

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is between the City of Manhattan Beach, a California municipal corporation ("City") and Z&K Consultants, Inc., a California corporation ("Consultant"). The date this Agreement is executed by the City Manager shall be the date this Agreement is effective ("Effective Date"). City and Consultant are sometimes referred to herein as the "Parties", and individually as a "Party".

RECITALS

A. City issued Request for Proposals No. E1275-22S on December 15, 2022, titled "Inspection and Construction Management Services for Cycle 2 Street Resurfacing Project". Consultant submitted a proposal dated January 5, 2023, in response to the RFP.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant as an independent contractor and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

1. Consultant's Services.

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the "Services") for Inspection and Construction Management Services for Cycle 2 Street Resurfacing Project, attached as **Exhibit A**. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the "City Representative"). For the purposes of this Agreement, the Consultant Representative shall be Jamil Borner, Construction Manager/Inspector (the "Consultant Representative"). The Consultant Representative shall directly manage Consultant's Services under this Agreement. Consultant shall not change the Consultant Representative without City's prior written consent.

C. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

Approved for Use 3/1/2021

D. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

F. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

G. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

H. Prevailing Wages. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in the California Labor Code. Therefore, as to those services that are “public works”, Consultant shall comply in all respects with all applicable provisions of the California Labor Code, including those set forth in **Exhibit C** hereto.

2. Term of Agreement. The term of this Agreement shall be from the Effective Date through June 30, 2026, unless sooner terminated as provided in Section 12 of this Agreement or extended. The City Manager or his/her designee may extend the term of the Agreement in writing for up to two additional one-year terms, or such other term not to exceed two years from the date of termination, pursuant to the same terms and conditions of this Agreement. If not renewed prior to the termination date, this Agreement may continue on a month-to-month basis under the same terms and conditions for a maximum period not to exceed six months or until renewed, terminated or awarded to a new consultant, whichever is less.

3. Compensation.

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates set forth in the Approved Fee Schedule attached hereto as **Exhibit B**. In no event shall Consultant be paid more than \$141,574.00 (the “Maximum Compensation”) for such Services.

B. Expenses. City shall only reimburse Consultant for those actual and necessary expenses expressly set forth in **Exhibit B**.

C. Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, or reimburse for any expenses not set forth in **Exhibit B**, unless the City Council or the City Representative, if applicable, and the Consultant

Representative authorize such services or expenses in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services authorized by the City Council, or (where authorized) the City Manager shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. Any additional expense authorized by the City Council or (where authorized) the City Manager shall be reimbursed in the amounts authorized by the City Council or City Manager. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. Method of Payment.

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis, for the Services performed pursuant to this Agreement. Invoices must be submitted to Gilbert Ramos, Associate Engineer, at gramos@manhattanbeach.gov. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant. Notwithstanding the preceding sentence, if Consultant is a nonresident of California, City will withhold the amount required by the Franchise Tax Board pursuant to Revenue and Taxation Code Section 18662 and applicable regulations.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement available during Consultant's regular working hours to City for review and audit by City.

5. Independent contractor. Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

6. Information and Documents.

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees,

agents, or subcontractors shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

7. Conflicts of Interest. Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section into any subcontract that Consultant executes in connection with the performance of this Agreement.

8. Indemnification, Hold Harmless, and Duty to Defend.

A. Indemnities.

1) To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Liabilities with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph A.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnity obligations, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities at law or in equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees,

subcontractors, materialmen, consultants or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees as determined by court decision or by the agreement of the Parties.

B. Workers' Compensation Acts not Limiting. Consultant's indemnifications and obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Consultant's indemnifications and obligations under this Section shall survive the expiration or termination of this Agreement.

9. Insurance.

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing

Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

D. Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the

requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

L. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

10. Mutual Cooperation.

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

11. Records and Inspections. Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles

and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

13. Force Majeure. Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

14. Default.

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding

any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

TO CITY:

City of Manhattan Beach Public Works
Attn: Public Works Director
3621 Bell Avenue
Manhattan Beach, California 90266

TO CONSULTANT:

Z&K Consultants, Inc.
Attn: Crystal Fraire
17130 Van Buren Blvd #122
Riverside, CA 92504

COPY TO CITY ATTORNEY:

City of Manhattan Beach
Attn: City Attorney
1400 Highland Avenue
Manhattan Beach, CA 90266

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any

person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as and be a release of City from all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

21. Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B and C constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. "Business days" means days Manhattan Beach City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior court with geographic jurisdiction over the City of Manhattan Beach.

30. Attorneys' Fees. In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

31. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

33. Corporate Authority. Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Manhattan Beach,
a California municipal corporation

Consultant:

Z&K Consultants, Inc.,
a California corporation

By: _____
Name: Bruce Moe
Title: City Manager

By: _____
Name: Crystal Fraire
Title: President

ATTEST:

By: _____
Name: Zack Fagih
Title: Vice President

By: _____
Name: Liza Tamura
Title: City Clerk

**PROOF OF AUTHORITY TO BIND
CONTRACTING PARTY REQUIRED**

APPROVED AS TO FORM:

By: _____
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

By: _____
Name: Steve S. Charelian
Title: Finance Director

APPROVED AS TO CONTENT:

By: _____
Name: Erick Lee
Title: Public Works Director

EXHIBIT A SCOPE OF SERVICES

Our Team's relevant experience allows them to provide overall administration of the construction process based on their unique ability to fully understand the construction process, work proactively to identify problems early, and to mitigate each risk before it affects the project performance goals. Z&K proactively serves as the project's administrator and provides consistent coordination between all project stakeholders including the City, Design Engineer, and construction contractor and subcontractors. Z&K has thoroughly reviewed the Request for Proposal (RFP); we confirmed our team will provide all scope of work tasks as outlined in the RFP scope of services to ensure the success of the City of Manhattan Beach's Project. Z&K acknowledges our ability to meet potential project requirements listed under the scope of services. The Z&K Team, at a minimum, will perform the following:

Project Inspection Tasks

A. Reviewing the contract documents, including plans, specifications, and quantities prior to the preconstruction meeting. | The Z&K Team is aware that prompt review of the project plans, specifications, and quantities, and alternative construction methods allow for cost and schedule savings. Upon notice-to-proceed (NTP), the Z&K Team will conduct a thorough review that will focus on anticipating issues in the field and resolve them through fast and flexible problem solving. This approach will result in timely completion of the work, claims avoidance, and the reduction of public inconvenience. Throughout the project, the inspectors will review plans, specifications, contract documents, plans, and permits. Inspectors will monitor and enforce construction-noticing requirements and verify that all work in place is compliant with the project plans and specifications, as well as any Traffic Control, Cal-OSHA, Outside Agency Permits, Standard Plans, and other public right-of-way requirements needed for the project.

B. Attending the Preconstruction Meeting. | Z&K will attend a pre-construction conference with the City, affected agencies, and the Contractor, as well as the design engineer, utilities and other agencies. An agenda will be prepared in advance to notify attendees of key items for discussion. At the pre-construction conference, we will discuss concerns, and establish the protocol to be used throughout the project. The meeting will highlight the contractor's responsibility for items such as order of work, permit and environmental agreements, safety and access, progress pay requests, labor compliance, submittals, RFIs, CCOs, quality control, materials certification, schedule updates, and weekly meetings. Z&K will review the baseline schedule and verify that it meets all the required information prior to issuing the Notice to Proceed to the Contractor.

C. Documenting, with digital images and video, the preconstruction existing conditions of the work areas and project areas. | The Z&K Inspector will complete daily reports complete with digital images and video of the project's existing conditions during the pre-construction phase. The conditions of the project site, work areas, and project areas will

be noted, and all digital documentation will be uploaded to the Project's document management system and made available to the City. The Z&K proposed staff will complete and maintain field file-bound workbooks including daily, weekly, and monthly reports logging any working day reports, change order documentation, equipment on site, crews/personnel, and photographs (before, during, and after construction). A monthly Construction Manager progress report will include an overview of work accomplished during the previous month, an overview of work to be accomplished the following month, an updated schedule (based on the Contractor's schedule of values), a list of problem areas, if any, and proposed corrective actions, and a bar graph comparing the monthly and cumulative invoiced amounts with the total authorized CM budget. These reports will be submitted to the City via email and/or hardcopy.

D. Checking line, grade, size, elevation, and location of improvements. | Z&K has carefully selected this "A-Team" and committed our most qualified Inspector for the duration of the contract to deliver a successful project. The Z&K Inspector has the knowledge, skill, and experience to inspect all the anticipated construction operations for this contract and will be on site daily to monitor and document daily progress of the contractor and verify that all work in place is compliant with the project plans, specifications, and contract, as well as any Traffic Control, Cal/OSHA Standards, contract change orders, permits, ASTM Standards, and other public right-of-way requirements needed for the project. We will check the line, grade, size, elevation, and location of the improvements.

E. Establishing effective communications with the Contractor, City staff, property owners, Manhattan Beach Unified School District, the general public, and other stakeholders. | Z&K will assist the City in forming and maintaining good relations with the Contractor, City Staff, business/property owners, and the general public. Residents and businesses in surrounding neighborhood will be well informed by providing community outreach and a contact person to manage public relations for the duration of the project. At a minimum, the Z&K team will establish and manage a construction 24-hour hotline (toll free number), and email address for project stakeholders, property owners, interested parties, and the general public to call with construction issues and concerns. All calls and public complaints will be documented and investigate. Z&K will manage and track public inquiries for the Contractor and for the City and will advise of any concerns and findings.

F. Providing full-time inspection services to ensure compliance with the Contract Documents and other requirements, such as, but not limited to, Work Area Traffic Control Handbook (WATCH Manual) or Manual on Uniform Traffic Control Devices (MUTCD) California (Latest Edition), Cal/OSHA Standards, contract change orders, permits, California Building Code and ASTM standards. | Z&K understands that traffic control is a critical item for the community. Due to traffic issues, conventional traffic control methods along with a combination of constant flagmen should be implemented. WATCH may be adequate for most situations; however, some locations may require additional resources. Our team will review the traffic control plans to ensure they comply with the WATCH manual and MUTCD requirements. We will also review it for minimum lane widths and as well as continuous and safe access for pedestrians. We will ensure temporary pavement

markings are implemented. Our team will work closely with the Contractor to provide advanced notice to first responders and essential services.

The Z&K Inspector has the knowledge, skill, and experience to inspect all the anticipated construction operations for this contract and will be on-site daily to monitor and document the daily progress of the contractor and verify that all work in place is compliant with the project plans, specifications, and contract, as well as any Traffic Control, Cal/OSHA Standards, contract change orders, permits, ASTM Standards, and other public right-of-way requirements needed for the project. Throughout the project, the inspector will review contract documents, plans, and permits. Inspectors will monitor and enforce construction-noticing requirements. The Z&K Inspectors will use their expertise to provide field conflict resolutions. The Inspectors' primary duties will be to inspect and verify all work in place meets the requirements of the contract plans and specifications, traffic control plans, shop drawings, change orders, and O&M manuals as well as maintenance of project documentation.

G. Performing project oversight for the monitoring of traffic control, and damage to infrastructure. | Throughout the project, the inspectors will review contract documents, plans, and permits. Inspectors will monitor and enforce construction-noticing requirements. The Z&K Inspectors will use their expertise to provide field conflict resolutions. The Inspectors' primary duties will be to inspect and verify all work in place meets the requirements of the contract plans and specifications, traffic control plans, shop drawings, change orders, and O&M manuals as well as maintenance of project documentation. Our Construction Inspector will perform project oversight for the monitoring of damage to existing infrastructure and replacement of infrastructure to City standards. Any damage will be properly documented with photos.

H. Evaluating the Contractor's daily performance and addressing deficiencies as they occur. | Z&K works proactively to eliminate or reduce project impacts from potential change orders. Z&K will provide first-line management of change order administration including review and evaluation of change order requests; independent estimates; project mitigation such as possible alternatives and negotiation as the City's advocate; written approval from the City's Project Manager prior to approval of any extra work; investigation and inspection of site conditions that differ from those described in the contract documents; schedule impact and analysis and verification; recommendations to the project Owner on acceptance; impact mitigation; review of submittals in support, and recommendation for resolution, of claims and disputes; and verification of costs. Z&K will continuously prepare independent cost estimate change orders and schedule analysis of work to ensure that all change orders are of technical merit prior to execution. The Inspector will monitor extra work closely. The Construction Inspector will perform on-going evaluation of the Contractor's daily performance throughout the project to address any deficiencies as they occur and avoid any potential claims. If claims arise, the Inspector will work with the City and Contractor to find the best solution to resolve any claims in a timely manner.

I. Coordinating any field issues that require deviations from the Contract Documents with the city's Project Manager | In the event that a deviation from the project plans, specifications, or contract documents is required, Z&K will coordinate and make appropriate recommendations to the City's Project Manager to receive authorization for any changes or amendments to the contract documents.

J. Providing day-to-day on-the-job observation/inspection of all construction work on the project. Consultant inspectors shall make reasonable efforts to guard the City against defects and deficiencies in the work of the Contractor and to ensure provisions of the contract documents are being fulfilled; prepare daily inspection reports documenting observed construction activities; document the names, classifications, tasks completed, and hours worked of all contractor crew members completing work onsite; take progress photographs (digital) of all work and project locations and log and label in specific logical electronic folders; and assist with all other matters relating to construction of the project. Daily Inspection Reports shall be submitted to the City's Project Manager on the next business day for review and filing. Consultant to provide example of form to be used to City for review and approval prior to start of construction. | Our team will prepare an incident log and will complete prompt and thorough incident/accident reports. Any incidents will be discussed at the weekly meeting with the team. We will immediately work with the Contractor to ensure that the proper procedures are implemented. We will discuss a plan of action for the future to mitigate the risk of another incident. The Z&K Team will review and monitor the Contractor's schedule, in addition to a master project schedule to include all completed and scheduled construction work, as well as any delays in construction or working days lost to weather or other unexpected conditions. Z&K will regularly update this schedule to reflect construction progress and provide updates on anticipated closure, detours, etc. The Team will also provide updates to the City on any other pertinent project information affecting the construction schedule. The Z&K Team will provide ongoing coordination with public utilities to resolve any construction questions or conflicts, and to avoid any potential delays or additional costs to the project. Any conflicts with utilities will be reported to the utility company and Z&K will work to coordinate the relocation or removal of the utility. The resolution will be reported to the City.

The Z&K Inspector will complete daily reports complete with digital images and video of the project's existing conditions during the pre-construction phase. The conditions of the project site, work areas, and project areas will be noted, and all digital documentation will be uploaded to the Project's document management system and made available to the City. The Z&K proposed staff will complete and maintain field file bound workbooks including daily, weekly, and monthly reports logging any working day reports, change order documentation, equipment on site, crews/personnel, and photographs (before, during and after construction). A monthly Construction Manager progress report will include an overview of work accomplished during the previous month, an overview of work to be accomplished the following month, an updated schedule (based on the Contractor's schedule of values), a list of problem areas, if any, and proposed corrective actions, and a bar graph comparing the monthly and cumulative invoiced amounts with

the total authorized CM budget. These reports will be submitted to the City via email and/or hardcopy.

K. Documenting all Contractor delays, reasons for delay, length of time for delay, and phases of work | The Z&K Team will review and monitor the Contractor's schedule, in addition to a master project schedule to include all completed and scheduled construction work, as well as any delays in construction or working days lost to weather or other unexpected conditions. Z&K will regularly update this schedule to reflect construction progress and provide updates on anticipated closure, detours, etc. The Team will also provide updates to the City on any other pertinent project information affecting the construction schedule. The Z&K Team will provide ongoing coordination with public utilities to resolve any construction questions or conflicts, and to avoid any potential delays or additional costs to the project. Any conflicts with utilities will be reported to the utility company and Z&K will work to coordinate the relocation or removal of the utility. The resolution will be reported to the City.

L. Submitting to the City on a weekly basis, a Weekly Statement of Working Days for the project. | The weekly statement of working days reports and daily reports will be submitted to the City on a weekly basis. The Senior Construction Inspector will prepare and present the "Weekly Statement of Working Days" report to the City and Contractor. This statement will conform to Caltrans Form CEM-2701 or form approved by the City. Our team will prepare an incident log and will complete prompt and thorough incident/accident reports. Any incidents will be discussed at the weekly meeting with the team. We will immediately work with the Contractor to ensure that the proper procedures are implemented. We will discuss a plan of action for the future to mitigate the risk of another incident.

M. Attending weekly construction progress meetings with the Contractor, Inspector/Construction Manager and City Project Manager. Progress meetings may be held at the site or virtually, subject to the City Project Manager's prior approval | Z&K will attend the weekly construction meetings with City representatives, contractors, and other agencies related to the project. At each weekly meeting, all ongoing issues will be reviewed and discussed. An agenda shall include items such as safety, old business, updated progress of the work, request for information (RFIs), submittals, testing and inspection reports, non-conformance notices, contract issues, procedures, environmental monitoring, change orders (COs), look-ahead schedule for upcoming work, pay requests, and so forth. Unresolved issues will be carried over to the next week's meeting until a final resolution is obtained.

N. Verifying layout of work prior to the beginning of the permanent work. | Z&K will verify the layout of work prior to the beginning of the permanent work and host a meeting with the Contractor and City Project Manager to review and discuss.

O. Measuring and tabulating contract quantities, reviewing the Contractor's invoices, verifying completed work, approving all quantities, and assisting with meetings with the Contractor to resolve any differences in percent complete. | Prior to the Contractor

submitting the invoice, our Inspector will review the quantities with the Contractor. Our inspectors keep an independent log of measurement and tabulated quantities in the field. We will compare the Inspector's quantities with the Contractor's quantities to ensure accurate invoices.

Z&K brings a detailed understanding of the City processes for administering Contractor payment per the City's standards & procedures. We will work closely under the direction of the City and with the contractor to verify that the contractor's payments are processed, provide recommendations, and ensure they are executed promptly by the contract documents and City's procedures. Z&K will reconcile the work done with the pay requests. Z&K will work with the Contractor on required corrections to the pay requests and ensure that they are in the format and forms required by the City. The pay requests will be submitted to the City with a statement that they have been reviewed. Z&K will keep accounts of all pay requests including amounts retained, dates submitted, dates paid, actual payments, changes in contract amounts, and any other pertinent information.

P. Obtaining and reviewing the Contractor's daily reports. | Z&K will obtain and review the Contractor's daily reports and ensure that they are documented and filed in the project's document control database. These daily reports will be reviewed in order to verify and maintain accurate record of all work performed under time and materials, including equipment, contractor crew, and field measurements quantities.

Q. Logging, tracking and responding to all concerns and complaints from the public in an expeditious manner. | Z&K will assist the City in forming and maintaining good relations with the Contractor, City Staff, business/property owners, and the general public. Residents and businesses in surrounding neighborhood will be well informed by providing community outreach and a contact person to manage public relations for the duration of the project. At a minimum, the Z&K team will establish and manage a construction 24-hour hotline (toll free number), and email address for project stakeholders, property owners, interested parties, and the general public to call with construction issues and concerns. All calls and public complaints will be documented and investigate. Z&K will manage and track public inquiries for the Contractor and for the City and will advise of any concerns and findings.

R. Reviewing material test reports to substantiate contract compliance. | Z&K inspectors will coordinate and closely monitor all geotechnical and material testing, compaction testing, and any specialty inspection required throughout the project. Z&K will ensure that proof of all specialty certifications and licenses are on file and that they are all valid and unexpired. Z&K will periodically review all specialty certifications and licenses to ensure that they remain valid throughout the duration of the project.

Z&K Inspectors will work to ensure all required testing and specialty inspection is performed with the required frequencies and documented properly. Sampling and testing activities will be conducted in accordance with the contract documents and approved procedures. The Inspector will work with the Contractor to correct any failed tests and

achieve compliance. Our team has the ability to effectively make decisions and coordinate with other professionals on field issues related to material testing and inspection. Z&K will develop and provide a comprehensive testing program for the Project in accordance with the contract documents.

S. Coordinating and monitoring Contractor's operations with subcontractor trades, suppliers, special inspectors/lab testing technicians, utility companies, neighboring residents and other affected parties as needed. | We will coordinate and monitor the Contractor's operations with subcontractor trades, suppliers, special inspectors/lab testing technicians, utility companies, neighboring residents and other affected parties as needed.

T. Coordinating/ensuring utilities are shut off and abatement needs are identified prior to demolition of existing infrastructure. | Our team will ensure that the Contractor is aware of all existing underground utilities by ensuring that Dig Alert tickets are current and up to date prior to excavation. We will keep track of hazardous and non-hazardous and conflicting utilities during our regular progress meetings. Additionally, we will communicate with utilities early since various of utilities may need to be adjusted by the Owner and require utility coordination. We will coordinate and ensure that the utilities are shut off and abatement needs are identified prior to demolition of existing infrastructure.

U. Monitoring extra work and providing supporting documentation on the personnel and equipment that is involved with any extra work performed by the Contractor. Determining whether the work of the Contractor is being performed in accordance with the requirements of the contract documents and endeavoring to guard the City against defects and deficiencies in such work. Extra work personnel and equipment shall be documented separately from contract work and included in the Daily Inspection Reports submitted to the City. It shall be clear in this documentation which equipment and personnel (name and title) worked on extra work or disputed work versus contract work and for what durations. | Z&K works proactively to eliminate or reduce project impacts from potential change orders. Z&K will provide first-line management of change order administration including review and evaluation of change order requests; independent estimates; project mitigation such as possible alternatives and negotiation as the City's advocate; written approval from the City's Project Manager prior to approval of any extra work; investigation and inspection of site conditions that differ from those described in the contract documents; schedule impact and analysis and verification; recommendations to the project Owner on acceptance; impact mitigation; review of submittals in support, and recommendation for resolution, of claims and disputes; and verification of costs.

Z&K will continuously prepare independent cost estimate change orders and schedule analysis of work to ensure that all change orders are of technical merit prior to execution. The Inspector will monitor extra work closely. The Construction Inspector will perform on-going evaluation of the Contractor's daily performance throughout the project to address any deficiencies as they occur and avoid any potential claims. If claims arise, the

Inspector will work with the City and Contractor to find the best solution to resolve any claims in a timely manner.

V. Monitoring and enforcing Contractor's compliance with BMPs. |The Z&K Inspectors understand the importance of compliance of environmental documentation and BMP's, particularly when it comes to managing the Storm Water Pollution Prevention Plan (SWPPP).

Our team includes QSD/PS and inspectors fully knowledgeable regarding storm water BMP implementation and maintenance requirements. Our team is very knowledgeable in the development, implementation, and reporting requirements of a SWPPP. The Contractor will be required to file a Notice of Intent (NOI) with the SWRCB and to develop a SWPPP. Z&K will review the Contractor's compliance with stormwater regulations and SWPPP. We will monitor the contractor for compliance and confirm that required sampling takes place during rain events and required reports are filed into SMARTS.

W. Monitoring safety and health requirements and enforcing applicable regulations and contract provisions for the protection of the public and project personnel. |Z&K Consultants take extreme pride for being a very safety conscious organization implementing a safe environment both in our offices and on our project sites. We monitor the Contractor and their subcontractors for safety compliance for meeting local, state, and federal safety requirements. We also ensure the trades and the Contractor are always safety conscious in everything they do in the Project. Z&K will review the Contractor's compliance with workplace safety and health standards and notify the City of non-compliance. The Z&K Team is knowledgeable with the Caltrans Safety Manual and the Cal/OSHA Construction Safety Orders. The Inspectors will attend the Contractor's Safety Meetings and promote safety throughout the life of our contract. Z&K will review, monitor, document and enforce contractor safety procedures for compliance with all safety laws and regulations. If any safety violations occur, Z&K will take immediate action to correct the issue and report any incidents to the City.

X. Performing project oversight for the monitoring of damage to existing infrastructure and replacement of infrastructure to City standards. | Our Inspector will perform project oversight for the monitoring of damage to existing infrastructure and replacement of infrastructure to City standards. Any damage will be properly documented with photos.

Y. Documenting changes in the field to compare to the Contractor's record drawings. | Our Inspector will take a proactive approach at processing close-out documentation by conducting a project walk-through and preparing a final punch list of items, which typically include guarantees/warranties, subcontractor liens, retention, and final acceptance/certificates of completion, orderly transfer of records and documents, resolution of outstanding issues, final payment preparation and processing along with final acceptance or record drawings. Z&K will verify the completion of the final punch list when the contractor has certified and demonstrated the work is substantially complete. We will prepare redline as-built plans. Z&K will conduct a final inspection and walk-

through including City staff, Contractor, maintenance/service personnel, and project architect/design consultant, and applicable agencies.

Z. Recommending courses of action when the Contractor's or subcontractor's performance is unsatisfactory and assisting in carrying out the necessary corrective actions. | Quality management is an inherent CM responsibility. Z&K is knowledgeable and capable in all aspects of quality management. Quality assurance is the application of systematic methods to verify the effective implementation of quality control procedures. Z&K will manage the quality of the project by taking the quality assurance lead role and implementing the Z&K quality assurance program, which allocates quality control responsibilities to the various project participants to ensure the constructed product conforms to the contract plans and specifications. This includes a detailed inspection plan, inspection procedures, and documentation procedures for all inspection and test reports. Z&K will review the Contractor's quality control procedures to ensure adequacy. Quality control issues will be discussed at each weekly meeting. An ongoing deficiencies/corrective items list will be maintained, reviewed, and updated weekly.

AA. Completing incident (accident) reports. | Our team will prepare an incident log and will complete prompt and thorough incident/accident reports. Any incidents will be discussed at the weekly meeting with the team. We will immediately work with the Contractor to ensure that the proper procedures are implemented. We will discuss a plan of action for the future to mitigate the risk of another incident.

BB. Confirming on a monthly basis that the Contractor is maintaining up-to-date marked up prints of construction drawings and documents showing all field changes and as-built conditions. | Our staff has extensive document management and filing experience. Our team knows that a complete record of the project must include a full set of all correspondence to and from the contractor, as well as all other contract documents related to the construction of the project, will be documented and transmitted to the City. Z&K will coordinate preparation of the as-built plans with the Design Engineer. The drawings will include CAD files and printed mylars. We will manage the Design Engineer's performance on the as-built drawings and check the record drawings prior to transferring to the City.

CC. At the completion of the work, reviewing the Contractor's redline as-built to ensure all field changes and as-built conditions are identified. | At the completion of the work, Z&K will review the Contractor's redline as-built to ensure all field changes and as-built conditions are identified. We will manage the Contractor's performance on the as-built drawings and check the record drawings prior to transferring to the City.

DD. Incorporating approved changes to the plans, specifications, and contract documents as they occur and ensuring that the red-line set for the as-built is maintained on a regular basis. | Z&K will create redlines on as-built drawings and coordinate the as-built plans with the Design Engineer. We will manage the Design Engineer's performance on the as-built drawings and check the record drawings prior to transferring to the City. Z&K

Consultants will prepare a final report detailing the work completed, costs, changes, warranties, and documentation provided to the City.

EE. Preparing status reports for project close-out and all collecting documents as a closeout file. | Upon completion of the project and following the final inspection and walkthrough, Z&K will provide the City with both hard and electronic copies of project documentation, including a report stating that the installation of all improvements required by the project have been completed in accordance with the plans and specifications. Z&K will calculate the amount of final payment due to the prime Contractor and prepare the proposed final estimate. Z&K will also review and process the release of retention. Z&K will obtain evidence of certification of the release of all liens and stop notices. Z&K will obtain certification of delivery of record drawings to the City and design engineer. Z&K will advise the City when the Notice of Completion (NOC) should be filed. Our Team will prepare a status report for project close-out and provide the “close-out” file to the City.

FF. Conducting project walk-through(s) and preparing a list of items for correction (punch list). | Our Inspector will take a proactive approach at processing close-out documentation by conducting a project walk-through and preparing a final punch list of items, which typically include guarantees/warranties, subcontractor liens, retention, and final acceptance/certificates of completion, orderly transfer of records and documents, resolution of outstanding issues, final payment preparation and processing along with final acceptance or record drawings. Z&K will verify the completion of the final punch list when the contractor has certified and demonstrated the work is substantially complete. We will prepare redline as-built plans. Z&K will conduct a final inspection and walk-through including City staff, Contractor, maintenance/service personnel, and project architect/design consultant, and applicable agencies.

GG. Performing a final project inspection. | Z&K will conduct a final inspection and walk-through including City staff, Contractor, maintenance/service personnel, and project architect/design consultant, and applicable agencies. Z&K will calculate the amount of final payment due to the prime Contractor and prepare the proposed final estimate. Z&K will also review and process the release of retention. Z&K will obtain evidence of certification of the release of all liens and stop notices. Z&K will obtain certification of delivery of record drawings to the City and design engineer.

HH. Performing warranty walks, approximately one (1) year from the City Council acceptance of the project | We will perform warranty walks approximately one year from the City Council acceptance of the project.

II. Performing and/or assisting with all other related duties as required. | Our Senior Construction Inspector will perform other related duties as required for the successful completion of the Project.

JJ. Possessing a vehicle with auto insurance a valid California driver's license, and a mobile phone for immediate contact by the City. | Z&K inspectors will be on on-site at all

times required by the contract, properly equipped with a company vehicle, valid auto insurance, a California driver's license, and a mobile phone reachable by the City.

KK. Performing inspections during Normal Contractor Work Hours, Monday through Friday, 7:30 a.m. to 4:30 p.m., excluding holidays. | The assigned Z&K Inspector is committed to provide their services at all times required by the contract.

Special Inspection Tasks and Testing Tasks

A. Consultant shall include a qualified Geotechnical Engineering Subconsultant on their team to provide testing services to confirm the compaction criteria set forth in the Project's Technical Provisions have been met. | Z&K will be responsible for coordinating and supervising the geotechnical and materials testing program to ensure all required testing is performed with the required frequencies and documented properly. Sampling and testing activities will be conducted in accordance with the contract documents and approved procedures. The Inspector will work with the Contractor to correct any failed tests and achieve compliance. Our team has the ability to effectively make decisions and coordinate with other professionals on field issues related to material testing and inspection. Z&K will develop and provide a comprehensive testing program for the Project in accordance with the contract documents. Our Team will be responsible for supervising and coordinating the materials testing program to ensure all required testing is performed with the required frequencies and documented.

Construction Management Tasks

A. Reviewing the contract documents, including plans, specifications, and quantities prior to the preconstruction meeting. | The Z&K Team is aware that prompt review of the project plans, specifications, and quantities, and alternative construction methods allow for cost and schedule savings. Upon notice-to-proceed (NTP), the Z&K Team will conduct a thorough review that will focus on anticipating issues in the field and resolve them through fast and flexible problem solving. This approach will result in timely completion of the work, claims avoidance, and the reduction of public inconvenience. Throughout the project, the inspectors will review plans, specifications, contract documents, plans, and permits. Inspectors will monitor and enforce construction noticing requirements and verify that all work in place is compliant with the project plans and specifications, as well as any Traffic Control, Cal-OSHA, Outside Agency Permits, Standard Plans, and other public right-of-way requirements needed for the project.

B. Attending the Preconstruction Meeting; documenting the information discussed during that meeting in a set of draft meeting minutes transmitted to City staff within five working days and finalized upon receipt of City staff comments. | Z&K will attend a pre-construction conference with the City, affected agencies, and the Contractor, as well as the design engineer, utilities and other agencies. An agenda will be prepared in advance to notify attendees of key items for discussion. At the pre-construction conference, we will discuss concerns, and establish the protocol to be used throughout the project. The

meeting will highlight the contractor's responsibility for items such as order of work, permit and environmental agreements, safety and access, progress pay requests, labor compliance, submittals, RFIs, CCOs, quality control, materials certification, schedule updates, and weekly meetings. Z&K will review the baseline schedule and verify that it meets all the required information prior to issuing the Notice to Proceed to the Contractor. Z&K will prepare and promptly distribute meeting minutes to all attendees.

C. Providing administrative, management, and related services necessary to coordinate the work of the General Contractor and all subcontractors to facilitate timely completion of the project in accordance with the City objectives. | The Z&K team has the knowledge, skill, and experience to ensure that all project services required for this contract are coordinated and delivered in accordance with the plans and specifications. Z&K has carefully selected this "A-Team" of and committed our most qualified staff for the duration of the contract to deliver a successful project.

The assigned Z&K personnel are committed to provide their services at all times required by the contract. Our proposed personnel have successfully provided construction management and inspection for a variety of projects. The Z&K Inspectors are on site daily to observe construction operations and materials and compare them with the project plans and specifications.

D. Assisting the Contractor and City with public notifications, public relations, and public outreach regarding the Project. | Due to the project's proximity to residences, Z&K will provide robust community outreach efforts prior to the start of construction that will inform both the residents in the vicinity of the project and commercial properties in the vicinity of the project the proposed start dates and completion dates of the project. Z&K will provide concierge-level service to the community and residents. Ongoing contact and communication with local residents and business impacted by construction activity is crucial. This will include notification prior to the commencement of construction and throughout the entire process. Outreach will not be limited to minimum City requirements but will be a daily ongoing pursuit. Z&K provides the City with a Weekly Newsletter including construction activities performed the week prior, construction activities scheduled for the week after, and important project progress and updates.

E. Review work progress as compared to the Project Baseline Schedule and inform the City Project Manager of schedule slippage. | Z&K will review the baseline schedule and verify that it meets all the required information prior to issuing the Notice to Proceed to the Contractor. Z&K will prepare and promptly distribute meeting minutes to all attendees. Z&K will establish coordination and a line of communication to be used among participants throughout the project. Z&K will document all necessary communications throughout the project and will ensure that all questions and inquiries are fulfilled in a timely manner. The emphasis on project communication continues throughout the project with the weekly construction meetings.

F. | Monitoring and reporting on the status of project and project construction budget on a monthly basis, indicating the actual costs for completed activities and work in progress, and indicating estimates for uncompleted work. | Z&K will take the lead to ensure a cost management system is properly implemented and maintained. Z&K will track the value of the completed work to ensure accurate and detailed monthly progress billing by the contractor and Z&K will proactively manage the change order process.

G. Identifying variances between actual and budgeted or estimated costs, and advising the City whenever it appears that the construction budget has or will be exceeded for the project as a whole or any project component. | The monthly progress billing will be tied to the construction schedule. A cost loaded critical path method (CPM) schedule is a valuable management tool. Each month, the Construction Inspector will review and approve the updated cost loaded CPM. Work activities and material deliveries will be assigned the correct completion percentage by the Contractor. This will be reviewed by the Construction Inspector and discrepancies will be addressed. If necessary, the Contractor will revise and resubmit the schedule of values. This process ensures the Owner is accurately billed for the completed work on a monthly basis.

H. Maintaining cost accounting records on actual work performed under unit costs or a Schedule of Values (in the event that force account procedures are used or other work monitoring requires accounting records). | We will maintain cost accounting records on actual work performed under unit costs or a Schedule of Values. Z&K will track the value of the completed work to ensure accurate and detailed monthly progress billing by the contractor and Z&K will proactively manage the change order process.

I. Recommending courses of action when the Contractor's or subcontractor's performance is unsatisfactory and assist in carrying out the necessary corrective actions. | Quality management is an inherent CM responsibility. Z&K is knowledgeable and capable in all aspects of quality management. Quality assurance is the application of systematic methods to verify the effective implementation of quality control procedures. Z&K will manage the quality of the project by taking the quality assurance lead role and implementing the Z&K quality assurance program, which allocates quality control responsibilities to the various project participants to ensure the constructed product conforms to the contract plans and specifications. This includes a detailed inspection plan, inspection procedures, and documentation procedures for all inspection and test reports. Z&K will review the Contractor's quality control procedures to ensure adequacy. Quality control issues will be discussed at each weekly meeting. An ongoing deficiencies/corrective items list will be maintained, reviewed, and updated weekly.

J. Maintaining contiguous 24-hour telephone accessibility of the construction activity for emergency use. | At a minimum, the Z&K team will establish and manage a construction 24-hour hotline (toll free number), and email address for project stakeholders, property owners, interested parties, and the general public to call with construction issues and concerns. All calls and public complaints will be documented and investigate. Z&K will

manage and track public inquiries for the Contractor and for the City and will advise of any concerns and findings.

K. [Assisting the Contractor in obtaining all building, grading, and other permits necessary for the project.](#) | The Z&K team is considered a leader in permit compliance and will regularly verify that all permits needed to construct the project are in order and enforced throughout the project. Compliance is a key issue on all construction projects, and all Z&K employees are trained internally, particularly in the areas associated with new permit regulations. Additionally, many Z&K employees hold QSD/QSP certificates. Z&K will review the contractor's compliance with permit requirements, including all building permits, special permits, permits with agencies and utilities, encroachment permits, and NPDES permit. The team will ensure that all applicable fees have been paid and all approvals for jurisdictions over the Project have been obtained.

L. [Ensuring that the following prevailing wage requirements are met: a. Contractor posts a list of prevailing wages in the area for the work to be performed on the project, as required pursuant to Labor Code 1770, in a prominent place at the project site; b. Reviewing all certified payrolls for conformance to the prevailing wage rates.](#) | We will ensure that all prevailing wage requirements will be followed. We will ensure that the Contractor is in conformance with the State of California Labor compliance requirements. Z&K will perform labor compliance tasks as needed, including verifying certified payroll reports, DBE utilization, subcontractor utilization, and labor interviews, to ensure that the Contractor is in compliance with state and federal labor laws.

M. [Providing, managing, coordinating, and ensuring timely completion/approvals in response to all RFIs, shop drawings, product data samples, Change Notices, Intent to File Change notice, and Construction Change Orders \(CCOs\) review, negotiations and issuance of Change order to the Contractor.](#) | The Z&K CM will take a proactive approach with the Contractor and the Design Engineer to ensure the quality of the RFI process is maintained. Z&K regularly performs internal audits of its field operations to ensure the proper implementation of procedures for Z&K's quality assurance program. Z&K will log, track, manage the distribution, and ensure timely review of all RFIs. The log will identify each submittal and resubmittal, the date received, when the submittal, is returned to the contractor, the action required, and other pertinent information. Quality assurance includes quality of the constructed work as well as the quality of the Contractor's document processes (such as RFIs, RFCs, shop drawing submittals, contract schedule adjustments, change orders, payment requests, etc.). Z&K regularly performs internal audits of its field operations to ensure the proper implementation of procedures for Z&K's quality assurance program. Z&K will log, track, manage the distribution, and ensure timely review of all RFIs. The log will identify each submittal and resubmittal, the date received, when the submittal, is returned to the contractor, the action required, and other pertinent information.

N. Following the established City procedures in processing Contract Change Orders (CCO), which are: a. Reviewing requests for change orders received from the Contractor; b. Recommending necessary or desirable project changes to the City; c. Assisting the City in CCO negotiations; d. Submitting recommendations to the City relative to change order requests; and e. Preparing the CCO(s) and obtaining the Contractor's signature. | Z&K works proactively to eliminate or reduce project impacts from extra work reports and change orders. Z&K will provide first-line management of CCO administration including review and evaluation of CCO requests before signing them. Z&K will provide project mitigation such as possible alternatives and negotiation as the City's advocate. We will ensure we receive written approval from the City's Project Manager prior to approval of any extra work. Z&K will perform an investigation and inspection of site conditions that differ from those described in the contract documents and provide recommendations to the project Owner on acceptance. We will perform an impact mitigation, review submittals, and present recommendations for resolution of claims, disputes, and verification of costs.

The CM will perform on-going review throughout the project to anticipate any problems and avoid any potential claims. If claims arise, the CM will work with the City and Contractor to find the best solution to resolve any claims in a timely manner. We will work closely under the direction of the City with the contractor to verify that change orders are processed and executed promptly by the contract documents and City's procedures. The Construction Manager will perform a review and recommendation for any changes.

O. Creating a change order log, which tracks individual CCO costs and cost to-date and includes categorization of all CCO items into one of the following four categories: (1) change in scope; (2) unanticipated conditions; (3) emergency response; or (4) design error or omission. | We will create and maintain a change order log to track the individual CCO costs and cost to-date and include the City's requested categories.

P. Preparing independent cost estimates for comparison and review by the City for all Contractor submitted change notices/orders. | Z&K will continuously prepare independent cost estimate change orders and schedule analysis of work to ensure that all change orders are of technical merit prior to execution. The Inspector will monitor extra work closely.

Q. Coordinating shop drawings and RFI review and response with the Design Engineer (KCG) and City Project Manager. | Z&K will log, track, manage the distribution, and ensure timely review of all RFIs. We will work closely with the Design Engineer and City Project Manager for the review and response of all RFIs.

R. Reviewing Contractor pay requests and preparing the necessary documentation for submittal and approval by the City. | We will work closely under the direction of the City and with the contractor to verify that the contractor's payments are processed, provide recommendations, and ensure they are executed promptly by the contract documents and City's procedures. Z&K will reconcile the work done with the pay requests. Z&K will work with the Contractor on required corrections to the pay requests and ensure that they

are in the format and forms required by the City. The pay requests will be submitted to the City with a statement that they have been reviewed. Z&K will keep accounts of all pay requests including amounts retained, dates submitted, dates paid, actual payments, changes in contract amounts, and any other pertinent information.

S. Tracking all invoices and progress payments in accordance with City policies and Procedures. | Z&K brings a detailed understanding of the City processes for administering Contractor payment per the City's standards & procedures. We will track all invoices and progress payments in accordance with the City policies and procedures.

T. Maintaining the project site record copies of the following: a. Plans, specifications, and contract documents with all changes and modifications; b. Permits; c. Addenda, Change order(s), shop drawings, product data, submittals and samples; d. Progress payments, inventories, and applicable codes; e. Contractor's reports, correspondence, certified payroll records, and accident reports; f. Survey and layout data and certifications, photographs of as-built locations and depths; and g. List of addresses, telephone and license numbers of General Contractor, all subcontractors, material suppliers, and utility agencies. | Proper information flow is crucial to the success of a project. A construction project generates a large amount of information, which must be disseminated to all parties on a timely basis. The source of this information will cover the full spectrum including contracts, meeting minutes, drawings and specifications, submittals, requests for information (RFIs), pay requests, invoices, inspection reports, and so forth. Z&K, as CM, will act as the hub for the management of all information flow. Z&K has extensive experience providing web-based document management solutions for its clients.

Z&K's approach to information management also includes building a communication framework to continually foster partnering and teamwork relationships for all of the project stakeholders. Z&K builds this framework from the start of the project with an all-inclusive kick-off meeting where the lines of communication and project responsibilities will be clearly explained to all of the project stakeholders.

U. Coordinating close-out of the project, obtaining the necessary operation manuals, warranty, guarantees, and other applicable necessary information and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.). | Upon completion of the project and following the final inspection and walkthrough, Z&K will provide the City with both hard and electronic copies of project documentation, including a report stating that the installation of all improvements required by the project have been completed in accordance with the plans and specifications.

Z&K will calculate the amount of final payment due to the prime Contractor and prepare the proposed final estimate. Z&K will also review and process the release of retention. Z&K will obtain evidence of certification of the release of all liens and stop notices. Z&K will obtain certification of delivery of record drawings to the City and design engineer. Z&K

will advise the City when the Notice of Completion (NOC) should be filed. Our Team will prepare a status report for project close-out and provide the “close-out” file to the City.

V. Obtaining releases and warranty bonds from the General Contractor and sub-contractors, and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.). | We will obtain releases and warranty bonds from the General Contractor and sub-contractors and provide all documentation in a well-organized manner.

W. Delivering all keys, manuals, and record drawings to the City, coordinating all final inspections, and providing all documentation in a well-organized manner in electronic and hard copy formats (binders, folders, flash drives, etc.). | Z&K will coordinate project closeout activities provide and City with both hard and electronic copies of project documentation, including a report stating that the installation of all improvements required by the project have been completed in accordance with the plans and specifications.

Z&K will calculate the amount of final payment due to the prime Contractor and prepare the proposed final estimate, review and process the release of retention, obtain evidence of certification of the release of all liens and stop notices, certification of delivery of record drawings to the City and design engineer. Z&K will prepare the final punch list when the contractor has certified and demonstrated the work is substantially complete and advise the City when the Notice of Completion (NOC) should be filed.

X. Preparing status reports for project close-out. | Our Team will prepare a status report for project close-out and provide the “close-out” file to the City.

Y. Presenting City with a complete project close-out file. | Upon completion of the project and following the final inspection and walkthrough, Z&K will provide the City with both hard and electronic copies of project documentation, including a report stating that the installation of all improvements required by the project have been completed in accordance with the plans and specifications. Z&K will calculate the amount of final payment due to the prime Contractor and prepare the proposed final estimate. Z&K will also review and process the release of retention.

Z&K will obtain evidence of certification of the release of all liens and stop notices. Z&K will obtain certification of delivery of record drawings to the City and design engineer. Z&K will advise the City when the Notice of Completion (NOC) should be filed.

Z. Performing such other project-related duties as may be required by the City. | Our Construction Manager will perform other related duties as required for the successful completion of the Project.

AA. Resolving all warranty issues so the City can release the Warranty Bond. | We will resolve all warranty issues so the City can release the Warranty Bond.

EXHIBIT B APPROVED FEE SCHEDULE

Z&K Consultants based our cost proposal on the scope of work provided in the Request for Proposals. All prevailing wage requirements will be followed by the team. All team members are in conformance with the State of California Labor compliance requirements. Rates included in our Cost Proposal are fully billable rates. All overhead costs are included. All insurance will be in force at the time of contract execution.

Project Phases					2023			
	March	April	May	June	July	August	Weeks	
Pre-Construction								
Project Initiation & Document Review							~ 1 week	
Construction								
Construction Duration: 75 Working Days							~ 15 weeks	
Project Closeout								
Punch List, Commissioning & Closeout							~ 1 week	
Staffing Hours	March	April	May	June	July	August	Total	
Construction Manager/Inspector (Full Time)	30	150	150	150	150	30	660	
Project Manager/Office Engineer (Part Time)	20	22.5	22.5	22.5	22.5	20	130	
Senior Construction Manager (Part Time/As-Needed)	6	22.5	22.5	22.5	22.5	6	102	
Total Cost	March	April	May	June	July	August	Total	
Construction Manager/Inspector (Full Time) Hourly Rate = \$140.00/hour	\$4,200.00	\$21,000.00	\$21,000.00	\$21,000.00	\$21,000.00	\$4,200.00	\$92,400.00	
Project Manager/Office Engineer (Part Time) Hourly Rate = \$132.00/hour	\$2,640.00	\$2,970.00	\$2,970.00	\$2,970.00	\$2,970.00	\$2,640.00	\$17,160.00	
Senior Construction Manager (Part Time/As-Needed) Hourly Rate = \$157.00/hour	\$942.00	\$3,532.50	\$3,532.50	\$3,532.50	\$3,532.50	\$942.00	\$16,014.00	
Geotechnical & Material Testing Services (Converse)	-	\$3,000.00	\$5,000.00	\$5,000.00	\$3,000.00	-	\$16,000.00	
Total	\$7,782.00	\$30,502.50	\$32,502.50	\$32,502.50	\$30,502.50	\$7,782.00	\$141,574.00	

Z&K Consultants, Inc Hourly Rates:

Construction Manager/Inspector	\$140.00
Senior Construction Manager	\$157.00
Project Manager/Office Engineer	\$132.00

EXHIBIT C
TERMS FOR COMPLIANCE WITH CALIFORNIA LABOR LAW REQUIREMENTS

1. This Agreement calls for services that, in whole or in part, constitute “public works” as defined in Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code (“Chapter 1”). Further, Contractor acknowledges that this Agreement is subject to (a) Chapter 1 and (b) the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. Therefore, as to those Services that are “public works”, Contractor shall comply with and be bound by all the terms, rules and regulations described in 1(a) and 1(b) as though set forth in full herein.

2. California law requires the inclusion of specific Labor Code provisions in certain contracts. The inclusion of such specific provisions below, whether or not required by California law, does not alter the meaning or scope of Section 1 above.

3. Contractor shall be registered with the Department of Industrial Relations in accordance with California Labor Code Section 1725.5, and has provided proof of registration to City prior to the Effective Date of this Agreement. Contractor shall not perform work with any subcontractor that is not registered with DIR pursuant to Section 1725.5. Contractor and subcontractors shall maintain their registration with the DIR in effect throughout the duration of this Agreement. If the Contractor or any subcontractor ceases to be registered with DIR at any time during the duration of the project, Contractor shall immediately notify City.

4. Pursuant to Labor Code Section 1771.4, Contractor’s Services are subject to compliance monitoring and enforcement by DIR. Contractor shall post job site notices, as prescribed by DIR regulations.

5. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Contractor acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Contractor shall post such rates at each job site covered by this Agreement.

6. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to City, forfeit \$200.00 for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

7. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform City of the location of the records.

8. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

9. The Contractor shall not perform Work with any Subcontractor that has been debarred or suspended pursuant to California Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. The Contractor and Subcontractors shall not be debarred or suspended throughout the duration of this Contract pursuant to Labor Code Section 1777.1 or any other federal or state law providing for the debarment of contractors from public works. If the Contractor or any subcontractor becomes debarred or suspended during the duration of the project, the Contractor shall immediately notify City.

10. Contractor acknowledges that eight hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to City, forfeit \$25.00 for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight hours per day, and 40 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.

11. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

12. For every subcontractor who will perform work on the project, Contractor shall be responsible for such subcontractor's compliance with Chapter 1 and Labor Code Sections 1860 and 3700, and Contractor shall include in the written contract between it and each subcontractor a copy of those statutory provisions and a requirement that each subcontractor shall comply with those statutory provisions. Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a periodic review of the certified payroll records of the subcontractor and upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent permitted by law, Contractor shall indemnify, hold harmless and defend (at Contractor's expense with counsel reasonably acceptable to City) City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers from and against any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Contractor, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses. All duties of Contractor under this Section shall survive the termination of the Agreement.