
 - k. Draft BCDC permit application
 - l. Brief memorandum of determination of project's CEQA and other permitting needs.
 - m. Brief memorandum of determination if the project's construction activities are within the National Pollutant Discharge Elimination System (NPDES) Construction General Permit. Include project type and risk level.
 - n. 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. Program standard Special Provisions will be used for this project. Consultant shall verify that their technical specifications and drawings are consistent with front end documents to be provided by the City's construction management consultant. Submit two (2) 24" x 36" and four (4) 11" x 17" hardcopies of the drawings and six (6) hardcopies of the specifications, cost estimate, and construction schedule.
- a. 75% Plans: All subcontracted work shall be accounted for in this submittal. All project details have been accounted for including the following:
 - Cover sheet with title block, location map, and signature block
 - Index sheet
 - Existing features: Wet and dry utility lines, manholes, catch basins, inlets, and aboveground appurtenances
 - Sufficient elevation data to confirm positive drainage
 - Pavement markings and limits of pavement
 - Trees, shrubs, signs, and other surface features
 - Traffic signal modification plans
 - Plan view layout of signs, striping, and pavement markers
 - Stationing and dimensioned sections
 - Modification of signage at Plant entrance
 - Repair of existing fence adjacent to proposed sidewalk along Caribbean Avenue
 - Standard details
 - b. 75% specifications:
 - Technical specifications,

- Special Provisions, to be provided by the City's construction management consultant.
 - c. Project schedule update.
 - d. 75% construction cost estimate in the form of the bid schedule.
 - e. Utility conflicts have been resolved or a timeline for resolution of issues has been determined.
 - f. Responses to the City's review comments on the 30% submittal, along with return of mark-ups.
 - g. Other supporting documentation as necessary.
 - Final Initial Study checklist
 - Final BCDC permit application
3. 100% Submittal: All issues, prior comments, and concerns must be addressed in this submittal. Submit two (2) 24" x 36" and four (4) 11" x 17" hardcopies of the drawings and six (6) hardcopies of the specifications, cost estimate, and construction schedule.
- 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."
 - Statement for City Engineer signature on the title sheet as follows:

"The City of Sunnyvale hereby accepts these plans for construction, as being in general compliance with plans preparation requirements of this agency. Responsibility for the completeness and accuracy of the plans and related designs resides with the Engineer and Engineering Firm of Record."
 - All information included in the 75% design drawings
 - Boundaries of SCVWD work zone (if applicable)
 - Construction area signs
 - Modification to signage at the current public entrance to the Plant
 - Existing striping and marking to be removed
 - Modifications to signal timing
 - Project-specific details
 - b. 100% specifications
 - Reviewed bid instructions
 - Finalized technical specifications
 - Finalized Special Provisions
 - c. Project schedule update.
 - d. 100% construction cost estimate.
 - e. Responses to the City's review comments on the 75% submittal, along with return of mark-ups.
 - f. Other supporting documentation as necessary.

C. Bid Package

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

Submit 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 of Record and by discipline.
2. One hard copy of the specifications, printed single-sided only.
 - a. Technical specifications, with cover sheet stamped and signed by all necessary disciplines.
3. Final project schedule update.
4. Final construction cost estimate.

D. Bidding Services

Consultant will attend a pre-bid meeting, respond to all bidders' 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.

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

1. One hard copy of full sized conformed plans (24" x 36") stamped and signed on each sheet by the Engineer of Record and by discipline.
2. One hard copy of the conformed specifications, printed single-sided only.

E. Construction Support Services

The City's construction management consultant 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 up to three (3) 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 no longer than 10 calendar days and expedited when necessary in order to avoid construction delays and claims.
6. Review and respond to all submittals within the period allocated in the contract documents and as necessary to avoid construction delays and claims.
7. Review proposed substitutions, if any, for conformance to plans and technical specifications.
8. Review and make recommendations on proposed changes to the contract (Request for Quotations and Contract Change Orders).

9. Prepare Record Drawings based upon red-lines provided by the contractor and field reviews. The Record Drawings shall be prepared digitally, using AutoCAD. Final Record Drawings shall be submitted electronically, in PDF and CAD format.
10. Participate in the “Lessons Learned Meeting” with all parties at the end of the project.

F. Caribbean Green Street Design—Optional Services

The City has applied for grant funding from US EPA Region 9 to incorporate Green Street stormwater treatment features along westbound and eastbound Caribbean Drive, between Borregas Avenue and Mathilda Avenue. If the grant is awarded, the City may request that the Green Street features be integrated into the New Access to Bay Trail design. These services are not included in the base scope.

A conceptual design for the Caribbean Green Street Design includes integration of stormwater treatment facilities (bioretention areas) along the public right of way to be interspersed with new parking spaces. The proposed improvements would reduce impervious paved area by incorporating vegetated water quality planters, also known as bioretention planters, in and adjacent to the traveled lane identified for removal. The bioretention planters will enhance aesthetics, provide protection for bicyclists, and treat runoff from the surrounding impervious roadway.

The bioretention planters should be sized to handle the loading rate prescribed in the San Francisco Bay Municipal Regional Stormwater Permit and Santa Clara Valley Urban Runoff Pollution Prevention Program C3 Design Guidance Manual and treat the entire Low Impact Development (LID) volume while draining within 48 hours. The underlying soils within the project area are Type D (clay), which has poor drainage characteristics. Because of the poorly-draining soils, the bioretention areas will require underdrains, which will tie into nearby existing storm drains. The conceptual design developed for the City identifies approximately 3000 square feet of stormwater bioretention area needed to treat a tributary area of approximately 64,500 square feet. Conceptual renderings, site plan, and technical memorandum are included as ATTACHMENT 5 to this scope of work.

The following services are included under Task G:

1. Project Management: Additional effort to perform communication, reporting, invoicing, scheduling, and staff management, due to the inclusion of the Caribbean Green Street Design in the scope of work.
2. Preliminary Design: Consultant shall conduct a field assessment and study to determine the feasibility of constructing stormwater bioretention facilities at the proposed project site. Preliminary design work shall include development of a SWMM hydraulic model of the existing storm sewer system that the bioretention features will connect to. The SWMM model shall extend downstream to the discharge point. Consultant shall submit brief data collection plan for City approval prior to performing any invasive fieldwork. Field assessment shall include collection of the following information:
 - a. Collection of existing utility maps from utilities believed to own pipelines or conduits along the proposed project alignment.
 - b. Supplemental topographic survey and Level A subsurface utility engineering (SUE).

- c. Soil borings and test results, including soil type, permeability, depth to groundwater, contaminants, and waste characterization.

Preliminary design report shall include the following:

- a. Data collected during field assessment, and discussion of results.
- b. Delineation of tributary area to each bioretention feature.
- c. Brief narrative and results from the hydraulic model developed.
- d. Site plan, refined from conceptual design, showing the optimal location and size of each bioretention feature and at least 950 linear feet of parking on the north side of Caribbean Drive
- e. Conceptual bioretention section and storm sewer profile for the feature with the least available head.
- f. Confirmation that no additional CEQA or other permitting requirements are triggered by the Caribbean Green Street Design.
- g. Preliminary construction cost estimate and schedule, considering any seasonal constraints.

- 3. Design Development: Additional effort to perform civil design of on-street parking on the south side of Caribbean Drive (the north side is included in the base scope), as well as the following design elements specific to the Green Street features:

- a. Draft and Final Detailed Design Report including:
 - Geotechnical report, updated if necessary from the work performed under Task G.2.
 - Calculations and analysis demonstrating that the design meets all applicable stormwater management criteria
 - Description of post-construction bioretention feature maintenance requirements.
- b. 30% design to also include:
 - Drainage layout showing footprint of each bioretention feature, subbasin delineations, direction of flow, and inlet and overflow locations.
 - Grading plans
 - Typical section and schedule of elevations for each bioretention feature
 - Native planting palette
- c. 75% design to also include:
 - Plan and profile of underdrains, showing clean-outs and tie-ins to existing storm drain
 - Irrigation details and specifications
 - Landscaping details and specifications
 - Curb cut/inlet detail
 - Underdrain detail
 - Biotreatment soil specification
 - Geotextile specification
- d. 100% design to include complete plans and specifications necessary for the construction of the Green Street features.

All plans and specifications shall be integrated into the overall submittals included under Task C.

4. Bid Package: Additional effort to prepare the bid package, due to the inclusion of the Green Street features.
5. Bidding Services: Additional effort to support during the construction bid period per Section C, due to the inclusion of the Green Street features.
6. Construction Support Services: Additional effort to perform construction support services, due to the inclusion of the Green Street features.

G. *Initial Study and Tiered Negative Declaration–Optional Services*

If the CEQA memo prepared under Task B identifies new effects not analyzed and mitigated in the Program's PEIR, the City will request that Consultant prepare an Initial Study leading to a Negative Declaration. It is assumed for this task that any change from the PEIR would result in impacts at the less-than-significant level. If Consultant identifies one or more new and significant impacts, Consultant shall immediately notify the City.

Consultant shall prepare a draft Project Description and develop the environmental analysis for any changes from the PEIR. Consultant shall complete an Administrative Draft Initial Study checklist and Negative Declaration. The PEIR shall be incorporated by reference and used as the basis of the documents, such that discussion in these documents is limited to new effect(s) which had not been considered in the PEIR.

Consultant shall prepare a Public Draft Initial Study and Negative Declaration, incorporating any comments on the Administrative Draft Initial Study and Negative Declaration. Consultant shall distribute the Public Draft documents to a distribution list provided by the City.

Consultant shall prepare responses to up to 5 comment letters received on the Public Draft Initial Study and Negative Declaration. Consultant shall prepare a memorandum providing Responses to Comments. The City will prepare and present the Report to Council.

IV. Available Documents

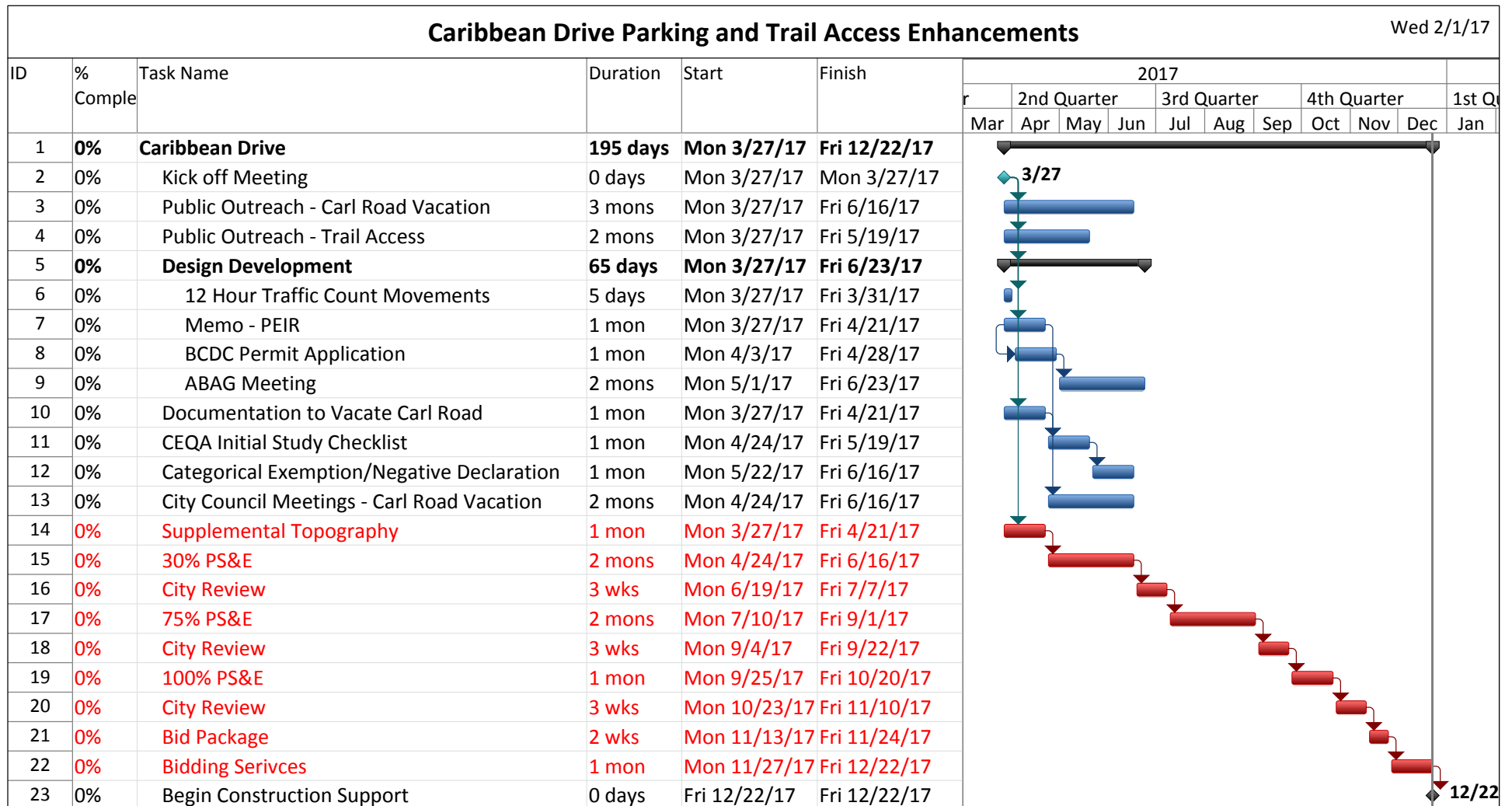
The list below is available for information only at the Sunnyvale Clean Water website (www.sunnyvalecleanwater.com).

- Quick references have been included in the following "Attachments" section and are included with this Scope of Work to give a snap shot of the work and are not comprehensive of the additional items listed within this section for information purposes.
 - Attachments:
 - Attachment 1A: PEIR Exert
 - Attachment 1B: PEIR Exert
 - Attachment 1C: PEIR Exert
 - Attachment 1D: PEIR Exert
 - Attachment 2: Record of Survey
 - Attachment 3: Landfill Monitoring
 - Attachment 4: Existing Traffic Counts
 - Attachment 5: Conceptual Green Street

- Record drawings. The City does not guarantee the accuracy or completeness of record drawings. Consultant shall verify all information to their professional satisfaction.
 - UD-79-3: Borregas & Crossman Storm Drains; North Caribbean Drive, June 1979
 - UY-02/01-04: Borregas Avenue Sanitary Sewer Replacement (Trunk), January 2007
 - PR-91-13: Caribbean Drive & Borregas Avenue Signal Modifications, March 1992
- City of Sunnyvale Landfill, Corrective Action Program Self-Monitoring Report, Site Map; Ulrick & Associates; April 11, 2006.
- Sunnyvale Landfill–Slope Inspection; HDR Engineering, Inc.; October 17, 2011.
- Utility block maps for City sanitary sewer, storm drain, and water are available on the City's website. <http://sunnyvale.ca.gov/Departments/PublicWorks/UtilityMaps.aspx>
- City standard specifications and details are available on the City's website: <http://sunnyvale.ca.gov/Departments/PublicWorks/CityStandardDetailsandSpecifications.aspx>
- Record of survey and benchmarks are on the Program website: http://www.sunnyvalecleanwater.com/documents/master-plan/Record-of-Survey_Final-for-City-Web.pdf
- Program design standards and master planning documents are available on the Program website: <http://www.sunnyvalecleanwater.com/WPCP-master-plan>
- The PEIR is available on the Program website: <http://www.sunnyvalecleanwater.com/program-environmental-impact-report>
- The San Francisco Bay Municipal Regional Stormwater Permit is available on the RWQCB website: http://www.waterboards.ca.gov/sanfranciscobay/board_decisions/adopted_orders/2011/R2-2011-0083.pdf
- The Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook is available on the Santa Clara County website: https://www.sccgov.org/sites/cwp/Documents/C3_Handbook.pdf
- Proposed Green Street Project TM; RBF Consultants; April 20, 2015.

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

- Santa Clara Valley Water District Project 26074002, Map and Construction Plan for Sunnyvale East Channel SF Bay to Inverness Way and Sunnyvale West Channel SF Bay to Almanor Avenue, advertise for bid early 2017.
- Signal timing at the intersection of Caribbean and Borregas
- GIS data for property lines, street center lines, and two (2) foot contours
- Aerial photographs from 2015 (ArcGIS format)
- City standard plan cover sheet



Note: Inclusion of Caribbean Green Street Design will extend the schedule depending upon when the direction to do is received from the City.

Exhibit "C"

INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant 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 Consultant, his agents, representatives, or employees.

Minimum Scope and Limits of Insurance: Consultant shall maintain limits no less than:

1. **Commercial General Liability:** \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury, personal injury and property damage. ISO Occurrence Form CG 0001 is required.
2. **Automobile Liability:** \$1,000,000 per accident for bodily injury and property damage. ISO Form CA 0001 is required.
3. **Workers' Compensation** and **Employer's Liability:** \$1,000,000 per accident for bodily injury or disease.
4. **Errors and Omissions** Liability Insurance appropriate to the Consultants Profession: \$1,000,000 per occurrence and \$2,000,000 aggregate.

Deductibles and Self-Insured Retentions

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

Other Insurance Provisions

The **general liability** and **automobile liability** policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Sunnyvale, its officials, employees, agents and volunteers are to be covered as additional insureds with respects to liability arising out of activities performed by or on behalf of the Consultant; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City of Sunnyvale, its officers, employees, agents or volunteers.
2. For any claims related to this project, the Consultant'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 Consultant's insurance and shall not contribute with it.
3. 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.

4. The Consultant'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.
5. 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 mail has been given to the City of Sunnyvale.

Claims Made Coverage

If the General Liability and/or Errors & Omissions coverages are written on a claims-made form:

1. The retroactive date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract work.
3. 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 an extended period coverage for a minimum of five years after completion of contract work.
4. A copy of the claims reporting requirements must be submitted to the City of Sunnyvale for review.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Sunnyvale.

Verification of Coverage

Consultant shall furnish the City of Sunnyvale with original a 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. All certificates are to be received and approved by the City of Sunnyvale prior to commencement of work.