



**SAN RAFAEL CITY COUNCIL AGENDA REPORT**

Department: Public Works

Prepared by: Adeel Shaikh, Junior Engineer  
April Miller, Public Works Director

City Manager Approval: \_\_\_\_\_

A handwritten signature in blue ink, appearing to be 'AJ', is written over the City Manager Approval line.

**TOPIC: LARGE TRASH CAPTURE DEVICE PROJECTS**

**SUBJECT: AUTHORIZE THE CITY MANAGER TO ENTER INTO PROFESSIONAL SERVICES AGREEMENTS TO PROVIDE DESIGN SERVICES FOR LARGE TRASH CAPTURE DEVICES WITH:**

- 1. SCHAAF & WHEELER CONSULTING CIVIL ENGINEERS (S&W) IN THE AMOUNT NOT TO EXCEED \$476,565, AND**
- 2. BKF ENGINEERS (BKF) IN THE AMOUNT NOT TO EXCEED \$421,300.**

**RECOMMENDATION:**

Staff recommends the following:

1. Authorize the City Manager to enter into a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers (“S&W”) to provide design services for large trash capture devices at three locations, in the amount not to exceed \$476,565.
2. Authorize the City Manager to enter into a Professional Services Agreement with BKF Engineers (“BKF”) to provide design services for large trash capture devices at two locations, in the amount not to exceed \$421,300.

**BACKGROUND:**

On April 7, 2015, the State Water Board adopted an amendment to the Water Quality Control Plan for Ocean Waters of California (“Ocean Plan”) and an amendment to the Part 1 Trash Provision of the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries (“ISWEBE Plan”). The two amendments are collectively referred to as the “Trash Amendments.” The main objectives of the Trash Amendments are (1) to provide statewide consistency for the Water Boards' regulatory approach, (2) to protect aquatic life and benefit public health and (3) to reduce environmental issues associated with trash in state waters, while focusing limited resources on high trash generating areas.

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**FOR CITY CLERK ONLY**

**Council Meeting:**

**Disposition:**

## **SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2**

The City of San Rafael is required to demonstrate 100 percent compliance with the Trash Amendments by December 1, 2030. Full compliance with the Trash Amendments requires the City to install, operate, and maintain State-certified, Full Capture System (“FCS”) devices that capture all trash that are 5 millimeters or greater in size from defined Priority Land Use (“PLU”) areas. PLU areas include all industrial, commercial, mixed-use, high-density residential, and public transportation station areas.

County of Marin staff that are part of the Marin Countywide Stormwater Pollution Prevention Program (“MCSTOPPP”) have been assisting municipalities to comply with the Trash Amendments by completing feasibility studies and conceptual designs, and by securing funding for design and construction of trash capture projects. The City of San Rafael will receive \$906,653 in funding from MCSTOPPP through a U.S. Environmental Protection Agency (“EPA”) San Francisco Bay Water Quality Improvement Fund (“WQIF”) grant for the design and environmental permitting of large trash capture devices at the following five (5) locations:

1. SR-108 (Irwin St & Francisco Blvd W)
2. SR-129 (Redwood Hwy)
3. SR-143 (Rossi Pump Station)
4. SR-002 (Canal Pump Station)
5. SR-110 (San Quentin Pump Station)

### **ANALYSIS:**

The City released a Request for Proposals (RFP) for this project on June 13, 2024. The RFP described the selection criteria and process, including the potential for entering into separate professional services agreement with one or more consultants for the design of the large trash capture devices (TCD) and selecting consultant(s) for specific TCD locations based on consultant qualifications.

On July 11, 2024, the City received two (2) proposals from qualified firms for all five (5) TCD locations, excluding cost estimates. Each proposal was evaluated by a selection committee, consisting of City and MCSTOPPP staff, based on criteria specified in the RFP, including, but not limited to, completeness of the proposal, relevant experience and success in similar projects, experience and quality of project team, understanding of the project scope of work, ability to meet deadlines and operate within budget, and references by former clients on similar projects.

After reviewing the proposals, both firms were invited to participate in a video conference interview with the selection committee. The committee found both firms and their sub-consultants to be well qualified consultant teams for the large TCD projects and selected consultants for specific TCD locations based on consultant qualifications. City staff recommends awarding the design and permitting of trash capture devices at three (3) of the locations, namely SR-002, SR-129, and SR-143, to S&W and the remaining two (2) of the locations, namely SR-108 and SR-110, to BKF. Cost proposals were requested from each consultant for their respective TCD locations.

The recommended professional services agreements with S&W and BKF will provide professional services associated with developing designs for the respective TCDs, including project management, preliminary engineering, design, and environmental compliance and permitting.

### **FISCAL IMPACT:**

The Large Trash Capture Device Projects are identified in the 2024-25 Capital Improvement Program. The two professional services agreements, totaling \$897,865, will be funded with the appropriations included in the FY 2024-25 Budget (Stormwater Fund - #205) approved by the City Council on [June 17, 2024](#). Underlying funding sources for these projects include \$906,653 in EPA WQIF grant funding, which will be used to reimburse the City for work performed under the two professional service agreements.

**OPTIONS:**

The City Council has the following options to consider on this matter:

1. Authorize the City Manager to enter into the agreements as recommended.
2. Do not authorize the City Manager to enter into the agreements and provide further direction to staff.

**RECOMMENDED ACTION:**

Staff recommends the following:

1. Authorize the City Manager to enter into a Professional Services Agreement with Schaaf & Wheeler Consulting Civil Engineers ("S&W") to provide design services for large trash capture devices at three locations, in the amount not to exceed \$476,565.
2. Authorize the City Manager to enter into a Professional Services Agreement with BKF Engineers ("BKF") to provide design services for large trash capture devices at two locations, in the amount not to exceed \$421,300.

**ATTACHMENT:**

1. Agreement with Schaaf & Wheeler Consulting Civil Engineers (S&W) for large trash capture design services for three locations
2. Agreement with BKF Engineers (BKF) for large trash capture design services for two locations

**AGREEMENT FOR PROFESSIONAL SERVICES  
BY AND BETWEEN  
THE CITY OF SAN RAFAEL  
AND  
SCHAAF & WHEELER, CONSULTING CIVIL ENGINEERS  
FOR LARGE TRASH CAPTURE DESIGN SERVICES**

This Agreement is made and entered into as of \_\_\_\_\_ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter "**CITY**"), and SCHAAF & WHEELER, CONSULTING CIVIL ENGINEERS, a California corporation (hereinafter "**CONSULTANT**"). **CITY** and **CONSULTANT** may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

A. **CITY** desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. **CONSULTANT** represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of **CITY**; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

**NOW, THEREFORE**, the parties hereby agree as follows:

**AGREEMENT**

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, **CONSULTANT** shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by **CITY** at its sole risk and expense. Services to be provided to **CITY** are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” **CONSULTANT** acknowledges that the execution of this Agreement by **CITY** is predicated upon representations made by **CONSULTANT** in that certain proposal (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for **CONSULTANT**’s complete performance of Services, **CITY** shall pay **CONSULTANT** for all materials provided and services rendered by **CONSULTANT** at the unit

rates and rates per hour for labor, as set forth in **Exhibit A**, for a total amount not to exceed \$476,565.

**CONSULTANT** will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of invoice.

3. **TERM OF AGREEMENT.**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on March 1, 2027.

4. **PROJECT COORDINATION.**

A. **CITY'S Project Manager.** Adeel Shaikh is hereby designated the PROJECT MANAGER for the **CITY** and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

B. **CONSULTANT'S Project Director.** **CONSULTANT** shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for **CONSULTANT**. Caitlin Tharp is hereby designated as the PROJECT DIRECTOR for **CONSULTANT**. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR, for any reason, the **CONSULTANT** shall notify the **CITY** within ten (10) business days of the substitution.

5. **TERMINATION.**

A. **Discretionary.** Either party may terminate this Agreement without cause upon thirty (30) days written notice mailed or personally delivered to the other party.

B. **Cause.** Either party may terminate this Agreement for cause upon fifteen (15) days written notice mailed or personally delivered to the other party, and the notified party's failure to cure or correct the cause of the termination, to the reasonable satisfaction of the party giving such notice, within such fifteen (15) day time period.

C. **Effect of Termination.** Upon receipt of notice of termination, neither party shall incur additional obligations under any provision of this Agreement without the prior written consent of the other.

D. **Return of Documents.** Upon termination, any and all **CITY** documents or materials provided to **CONSULTANT** and any and all of **CONSULTANT's** documents and materials prepared for or relating to the performance of its duties under this Agreement, shall be delivered to **CITY** as soon as possible, but not later than thirty (30) days after termination.

6. OWNERSHIP OF DOCUMENTS.

The written documents and materials prepared by the **CONSULTANT** in connection with the performance of its duties under this Agreement, shall be the sole property of **CITY**. **CITY** may use said property for any purpose, including projects not contemplated by this Agreement.

7. INSPECTION AND AUDIT.

Upon reasonable notice, **CONSULTANT** shall make available to **CITY**, or its agent, for inspection and audit, all documents and materials maintained by **CONSULTANT** in connection with its performance of its duties under this Agreement. **CONSULTANT** shall fully cooperate with **CITY** or its agent in any such audit or inspection.

8. ASSIGNABILITY.

The parties agree that they shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

A. Except as otherwise provided in subparagraph B of this section, **CONSULTANT** shall, to the fullest extent permitted by law, indemnify, release, defend with counsel approved by **CITY**, and hold harmless **CITY**, its officers, agents, employees and volunteers (collectively, the “**City Indemnitees**”), from and against any claim, demand, suit, judgment, loss, liability or expense of any kind, including but not limited to attorney's fees, expert fees and all other costs and fees of litigation, (collectively “**CLAIMS**”), arising out of **CONSULTANT’S** performance of its obligations or conduct of its operations under this Agreement. The **CONSULTANT'S** obligations apply regardless of whether or not a liability is caused or contributed to by the active or passive negligence of the **City Indemnitees**. However, to the extent that liability is caused by the active negligence or willful misconduct of the **City Indemnitees**, the **CONSULTANT'S** indemnification obligation shall be reduced in proportion to the **City Indemnitees’** share of liability for the active negligence or willful misconduct. In addition, the acceptance or approval of the **CONSULTANT’S** work or work product by the **CITY** or any of its directors, officers or employees shall not relieve or reduce the **CONSULTANT’S** indemnification obligations. In the event the **City Indemnitees** are made a party to any action, lawsuit, or other adversarial proceeding arising from **CONSULTANT’S** performance of or operations under this Agreement,

**CONSULTANT** shall provide a defense to the **City Indemnitees** or at **CITY'S** option reimburse the **City Indemnitees** their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

B. Where the services to be provided by **CONSULTANT** under this Agreement are design professional services to be performed by a design professional as that term is defined under Civil Code Section 2782.8, then, to the extent permitted by law including without limitation, Civil Code sections 2782, 2782.6 and 2782.8, **CONSULTANT** shall indemnify and hold harmless the **CITY** and its officers, officials, and employees (collectively **City Indemnitees**) from and against damages, liabilities or costs (including incidental damages, Court costs, reasonable attorney's fees as may be determined by the Court, litigation expenses and fees of expert witnesses incurred in connection therewith and costs of investigation) to the extent they are caused by the negligence, recklessness, or willful misconduct of **CONSULTANT**, or any subconsultants, or subcontractor or anyone directly or indirectly employed by them, or anyone for whom they are legally liable (collectively Liabilities). Such obligation to hold harmless and indemnify any indemnity shall not apply to the extent that such Liabilities are caused in part by the negligence or willful misconduct of such City Indemnitee.

C. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement, and shall survive the termination or completion of this Agreement for the full period of time allowed by law.

11. **NONDISCRIMINATION.**

**CONSULTANT** shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

12. **COMPLIANCE WITH ALL LAWS.**

**CONSULTANT** shall observe and comply with all applicable federal, state and local laws, ordinances, codes and regulations, in the performance of its duties and obligations under this Agreement. **CONSULTANT** shall perform all services under this Agreement in accordance with these laws, ordinances, codes and regulations. **CONSULTANT** shall release, defend, indemnify and hold harmless **CITY**, its officers, agents and employees from any and all damages, liabilities, penalties, fines and all other consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

13. **NO THIRD PARTY BENEFICIARIES.**

**CITY** and **CONSULTANT** do not intend, by any provision of this Agreement, to create in any third party, any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

14. NOTICES.

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

To **CITY**'s Project Manager:

Adeel Shaikh, Junior Engineer  
111 Morphew Street  
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Caitlin Tharp  
4699 Old Ironside Dr, Ste 350  
Santa Clara, CA, 95054

15. INDEPENDENT CONTRACTOR.

For the purposes, and for the duration, of this Agreement, **CONSULTANT**, its officers, agents and employees shall act in the capacity of an Independent Contractor, and not as employees of the **CITY**. **CONSULTANT** and **CITY** expressly intend and agree that the status of **CONSULTANT**, its officers, agents and employees be that of an Independent Contractor and not that of an employee of **CITY**.

16. ENTIRE AGREEMENT -- AMENDMENTS.

A. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference, represent the entire Agreement of the parties with respect to the subject matter of this Agreement.

B. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between the **CONSULTANT** and the **CITY**.

C. No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.

D. The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by the **CONSULTANT** and the **CITY**.

E. If any conflicts arise between the terms and conditions of this Agreement, and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.

17. SET-OFF AGAINST DEBTS.

**CONSULTANT** agrees that **CITY** may deduct from any payment due to **CONSULTANT** under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance,



agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

The waiver by either party of any breach or violation of any term, covenant or condition of this Agreement, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, condition, covenant of this Agreement or any applicable law, ordinance or regulation.

19. COSTS AND ATTORNEY'S FEES.

The prevailing party in any action brought to enforce the terms and conditions of this Agreement, or arising out of the performance of this Agreement, may recover its reasonable costs (including claims administration) and attorney's fees expended in connection with such action.

20. CITY BUSINESS LICENSE / OTHER TAXES.

**CONSULTANT** shall obtain and maintain during the duration of this Agreement, a **CITY** business license as required by the San Rafael Municipal Code, and **CONSULTANT** shall pay any and all state and federal taxes and any other applicable taxes. **CITY** shall not be required to pay for any work performed under this Agreement, until **CONSULTANT** has provided **CITY** with a completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification).

21. SURVIVAL OF TERMS.

Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled and shall apply to both Parties' respective successors and assigns.

22. APPLICABLE LAW.

The laws of the State of California shall govern this Agreement.

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

*[Signatures are on the following page.]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

**CITY OF SAN RAFAEL:**

**CONSULTANT:**

\_\_\_\_\_  
CRISTINE ALILOVICH, City Manager

\_\_\_\_\_  
By: \_\_\_\_\_

APPROVED AS TO FORM:  
**Office of the City Attorney**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
By: ROBERT F. EPSTEIN,  
City Attorney

[If CONSULTANT is a corporation, add  
signature of second corporate officer]

ATTEST:  
**City Clerk**

\_\_\_\_\_  
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
LINDSAY LARA, City Clerk

**EXHIBIT A**  
**SCOPE OF SERVICES**

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT's** proposal, which is attached to this Exhibit A.

# Exhibit A

<b>Cost Proposal for Canal SR-002, Redwood Hwy SR-129, Rossi SR-143</b>		Principal Project Manager	Senior Project Manager	Senior Engineer	Assistant Engineer	CAD Designer	Schaaf & Wheeler Total	Kier + Wright	Shannon Wilson	Bess Testlab	Peoples Structural	NCE	Total
		Hourly Rates	\$295	\$270	\$250	\$200	\$175						
<b>Task 1</b>	<b>Project Management</b>	40	0	0	8	0	\$13,400	\$0	\$0	\$0	\$0	\$0	\$13,400
1.1	Invoicing	24					\$7,080						\$7,080
1.2	Meetings with Agenda's and Minutes	8			8		\$3,960						\$3,960
1.3	Schedules	8					\$2,360						\$2,360
<b>Task 2</b>	<b>Preliminary Engineering</b>	19	2	8	156	12	\$41,445	\$2,700	\$51,500	\$20,000	\$0	\$0	\$115,645
2.1	Field Visit	2			2		\$990						\$990
2.2	Utility Research, GPR and Pothing for Site 002	2			4		\$1,390	\$2,700		\$20,000			\$24,090
2.3	Boundary Research and Topographic Survey SR-129 and SR-002						\$0						\$0
2.4	Geotechnical Investigation for Site 002	4			4		\$1,980		\$51,500				\$53,480
2.5	Hydraulic Modeling & Pump Station Hydraulic Analysis	4		8	100		\$23,180						\$23,180
2.6	Cost Estimates	3			6		\$2,085						\$2,085
2.7	35% Concept Design for Site 002	4	2		40	12	\$11,820						\$11,820
<b>Task 3</b>	<b>Design (assumes one bid package for all three sites)</b>	36	16	0	400	72	\$107,540	\$0	\$5,000	\$0	\$40,000	\$0	\$152,540
3.1	Basis of Design Report	4	3		76		\$17,190						\$17,190
3.2	65% Design Package, including Canal 002 Piles	16	6		140	32	\$39,940		\$2,000		\$9,100		\$51,040
3.3	95% Design Package, including Canal 002 Piles	8	3		100	24	\$27,370		\$2,000		\$18,000		\$47,370
3.4	100% Design Package, including Canal 002 Piles	4	3		64	16	\$17,590		\$1,000		\$12,900		\$31,490
3.5	O&M Plan	2	1		12		\$3,260						\$3,260
3.6	Utility Coordination Site 002	2			8		\$2,190						\$2,190
<b>Task 4</b>	<b>Environmental Compliance and Permitting</b>	22	0	0	64	0	\$19,290	\$0	\$0	\$0	\$0	\$107,680	\$126,970
4.1	Meetings & Project Management	4			4		\$1,980					\$11,525	\$13,505
4.2	Technical Studies: biological, cultural, aquatic resources	2			4		\$1,390					\$40,895	\$42,285
4.4	Permit Applications	4			16		\$4,380					\$55,260	\$59,640
4.5	CEQA Catex; no additional work needed						\$0						\$0
4.6	Caltrans TMDL Compliance Report	4			16		\$4,380						\$4,380
4.7	Caltrans Encroachment Permit Site SR-129	8			24		\$7,160						\$7,160
<b>Task 5</b>	<b>Bid Support Services (Optional)</b>	12	3	0	15	6	\$8,400	\$0	\$0	\$0	\$3,500	\$0	\$11,900
5.1	Prepare RFI response and addenda	6			12	6	\$5,220				\$3,500		\$8,720
5.2	Review and Recommend Bids	6	3		3		\$3,180						\$3,180
<b>Task 6</b>	<b>Construction Support Services (Optional)</b>	38	0	0	66	0	\$24,410	\$0	\$4,700	\$0	\$17,000	\$0	\$46,110
6.1	Meetings (8 total)	12			8		\$5,140						\$5,140
6.2	RFI Response (5 total)	10			20		\$6,950		\$4,700				\$11,650
6.3	Submittal Review (10 total)	10			30		\$8,950				\$17,000		\$25,950
6.6	Punch List Final Walk (3 sites)	6			8		\$3,370						\$3,370
<b>Task 7</b>	<b>Optional Services</b>	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0	\$0	\$10,000
7.1	Geotechnical Boring Hot Patch Site 002						\$0		\$10,000				\$10,000
<b>Total</b>		167	21	8	709	90	\$214,485	\$2,700	\$61,200	\$20,000	\$60,500	\$107,680	\$476,565

## **EXHIBIT B INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

A. **Scope of Coverage.** During the term of this Agreement, **CONSULTANT** shall maintain, at no expense to **CITY**, the following insurance policies:

1. **Commercial general liability.** A commercial general liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, for death, bodily injury, personal injury, or property damage.

2. **Automobile liability.** An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence.

3. **Professional liability.** If any licensed professional performs any of the services required to be performed under this Agreement, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, to cover any claims arising out of the **CONSULTANT's** performance of services under this Agreement. Where **CONSULTANT** is a professional not required to have a professional license, **CITY** reserves the right to require **CONSULTANT** to provide professional liability insurance pursuant to this section.

4. **Workers' compensation.** If it employs any person, **CONSULTANT** shall maintain workers' compensation insurance, as required by the State of California, with statutory limits, and employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease. **CONSULTANT's** workers' compensation insurance shall be specifically endorsed to waive any right of subrogation against **CITY**.

B. **Other Insurance Requirements.** The insurance coverage required of the **CONSULTANT** in subparagraph A of this section above shall also meet the following requirements:

1. Except for professional liability insurance or workers' compensation insurance, the insurance policies shall be specifically endorsed to include the **CITY**, its officers, agents, employees, and volunteers, as additional insureds (for both ongoing and completed operations) under the policies.

2. The additional insured coverage under **CONSULTANT's** insurance policies shall be "primary and noncontributory" with respect to any insurance or coverage maintained by **CITY** and shall not call upon **CITY's** insurance or self-insurance coverage for any contribution. The "primary and noncontributory" coverage in **CONSULTANT'S** policies shall be at least as broad as

ISO form CG20 01 04 13.

3. Except for professional liability insurance or workers' compensation insurance, the insurance policies shall include, in their text or by endorsement, coverage for contractual liability and personal injury.

4. By execution of this Agreement, **CONSULTANT** hereby grants to **CITY** a waiver of any right to subrogation which any insurer of **CONSULTANT** may acquire against **CITY** by virtue of the payment of any loss under such insurance. **CONSULTANT** agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not **CITY** has received a waiver of subrogation endorsement from the insurer.

5. If the insurance is written on a Claims Made Form, then, following termination of this Agreement, said insurance coverage shall survive for a period of not less than five years.

6. The insurance policies shall provide for a retroactive date of placement coinciding with the Effective Date of this Agreement.

7. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of **CITY** (if agreed to in a written contract or agreement) before **CITY'S** own insurance or self-insurance shall be called upon to protect it as a named insured.

8. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to **CITY** or any other additional insured party. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the **CONSULTANT** under this Agreement.

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any

such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

**C. Deductibles and SIR's.** Any deductibles or self-insured retentions in **CONSULTANT's** insurance policies must be declared to and approved by the **CITY** and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or **CITY** or other additional insured party. At **CITY's** option, the deductibles or self-insured retentions with respect to **CITY** shall be reduced or eliminated to **CITY's** satisfaction, or **CONSULTANT** shall procure a bond guaranteeing payment of losses and related investigations, claims administration, attorney's fees and defense expenses.

**D. Proof of Insurance.** **CONSULTANT** shall provide to the **PROJECT MANAGER** all of the following: (1) Certificates of Insurance evidencing the insurance coverage required in this Agreement; (2) a copy of the policy declaration page and/or endorsement page listing all policy endorsements for the commercial general liability policy, and (3) excerpts of policy language or specific endorsements evidencing the other insurance requirements set forth in this Agreement. **CITY** reserves the right to obtain a full certified copy of any insurance policy and endorsements from **CONSULTANT**. Failure to exercise this right shall not constitute a waiver of the right to exercise it later. The insurance shall be approved as to form and sufficiency by the **CITY**.



**AGREEMENT FOR PROFESSIONAL SERVICES  
BY AND BETWEEN  
THE CITY OF SAN RAFAEL  
AND  
BKF ENGINEERS  
FOR LARGE TRASH CAPTURE DESIGN SERVICES**

This Agreement is made and entered into as of \_\_\_\_\_ (the “Effective Date”), by and between the CITY OF SAN RAFAEL, a chartered California municipal corporation (hereinafter "CITY"), and BKF ENGINEERS, a California corporation (hereinafter "CONSULTANT"). CITY and CONSULTANT may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

A. CITY desires to secure professional services more fully described in this Agreement, at **Exhibit A**, entitled “SCOPE OF SERVICES”; and

B. CONSULTANT represents that it, and its subcontractors, if any, have the professional qualifications, expertise, and necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of CITY; and

C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

**NOW, THEREFORE**, the parties hereby agree as follows:

**AGREEMENT**

1. **SERVICES TO BE PROVIDED.**

Except as otherwise may be expressly specified in this Agreement, CONSULTANT shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by CITY at its sole risk and expense. Services to be provided to CITY are more fully described in **Exhibit A** entitled “SCOPE OF SERVICES.” CONSULTANT acknowledges that the execution of this Agreement by CITY is predicated upon representations made by CONSULTANT in that certain proposal, dated July 29, 2024 (“Proposal”) set forth in **Exhibit A**, which constitutes the basis for this Agreement.

2. **COMPENSATION.**

In consideration for CONSULTANT’s complete performance of Services, CITY shall pay CONSULTANT for all materials provided and services rendered by CONSULTANT at the unit rates and rates per hour for labor, as set forth in **Exhibit A**, for a total amount not to exceed

\$421,300.

**CONSULTANT** will bill City on a monthly basis for Services provided by **CONSULTANT** during the preceding month, subject to verification by **CITY**. **CITY** will pay **CONSULTANT** within thirty (30) days of City's receipt of invoice.

3. TERM OF AGREEMENT.

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin on the Effective Date of this Agreement and terminate on March 1, 2027.

4. PROJECT COORDINATION.

A. **CITY'S Project Manager.** Adeel Shaikh is hereby designated the PROJECT MANAGER for the **CITY** and said PROJECT MANAGER shall supervise all aspects of the progress and execution of this Agreement.

B. **CONSULTANT'S Project Director.** **CONSULTANT** shall assign a single PROJECT DIRECTOR to have overall responsibility for the progress and execution of this Agreement for **CONSULTANT**. Roger Chung is hereby designated as the PROJECT DIRECTOR for **CONSULTANT**. Should circumstances or conditions subsequent to the execution of this Agreement require a substitute PROJECT DIRECTOR, for any reason, the **CONSULTANT** shall notify the **CITY** within ten (10) business days of the substitution.

5. TERMINATION.

A. **Discretionary.** Either party may terminate this Agreement without cause upon thirty (30) days written notice mailed or personally delivered to the other party.

B. **Cause.** Either party may terminate this Agreement for cause upon fifteen (15) days written notice mailed or personally delivered to the other party, and the notified party's failure to cure or correct the cause of the termination, to the reasonable satisfaction of the party giving such notice, within such fifteen (15) day time period.

C. **Effect of Termination.** Upon receipt of notice of termination, neither party shall incur additional obligations under any provision of this Agreement without the prior written consent of the other.

D. **Return of Documents.** Upon termination, any and all **CITY** documents or materials provided to **CONSULTANT** and any and all of **CONSULTANT's** documents and materials prepared for or relating to the performance of its duties under this Agreement, shall be delivered to **CITY** as soon as possible, but not later than thirty (30) days after termination.

6. OWNERSHIP OF DOCUMENTS.

The written documents and materials prepared by the **CONSULTANT** in connection with the performance of its duties under this Agreement, shall be the sole property of **CITY**. **CITY** may use said property for any purpose, including projects not contemplated by this Agreement.

7. INSPECTION AND AUDIT.

Upon reasonable notice, **CONSULTANT** shall make available to **CITY**, or its agent, for inspection and audit, all documents and materials maintained by **CONSULTANT** in connection with its performance of its duties under this Agreement. **CONSULTANT** shall fully cooperate with **CITY** or its agent in any such audit or inspection.

8. ASSIGNABILITY.

The parties agree that they shall not assign or transfer any interest in this Agreement nor the performance of any of their respective obligations hereunder, without the prior written consent of the other party, and any attempt to so assign this Agreement or any rights, duties or obligations arising hereunder shall be void and of no effect.

9. INSURANCE REQUIREMENTS.

During the term of this Agreement, and for any time period set forth in **Exhibit B**, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in **Exhibit B**.

10. INDEMNIFICATION.

A. Except as otherwise provided in subparagraph B of this section, **CONSULTANT** shall, to the fullest extent permitted by law, indemnify, release, defend with counsel approved by **CITY**, and hold harmless **CITY**, its officers, agents, employees and volunteers (collectively, the “**City Indemnitees**”), from and against any claim, demand, suit, judgment, loss, liability or expense of any kind, including but not limited to attorney's fees, expert fees and all other costs and fees of litigation, (collectively “**CLAIMS**”), arising out of **CONSULTANT’S** performance of its obligations or conduct of its operations under this Agreement. The **CONSULTANT'S** obligations apply regardless of whether or not a liability is caused or contributed to by the active or passive negligence of the **City Indemnitees**. However, to the extent that liability is caused by the active negligence or willful misconduct of the **City Indemnitees**, the **CONSULTANT'S** indemnification obligation shall be reduced in proportion to the **City Indemnitees’** share of liability for the active negligence or willful misconduct. In addition, the acceptance or approval of the **CONSULTANT’S** work or work product by the **CITY** or any of its directors, officers or employees shall not relieve or reduce the **CONSULTANT’S** indemnification obligations. In the event the **City Indemnitees** are made a party to any action, lawsuit, or other adversarial proceeding arising from **CONSULTANT’S** performance of or operations under this Agreement,

**CONSULTANT** shall provide a defense to the **City Indemnitees** or at **CITY'S** option reimburse the **City Indemnitees** their costs of defense, including reasonable attorneys' fees, incurred in defense of such claims.

B. Where the services to be provided by **CONSULTANT** under this Agreement are design professional services to be performed by a design professional as that term is defined under Civil Code Section 2782.8, then, to the extent permitted by law including without limitation, Civil Code sections 2782, 2782.6 and 2782.8, **CONSULTANT** shall indemnify and hold harmless the **CITY** and its officers, officials, and employees (collectively **City Indemnitees**) from and against damages, liabilities or costs (including incidental damages, Court costs, reasonable attorney's fees as may be determined by the Court, litigation expenses and fees of expert witnesses incurred in connection therewith and costs of investigation) to the extent they are caused by the negligence, recklessness, or willful misconduct of **CONSULTANT**, or any subconsultants, or subcontractor or anyone directly or indirectly employed by them, or anyone for whom they are legally liable (collectively Liabilities). Such obligation to hold harmless and indemnify any indemnity shall not apply to the extent that such Liabilities are caused in part by the negligence or willful misconduct of such City Indemnitee.

C. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement, and shall survive the termination or completion of this Agreement for the full period of time allowed by law.

11. **NONDISCRIMINATION.**

**CONSULTANT** shall not discriminate, in any way, against any person on the basis of age, sex, race, color, religion, ancestry, national origin or disability in connection with or related to the performance of its duties and obligations under this Agreement.

12. **COMPLIANCE WITH ALL LAWS.**

**CONSULTANT** shall observe and comply with all applicable federal, state and local laws, ordinances, codes and regulations, in the performance of its duties and obligations under this Agreement. **CONSULTANT** shall perform all services under this Agreement in accordance with these laws, ordinances, codes and regulations. **CONSULTANT** shall release, defend, indemnify and hold harmless **CITY**, its officers, agents and employees from any and all damages, liabilities, penalties, fines and all other consequences from any noncompliance or violation of any laws, ordinances, codes or regulations.

13. **NO THIRD PARTY BENEFICIARIES.**

**CITY** and **CONSULTANT** do not intend, by any provision of this Agreement, to create in any third party, any benefit or right owed by one party, under the terms and conditions of this Agreement, to the other party.

14. NOTICES.

All notices and other communications required or permitted to be given under this Agreement, including any notice of change of address, shall be in writing and given by personal delivery, or deposited with the United States Postal Service, postage prepaid, addressed to the parties intended to be notified. Notice shall be deemed given as of the date of personal delivery, or if mailed, upon the date of deposit with the United States Postal Service. Notice shall be given as follows:

To **CITY**'s Project Manager:

Adeel Shaikh, Junior Engineer  
111 Morphew Street  
San Rafael, CA 94901

To **CONSULTANT**'s Project Director:

Roger Chung  
255 Shoreline Drive, Ste 200  
Redwood City, CA, 94065

15. INDEPENDENT CONTRACTOR.

For the purposes, and for the duration, of this Agreement, **CONSULTANT**, its officers, agents and employees shall act in the capacity of an Independent Contractor, and not as employees of the **CITY**. **CONSULTANT** and **CITY** expressly intend and agree that the status of **CONSULTANT**, its officers, agents and employees be that of an Independent Contractor and not that of an employee of **CITY**.

16. ENTIRE AGREEMENT -- AMENDMENTS.

A. The terms and conditions of this Agreement, all exhibits attached, and all documents expressly incorporated by reference, represent the entire Agreement of the parties with respect to the subject matter of this Agreement.

B. This written Agreement shall supersede any and all prior agreements, oral or written, regarding the subject matter between the **CONSULTANT** and the **CITY**.

C. No other agreement, promise or statement, written or oral, relating to the subject matter of this Agreement, shall be valid or binding, except by way of a written amendment to this Agreement.

D. The terms and conditions of this Agreement shall not be altered or modified except by a written amendment to this Agreement signed by the **CONSULTANT** and the **CITY**.

E. If any conflicts arise between the terms and conditions of this Agreement, and the terms and conditions of the attached exhibits or the documents expressly incorporated by reference, the terms and conditions of this Agreement shall control.

17. SET-OFF AGAINST DEBTS.

**CONSULTANT** agrees that **CITY** may deduct from any payment due to **CONSULTANT** under this Agreement, any monies which **CONSULTANT** owes **CITY** under any ordinance,

agreement, contract or resolution for any unpaid taxes, fees, licenses, assessments, unpaid checks or other amounts.

18. WAIVERS.

The waiver by either party of any breach or violation of any term, covenant or condition of this Agreement, or of any ordinance, law or regulation, shall not be deemed to be a waiver of any other term, covenant, condition, ordinance, law or regulation, or of any subsequent breach or violation of the same or other term, covenant, condition, ordinance, law or regulation. The subsequent acceptance by either party of any fee, performance, or other consideration which may become due or owing under this Agreement, shall not be deemed to be a waiver of any preceding breach or violation by the other party of any term, condition, covenant of this Agreement or any applicable law, ordinance or regulation.

19. COSTS AND ATTORNEY'S FEES.

The prevailing party in any action brought to enforce the terms and conditions of this Agreement, or arising out of the performance of this Agreement, may recover its reasonable costs (including claims administration) and attorney's fees expended in connection with such action.

20. CITY BUSINESS LICENSE / OTHER TAXES.

**CONSULTANT** shall obtain and maintain during the duration of this Agreement, a **CITY** business license as required by the San Rafael Municipal Code, and **CONSULTANT** shall pay any and all state and federal taxes and any other applicable taxes. **CITY** shall not be required to pay for any work performed under this Agreement, until **CONSULTANT** has provided **CITY** with a completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification).

21. SURVIVAL OF TERMS.

Any terms of this Agreement that by their nature extend beyond the term (or termination) of this Agreement shall remain in effect until fulfilled and shall apply to both Parties' respective successors and assigns.

22. APPLICABLE LAW.

The laws of the State of California shall govern this Agreement.

23. COUNTERPARTS AND ELECTRONIC SIGNATURE.

This Agreement may be executed by electronic signature and in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one document. Counterpart signature pages may be delivered by telecopier, email or other means of electronic transmission.

*[Signatures are on the following page.]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day, month and year first above written.

**CITY OF SAN RAFAEL:**

**CONSULTANT:**

\_\_\_\_\_  
CRISTINE ALILOVICH, City Manager

\_\_\_\_\_  
By: \_\_\_\_\_

APPROVED AS TO FORM:  
**Office of the City Attorney**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
By: ROBERT F. EPSTEIN,  
City Attorney

[If CONSULTANT is a corporation, add  
signature of second corporate officer]

ATTEST:  
**City Clerk**

\_\_\_\_\_  
By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

\_\_\_\_\_  
LINDSAY LARA, City Clerk



**EXHIBIT A**  
**SCOPE OF SERVICES**

The Services to be performed for **CITY** by **CONSULTANT** under this Agreement are more fully described in **CONSULTANT's** proposal, which is attached to this Exhibit A.

# Exhibit A

City of San Rafael  
 Design of Large Trash Capture Devices (City File No. 08.02.292) SR-108/SR-110 Survey for SR-108/SR-110/SR-129/SR-002  
 July 29,2024



## ESTIMATED FEES & EXPENSES

Tasks	Description	BKF Engineers						Total Fees		Expenses	Task Total		
		PIC	SPM	SPE	PE	DE	EA	2MC	hrs		Fees	hrs	Fees
		hrs	hrs	hrs	hrs	hrs	hrs	hrs					
<b>1. Project Management</b>													
	Meetings (5 Total, Virtual)	2	8	8					18	\$4,500		18	\$4,500
	Project Management and Coordination	4	40				6		50	\$12,444		50	\$12,444
<b>2. Preliminary Engineering</b>													
	2.1 Utility Locating (SR-110)					12	8		20	\$2,888	\$1,650	20	\$4,538
	2.2 Topographic Surveying and Boundary Reseach (SR-108/SR-110/SR-129/SR-002)	2	3	9		32		20	66	\$16,137		66	\$16,137
	2.3 Geotechnical Investigation (SR-108/SR-110)		4						4	\$1,060	\$52,140	4	\$53,200
	2.4 Hydraulic Flooding Impact Analysis (SR-108/SR-110)		8	24	40	40			112	\$22,048		112	\$22,048
	2.5 Caltrans Review Submittal (SR-110)	2	8	18		20			48	\$10,120		48	\$10,120
	2.6 35%-Level Concept Drawings and Cost Estimate (SR-110)	12	24	56	64	80			236	\$48,496		236	\$48,496
<b>3. 65%-Level Engineering Plans, Specifications and Estimates (SR-110)</b>													
		2	14	32	60	128			236	\$44,878		236	\$44,878
<b>4. Environmental Compliance and Permitting (SR-108/SR-110)</b>													
		2	8						10	\$2,724	\$97,790	10	\$100,514
<b>5. Utility Potholing (SR-108/SR-110) - Assumes 4 potholes</b>													
			2		3	4			9	\$1,795	\$27,500	9	\$29,295
<b>6. Prepare Traffic Control Plans (SR-108/SR-110)</b>													
		1	6		40	40			87	\$16,492		87	\$16,492
<b>7. 95%-Level Plans, Specifications and Estimates (SR-108/SR-110)</b>													
		2	12	24	24	40			102	\$20,592		102	\$20,592
<b>8. 100%-Level Plans, Specifications and Estimates (SR-108/SR-110)</b>													
		1	8	16	20	24			69	\$13,954		69	\$13,954
<b>GRAND TOTAL HOURS</b>		<b>30</b>	<b>145</b>	<b>187</b>	<b>251</b>	<b>420</b>	<b>14</b>	<b>20</b>	<b>1067</b>			<b>1,067</b>	
<b>GRAND TOTAL FEES</b>		<b>\$9,060</b>	<b>\$38,425</b>	<b>\$41,514</b>	<b>\$48,945</b>	<b>\$71,400</b>	<b>\$1,484</b>	<b>\$7,300</b>		<b>\$218,128</b>	<b>\$179,080</b>		<b>\$397,208</b>
<b>9. Engineering Support Services During Bid Process (Optional)</b>													
		1	8	12					21	\$5,086	\$2,200	21	\$7,286
<b>10. Construction Support Services (Optional) - 4 meetings/5 submittals/5 RFIs</b>													
		3	14	20	20				57	\$12,956	\$3,850	57	\$17,191
<b>OPTIONAL TASKS TOTAL HOURS</b>		<b>4</b>	<b>22</b>	<b>32</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>78</b>			<b>78</b>	
<b>OPTIONAL TASKS TOTAL FEES</b>		<b>\$1,208</b>	<b>\$5,830</b>	<b>\$7,104</b>	<b>\$3,900</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>		<b>\$18,042</b>	<b>\$6,050</b>		<b>\$24,092</b>
<b>RATES (\$/Hr):</b>		<b>\$302</b>	<b>\$265</b>	<b>\$222</b>	<b>\$195</b>	<b>\$170</b>	<b>\$106</b>	<b>\$365</b>					

**BKF Classification Descriptions:**

PIC = Principal in Charge

SPM = Senior Project Manager

PE = Project Engineer (Engineer II)

2MC = Two-Man Survey Crew

## **EXHIBIT B INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth below, **CONSULTANT** shall procure and maintain in full force and effect, at no cost to **CITY** insurance policies with respect to employees and vehicles assigned to the performance of Services under this Agreement with coverage amounts, required endorsements, certificates of insurance, and coverage verifications as defined in this Exhibit B.

A. **Scope of Coverage.** During the term of this Agreement, **CONSULTANT** shall maintain, at no expense to **CITY**, the following insurance policies:

1. **Commercial general liability.** A commercial general liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, for death, bodily injury, personal injury, or property damage.

2. **Automobile liability.** An automobile liability (owned, non-owned, and hired vehicles) insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence.

3. **Professional liability.** If any licensed professional performs any of the services required to be performed under this Agreement, a professional liability insurance policy in the minimum amount of one million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) aggregate, to cover any claims arising out of the **CONSULTANT's** performance of services under this Agreement. Where **CONSULTANT** is a professional not required to have a professional license, **CITY** reserves the right to require **CONSULTANT** to provide professional liability insurance pursuant to this section.

4. **Workers' compensation.** If it employs any person, **CONSULTANT** shall maintain workers' compensation insurance, as required by the State of California, with statutory limits, and employer's liability insurance with limits of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease. **CONSULTANT's** workers' compensation insurance shall be specifically endorsed to waive any right of subrogation against **CITY**.

B. **Other Insurance Requirements.** The insurance coverage required of the **CONSULTANT** in subparagraph A of this section above shall also meet the following requirements:

1. Except for professional liability insurance or workers' compensation insurance, the insurance policies shall be specifically endorsed to include the **CITY**, its officers, agents, employees, and volunteers, as additional insureds (for both ongoing and completed operations) under the policies.

2. The additional insured coverage under **CONSULTANT's** insurance policies shall be "primary and noncontributory" with respect to any insurance or coverage maintained by **CITY** and shall not call upon **CITY's** insurance or self-insurance coverage for any contribution. The "primary and noncontributory" coverage in **CONSULTANT'S** policies shall be at least as broad as

ISO form CG20 01 04 13.

3. Except for professional liability insurance or workers' compensation insurance, the insurance policies shall include, in their text or by endorsement, coverage for contractual liability and personal injury.

4. By execution of this Agreement, **CONSULTANT** hereby grants to **CITY** a waiver of any right to subrogation which any insurer of **CONSULTANT** may acquire against **CITY** by virtue of the payment of any loss under such insurance. **CONSULTANT** agrees to obtain any endorsement that may be necessary to effect this waiver of subrogation, but this provision applies regardless of whether or not **CITY** has received a waiver of subrogation endorsement from the insurer.

5. If the insurance is written on a Claims Made Form, then, following termination of this Agreement, said insurance coverage shall survive for a period of not less than five years.

6. The insurance policies shall provide for a retroactive date of placement coinciding with the Effective Date of this Agreement.

7. The limits of insurance required in this Agreement may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and noncontributory basis for the benefit of **CITY** (if agreed to in a written contract or agreement) before **CITY'S** own insurance or self-insurance shall be called upon to protect it as a named insured.

8. It shall be a requirement under this Agreement that any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to **CITY** or any other additional insured party. Furthermore, the requirements for coverage and limits shall be: (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the named insured; whichever is greater. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the **CONSULTANT** under this Agreement.

9. **CONSULTANT** agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by **CONSULTANT**, provide the same minimum insurance coverage required of **CONSULTANT**, except as with respect to limits. **CONSULTANT** agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. **CONSULTANT** agrees that upon request by **CITY**, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the performance of Services will be submitted to **CITY** for review.

10. **CONSULTANT** agrees to be responsible for ensuring that no contract used by any party involved in any way with the Services reserves the right to charge **CITY** or **CONSULTANT** for the cost of additional insurance coverage required by this Agreement. Any

such provisions are to be deleted with reference to **CITY**. It is not the intent of **CITY** to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against **CITY** for payment of premiums or other amounts with respect thereto.

**C. Deductibles and SIR's.** Any deductibles or self-insured retentions in **CONSULTANT's** insurance policies must be declared to and approved by the **CITY** and shall not reduce the limits of liability. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either the named insured or **CITY** or other additional insured party. At **CITY's** option, the deductibles or self-insured retentions with respect to **CITY** shall be reduced or eliminated to **CITY's** satisfaction, or **CONSULTANT** shall procure a bond guaranteeing payment of losses and related investigations, claims administration, attorney's fees and defense expenses.

**D. Proof of Insurance.** **CONSULTANT** shall provide to the **PROJECT MANAGER** all of the following: (1) Certificates of Insurance evidencing the insurance coverage required in this Agreement; (2) a copy of the policy declaration page and/or endorsement page listing all policy endorsements for the commercial general liability policy, and (3) excerpts of policy language or specific endorsements evidencing the other insurance requirements set forth in this Agreement. **CITY** reserves the right to obtain a full certified copy of any insurance policy and endorsements from **CONSULTANT**. Failure to exercise this right shall not constitute a waiver of the right to exercise it later. The insurance shall be approved as to form and sufficiency by the **CITY**.