



AGENDA

SAN RAFAEL CITY COUNCIL – MONDAY, MARCH 2, 2020

**SPECIAL MEETING AT 6:30 P.M.
CITY MANAGER'S CONFERENCE ROOM, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

1. Fire Commission Interviews

Interview Applicants and Make Appointments to Fill Two Four-Year Terms, One Regular Voting Member and One Alternate Member, On the Fire Commission to the End of March 2024 (CC)
Recommended Action – Interview Applicants and Make Appointments

**REGULAR MEETING AT 7:00 P.M.
COUNCIL CHAMBERS, CITY HALL
1400 FIFTH AVENUE, SAN RAFAEL, CALIFORNIA**

OPEN SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

1. None.

CLOSED SESSION – THIRD FLOOR CONFERENCE ROOM, CITY HALL

2. Closed Session: -None.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

The public is welcome to address the City Council at this time on matters not on the agenda that are within its jurisdiction. Please be advised that pursuant to Government Code Section 54954.2, the City Council is not permitted to discuss or take action on any matter not on the agenda unless it determines that an emergency exists, or that there is a need to take immediate action which arose following posting of the agenda. Comments may be no longer than two minutes and should be respectful to the community.

CITY MANAGER'S REPORT:

3. City Manager's Report:

CONSENT CALENDAR:

The opportunity for public comment on consent calendar items will occur prior to the City Council's vote on the Consent Calendar. The City Council may approve the entire consent calendar with one action. In the alternative, items on the Consent Calendar may be removed by any City Council or staff member, for separate discussion and vote.

4. Consent Calendar Items:

- a. **Approval of Minutes**

Approve Minutes of City Council / Successor Agency Regular and Special Meetings of Tuesday, February 18, 2020 (CC)
Recommended Action – Approve minutes as submitted

- b. **Citizen of the Year 2020**

Resolution of Appreciation to Recipient of The Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award 2020 (CC)
Recommended Action – Adopt Resolution

c. **Third Street Safety Improvements – Design and Environmental**

Resolution Approving and Authorizing the City Manager to Execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for Engineering Design and Environmental Clearance Services Associated with the Third Street Safety Improvements Project In An Amount Not to Exceed \$280,000 (PW)

Recommended Action – Adopt Resolution

SPECIAL PRESENTATIONS:

5. Special Presentations:

a. **Citizen of the Year 2020**

Presentation of Resolution of Appreciation to Recipient of The Richard P. O'Brien and Mary Ferrario O'Brien Citizen of the Year Award 2020

b. **2019 Community Service Award to the B Team**

Presentation of the 2019 California Park & Recreation Society (CPRS) District Community Services Award to the "B Team" (LR)

Other Agenda Items:

6. Other Agenda Items:

a. **Direct Connect Emergency Medical Services Pilot Program**

Informational Update on the Direct Connect Emergency Medical Services (EMS) Pilot Program (FD)

Recommended Action – Accept report

b. **Camp Chance 2020 – "Bringing Cops and Kids Together"**

Informational Report Regarding Camp Chance 2020 (PD)

Recommended Action – Accept report

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

(including AB 1234 Reports on Meetings and Conferences Attended at City Expense)

7. Councilmember Reports:

SAN RAFAEL SUCCESSOR AGENCY:

1. Consent Calendar: - None.

ADJOURNMENT:

Any records relating to an agenda item, received by a majority or more of the Council less than 72 hours before the meeting, shall be available for inspection in the City Clerk's Office, Room 209, 1400 Fifth Avenue, and placed with other agenda-related materials on the table in front of the Council Chamber prior to the meeting. Sign Language interpreters and assistive listening devices may be requested by calling (415) 485-3066 (voice), emailing Lindsay.lara@cityofsanrafael.org or using the California Telecommunications Relay Service by dialing "711", at least 72 hours in advance of the meeting. Copies of documents are available in accessible formats upon request. Public Transportation to City Hall is available through Marin Transit Routes [22](#), [23](#), [23x](#), and [68](#) and Golden Gate Route [27](#). To plan your trip using transit, go to marintransit.org/trip-planner. Marin Access provides services for older adults and those with disabilities who are unable to use the fixed route bus services. Go online or call the [Travel Navigators](#) at (415) 454-0902 to learn more about these options. To allow individuals with environmental illness or multiple chemical sensitivity to attend the meeting/hearing, individuals are requested to refrain from wearing scented products.



SAN RAFAEL CITY COUNCIL STAFF REPORT

Department: City Clerk

Prepared by: Lindsay Lara, City Clerk

City Manager Approval:

TOPIC: FIRE COMMISSION INTERVIEWS

SUBJECT: INTERVIEW APPLICANTS AND MAKE APPOINTMENTS TO FILL TWO FOUR-YEAR TERMS, ONE REGULAR VOTING MEMBER AND ONE ALTERNATE MEMBER, ON THE FIRE COMMISSION TO THE END OF MARCH 2024

RECOMMENDATION:

Interview the following applicants and make appointments to fill two four-year terms, one regular voting member and one alternate member, on the Fire Commission to the end of March 2024.

Name
Andrew Cullen
David Fonkalsrud
Thomas Weathers

BACKGROUND:

At the meeting of [January 21, 2020](#), the City Council called for applications for the Fire Commission to fill one four-year term and one four-year alternate member term to the end of March 2024.

The [Fire Commission](#) consists of five members and two alternate members who advise and support the goals and objectives of the San Rafael Fire Department. In concert with the Fire Chief, Fire Commission Members contribute their experience and expertise with department-related initiatives, such as Public Education and Information, Emergency Preparedness, support of the San Rafael Fire Foundation, Essential Facilities Project, Photography and documenting Fire Service History.

The Fire Commission's goals for 2020 include supporting the implementation of the Wildfire Action Plan, participating in the Public Safety Center grand opening, promoting the cooperation with the San Rafael Fire Foundation and assisting in fund raising efforts, and participating in departmental ceremonies such as badge pinning, promotions and retirement ceremonies.

FOR CITY CLERK ONLY

File Number:

Council Meeting:

Disposition:

ANALYSIS:

The deadline for submitting applications was February 12, 2020, and the City Clerk's Office received three applications. Staff recommends the City Council interview the three eligible applicants and make appointments to fill two four-year terms, one regular voting members and one alternate member, to the end of March 2024.

[Meetings](#) are held on the second Wednesday of each other month at 4:00 p.m. at the Fire Administrative Office, 1600 Los Gatos Drive, Suite 345, San Rafael, CA 94903.

FISCAL IMPACT: There is no fiscal impact associated with this action.

COMMUNITY OUTREACH:

The call for applications for the Fire Commission was advertised through mass email notification, Canal Alliance, the City website, Nextdoor and Facebook social media platforms.

RECOMMENDED ACTION:

Interview applicants and make appointments to fill two four-year terms, one regular voting member and one alternate member, on the Fire Commission to the end of March 2024.

ATTACHMENT:

1. Three (3) applications
2. Fire Commission Municipal Code Section 2.16.010

Profile

Question applies to Pickleweed Advisory Committee

Pickleweed Advisory Committee: The deadline for filing applications is **open until filled**.

Andrew

First Name

J

Middle Initial

Cullen

Last Name

Which Boards would you like to apply for?

Fire Commission: Submitted

Special Library Parcel Tax Committee (Measure D): Submitted

Pickleweed Advisory Committee: Submitted

Email Address

Street Address

Suite or Apt

San Rafael

City

CA

State

94901

Postal Code

Are you a resident of San Rafael☒ Yes ☐ No

Resident of the City of San Rafael for how many years?

San Rafael

Primary Phone

Alternate Phone

Lawrence Berkeley National
Laboratory

Employer

EHS Professional

Job Title

Business Address

How did you learn about this vacancy? *☒ NextDoor

Interests & Experiences

Do you participate in any civic activities?

Not currently.

List any civic organizations of which you are a member:

MCBC.

Education:

UC Berkeley B.S. Chemistry (2013)

Why are you interested in serving on a board or commission?

To serve the community I live in.

Describe possible areas in which you may have a conflict of interest with the City:

None.

[Andrew_Cullen_Resume_013020.docx](#)

Upload a Resume

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

To which gender do you most identify?

How old are you?

ANDREW CULLEN

CONTACT



Tel: [REDACTED]



[REDACTED]



Linkedin.com/andrew-cullen



[REDACTED]
San Rafael, CA, 94901

Certifications

CHMM, 2018-Present

Certified Hazardous Materials Manager

CSP, 2019-Present

Certified Safety Professional

Training

- OSHA 40-Hour HAZWOPER
- DOT 40-Hour Basic Awareness
- DOT Advance Mixed/Radiation Shipper
- EPA RCRA/CWA/CAA
- CA Title 22/HSC
- IATA

Skills and Abilities

- Project Management
- Program Development/Implementation
- Research Methods
- Waste Management Regulations
- Chemistry, Statistics and Public Health
- Written and Oral Communication
- Self-Motivated and Independent
- Collaborative with Diverse Groups
- Resourceful

PUBLICATIONS

Peyton Shieh, M. Sloan Siegrist, **Andrew J. Cullen**, and Carolyn R. Bertozzi. "Imaging bacterial peptidoglycan with near-infrared fluorogenic azide probes"
Proceedings of the National Academy of Sciences U. S. A. **2014**, 111, 5456-6461.

EDUCATION

University of California, Berkeley

School of Public Health

Masters of Public Health, Environmental Health

Anticipated 2020

University of California, Berkeley

College of Chemistry

Bachelors of Science, Chemistry

2013

RELEVANT EXPERIENCE

Environment/Health/Safety Professional

June 2018 - Present

Lawrence Berkeley National Laboratory

- Provide guidance, direction and recommendations to research and operations personnel to improve safety and regulatory compliance of hazardous materials
- Develop relationships with multi-disciplinary teams to support planning and implementing improvements to EH&S programs
- Identify and strengthen technical program areas to ensure compliance with applicable regulations and to reduce risk to the institution
- Classify and certify waste with the application of generator process knowledge to meet on-site and off-site TSDF WACs and DOT regulations
- Interpret regulations applicable to environmental compliance

Chemistry Lab Technician

August 2016 – June 2018

College of Marin

- Oversaw and strengthened EH&S procedures in chemistry teaching labs
- Optimized chemical inventories, safety inspections and labeling programs
- Projected and purchased supplies and equipment by managing a budget
- Strategized meeting program needs of students, faculty and staff

Junior Research Specialist I

July 2013 – July 2014

University of California, Berkeley

- Influenced and implemented new EH&S policies by participating in the Chemical Safety Committee
- Optimized EH&S controls in a research space that contained chemical, biological (BSL2), and radioactive hazards
- Oriented and oversaw training of new lab members in EH&S
- Conducted organic synthesis and biological labeling research under limited supervision and collaborated with a team of scientists
- Communicated research findings through written reports and presentations

Undergraduate Researcher

August 2012 – July 2013

University of California, Berkeley

- Invented a synthetic pathway for Si-Rhodamines and cyclooctynes for use in copper-free click labeling of bacterial and mammalian cells
- Analyzed data and constructed manuscripts to communicate results
- Publicized research results through poster and PowerPoint presentations

Profile

David

First Name

Middle Initial

Fonkalsrud

Last Name

Which Boards would you like to apply for?

Fire Commission: Appointed

Email AddressStreet AddressSuite or Apt

San Rafael

City

CA

State

94901

Postal Code

Are you a resident of San Rafael☒ Yes ☐ No

Resident of the City of San Rafael for how many years?

15

Primary PhoneAlternate Phone

Equinix, Inc.

Employer

Director, Global Public Relations

Job Title

Business Address

How did you learn about this vacancy? *☒ Other

Interests & Experiences

Do you participate in any civic activities?

San Rafael Fire Commission alternate (2016-present); St. Anselm School Girls CYO Athletic Director (2017-present); Coaching various kids sports teams (soccer, basketball); Various fundraising activities (Swim Across America, Glenwood School Foundation, St. Anselm School Golf Tournament, Leukemia Society – Team in Training).

List any civic organizations of which you are a member:

San Rafael Fire Commission (alternate)

Education:

B.A. degree in political science from Denison University, Granville, OH

Why are you interested in serving on a board or commission?

Firefighters across the nation and world put their lives on the line every day to protect the public. I would like to continue to help serve in a way in which I can give back a small amount in exchange for the tremendous sacrifices they make. I am also interested in emergency response, as I am an Eagle Scout from a Boy Scout troop that was very focused on first aid and emergency preparedness -- and from the fact that my father was a medical professional. I feel that now more than ever the public needs to be aware of fire risks and what they can do to be more fire wise and prepared – something that I can hopefully contribute to from my background in public relations and communications. I also have several friends who are fire fighters!

Describe possible areas in which you may have a conflict of interest with the City:

None.

[Resume - David Fonkalsrud.doc](#)

Upload a Resume

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.

Ethnicity:

To which gender do you most identify?

How old are you?

DAVID FONKALSRUD

SUMMARY

- 20+ years of corporate communications, public relations and marketing communications experience on the agency and client side.
- Experience in executive management of all functional areas of a communications agency, including business development, P&L management, talent recruitment and retention, and senior-level client strategy and engagement.
- Proven track record of successes in: translating the vision of C-level executives into communications programs that advance business goals; leading and mentoring teams; developing strategic positioning / messaging; successfully positioning companies before business, trade and consumer press; protecting and advancing corporate reputation during high-profile and high-risk events.

EXPERIENCE

RACEPOINT GLOBAL, San Francisco, California, 2014 - Present **Executive Vice President**

Top executive managing the Western U.S. operations of global top 20 public relations and marketing services agency.

- Manage the teams that, in less than one year, secured more than 10 new clients, including brands such as Rambus, Cypress Semiconductor, Springpath, Megaport, Loop Commerce and Stanford Children's Hospital.
- Provide strategic leadership to clients and agency teams executing programs throughout the U.S., including Samsung, Bank of the West and E Ink.
- Grew office headcount by 20% to 20+ staff, overseeing recruitment, professional development and staff engagement initiatives in a highly competitive market for talent.
- Executed vision of developing agency staff with backgrounds in traditional public relations to become "marketers" with the ability to execute fully integrated marketing services programs (traditional PR, digital marketing, creative, content amplification, paid influencer programs, etc.).
- Led the staff and client rollout of Racepoint's proprietary influencer engagement technology – a solution that provides unique insight into the degree of influence specific individuals exert on stakeholders/topics and how to most effectively engage with them to promote a priority narrative.

K/F COMMUNICATIONS, INC., San Francisco, California, 2001 - 2014 **Co-Founder / Principal**

Co-founded and grew award-winning public relations and strategic communications agency to 10+ employees and annual billings of \$1.7 million. Agency was ranked #19 in the 2013 *O'Dwyer's* list of the top public relations firms in San Francisco/Northern California. Managed staff and clients in a variety of business-to-business and business-to-consumer markets, providing consultation on communications strategy and tactics, positioning and messaging, media and analyst relations, crisis communications, media training, internal communications, financial communications, social media, and speaking opportunity and presentation development. Formulated strategic direction of the agency, led business development programs, and managed employee development initiatives.

Highlights include:

- Managed agency to achieve profitability through the technology recession of 2001 and the Great Recession of 2007-2009, and the subsequent boom cycles.
- Led all financial aspects of the business including P&L for the agency and each account.
- Nurtured client relationships through close interaction with client contacts, ensuring excellence of work product, and providing ongoing strategic counsel.
- Developed and grew network of client-side PR and marketing contacts and venture capital partners to ensure a constant pipeline for new business opportunities. Over a 13 year period, secured more than 50 clients for the agency.
- Established an entrepreneurial, merit-based culture within the agency for employee advancement. Developed process for evaluating prospective talent, mentoring and training staff, even at senior levels, and measuring employee productivity and contribution to accounts.
- Successful exits for startup clients resulted in acquisitions by Apple, Citrix, Juniper Networks, Oracle, F5 Networks, Ziff Davis, Discovery Communications and an IPO.

Specific client accomplishments:

- **Equinix, Inc. (Nasdaq: EQIX):** Over a nine year relationship, developed and implemented the pre and post-IPO external communications programs for this developer of large data center facilities, helping it to grow from an unknown startup to a global brand with annual revenues of more than \$1B. Created the global crisis communications program, managed PR initiatives for the company's IPO and four acquisitions, led market analyst relations, and developed the global PR strategy for operations in Europe and Asia-Pacific. Developed the foundational and ongoing positioning/messaging that was instrumental in differentiating Equinix from several high-flying competitors that ultimately went out of business after the 2001 recession and that was integral to the company's long-term success.
- **Digg:** Led all elements of the four-year, award-winning PR program that launched Digg from an unknown startup to a well-known global brand. Created the company messaging that positioned Digg on the forefront of the emerging social media category. Secured coverage in top U.S. and global media, including cover articles in *Business Week*, *Time Magazine*, *Inc. Magazine* and *Red Herring*. The successes of the PR program attracted multiple acquisition suitors and enabled Digg to sign a breakthrough advertising contract that provided a critical revenue stream.
- **Intel:** Directed the PR program for a software division at Intel that created more than one million impressions in targeted media within the first five months and secured thought leadership for the division's management within its target market. This program was directly linked to securing key customer and partner relationships for Intel.
- Additional client engagements included: Amtel, Arcwave, B-Side Entertainment, Blue Run Ventures, Commute.org, Covia Labs, Defense.Net, Edgewater Networks, Extreme Reality, MiMedia, Net6, Orbital Data, PacketMotion, Peribit Networks, Pre Found, RowNine, SimpleGeo, TagWhat and Talari Networks.

INDEPENDENT CONTRACTOR, San Francisco, California, 2000 - 2001

Public Relations Consultant

Provided public relations consulting services for several technology companies, including Equinix, Logictier and Sentica.

Specific accomplishments included:

- Planned and executed a press event for the grand opening of a data center in San Jose that generated more than 20 million press impressions including coverage on *CNBC*, the *Fox News Channel*, *CNET News TV*, *ZDTV*, local San Francisco TV news, *Reuters*, *Bloomberg*, the *San Francisco Examiner*, *Business 2.0* and others.
- Planned and executed a press conference with Salt Lake City Olympic CEO Mitt Romney to announce a client's sponsorship of the 2002 Olympic Winter Games, generating local and international broadcast, print and online coverage.

DHL WORLDWIDE EXPRESS, INC., Redwood City, California, 1995 - 2000

Marketing Communications Manager

Serving as the top communications executive for the company, worked directly with the CEO to manage external and internal communications programs, including corporate communications, employee communications and advertising. Designed strategic communications plans for all significant company initiatives, including network expansion, strategic alliances and new product launches. Developed corporate positioning / messaging, served as the primary company spokesperson, and managed all media relations, executive speaking opportunity, crisis communications and issues management programs. Directed public relations, advertising and other branding agencies in addition to department staff.

- Created programs that secured coverage and market presence for DHL in industry and financial media that previously only mentioned the company's two top competitors.
- Built PR department from the ground up to a position where PR became the primary marketing communications tactic for the company.
- Placed numerous cover and feature articles on the company, including a 15 minute segment on *CNN* that was aired globally and a *Global Finance* magazine cover article that touted DHL as the world's "most global company."
- Advised the CEO, president and senior executive team on all of the company's strategic communications issues.
- Managed internal communications programs for the company's 10,000 employees.

CASEY & SAYRE, INC., Santa Monica, California, 1992 - 1995

Associate

Created and implemented public relations programs for clients in the telecommunications, legal, accounting and real estate industries for this respected public relations firm. Developed positioning and messaging, coordinated media relations and public affairs programs, and secured speaking opportunities for clients at targeted events. Regularly placed clients in *The Wall Street Journal*, the *New York Times* and other business media.

- Positioned partners at Latham & Watkins as legal expert sources on a variety of topics, including telecommunications, international law in Russia, and the use of “junk science” in court cases. Secured coverage in top business and trade media, including a high-profile 45 minute interview for one partner on *C-SPAN*.
- Developed a public affairs program for a foreign government’s cultural ministry that led to greater understanding of their country by Americans.
- Designed community relations programs for a proposed \$3 billion Southern California real estate project and other major land developments.

EDUCATION

Denison University, Granville, Ohio

Bachelor of Arts, Political Science / Communications

President, Denison University Student Body



SAN RAFAEL
THE CITY WITH A MISSION

City of San Rafael Fire Commission

Boards and Commissions Application

Applicant Information

Full Name: Thomas Weathers

*Address:

Street Address

Apartment/Unit #

San Rafael

CA

94901

City

State

ZIP Code

*Phone:

*Email:

Resident of San Rafael for 18.5 years.

Employer:

The Law Offices of Thomas Eagle Weathers, A.C.

Occupation:

Indian law attorney

Business Address:

1000 Fourth St.,

500

Street Address

Apartment/Unit #

San Rafael

CA

94901

City

State

ZIP Code

Education

B.A. Pomona College 1990

J.D. McGeorge School of Law 1993

Supplemental Questions

Participation in the following civic activities:

San Rafael Little League

San Rafael Fire Commission

Member of the following civic organizations:

My reasons for wanting to serve are:

I'd like to serve my second and final term.
I enjoy helping the Fire Department as the only
attorney on the Fire Commission.

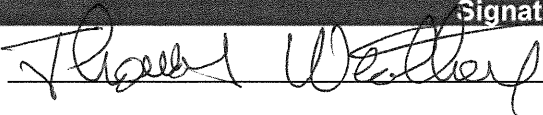
Describe possible areas in which you may have a conflict of interest with the City:

None

Demographics (Optional)

The demographic information you choose to provide is **VOLUNTARY** and **OPTIONAL** and refusal to provide it will not subject you to any adverse treatment. This information will be considered confidential, kept separate from your application and will not be used for evaluating applications or making appointments. The City of San Rafael will use this information solely to conduct research and compile statistical reports regarding the composition of its Board and Commission applicants.



Signature:  Date: 1/21/2020

Filing Deadline:

Date: Wednesday, February 12, 2020
Time: 5:00 p.m.

Mail or deliver to:

City of San Rafael, Dept. of City Clerk
City Hall, 1400 Fifth Avenue, Room 209
San Rafael, CA 94903

*Information kept confidential, to the extent permitted by law.

SAN RAFAEL CHARTER

ARTICLE VIII Executive and Administrative Departments, Section 10. FIRE COMMISSION.

There shall be a board of fire commissioners appointed by the council, the exact number of which shall be set by ordinance or resolution of the council, one of whom may be a councilman. The chief of the fire department shall be an ex officio member of the commission but shall not be entitled to vote as a member of the commission. The members of the commission shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the council. The board of fire commissioners shall exercise such powers and perform such duties as may be prescribed or conferred in this charter or by the ordinances of the city. (Assembly Concurrent Resolution No. 121, August 20, 1973: Senate Concurrent Resolution No. 46, May 31, 1967.)

2.16.010 Board of Fire Commissioners.*

A board of fire commissioners is created. (Ord. 889 § 2, 1967: Ord. 825 § 1, 1965: Ord. 422).

* Fire Commission--See San Rafael Charter, Art. VIII § 10.

2.16.011 Board membership--Compensation.

The board of fire commissioners shall consist of five members appointed by the city council, one of whom may be a councilman. The chief of the fire department shall be an ex officio member of the commission, but shall not be entitled to vote as a member of the commission. All members of the commission shall serve without compensation. (Ord. 889 § 3 (part), 1967).

2.16.012 Board term of office and removal.

The members of the board of fire commissioners shall serve for a term of four years and shall be subject to removal by the affirmative vote of three members of the council. The terms of office of members of the commission shall be staggered in the manner provided by resolution of the city council. (Ord. 889 § 3 (part), 1967).

2.16.013 Board powers and duties.

Subject to the direction and control of the city council, as provided in Section 2.04.030 of this code, the powers and duties of the board of fire commissioners shall be:

To review and recommend concerning the future needs of the fire department in respect to long-range capital needs, including buildings, training facilities, and water mains and hydrant replacements;

To review the relationship of the fire department with other governmental agencies and private entities concerning topics which the commission feels present a true and pressing need for the city's fire service, i.e., mutual aid and the fire rating system of the Independent Insurance Office;

To review, comment and make recommendations regarding the annual operating budget of the department;

To recommend to the fire chief and the city council action concerning initial adoption and future amendments to the fire prevention code, the building code, and other such ordinances which pertain to the prevention of fires within the community;

To receive monthly reports from the department head concerning the general operations and functions of the department;

To perform such other duties as may be prescribed by the city council.

(Ord. 1131 § 1, 1974: Ord. 889 § 3 (part), 1967).

In the Council Chambers of the City of San Rafael, Tuesday, February 18, 2020



Regular Meeting

San Rafael City Council

Minutes

Present: Mayor Pro Tem Colin
Councilmember Bushey
Councilmember McCullough

Absent: Mayor Phillips
Councilmember Gamblin

Also Present: City Manager Jim Schutz
City Attorney Rob Epstein
City Clerk Lindsay Lara

[How to Participate in your City Council Meeting](#)

Mayor Pro Tem Colin called the meeting to order at 7:02 p.m.

OPEN SESSION - THIRD FLOOR CONFERENCE ROOM, CITY HALL - 6:00 P.M.

1. Mayor Pro Tem Colin announced Closed Session items.

CLOSED SESSION - THIRD FLOOR CONFERENCE ROOM, CITY HALL - 6:00 P.M.

2. Closed Session:
 - a. Conference with Labor Negotiators – Government Code Section 54957.6
Lead Negotiator: Timothy L. Davis (Burke, Williams & Sorensen)
Agency Designated Representatives: Jim Schutz, Cristine Alilovich, Nadine Hade, Shibani Nag
Employee Organizations: SEIU - Childcare; San Rafael Police Mid-Management Association; Public Employee Union, Local 1; San Rafael Firefighters' Association; San Rafael Police Association; SEIU Local 1021; Western Council of Engineers; San Rafael Fire Chief Officers' Association

City Attorney Rob Epstein announced there was no reportable action taken in the Closed Session. Additionally, he announced there was no reportable action taken in the Closed Session held on Wednesday, February 12, 2020.

OPEN TIME FOR PUBLIC EXPRESSION – 7:00 PM

Bill Carney, Sustainable San Rafael, announced a Free Tree Planting Workshop to be held on Saturday, February 29th from 9-12:00 p.m. at the San Rafael Community Center in preparation for a tree planting event to be held on Saturday, March 28th at McInnis Parkway from 8:30am - 1p.m.

SPECIAL PRESENTATIONS:

3. Special Presentations:

- a. **CalFest First Place Celebration Awards
West End Celebration 2019 to Adam Violante
San Rafael PorchFest 2019 to Gerstle Park Neighborhood Association**

Mayor Pro Tem Colin invited Events Coordinator Brian Auger to assist in the presentation of awards to Adam Violante for West End Celebration 2019, and to the San Rafael PorchFest Committee for San Rafael PorchFest 2019

CITY MANAGER'S REPORT:

4. City Manager's Report:

City Manager Jim Schutz announced:

- an update on the Canal dredging project
- an update on the San Rafael City Schools Strategic Planning Process (Together 2023) - Meetings to be held on February 25 and 27
- the City won a statewide Overall Champion Award from the International City and County Management Association (ICMA)

CONSENT CALENDAR:

5. Consent Calendar Items:

Item 5.i is held from the Consent Calendar

Mayor Pro Tem Colin invited public comment on the remaining items, however there was none

Councilmember McCullough moved and Councilmember Bushey seconded to approve the remainder of the Consent Calendar items

- a. **Approval of Minutes
Approve Minutes of City Council / Successor Agency Regular Meeting of Monday,
February 3, 2020 (CC)**
[Approval of Minutes](#)

Approved minutes as submitted

- b. **Cannabis Industry Tax Oversight Committee Appointments
Approve Appointments of Cannabis Industry Tax Oversight Committee Applicants
Abi Scheier Rivas, Erik Rivai and Stephen Roth to Three Four-Year Terms to the
End of February 2024 and Jennifer Dye and Drew Bulfer to Two Two-Year Terms
to the End of February 2022 (CC)**
[Cannabis Industry Tax Oversight Committee Appointments](#)

Approved staff recommendation

- c. **New 45-Unit Townhome Development - 350 Merrydale Road/3833 Redwood Hwy
Second Introduction and Final Adoption of Ordinance 1979: An Ordinance of the**

San Rafael City Council Approving a Planned Development Rezoning from Planned Development (PD) District (PD1594) to a Revised PD (ZC19-002), Including the Rescission of PD 1594, and Creation of a New PD District, at 350 Merrydale Road/3833 Redwood Hwy (CD)

[New 45-Unit Townhome Development - 350 Merrydale Road/3833 Redwood](#)

Final Adoption of Ordinance 1979

- d. **Annual Audit of Federal Grant Expenditures**
Single Audit Report for the Year ended June 30, 2019 (FIN)
[Annual Audit of Federal Grant Expenditures](#)

Accepted report
- e. **Traffic Mitigation Fees**
Annual Traffic Mitigation Fee Report (PW)
[Traffic Mitigation Fees](#)

Accepted report
- f. **Essential Facilities Construction Project Fire Stations 52 and 57 Notice of Completion**
Accept Completion of the Essential Facilities Construction Project - Fire Station 52 and Fire Station 57 (City Project No. 11292 & 11293), and Authorize the City Clerk to File the Notice of Completion (PW)
[Essential Facilities Construction Project Fire Stations and 57 Notice of Completion](#)

Accepted completion and authorized the City Clerk to file the Notice of Completion
- g. **Street Resurfacing 2018-2019 Notice of Completion**
Accept Completion of the Street Resurfacing 2018-2019 Project (City Project No. 11336), and Authorize the City Clerk to File the Notice of Completion (PW)
[Street Resurfacing 2018-2019 Notice of Completion](#)

Accepted completion and authorized the City Clerk to file the Notice of Completion
- h. **2018-2019 Street Restriping Notice of Completion**
Accept Completion of the 2018-2019 Restriping Project (City Project No. 11359), and Authorize the City Clerk to File the Notice of Completion (PW)
[2018-2019 Street Restriping Notice of Completion](#)

Accepted completion and authorized the City Clerk to file the Notice of Completion

AYES: Councilmembers: Bushey, McCullough & Mayor Pro Tem Colin

NOES: Councilmembers: None

ABSENT: Councilmembers: Gamblin & Mayor Phillips

The following item was held from the Consent Calendar:

- i. **Third Street at Hetherton Street Improvements**
Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for the Third Street at Hetherton Street Improvements Project with Ghilotti Bros. Inc. in the Amount of \$398,983, and Authorizing Contingency Funds in the Amount of \$61,017, for a Total Appropriated Amount of \$460,000 (PW)
[Third Street at Hetherton Street Improvements](#)

Staff responded to questions from the City Council

Councilmember McCullough moved and Councilmember Bushey seconded to adopt the Resolution

Resolution 14765 - Resolution Awarding and Authorizing the City Manager to Execute a Construction Agreement for the Third Street at Hetherton Street Improvements Project with Ghilotti Bros. Inc. in the Amount of \$398,983, and Authorizing Contingency Funds in the Amount of \$61,017, for a Total Appropriated Amount of \$460,000

AYES: Councilmembers: Bushey, McCullough & Mayor Pro Tem Colin
NOES: Councilmembers: None
ABSENT: Councilmembers: Gamblin & Mayor Phillips

PUBLIC HEARINGS:

6. Public Hearings:

- a. **General Plan 2040 / Downtown Precise Plan**
General Plan 2040 Land Use Map - Preliminary Review and Discussion of Proposed Map Changes (CD)
[General Plan 2040 / Downtown Precise Plan](#)

Community Development Director Paul Jensen commented on the item and introduced Barry Miller who presented the staff report

Staff responded to questions from the City Council

Mayor Pro Tem Colin declared the public hearing opened

Speakers: Bill Carney, Sustainable San Rafael, Brad Sears, Cathy Manovi

There being no further comment from the audience, Mayor Pro Tem Colin declared the public hearing closed

Staff responded to questions from the public

Staff responded to questions from the City Council.

The City Council provided feedback to staff and recommended the Sea Level Rise Adaptation Overlay Zone be re-titled and that references to the boundary being based on a "prediction" be clarified. The City Council also commented on the Downtown build-

out data and recommended consistent mapping protocol be used for the designation of private schools.

Councilmember McCullough moved and Councilmember Bushey seconded to accept the report and provided feedback to staff

Accepted report and provided feedback to staff

AYES: Councilmembers: Bushey, McCullough & Mayor Pro Tem Colin
NOES: Councilmembers: None
ABSENT: Councilmembers: Gamblin & Mayor Phillips

OTHER AGENDA ITEMS:

7. Other Agenda Items:

a. Francisco Boulevard East Sidewalk Improvements Informational Report on the Francisco Boulevard East Sidewalk Improvements Project (PW)

[Francisco Boulevard East Sidewalk Improvements](#)

Public Works Director Bill Guerin commented on the item and introduced Assistant Public Works Director Hunter Young who presented the staff report

Staff responded to questions from the City Council

Mayor Pro Tem Colin invited public comment

Speakers: Bill Carney, Sustainable San Rafael

There being no further comment from the audience, Mayor Pro Tem Colin closed the public comment period

Councilmembers provided comments

Councilmember McCullough moved and Councilmember Bushey seconded to accept the report

Accepted report

AYES: Councilmembers: Bushey, McCullough & Mayor Pro Tem Colin
NOES: Councilmembers: None
ABSENT: Councilmembers: Gamblin & Mayor Phillips

COUNCILMEMBER REPORTS / REQUESTS FOR FUTURE AGENDA ITEMS:

8. Councilmember Reports:

Councilmember McCullough reported the Marin Telecommunications Agency (MTA) Board voted to further negotiations with Marin General Services Authority (MGSA) to take over MTA's administrative functions, so the MTA could dissolve.

SAN RAFAEL SUCCESSOR AGENCY

1. Consent Calendar: - None.

ADJOURNMENT:

Mayor Pro Tem Colin adjourned the meeting at 8:34 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS _____ DAY OF _____, 2020

GARY O. PHILLIPS, Mayor

In the City Manager's Conference Room of the City of San Rafael, Tuesday, February 18, 2020



Special Meeting

San Rafael City Council

Minutes

Present: Mayor Pro Tem Colin
Councilmember Bushey
Councilmember McCullough

Absent: Mayor Phillips
Councilmember Gamblin

Also Present: City Manager Jim Schutz
City Clerk Lindsay Lara
Library and Recreation Director Susan Andrade-Wax

Mayor Pro Tem Colin called the meeting to order at 5:34 p.m.

- Pickleweed Advisory Committee Interviews Interview Applicants and Consider Appointments to Fill Two Unexpired Four-Year Terms, One Regular Voting Member and One Alternate Member, on the Pickleweed Advisory Committee to the End of December 2022 (CC)**
[Pickleweed Advisory Committee Interviews](#)

The City Council interviewed the following applicants: Keyly Gonzalez, Janet Sanchez and Jairo Ceballo. Andrew Cullen did not attend the interview.

After discussion, there was City Council consensus to appoint Janet Sanchez to the voting member term, and appoint Jairo Ceballos as an Alternate member, on the Pickleweed Advisory Committee to the end of December 2022.

ADJOURNMENT:

Mayor Pro Tem Colin adjourned the meeting at 6:01 p.m.

LINDSAY LARA, City Clerk

APPROVED THIS ____ DAY OF _____, 2020

GARY O. PHILLIPS, Mayor

Item 4.b

Citizen of the Year 2020

Staff Report and Resolution to
be published on March 3, 2020



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 4.c

Meeting Date: March 2, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Public Works

**Prepared by: Bill Guerin,
Director of Public Works**

City Manager Approval:

TOPIC: THIRD STREET SAFETY IMPROVEMENTS – DESIGN AND ENVIRONMENTAL

SUBJECT: A RESOLUTION APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR ENGINEERING DESIGN AND ENVIRONMENTAL CLEARANCE SERVICES ASSOCIATED WITH THE THIRD STREET SAFETY IMPROVEMENTS PROJECT IN AN AMOUNT NOT TO EXCEED \$280,000

RECOMMENDATION: Adopt the resolution.

BACKGROUND: In 2004, the Transportation Authority of Marin (TAM) established a Measure A Expenditure Plan (Plan) for a voter-approved sales tax providing funds for major roadway projects in Marin County. Plan projects were prioritized based on roadway condition, traffic volumes, transit frequency, and existing bicycle and pedestrian access. In 2016, San Rafael received a commitment from TAM for \$11 million from Measure A and an additional \$1.5 million from the State Local Partnership Program for the purpose of making significant infrastructure improvements along Third Street.

In 2018, the City applied for federal funding through the Highway Safety Improvement Program (HSIP) administered by Caltrans. Upon favorable review, the City was awarded \$1,575,000 in funding for Third Street between Lindaro Street and Union Street. As project delivery utilizing federal funds can be complex and impact timelines, staff subdivided the entire Third Street corridor into the following two projects:

1. Third Street Rehabilitation Project – Miracle Mile to Lindaro Street; and
2. Third Street Safety Improvements Project – Lindaro Street to Union Street.

The City Council approved the design and environmental work for the Third Street Rehabilitation Project at their November 18, 2019 meeting.

The Third Street Safety Improvements project consists of roadway and pedestrian improvements, including but not limited to, street resurfacing, curb ramps, sidewalk, storm drain, and traffic signal upgrades. Project intersections on Third Street include Lindaro Street, Lincoln

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

SAN RAFAEL CITY COUNCIL AGENDA REPORT / Page: 2

Avenue, Tamalpais Avenue, Irwin Street, and Grand Avenue. These intersections constitute one of the most heavily congested areas in both San Rafael and Marin County. This is due in part to their proximity to major traffic generators, such as the northbound and southbound on/off-ramps for US 101, San Rafael Transit Center, SMART station, Caltrans Park-and-Ride lots, Downtown San Rafael, Montecito Shopping Center, and San Rafael High School.

City staff developed conceptual design drawings for the proposed safety improvements and subsequently, on May 24, 2019, issued a request for proposals (RFP). The conceptual design provided a basic framework to potential consultants of the City's objectives for this project, and the plans were also utilized to solicit feedback from the City's Bicycle and Pedestrian Advisory Committee at their August 7, 2019 meeting. Staff intends to combine the HSIP Grant funding of \$1,575,000 with Traffic Mitigation and Gas Tax funding to construct the traffic safety improvements and other roadway upgrades between Lindero and Union Streets.

ANALYSIS: On June 26, 2019, Public Works received three proposals from qualified firms. Proposals were evaluated by City staff based on criteria specified in the RFP including, but not limited to, understanding of the Scope of Work, previous experience with similar projects, qualified personnel, and familiarity with City and federal procedures for project delivery.

On July 11, 2019, the three proposing firms were interviewed by panel members consisting of City staff. Staff found Kimley-Horn and Associates to be the most qualified consultant for this project. After successful negotiations, Kimley-Horn and Associates submitted a revised scope and fee proposal to perform the engineering design and environmental clearance services, which was found to be complete and within industry standards.

FISCAL IMPACT: The consultant's fee of \$280,000 will be paid for from the available \$1,575,000 of federal grant funds awarded to the City. Upon completion of the design, a construction cost estimate will be produced.

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

1. Adopt a resolution authorizing the City Manager to execute a professional services agreement with Kimley-Horn and Associates.
2. Do not accept the proposal from Kimley-Horn and Associates and provide further direction to staff.

RECOMMENDED ACTION: Adopt the resolution.

ATTACHMENT:

1. Resolution
2. Agreement and corresponding Exhibit A

RESOLUTION NO.

A RESOLUTION OF THE SAN RAFAEL CITY COUNCIL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR ENGINEERING DESIGN AND ENVIRONMENTAL CLEARANCE SERVICES ASSOCIATED WITH THE THIRD STREET SAFETY IMPROVEMENTS PROJECT IN AN AMOUNT NOT TO EXCEED \$280,000

WHEREAS, the City desires to implement safety improvements along the Third Street corridor from Lindero Street to Union Street; and

WHEREAS, the City was awarded a federal grant through the Highway Safety Improvement Program administered by Caltrans; and

WHEREAS, the City requires outside professional assistance to design and secure environmental clearance for the aforementioned project; and

WHEREAS, in response to the request for proposals (RFP), the Department of Public Works received three proposals and conducted team interviews; and

WHEREAS, staff has reviewed the proposals and identified Kimley-Horn and Associates, Inc. to be the most qualified firm; and

WHEREAS, the proposal from Kimley-Horn and Associates, Inc. was found to be complete and within industry standards.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL RESOLVES as follows:

1. The City Council hereby approves and authorizes the City Manager to execute a Professional Services Agreement with Kimley-Horn and Associates, Inc. for engineering design and environmental clearance services associated with the Third Street Safety Improvements Project in the amount not to exceed \$280,000, in the form included in the Staff Report for this resolution, subject to final approval as to form by the City Attorney.
2. Funds totaling \$280,000 will be appropriated for this project from the Highway Safety Improvement Program (HSIP) grant.
3. The Director of Public Works is hereby authorized to take any and all such actions and make changes as may be necessary to accomplish the purpose of this resolution.

I, **LINDSAY LARA**, Clerk of the City of San Rafael, hereby certify that the foregoing resolution was duly and regularly introduced and adopted at a regular meeting of the Council of said City on Monday, the 2nd day of March 2020, by the following vote, to wit:

AYES: COUNCILMEMBERS:

NOES: COUNCILMEMBERS:

ABSENT: COUNCILMEMBERS:

LINDSAY LARA, City Clerk

**AGREEMENT FOR PROFESSIONAL SERVICES WITH
KIMLEY-HORN AND ASSOCIATES, INC. FOR ENGINEERING SERVICES ASSOCIATED WITH THE
THIRD STREET SAFETY IMPROVEMENTS PROJECT**

ARTICLE I INTRODUCTION

- A. This AGREEMENT is entered into as of the _____ day of _____, 2019 by and between the following named, hereinafter referred to as CONSULTANT, and the following named, hereinafter referred to as LOCAL AGENCY:

The name of the "CONSULTANT" is as follows: Kimley-Horn and Associates, Inc. Incorporated in or authorized to do business in the State of North Carolina.

The Project Manager for the "CONSULTANT" will be Kevin Aguigui

The name of the "LOCAL AGENCY" is as follows: City of San Rafael

The Contract Administrator for LOCAL AGENCY will be Bill Guerin, Public Works Director

- B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Revised Cost Proposal ("Cost Proposal") dated December 5, 2019. The approved CONSULTANT's Cost Proposal is attached hereto (Exhibit A) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.
- C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, agents, and employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorney's and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except CONSULTANT will not reimburse LOCAL AGENCY for any such loss or damage which was caused by the sole or active negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. In no event shall the cost to defend charged to the CONSULTANT exceed the CONSULTANT's proportionate percentage of fault. The provisions of this section shall survive termination or suspension of this AGREEMENT.
- D. CONSULTANT in the performance of this AGREEMENT shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT'S employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT'S assigned personnel shall not be entitled to any benefits payable to employees of LOCAL AGENCY.
- E. LOCAL AGENCY is not required to make deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT in the performance of its obligation hereunder, is only subject to the control of direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished,
- F. Any third-party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against LOCAL AGENCY based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.
- G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT

from LOCAL AGENCY under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.

- H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.
- I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.

ARTICLE III STATEMENT OF WORK

The CONSULTANT shall perform the services specified in the Revised Scope of Work, dated December 5, 2019, attached hereto as Exhibit A and incorporated herein by reference. If there is any conflict between the terms of the Cost Proposal, attached hereto as Exhibit A, and the terms of this AGREEMENT, the terms of this AGREEMENT shall take precedence.

ARTICLE IV PERFORMANCE PERIOD

- A. This AGREEMENT shall go into effect on the date first hereinabove written, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end upon completion of the work to the satisfaction of the LOCAL AGENCY'S Contract Administrator.
- B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

- A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL

AGENCY's approved overhead rate set forth in the Cost Proposal. In the event that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

- B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT's agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.
- C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$20,607.77. The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.
- D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.
- F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT's fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.
- G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.
- H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY's Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT's work. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

City of San Rafael
Public Works Department
Bill Guerin
111 Morphew Street
San Rafael, CA 94901

- I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$280,000.00.
- J. Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by LOCAL AGENCY's Contract Administrator.
- K. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

ARTICLE VI TERMINATION

- A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Article XXVI, Ownership of Data.
- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination provided for in subsection A of this section.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by LOCAL AGENCY by virtue of any breach of this AGREEMENT by CONSULTANT, and LOCAL AGENCY may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due LOCAL AGENCY from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT, except as provided in Article XI, section C. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and in accordance with Article XXVI, Ownership of Data.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR Part 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual items of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR Part 31 or 2 CFR Part 200, are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORDS/AUDIT

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits,

examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Finance Director.
- B. Not later than thirty (30) days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Finance Director of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by Caltrans Audits and Investigation (A&I). Caltrans A&I, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
 - 1. During Caltrans A&I's review of the ICR audit work papers created by the CONSULTANT's independent CPA, Caltrans A&I will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If Caltrans A&I identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR {e.g. 48 CFR Part 31; GAAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines} is received and approved by A&I.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If Caltrans A&I is unable to issue a cognizant letter per paragraph E.1. above, Caltrans A&I may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. Caltrans A&I will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if Caltrans A&I is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) Caltrans A&I accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) Caltrans A&I has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.
- E. Any substitution of Subconsultants must be approved in writing by LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following:
 - 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 - 2. Regulation 2 CFR Part 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (http://www.dot.ca.gov/hq/construc/LaborCompliance/documents/District-Region_Map_Construction_7-8-15.pdf). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations Internet site at <http://www.dir.ca.gov>.

D. Payroll Records

1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.
 - c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.

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- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.
 3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
 4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the prime CONSULTANT of the project is not liable for the penalties described above unless the prime CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the prime CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
 5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
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6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTS and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST (Verbatim)

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.

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- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from the AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

A. CONSULTANT certifies to the best of his or her knowledge and belief that:

1. No state, federal or local agency appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
2. If any funds other than Federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000) and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race,

religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2 CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.

E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.

G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR Part 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer, or manager:

1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
3. Does not have a proposed debarment pending; and
4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.

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- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award but will be considered in determining responsibility. Disclosures must indicate to whom exceptions apply, the initiating agency, and the dates of agency action.
 - C. Exceptions to the Federal Government Excluded Parties List System maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This AGREEMENT is subject to 49 CFR Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTs who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.
- B. The goal for DBE participation for this AGREEMENT is 3.3 %. Participation by DBE CONSULTANT or subconsultants shall be in accordance with information contained in Exhibit 10-01: Consultant Proposal DBE Commitment, or in Exhibit 10-02: Consultant Contract DBE Commitment attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: *DBE Information – Good Faith Efforts* to document efforts to meet the goal. Refer to 49 CFR Part 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.
- D. DBEs and other small businesses, as defined in 49 CFR Part 26 are encouraged to participate in the performance of AGREEMENTs financed in whole or in part with federal funds. The LOCAL AGENCY, CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONSULTANT shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT, which may result in the termination of this AGREEMENT or such other remedy as the LOCAL AGENCY deems appropriate, which may include, but is not limited to:
 - (1) Withholding monthly progress payments;
 - (2) Assessing sanctions;
 - (3) Liquidated damages; and/or
 - (4) Disqualifying the contractor from future bidding as non-responsible
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR §26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR §26.53(f). If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- F. Consultant shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed DBE or by other forces (including those of Consultant) pursuant to prior written authorization of the LOCAL AGENCY's Contract Administrator.

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- G. A DBE is only eligible to be counted toward the AGREEMENT goal if it performs a commercially useful function (CUF) on the AGREEMENT. CUF must be evaluated on an agreement by agreement basis. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the AGREEMENT is commensurate with the work it is actually performing, and other relevant factors.
- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. Upon completion of the AGREEMENT, a summary of these records shall be prepared and submitted on the form entitled, Exhibit 17-F: Final Report-Utilization of Disadvantaged Business Enterprise (DBE) First-Tier Subconsultants, certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- L. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

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

1. A commercial general liability insurance policy in the minimum amount of two million dollars (\$2,000,000) per occurrence/four million dollars (\$4,000,000) aggregate, for death, bodily injury, personal injury, or property damage.

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

3. 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 two million dollars (\$2,000,000) per occurrence/four million dollars (\$4,000,000) 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, LOCAL AGENCY reserves the right to require CONSULTANT to provide professional liability insurance pursuant to this section.

4. If it employs any person, CONSULTANT shall maintain worker's 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 worker's compensation insurance shall be specifically endorsed to waive any right of subrogation against LOCAL AGENCY.

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 worker's compensation insurance, the insurance policies shall be specifically endorsed to include the LOCAL AGENCY, 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 LOCAL AGENCY and shall not call upon LOCAL AGENCY'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 worker's 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 LOCAL AGENCY a waiver of any right to subrogation which any insurer of CONSULTANT may acquire against LOCAL AGENCY 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 LOCAL AGENCY 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 LOCAL AGENCY (if agreed to in a written contract or agreement) before LOCAL AGENCY'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 LOCAL AGENCY 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.

C. **Deductibles and SIR's.** Any deductibles or self-insured retentions in CONSULTANT's insurance policies must be declared to and approved by the PROJECT MANAGER and City Attorney 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 LOCAL AGENCY or other additional insured party. At LOCAL AGENCY's option, the deductibles or self-insured retentions with respect to LOCAL AGENCY shall be reduced or eliminated to LOCAL AGENCY'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 or LOCAL AGENCY'S City Attorney 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. LOCAL AGENCY 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 PROJECT MANAGER and the City Attorney.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing

business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and other LOCAL AGENCY representatives who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than thirty (30) days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- C. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of LOCAL AGENCY, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, LOCAL AGENCY shall be entitled to, and CONSULTANT shall deliver to

LOCAL AGENCY, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to LOCAL AGENCY which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by LOCAL AGENCY.

- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of LOCAL AGENCY without restriction or limitation upon its use or dissemination by LOCAL AGENCY.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this AGREEMENT. Any reuse by LOCAL AGENCY for another project or project location shall be at LOCAL AGENCY's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.

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- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. All information related to the construction estimate is confidential and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this AGREEMENT are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of LOCAL AGENCY or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this AGREEMENT, LOCAL AGENCY has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, LOCAL AGENCY's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI RETENTION OF FUNDS

No retainage will be held by the LOCAL AGENCY from progress payments due the CONSULTANT. Any retainage held by the CONSULTANT or subconsultants from progress payments due subconsultants shall be promptly paid in full to subconsultants within thirty (30) days after the subconsultant's work is satisfactorily completed. Federal law (49 CFR §26.29) requires that any delay or postponement of payment over thirty (30) calendar days may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of this provision shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified in Business and Professions Code §7108.5. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by the CONSULTANT, deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE CONSULTANT and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this AGREEMENT and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT: Kimley-Horn and Associates, Inc.
Kevin Aguigui, Project Manager
1300 Clay Street, Suite 325
Oakland, CA 94612

LOCAL AGENCY: City of San Rafael
Bill Guerin, Contract Administrator
111 Morphew Street
San Rafael, CA 94901

ARTICLE XXXIII CONTRACT

The two parties to this AGREEMENT, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this AGREEMENT constitutes the entire AGREEMENT which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this AGREEMENT as evidenced by the signatures below.

ARTICLE XXXIV NO THIRD PARTY BENEFICIARIES

LOCAL AGENCY and CONSULTANT do not intend, by any provision of this contract, 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.

ARTICLE XXXV 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.

ARTICLE XXXVI LOCAL AGENCY BUSINESS LICENSE / OTHER TAXES

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

ARTICLE XXXVII 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 contract or any applicable law, ordinance or regulation.

ARTICLE XXXVIII APPLICABLE LAW

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

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 LOCAL AGENCY, 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.

ARTICLE XXXIX SIGNATURES

CITY OF SAN RAFAEL

Jim Schutz
City Manager

KIMLEY-HORN AND ASSOCIATES, INC.

By: 

Title: Assistant Secretary

and

ATTEST:

LINDSAY LARA
City Clerk

By: 

Title: Assistant Secretary

APPROVED AS TO FORM:

ROBERT F. EPSTEIN
City Attorney

**Third Street Safety Improvements Project
Federal Project No. HSIPL 5043 (043)**

Revised Scope of Work
December 5, 2019

Task 1: Project Management and Coordination

Kimley-Horn will provide project management and quality control for delivery of high-quality products within budget and on schedule. We will also coordinate closely with the Third Street Rehabilitation Project through attendance at monthly meetings. We have assumed that Kimley-Horn will attend up to twelve (12) face-to-face meetings with the City and/or the City's consultant leading the Third Street Rehabilitation Project. These meetings can either be coordination meetings with the Third Street Rehabilitation Team, meetings on the Third Street Safety Improvements project, or other meetings with the City or other stakeholders.

We will prepare monthly progress reports, invoices, and updated project schedules that will reflect our progress on the detailed design. Progress reports provided with each invoice will, at a minimum, include:

- A summary of work completed and an updated percent complete for each task
- Budget status for tasks
- Issues that have been identified along with possible resolutions
- Identification of any out-of-scope work that may have an impact on the scope, schedule, and/or budget of the project

If an unforeseen issue arises, Kimley-Horn will address the City to ensure everyone is in agreement for next steps before resuming work

Deliverables:

- Monthly progress reports, invoices, and project schedule updates
- Meeting agendas and minutes for up to twelve (12) design coordination meetings

Task 2: Design

As part of this task, the Kimley-Horn team will complete the full design of the project using the City's 35% design as a basis. Additionally, the Kimley-Horn team will study, and potentially incorporate, comments City staff received during the August 2019 Bicycle and Pedestrian Advisory Committee (BPAC). The City's 35% design did not yet incorporate boundary survey on the south side of Third Street at the intersections of Lindaro Street and Ritter Street or topographic survey on the south side of Third Street between Irwin Street and Grand Avenue. This additional survey work will be City-furnished for the Kimley-Horn team to incorporate into the AutoCAD base mapping.

We will conduct a detailed site visit that will focus on identifying any issues such as right-of-way constraints, environmental concerns, accessibility, and drainage. We will conduct this site visit with City staff if necessary. Our findings will be summarized in a brief memo documenting the issues and any recommendations identified at the time.

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Coordination with regulatory agencies – we will focus on coordination with all agencies involved in the development of this project. The City will provide a list of contact information for relevant stakeholders to coordinate with.

Lighting Analysis

We will perform lighting analyses at each of the five project intersections focusing on the photometrics and lighting levels using the City's standard luminaries. We will confirm that minimum lighting levels and uniformity ratios are met, providing the City with recommendations on light placement in order to meet these minimums.

We will prepare a lighting analysis summary memorandum including the photometrics output and documentation on compliance with guidelines. This analysis will be updated for each of the design stage submittals (65%, 95% and 100% designs).

Public Outreach

Our team will assist the City in conducting public outreach for the project. Kimley-Horn, together with our subconsultant Lowe Consulting Group, will coordinate public outreach as directed by the City.

The Kimley-Horn team will reach out to pertinent regulatory agencies, stakeholders, and the public. This outreach will include participation in up to three (3) meetings with some or all of the following groups:

- Project stakeholders
- SMART
- San Rafael High School
- Business/property owners
- Transit agencies
- BPAC
- City Council

This public outreach may be in the form of public meetings, workshops, City Council, and other meetings. Per the City's direction, we will assume that the public outreach may include a total of two meetings. The Kimley-Horn team will coordinate with the City and the City's consultant leading the Third Street Rehabilitation Project to ensure the two City projects on Third Street are seamlessly coordinated and that the public message is consistent. We will provide maps, graphics, and narratives to the City for use on their web page to inform the community of the project's progress.

Pavement Assessment

The City's consultant leading the Third Street Rehabilitation Project will likely retain Pavement Engineering, a pavement design consultant, to perform deflection testing and analysis

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consistent with California Test Method 356 and the California Highway Design Manual Chapter 630, topic 635. At select intervals along Third Street between Miracle Mile and Lindero Street, Pavement Engineering will core the pavement to determine the existing thickness. In addition to deflection testing, they will quantify and qualify the engineering properties of the subgrade.

The Kimley-Horn team will review and extract applicable test results from this other City project to the Third Street Safety Improvement Project for the purpose of assisting in pavement design as directed by the City. Pavement related improvements will be included in the construction drawings prepared by the Kimley-Horn team.

Utility Survey

The City will furnish the Kimley-Horn team with a ground penetrating radar (GPR) scan along Third Street between Lindero Street and Union Street and on Grand Avenue between Second Street and Fourth Street to locate horizontally and vertically the existing utilities as well as any underlying concrete slab below the asphalt surfaced roadway.

The City will request facility mapping and/or as-builts from the local utility companies. The Kimley-Horn team will review the facility maps and GPR scan to confirm underground and aerial utility lines included in the City's 35% design are correctly shown in their approximate locations. Where necessary, the Kimley-Horn team will map additional underground utilities, especially on Third Street between Irwin Street and Grand Avenue.

PS&E Documents

We will prepare the 65% and 95% design packages and the final bid documents, including traffic signal interconnect (fiber optic) plan sheets. These sheets will include at a minimum, fiber cable routing, fiber optic splice diagrams, and other related details and documents. The design packages and bid documents will include technical specifications/special provisions as well as a detailed cost estimate for the proposed improvements.

The cost estimate will be provided in the format of the schedule of bid items. Final bid documents will be developed incorporating comments from all previous reviews provided by the City; these documents will include signatures of the engineer-in-charge of the design.

Using the City's 35% design plans as a basis, Kimley-Horn will revise the drawings and produce the 65% PS&E documents. The 65% construction cost estimate will include bid item detailed breakdowns including measurement and payment provisions, which will be included in the project specifications.

We will submit 65% PS&E to the City in PDF format, via e-mail. While the Kimley-Horn team will allocate up to three weeks for the City to review the 65% submittal, the team understands that the City may wish to bring the 65% plans before the BPAC in which case additional review time will be necessary. We will meet with the City to review 65% PS&E comments and to receive

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further direction to complete the 95% design. Kimley-Horn will prepare meeting agenda and notes. The anticipated breakdown of sheets for the 65% plans is as follows:

- Title Sheet
- General Note Sheet
- Demolition Plan Sheets
- Construction Layout Sheets
- Pavement Rehabilitation Sheets
- Grading and Drainage Sheets
- Construction Detail Sheets
- Traffic Signal Removal Sheets (if not included on the Traffic Signal Modification Sheets)
- Traffic Signal Modification Sheets
- Traffic Signal Schedule Sheets
- Traffic Signal Interconnect Sheets (Fiber Optic)
- Signing and Striping Sheets
- Electrical Detail Sheets
- Traffic Handling/Management Sheets

Based on the City's comments and direction on the 65% PS&E, Kimley-Horn will revise the 65% PS&E to produce the 95% PS&E submittal. We will prepare a 65% comment response matrix and allocate up to three weeks for City review of the 95% submittal.

Kimley-Horn will make any necessary revisions to the 95% submittal to develop the 100% (Bid) Documents, plans and specifications, and submit to the City. Bid documents will be wet sealed and signed by the Engineer of Record. Bid plans will be plotted full size (22"x34") on bond paper.

Deliverables:

- Lighting analyses exhibits and memorandum (65%, 95% and 100%)
- 65% PS&E submittal set in PDF format
- 95% PS&E submittal set in PDF format
- Final Bid submittal in PDF format as well as one full size, wet sealed set of plans
- Public outreach materials, including agendas, minutes, display boards, etc.
- PS&E Checklist (Caltrans LAPM Exhibit 12-D)

Task 3: Environmental Compliance and Permitting

Kimley-Horn will prepare all appropriate environmental documentation. This will include all pertinent National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) documents and any associated technical studies required. Kimley-Horn will prepare, submit, and obtain all required permits and environmental documentation required by State, local, or jurisdictional agencies.

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In addition, we will coordinate with the Federated Indians of Graton Rancheria (FIGR) regarding any potential cultural resources. This will include preparation of any exhibits and letters necessary to address any concerns during construction. The Kimley-Horn team will be completing this task with the assistance of Archaeological Historical Consultants (A/HC). Aside from coordinating with the FIGR, some of the anticipated efforts identified by A/HC include the preparation of an Archaeological Survey Report (ASR) and a Historic Properties Survey Report (HPSR).

The Kimley-Horn team understands that the City's consultant leading the Third Street Rehabilitation Project is required to provide CEQA on Third Street from Miracle Mile to Grand Avenue. The Kimley-Horn team will provide any cultural resource reports to the other consultant team for inclusion in their CEQA documents. Likewise, relevant information from the other consultant team will be shared with the Kimley-Horn team.

Deliverables:

- Preliminary and final permit applications
- Preliminary and final NEPA/CEQA documentation
- Documentation of FIGR resources to be addressed during construction

Task 4: Right-of-Way Certification

In this task, Kimley-Horn will ensure that the City obtains Caltrans approved Right of Way Certification (LAPM Exhibit 13-B). As a result of street resurfacing on Third Street within Caltrans right of way and since MMWD's water main installation may be part of the City's project, also within Caltrans right of way, the Kimley-Horn team will prepare and submit for a Caltrans encroachment permit. As noted in the City's RFP, it is anticipated that the team will address and resolve up to three rounds of Caltrans-furnished comments on the PS&E package. Any conditions of approval that Caltrans requires will be incorporated into the contract documents.

Street resurfacing on Third Street will encroach within Sonoma-Marín Area Rail Transit (SMART) right of way. As such, this task also includes coordination with SMART for procurement of a Right of Entry Permit with any associated fees to be paid directly to SMART by the City. Any conditions of approval that SMART requires will be incorporated into the contract documents.

Utility Coordination

As noted in Task 2, *Utility Survey* subsection, the City will request facility mapping and/or as-builts from the local utility companies for inclusion into the design plans.

Kimley-Horn will review plans to confirm no conflicts exist between proposed improvements (e.g., traffic signal pole foundations, curb ramp improvements, catch basins, etc.) and existing utilities. Kimley-Horn will assist the City with negotiating with utilities for relocation or adjustment work, including creating displays and attending meetings.

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Kimley-Horn will coordinate with the necessary utility agencies to identify potential conflicts. Should there be any potential utility conflicts identified, Kimley-Horn will draft Notice to Owner (NTO) letters. Upon approval from the Caltrans Local Assistance Right of Way Programs, the NTO will be sent to the City for City submittal of the NTO to the utility agencies.

Kimley-Horn will prepare any necessary utility mapping with proposed improvements to any relocated/adjusted facilities. We will draft Utility Notification letters to the utility companies showing limits of the relocation/adjustment. These notifications will be included with the NTOs and sent to the City for signatures.

The Kimley-Horn team understands that designs prepared by the San Rafael Sanitation District (SRSD) and Marin Municipal Water District (MMWD) for sewer and water improvements, respectively, may be included in the plan set for this project. We will coordinate with the City, and the utility district's respective design consultants (if applicable) on how to incorporate these third-party construction plans into this project for the purpose of having one contractor for both the transportation and sewer/water improvements along this segment of the corridor.

The Kimley-Horn team will coordinate in conference calls with SRSD and MMWD as necessary to ensure a seamless, single project from the public's perspective. This task also includes preparation of Utility Agreements with SRSD and MMWD per Caltrans Local Assistance Procedures Manual requirements. City staff will prepare and mail a letter to property owners along the project corridor requesting they televise and/or rehabilitate privately owned sewer laterals prior to any street resurfacing or rehabilitation.

Based upon a utility coordination meeting held at the Department of Public Works on October 31, 2019, it is not anticipated that Comcast or AT&T will have a major role in this project with the exception of coordination for minor adjustments of utility boxes within sidewalks. If Comcast or AT&T facilities are impacted, the Kimley-Horn team will coordinate with these utilities per Caltrans Local Assistance Procedures Manual requirements to the extent feasible without requesting additional budget. Should Comcast or AT&T coordination require more than a total of ten man-hours combined between the two utilities, additional coordination will be considered out of scope work to be performed at an additional fee.

Rights to Enter

Our team will prepare standard right to enter for improvements located on private property such as conforms to sidewalk and driveway within the public right of way. This will include a plat map and standard City form for up to five (5) locations. We will meet with the property owners and coordinate their signature of the agreement.

Easement Acquisition Assistance

To accommodate sidewalk, curb ramp, or retaining curbs/walls (if necessary), the project may require acquisition of temporary construction easements or right of way acquisition. For two (2) locations, we will complete the following:

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- 1) Boundary Survey. Our team will complete a formal boundary survey at each location requiring an easement. We will provide a copy of the survey to the property owner for their record.
- 2) Record of Survey. If the boundary determined by our team is not consistent with record information, we will file a record of survey with the County as required by the California law. We assume two will be required for this project.
- 3) Mapping: Our team will prepare a plat map and legal description for each location.
- 4) Nominal Value Waiver. Our team acquisition representative will prepare a Waiver Valuation in lieu of an appraisal, to evaluate the fair market value of the easement. The owner or a designated representative will be invited to accompany the representative during the inspection of the property. Waiver valuations are not appraisals and cannot be used to support an eminent domain proceeding.
- 5) Negotiations/ Acquisitions/ Closure: Our team will prepare acquisition documents, including, offer letter, valuation summary statement, summary statement pertaining to the acquisition of real property or an interest therein, purchase agreement, deed and public acquisition brochure. If settlement with owners and other required interests is reached, our team will prepare a Memorandum of Settlement for transmittal. Our team will establish with the City a process of coordinating escrow closings and reviewing escrow instructions.
- 6) Right of Way Certification: Our team will provide Caltrans Right of Way Certification support. Our team will prepare a Draft Right of Way Certification for approval by the City, in accordance with the Caltrans Right of Way Manual. Supporting documentation will be submitted along with the Right of Way Certification (e.g. right of way contracts, diary notes, Right of Way Sufficiency forms, Agreements for Possession and Use, and deeds).

Deliverables:

- Utility Coordination Letters
- Notice to Owner (NTO) as necessary
- Caltrans Encroachment Permit
- Utility Agreements with SRSD and MMWD
- SMART Right of Entry Permit Coordination
- Rights to Enter
- Boundary Survey for Two Properties
- Record of Survey for Two Properties
- Appraisal and Acquisition for up to Two Temporary and/ or Permanent Construction Easements
- Caltrans approved Right-of-Way Certification (Exhibit 13-B)

Third Street Safety Improvements Project
Federal Project No. HSIPL 5043 (043)

Revised Scope of Work
December 5, 2019

Assumptions

- 1) The detailed designs will be developed for the improvements between Grand Avenue and Lindaro Street.
- 2) Environmental CEQA documents will be prepared by others. Kimley-Horn will provide applicable information to support those documents, primarily on cultural resources.
- 3) No geotechnical studies or reports will be included in this scope of services
- 4) No additional traffic data collection or analysis is required.
- 5) The following applies to the right of way engineering phase:
 - a) The scope of work includes up to two easements.
 - b) The project will not impact structures and not displace occupants.
 - c) No preliminary title reports will be necessary.
 - d) No permanent right of way acquisition will be required.
- 6) The Waiver Valuations will be appropriate, and no parcels will require formal appraisal/acquisition services for Government Code offers.

		Kimley-Horn and Associates, Inc.										
Name		Elbert Chang	Kevin Aguigui	Sr. Professional	Professional II	Professional I	Analyst	Sr. Project Support	Project Support			
Category/Title		Principal In Charge/QA/QC	Project Manager									
194.28%	Overhead%	Direct Rate	\$72.84	\$95.93	\$71.98	\$67.72	\$51.99	\$40.82	\$46.52	\$34.74	Total Hours	Total Cost
193.59%	Overhead% w/o FCCM	Billing Rate	\$235.74	\$310.47	\$232.96	\$219.17	\$168.26	\$132.11	\$150.56	\$112.43		
Task 1:	Project Management & Coordination		8	80	8	16	8	80	11	8	219	\$ 46,564.01
	Project Management & Coordination		8	80	8	16	8	80	11	8	219	\$ 46,564.01
Task 2:	Design		7	40	24	88	218	242	9	22	650	\$ 111,426.25
	65% Design		3	12	8	24	80	95	3	5	230	\$ 38,581.52
	95% PS&E		2	10	8	48	80	95	3	8	254	\$ 43,322.19
	Final Bid Documents		2	8	8	16	48	52	3	5	142	\$ 24,285.55
	Public Outreach			10			10			4	24	\$ 5,237.00
Task 3:	Environmental Compliance and Permitting		0	2	25	0	25	0	2	2	56	\$ 11,177.29
	NEPA and CEQA Clearance			2	25		25		2	2	56	\$ 11,177.29
Task 4	Right-of-Way Certification		10	29	20	49	94	102	4	12	320	\$ 58,002.29
	Caltrans Encroachment Permit		2	6	4	8	30	30	2	4	86	\$ 14,781.37
	Utility Coordination		8	15		25	40	40		4	132	\$ 24,486.62
	Easement Acquisition Assistance and Coordination			8	16	16	24	32	2	4	102	\$ 18,734.30
	TOTAL HOURS		25	151	77	153	345	424	26	44	1245	
	Subtotal Labor:		\$5,893.47	\$46,880.50	\$17,937.56	\$33,532.75	\$58,049.67	\$56,014.40	\$3,914.48	\$4,947.02		\$ 227,169.85
	Other Direct Costs											\$ 52,830.15
	Archaeological/Historical Consultants (Sub)											\$ 13,000.00
	Lowe Consulting Group (DBE Sub)											\$ 9,200.00
	LCC Engineering and Surveying (Sub)											\$ 9,000.00
	Associated Right of Way Services (Sub)											\$ 20,000.00
	Travel-Mileage/Tolls											\$ 400.00
	Plan Reproduction											\$ 1,230.15
	TOTAL COST:											\$ 280,000.00



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 6.a

Meeting Date: March 2, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: FIRE

Prepared by: Matt Windrem, Battalion Chief

City Manager Approval: _____

TOPIC: DIRECT CONNECT EMS PILOT PROGRAM

SUBJECT: INFORMATIONAL UPDATE ON THE DIRECT CONNECT EMS PILOT PROGRAM

RECOMMENDATION: Accept the report.

BACKGROUND:

Beginning in May 2019, a group began meeting to discuss ways to address the needs of frequent 911 callers in Marin County. Led by the Marin County Health and Human Services, Whole Person Care project, this team had representatives from Emergency Medical Services (EMS), area hospitals, San Rafael Fire and Police Departments, and other community and health care organizations. Utilizing a human centered design process, this group researched the root causes of frequent EMS visits and possible interventions.

Ultimately the team developed the idea of a pilot program consisting of a nurse practitioner partnered with a social worker or other peer advisor able to respond when requested by Fire Department paramedics. The process and decisions were guided by the values of dignity, sustainability, and creativity.

Pilot goals:

- Reduce non-emergency Emergency Department visits.
- Identify gaps and ways to better meet the needs of the whole person, potentially including leveraging existing resources and processes.
- Support equity and dignity for high-frequency users of EMS, attending to the needs of the whole person while maintaining appropriate medical care and intervention.
- Reduce stigma around behavioral health issues, homelessness, and frequent use of EMS.
- Design for sustainability (fundable results)

The Direct Connect team began with a soft roll-out in San Rafael on January 28th. The team is based at Station 52, working daily with fire crews in San Rafael.

ANALYSIS:

The Direct Connect EMS program will begin as a 90-day pilot. During that time, weekly meetings are held to review calls, assess the effectiveness of the program, and make changes as needed based on

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

feedback from field crews, the Direct Connect team, and the County and City sponsors. Because the team has been active for only a limited period, we are currently in the process of collecting data to obtain an understanding of the effectiveness of the program and will return to the Council with this data at a later date.

FISCAL IMPACT:

The estimated total cost for a 90-day pilot with a Nurse Practitioner and Peer/Social worker is approximately \$56,000. The San Rafael Fire Department has agreed to contribute 25% (\$14,000) of the cost of the pilot. Our actual contribution will be offset by in-kind contribution of the space to house the Direct Connect team and providing the vehicle. One of the temporary employees assigned to the team is employed by the City of San Rafael as a Paraprofessional Temp, and those costs will also be credited towards the City's contribution. All funding is within the current year's EMS Budget.

RECOMMENDED ACTION:

Accept the report.



SAN RAFAEL
THE CITY WITH A MISSION

Agenda Item No: 6.b

Meeting Date: March 2, 2020

SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: Police

Prepared by: Roy Leon, Lieutenant

City Manager Approval: _____

TOPIC: Camp Chance 2020 – “Bringing Cops and Kids Together”

SUBJECT: Informational Report regarding Camp Chance 2020

RECOMMENDATION:

Staff recommends the City Council accept the informational report.

BACKGROUND:

In 1999, the San Rafael Police Department created a one-week summer camp, called “Camp Chance,” for at-risk and underserved youth ages 11 through 13 living in our community. Over 1,223 youth from Marin and Sonoma Counties have benefited from this enriching camping program since its inception in 1999.

ANALYSIS:

At Camp Chance, children participate in traditional camping activities such as swimming, hiking, and nature studies. In addition, they are given the opportunity to create and foster rapport with peace officers in a personal and relaxed setting. This rapport has historically continued to flourish when the children return to their home.

In 2004, the Marin County Sheriff’s Office (MCSO) joined the San Rafael Police Department (SRPD) in presenting the program and the number of campers has grown substantially. We now have Marin County Sheriff deputies, Novato police officers, and Marin County probation officers that all join with San Rafael police officers to participate with the kids in all the activities throughout the week. This informal and personal contact with peace officers has proven to be a big win-win for the kids, police and community. When children feel more connected with their community and build a good relationship with their police officers, they are less likely to be involved in destructive behavior and criminal activity. In 2008, SRPD and MCSO partnered with the Marin County Office of Education (MCOE) and selected Walker Creek Ranch, an MCOE facility, to host Camp Chance. We are returning to this venue which allows us to offer children a superior environment and camping experience for a lower cost. Camp Chance 2020 will be held July 6 - 10, 2020 and a minimum of 75 youth will attend at the cost of \$700 per child. Since 2004, Camp Chance has been funded through donations of time and money; all donated money is dedicated directly to cover the cost of sending children to camp.

FOR CITY CLERK ONLY

Council Meeting: _____

Disposition: _____

Camp Chance creates an opportunity for community partnership between at-risk youth and law enforcement and does not place a financial burden on the City of San Rafael. Moreover, it reduces juvenile crime by offering these youth a structured and challenging, but enjoyable, overnight summer camp experience that builds rapport and trust with law enforcement.

COMMUNITY OUTREACH:

Middle schools throughout Marin County nominate children and we announce the program on our Camp Chance Facebook page, SRPD Instagram page, SRPD Facebook page, and our Camp Chance website. We now enjoy brand recognition and receive calls directly from parents asking that their children be considered for Camp Chance. We strive to keep older children who have aged out from the program involved by offering counselor-in-training (CIT) volunteer positions for kids 15-17 years old and hiring camp counselors from alumni over the age of 18.

FISCAL IMPACT:

This is an informational report which has no direct fiscal impact on the City.

OPTIONS:

1. Accept the informational report as presented.
2. Do not accept the informational report.
3. Direct staff to return with more information.

RECOMMENDED ACTION:

Staff recommends the City Council accept the informational report.