

**FIRST AMENDMENT TO CONSULTANT SERVICES AGREEMENT BETWEEN
THE CITY OF SUNNYVALE AND GHIRARDELLI ASSOCIATES FOR DESIGN
CONSTRUCTABILITY REVIEW FOR FAIR OAKS OVERHEAD BRIDGE
REHABILITATION**

This First Amendment to Consultant Services Agreement, dated _____, is by and between the CITY OF SUNNYVALE, a municipal corporation ("CITY") and GHIRARDELLI ASSOCIATES ("CONSULTANT").

WHEREAS, on December 10, 2014, CITY and CONSULTANT entered into a Consultant Services Agreement whereby CONSULTANT would provide professional services necessary for investigation, analysis, review of construction drawings and contract specifications, consultation, and other services for a project known as Design Constructability Review for Fair Oaks Overhead Bridge Rehabilitation; and

WHEREAS, the parties now agree that a First Amendment to said Agreement is advisable;

NOW, THEREFORE, THE PARTIES ENTER INTO THIS FIRST AMENDMENT TO CONSULTANT SERVICES AGREEMENT:

1. Services by CONSULTANT
[Replace the first paragraph with the following:]

CONSULTANT shall provide services in accordance with Exhibit "A" entitled "Scope of Work" and Exhibit "A-1" entitled "Additional 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 Charlie Krueger, P.E. to this project, to act in the capacity of Project Manager and personally direct the professional services to be provided by CONSULTANT.

4. Allowable Costs and Payments
[Replace this section with the following:]

The method of payment for this Agreement will be based on the actual cost plus fixed fee contract type as defined in Chapter 10 of the California Department of Transportation Local Assistance Procedures Manual. CITY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the attached CONSULTANT's Compensation Schedule (Exhibit "B") and Cost Proposal (Exhibit "10-H1" dated November 14, 2019), unless additional reimbursement is provided for by contract amendment. In no event will CONSULTANT be reimbursed for overhead costs at a rate that exceeds CITY's approved overhead set forth in the Compensation Schedule. In the event that CITY determines that a change to the work from that specified in the Scope of Work (Exhibit "A") and Agreement is required, the contract time and/or actual costs reimbursable by CITY shall be adjusted by contract amendment to accommodate the

changed work. The maximum total cost as specified in this section shall not be exceeded, unless authorized by contract amendment.

In addition to the allowable incurred costs, CITY will pay CONSULTANT a fixed fee (profit) of 10% as set forth in Exhibit "10-H1". The fixed fee is nonadjustable for the term of the Agreement, except in the event of a significant change in the Scope of Work and such adjustment is made by contract amendment.

Compensation shall not exceed the amounts set forth in Exhibit "B" and Exhibit "10-H1" for each phase. In no event shall the total amount of compensation payable under this agreement exceed the sum of Two Million Three Hundred Eighty Two Eight Hundred Twenty Four and 70/100 Dollars (\$2,382,824.70), inclusive of the fixed fee (profit) enumerated in Exhibit "10-H1", 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.

Reimbursement for transportation and subsistence costs shall not exceed the costs in the attached Compensation Schedule. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.

If milestone cost estimates are included in the Compensation Schedule or Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from CITY before exceeding such cost estimate.

Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items as required, CITY shall have the right to delay payment and/or terminate this Agreement in accordance with Section 24.

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.

All other terms and conditions remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement Amendment.

ATTEST:

CITY OF SUNNYVALE ("CITY")

By _____
City Clerk

By _____
City Manager

APPROVED AS TO FORM:

GHIRARDELLI ASSOCIATES
("CONSULTANT")

By _____
City Attorney

By _____

Name and Title

By _____

Name and Title

Exhibit A-1
ADDITIONAL SCOPE OF WORK
Construction Management Services
FAIR OAKS OVERHEAD BRIDGE REHABILITATION
Federal Project No. BRLS-5213(039)
City Project No. TR-15/02-17

Ghirardelli shall assign a Resident Engineer (RE), California PE registration required, for the duration of the Project. The RE shall have relevant bridge construction management experience for minimum of two bridge projects unless this function is adequately covered by another key staff member. The RE will be the City's primary representative with the contractor and general public and the party responsible for administering the construction contract for the City.

Ghirardelli services for the construction management services include, but are not limited to the following four categories:

Project Administration

1. Coordinate with the Contractor, design engineer, City, and other parties involved to schedule and conduct the pre-construction conference.
2. Schedule and conduct construction progress meetings. Prepare and promptly distribute meeting minutes and agendas to all attendees.
3. Attend biweekly status report meetings with the City, which will detail construction progress and budget status.
4. Enforce the construction schedule and phasing plan in order to complete the project within the allocated time and schedule. Perform schedule analysis.
5. Monitor the construction budget and ensuring that the project remains within budget, including a detailed tracking of installed and expected quantities of work.
6. Act as RE in the field and comply with all Caltrans requirements, including daily field reporting and weekly statements of working days.
7. Maintain records for all work performed as part of the project in accordance with Caltrans requirements including the preparation of daily reports.
8. Review and respond to product and project submittals and/or coordination with the design consultant and the City to review project submittals. Maintain a submittal log and track turnaround time to avoid delays.
9. Review and respond to all Requests for Information (RFIs) and/or coordination with the design engineer to provide responses. Log and track RFI turnaround times.
10. Assist with drafting, reviewing, and negotiation of change orders.
11. Assist with the negotiation of cost proposals.
12. Recommend corrective action for unforeseen issues, if any, to the City and design engineer.
13. Review and resolve notices of potential claims; assisting the City with the review, evaluation and documentation of potential claim issues.
14. Review and verify construction quantities installed.
15. Prepare and assist with processing progress payments, as needed.
16. Comply with Caltrans construction requirements for interviewing and training employees.
17. Monitor activities for the duration of the construction phase, such as SWPPP compliance.
18. Maintain a markup of all changes to the project drawings to be used as an as-built reference.

19. Conduct a final walkthrough with the Contractor and the City, prepare punch lists, follow up with Contractor and inspector on punch list items.

Quality Assurance, Inspection and Material Testing

1. Provide inspectors for day-to-day on-the-job observation/inspection of work, make reasonable efforts to guard against defects and deficiencies in the work of the Contractor and to ensure that provisions of the contract documents are being fulfilled.
2. Maintain daily inspection logs, photographs, etc.
3. Monitor project for conformance with plans, traffic control plan, and specifications.
4. Coordinate required testing stated in the specifications and special inspections as necessary. Ghirardelli shall coordinate, review and recommend mitigation measures as necessary.
5. Observe the Contractor's final testing and commissioning of utilities.
6. Review and monitor the safety programs developed by the Contractor and as required by OSHA/Cal OSHA.
7. Accept or reject work as necessary.
8. Ensure effective quality control and quality assurance program.

Public and Community Relations

1. Ensure contractor compliance with public notification requirements, and other agency requirements.
2. Coordinate with Caltrans, PCJPB, and other agencies during construction.
3. Facilitate any necessary utility coordination with applicable utility companies, City staff, the design engineer, and the Contractor.
4. Coordinate with PCJPB any contractor work affecting rail operations and flagging.
5. Coordinate work to be performed by the PCJPB.

Post Construction

1. Review closeout documents (e.g., maintenance, operational, warranty, etc.) as required in the construction documents, and as submitted by the Contractor at the completion of the work.
2. Prepare Caltrans project closeout package.
3. Maintain all original documentation in an organized file system, and make it available to the City for review at any time. At the conclusion of the project, Ghirardelli shall provide the City with a digital copy of all the project records.
4. Perform post construction review and prepare lessons learned documents for future projects.
5. Perform optional service if needed: claim resolution and detailed schedule analysis.