

COMMISSION ON COMMUNITY INVESTMENT AND INFRASTRUCTURE

RESOLUTION NO. 30–2023

Adopted October 3, 2023

AUTHORIZING AN AMENDED AND RESTATED PERSONAL SERVICES CONTRACT WITH CMG LANDSCAPE ARCHITECTURE, A CALIFORNIA CORPORATION, TO INCREASE THE CONTRACT AMOUNT BY \$4,910,056 FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$8,528,561 TO CLOSE OUT COMPLETED SCOPES FROM THE ORIGINAL CONTRACT AND PROVIDE DESIGN, ENGINEERING, PERMITTING AND CONSTRUCTION ADMINISTRATION SERVICES FOR THE UNDER RAMP PARK PROJECT; AND PROVIDING NOTICE THAT THIS ACTION IS WITHIN THE SCOPE OF THE TRANSBAY TERMINAL/CALTRAIN DOWNTOWN EXTENSION/ REDEVELOPMENT PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT/ ENVIRONMENTAL IMPACT REPORT AND THE FINAL ENVIRONMENTAL IMPACT REPORT TRANSIT CENTER DISTRICT PLAN AND TRANSIT TOWER, BOTH PROGRAM EIRS, AND IS ADEQUATELY DESCRIBED IN THESE EIRS FOR PURPOSES OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; TRANSBAY REDEVELOPMENT PROJECT AREA;

WHEREAS, The Transbay Redevelopment Project Area (the “Project Area”) was adopted in 2005 with the purpose of redeveloping blighted properties in the Project Area, including property owned by the State of California (the “State-owned parcels”), in order to generate funding for the Transbay Joint Powers Authority (“TJPA”) to construct the new Transbay Transit Center, now commonly referred to as the Salesforce Transit Center (the “STC”); and,

WHEREAS, The Transbay Redevelopment Project Area Implementation Agreement (the “Implementation Agreement”) is an enforceable obligation that requires the Office of Community Investment and Infrastructure (“OCII”), as the Successor Agency (the “Successor Agency”) to the former San Francisco Redevelopment Agency (the “Former Agency”), to among other things, “execute all activities related to the implementation of the Transbay Redevelopment Plan, including but not limited to, activities related to major infrastructure improvements” (Section 2.1 (d) of the Implementation Agreement at p. 4). On April 15, 2013, the California Department of Finance (“DOF”) determined “finally and conclusively” that the Implementation Agreement, along with other Transbay-related documents, is an enforceable obligation that will not require additional DOF review in the future, although expenditures under the Implementation Agreement are subject to continuing DOF review; and,

WHEREAS, In June 2011, the Former Agency entered into an agreement (“Contract”) with CMG Landscape Architecture (“CMG”) to complete design documents for select elements of the 2006 Transbay Streetscape and Open Space Concept Plan (“Streetscape Plan”) including the underutilized areas under the off-ramps (“Under Ramp Park,” “URP,” or the “Project”) and streetscape improvements for Folsom and Essex Streets; and,

- WHEREAS, Under the Transbay Redevelopment Plan, OCII has land use authority over those portions of URP in Zone 1 of the Project Area. Even though OCII has delegated its land use authority to the Planning Department in Zone 2, OCII retains land use authority over the URP in Zone 2 of the Project Area because the OCII funding of URP constitutes “Agency Action” under the Delegation Agreement between the San Francisco Redevelopment Agency and the Planning Department for the Transbay Redevelopment Project Area, Recital I at page 2 (May 3, 2005); and,
- WHEREAS, On September 17, 2013, the Commission approved, by Resolution No. 45-2013, a First Amendment to the Contract with CMG with a supplemental amount of \$1,124,521 to perform additional design services for the Essex Street improvements, analysis of a cycletrack on Folsom Street, bus and Caltrans ramps risk analysis, URP Folsom Pavilion Building design, and URP construction administration (“CA”); and,
- WHEREAS, On October 20, 2015, the Commission approved, by Resolution No. 66-2015, a Second Amendment to the Contract with CMG adding the amount of \$147,808 for additional design services for three transit boarding islands requested by the San Francisco Municipal Transportation Authority (“MTA”) for Folsom Street, as-needed streetscape coordination services requested by Transbay block developers, and research, inspection and documentation of structure basements located adjacent to Folsom Street; and,
- WHEREAS, On June 19, 2018, the Commission approved, by Resolution No. 27-2018, a Third Amendment to the Contract with CMG adding the amount of \$667,969 to complete design and CA for the Folsom Street Improvement Project (“FSIP”), and extend the term of the Contract five years to June 28, 2023; and,
- WHEREAS, Between March 2017 – August 2018 CMG and its consultants (the “Design Team”) began new Concept and Schematic Design services for the Project and attended seven public outreach meetings, including five Transbay CAC workshops, obtained comments from the public during each meeting and modified the design plans accordingly. The major URP design updates consisted of a revised architectural plan for the Folsom Pavilion Building, the relocation and design of the beverage and food concession structure proposed to be located in the center of the Project (“Concession Building”), the addition of a large dog park, and modifications of URP’s materials based on direction from OCII, the TJPA, and Caltrans; and,
- WHEREAS, On August 21, 2018 the Commission approved, by Resolution No. 35-2018, a Fourth Amendment to the Contract adding the amount of \$1,549,129 to advance the Project by authorizing the following URP-related additional scopes: (1) new design services related to revising and completing the Under Ramp Park Schematic Design; (2) Supplemental work in the Design Development (“DD”), Construction Documents (“CD”), and bid negotiation phases stemming from the revised Schematic Design; (3) an updated topographic survey; (4) supplementary geotechnical design work to comply with code requirements triggered by the added Project program; (5) Wi-Fi infrastructure design; (6) TJPA-required security infrastructure; (7) Design of safety improvements at the Essex/Guy Place stairs as requested by Transbay residents; and (8) the addition of an industry-standard 20% design contingency; and,

WHEREAS, On June 6, 2023, the Commission conditionally approved, by Resolution No. 20-2023, the Schematic Design for URP. At a separate meeting, the Transbay Joint Powers Authority also conditionally approved the Schematic Design; and,

WHEREAS, To complete the design and engineering of the Project in preparation for contractor bidding and construction, OCII staff and CMG propose entering into an amended and restated contract with a new scope of services that includes: (1) inclusion of dynamic structural analysis and associated engineering services associated with Caltrans and TJPA review and approval of final design; (2) Concession Building scope regarding the reprogramming of the historically relevant Zig-Zag Pavilion structure including additional architectural design, structural design, and thermal and waterproofing design; (3) Folsom Pavilion building size increase, the addition of a trash room and terrace, and including additional architectural design and structural design; (4) signage and environmental graphics design and coordination; (5) design review and operations/maintenance coordination meetings with the East Cut Community Benefits District, the Project's future operator; and (6) an 10% design contingency; and,

WHEREAS, To ensure the completion of this additional scope of services, and the proper implementation of the Under Ramp Park, OCII staff recommends that the Commission authorize the OCII Executive Director to enter into an amended and restated personal services contract with CMG Landscape Architecture for a total amount not to exceed \$8,503,561 ("Amended Personal Services Contract"); and,

WHEREAS, The Board of Supervisors affirmed, by Motion No. 04-67 (June 15, 2004), the certification under the California Environmental Quality Act ("CEQA") of the Final Environmental Impact Statement/Environmental Impact Report") for the Transbay Terminal/Caltrain Downtown Extension/Redevelopment Project ("Transbay FEIS/EIR"), which included the Transbay Redevelopment Plan. Subsequently, the Board of Supervisors adopted, by Resolution No. 612-04 (October 7, 2004), findings that various actions related to the Project complied with CEQA and the San Francisco Redevelopment Agency Commission adopted, by Resolution No. 11-2005 (January 25, 2005), findings and a statement of overriding considerations adopted in accordance with CEQA. Subsequent to the adoption of the Transbay FEIS/EIR and the findings, ten addenda to the Transbay FEIS/EIR have been approved and incorporated into the Transbay FEIS/EIR by reference. OCII staff has made the Transbay FEIS/EIR, addenda, and related documents available to the Commission and the public, and these files are part of the record before the Commission; and,

WHEREAS, On May 24, 2012, the Planning Commission of the City and County of San Francisco, acting as Lead Agency pursuant to the California Environmental Quality Act ("CEQA") Guidelines Section 15050 (a), certified the Final Environmental Impact Report Transit Center District Plan and Transbay Tower ("TCDP FEIR"), which analyzed the development of land in the Transit Center District, including proposed and related public improvements. The Transit Center District is located approximately between Folsom and Market Streets, and between New Montgomery Street and the Embarcadero, and includes the land area on which the proposed Under Ramp Park would be located, wholly within the Transbay Redevelopment Project

Area. The Transit Center District Plan (“TCDP”) area includes the Transbay Redevelopment Project Area north of Folsom Street and the entirety of the Project’s land area. The TCDP FEIR is available for review at the Planning Department’s website at http://sfmea.sfplanning.org/2007.0558E_FEIR1.pdf, http://sfmea.sfplanning.org/2007.0558E_FEIR2.pdf, and, http://sfmea.sfplanning.org/2007.0558E_FEIR3.pdf; and,

WHEREAS, On November 23, 2015, the City, through its Planning Department, acting as the Lead Agency for the Folsom Streetscape Improvement Project (“FSIP”) published an Addendum to the TCDP FEIR that studied design changes to the FSIP. The Addendum confirmed that the FSIP would not result in any additional or more severe significant impacts identified in the TCDP FEIR nor require any new mitigation measures not identified in the TCDP FEIR; and,

WHEREAS, On June 19, 2018, the Commission approved, by Resolution No. 28-2018, funding for the FSIP in its role as a Responsible Agency under CEQA Guidelines Sections 15050 (b) and 15096, and adopted, as its own, the CEQA environmental findings adopted by the Planning Commission in its certification of the TCDP FEIR, and the November 23, 2015 Addendum findings; adopted a statement of overriding considerations; and, found that the project described in the TCDP FEIR will have a significant project-specific and cumulative effects on the environment; and,

WHEREAS, The Transbay FEIS/EIR described and studied the Transbay Redevelopment Project Design for Development Vision (“D4D Vision”), which calls out Oscar Park, also known as Under Ramp Park. The Transbay FEIS/EIR studied a land use program that included in its Land Use Plan the open space designated as Oscar Park in the D4D Vision as well as open spaces under the bus and freeway ramps, all of which combined, cover the land area designated for the Under Ramp Park; and,

WHEREAS, In addition, the TCDP FEIR analyzed potential environmental effects associated with the November 2009 Transit Center District Plan project at a program level. It cites the 2006 Streetscape and Open Space Plan for the Transbay Redevelopment Area, which called for the development of a pedestrian and open space network in the under ramp areas aligned with Under Ramp Park. Furthermore, the TCDP EIR analyzed a Multi-Modal Pathway, including a pedestrian connection and two-way bicycle paths below the bus ramps, as proposed in the implementation of Under Ramp Park. The Amended Personal Services Contract is necessary for the implementation of Under Ramp Park; now, therefore, be it


RESOLVED, That the Commission, acting as Lead Agency under CEQA for approval of the URP, finds and determines that its authorization of the Amended Personal Services Contract is within the scope of the projects analyzed in (1) the Transbay FEIS/EIR, certified by the San Francisco Redevelopment Agency as a co-Lead Agency and for which it adopted findings and a statement of overriding considerations as Lead Agency, and (2) the TCDP FEIR, certified by the City, through its Planning Commission, as Lead Agency and for which OCII, through its Commission, adopted findings and a statement of overriding considerations as a Responsible Agency in its approval of the Folsom Streetscape Improvement Project, and requires no further environmental review beyond the Transbay FEIS/EIR and the TCDP FEIR pursuant

to CEQA and CEQA Guidelines Section 15180, 15168, 15162, and 15163 for the following reasons:

- (1) authorization of the Amended Personal Services Contract does not require major revisions in the Transbay FEIS/EIR and the TCDP FEIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and,
- (2) no substantial changes have occurred with respect to the circumstances under which the actions analyzed in the Transbay FEIS/EIR and the TCDP FEIR will be undertaken that would require major revisions to the Transbay FEIS/EIR and the TCDP FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the Transbay FEIS/EIR and the TCDP FEIR; and,
- (3) no new information of substantial importance to the actions analyzed in the Transbay FEIS/EIR and the TCDP FEIR has become available which would indicate that (A) the authorization of the Amended Personal Services Contract will have significant effects not discussed in the Transbay FEIS/EIR and the TCDP FEIR; (B) significant environmental effects will be substantially more severe; (C) mitigation measures or alternatives found not feasible, which would reduce one or more significant effects, have become feasible; or (D) mitigation measures or alternatives, which are considerably different from those in the Transbay FEIS/EIR and the TCDP FEIR, will substantially reduce one or more significant effects on the environment.

RESOLVED, that the Successor Agency Commission hereby authorizes the OCII Executive Director to enter into an Amended Personal Services Contract with CMG Landscape Architecture, substantially in the form of the “Amended And Restated Personal Services Contract” lodged with the Secretary of the Commission, and attached to this Resolution as Exhibit 1, to complete design, CA, and project closeout for Under Ramp Park in the Transbay Redevelopment Project Area by increasing the not to exceed amount of the Contract by \$4,910,056 for a total maximum Contract amount of \$8,528,561.

I hereby certify that the foregoing resolution was adopted by the Commission at its meeting of October 3, 2023.



Commission Secretary

Exhibit 1: Amended and Restated Personal Services Contract with CMG Landscape Architecture

OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/
SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND
COUNTY OF SAN FRANCISCO

AMENDED AND RESTATED PERSONAL SERVICES CONTRACT

This AMENDED AND RESTATED PERSONAL SERVICES CONTRACT (“Contract”) is entered into as of _____, 2023 by and between the OFFICE OF COMMUNITY INVESTMENT AND INFRASTRUCTURE/SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic (“OCII”), and CONGER MOSS GUILLARD, a California corporation (“CMG” or “Contractor”).

RECITALS

- A. On June 21, 2011, the San Francisco Redevelopment Agency Commission adopted Resolution No. 90-2011 authorizing the execution of a Personal Services Contract (“Original Contract”) in the amount of two million four hundred seventy nine thousand eight hundred and eight dollars (\$2,479,808.00) to perform architectural services related to the first three implementation elements of public improvements in the Transbay Redevelopment Project Area: 1) full design and construction support for the streetscape improvements on Folsom and Essex Streets; 2) conceptual designs and construction documents for the open space along Essex Street, and 3) conceptual designs for the areas under the freeway off-ramps.
- B. On September 17, 2013, the Successor Agency Commission (“Commission”) adopted Resolution No. 45-2013 authorizing the execution of the First Amendment to the Original Contract in the amount of one million one hundred twenty four thousand five hundred and twenty one dollars (\$1,124,521.00) to perform additional architectural services requested by OCII and City Departments for the Under Ramp Park (“URP” or “Project”): 1) conceptual designs for additional areas on the east and west sides of Essex Street south of Folsom Street; 2) study additional security measures for the ramps serving the Transit Center; 3) analysis of potential street closure of Clementina Street; 4) architectural and engineering design services for the URP pavilion. In addition, for the Folsom Streetscape Improvement Project (“FSIP”) the Contractor analyzed, and included in the plans, the “cycletrack” on the south side of Folsom Street.
- C. On October 20, 2015, the Commission adopted Resolution No. 66-2015 authorizing the execution of the Second Amendment to the Original Contract in the amount of one hundred forty seven thousand eight hundred and eight dollars (\$147,808.00) to perform additional architectural services requested by OCII and City Departments for FSIP: 1) Design and document three transit boarding islands in the Construction Documentation; 2) Assist OCII sponsored Transbay Block Developers with the design of the Folsom Street improvements within their blocks to ensure the designs are consistent with the remaining Folsom Street

improvements planned by OCII; 3) Research, inspect, and document existing building basements located adjacent to the FSIP.

- D. On June 19, 2018, the Commission adopted Resolution No. 27-2018 authorizing the execution of the Third Amendment to the Original Contract in the amount of six hundred sixty-seven thousand nine hundred sixty-nine dollars (\$667,969.00) to complete design and construction administration for the FSIP.
- E. On August 21, 2018, the Commission adopted Resolution No. 35-2018 authorizing the execution of the Fourth Amendment to the Original Contract in the amount of one million five hundred forty-nine thousand one hundred twenty-nine dollars (\$1,549,129.00) adding new design services related to revising and completing the Under Ramp Park Schematic Design; scope additions to the Design Development, Construction Documents, and Bid Negotiation phases stemming from the revised Schematic Design; design of safety improvements at the Essex/Guy Place stairs as requested by Transbay residents; and the addition of an industry-standard 20% design contingency.
- F. When added to the Original Contract through the Fourth Amendment the increase of one million five hundred forty-nine thousand one hundred twenty-nine dollars (\$1,549,129.00) revised the total contract value to five million nine hundred sixty-nine thousand two hundred thirty-four dollars and eighty cents (\$5,969,234.80). Of this \$5,969,234.80 total contract value, the URP-specific portion was three million nine hundred twenty-one thousand eight hundred eighty-five dollars and zero cents (\$3,921,885.00), of which one million seven hundred forty-eight thousand eight hundred five dollars and ninety-one cents (\$1,748,805.91) has been spent to date.
- G. The Original Contract and its four amendments were collectively approved by the State Department of Finance (“DOF”) as an enforceable obligation in Recognized Obligation Payment Schedule (“ROPS”) for the first and second halves of Fiscal Year 2023-2024. The DOF-approved ROPS expenditure authority for the Contract in Fiscal Year 2023-2024 is \$3,045,043.17. Since the Contract is adding \$4,910,056.00, the additional term (see Section 2) and a request for \$1,865,012.83 in supplemental expenditure authority, which will cover the full remaining value and scope of the Contract, will be included in OCII’s ROPS request for the entirety of Fiscal Year 2024-2025 which is subject to DOF approval.
- H. This Contract authorizes OCII to retroactively pay CMG for Project coordination services performed by the Contractor between July 1, 2023 and the Effective Date.

Given the changes in CMG’s design fees and the expanded project scope, OCII and CMG now desire to enter into this new Contract for URP design services. NOW, THEREFORE, OCII and the Contractor agree as follows:

1. SCOPE OF SERVICES

Contractor shall provide the services described in **Attachments A1 and A2**, “Scope of Services”. All scopes of work covered by this section of the Original Contract, as amended, are deemed complete and therefore closed, leaving only the services described in Attachments A1 and A2.

2. TIME OF COMPLETION

Time for completion of this Contract will be three years following September 19, 2023 (“Effective Date”) and extended for one two-year term, ending September 19, 2028. An additional one-year term may be added by the Executive Director for completion of the Project .

3. COMPENSATION AND METHOD OF PAYMENT

A. Compensation. The total maximum value of the Contract is **Eight Million Five Hundred Twenty-Eight Thousand Five Hundred and Sixty-One Dollars and 00/100 cents (\$8,528,561.00)**, of which OCII has already paid CMG Three Million Six Hundred Eighteen Thousand Five Hundred Five Dollars and 00/100 cents (\$3,618,505.00) under the Original Contract and its Four Amendments. Therefore, the maximum amount payable under this Contract is the remaining balance amount of **Four Million Nine Hundred Ten Thousand and Fifty-Six Dollars and 00/100 cents (\$4,910,056.00)** (“**Remaining Amount**”), which is the total value for the Under Ramp Park Scope of Services described in **Attachments A1 and A2**. Of the Remaining Amount, One Million Eight Hundred Sixty-Five Thousand and Twelve Dollars and 83/100 (\$1,865,012.83) is subject to appropriation in future fiscal years. All expenses of Contractor are included in the amounts payable pursuant to **Attachment B**, "Fee Summary", and no expenses shall be reimbursed separately.

B. Method of Payment. Contractor will submit monthly billing invoices to OCII. The invoices shall include the billing amount, percent complete for lump-sum tasks, total hours invoiced, hourly billing rate for tasks performed on an hourly basis, description of services rendered, supporting documentation and Contractor’s signature. Agency staff will review and approve these invoices for payment.

C. Taxes. No payroll or employment taxes of any kind will be withheld or paid by OCII on behalf of Contractor. OCII will not treat Contractor as an employee with respect to the Contract services for any purpose, including federal and state tax purposes. Contractor understands and agrees that it is Contractor’s responsibility to pay all taxes required by law, including self-employment social security tax. OCII will issue an IRS 1099 Form, or other appropriate tax-reporting document, to Contractor for the Contract services.

D. Benefits. Contractor will not be eligible for, and will not participate in, any health, pension, or other benefit of OCII which exists solely for the benefit of OCII employees during the Contract Term.

4. NO PERSONAL LIABILITY

No member, official or employee of OCII shall be liable personally to Contractor or any successor in interest in the event of any default or breach by OCII or for any amount which may become due to Contractor or any successor or on any obligation under the terms of this Contract.

5. ASSIGNMENT OF CONTRACT

Contractor shall not assign this Contract, or any part thereof, without the prior express written consent of OCII.

6. INTENTIONALLY OMITTED

7. NON-FEDERAL LABOR STANDARDS

Contractor agrees that any employees performing work or services for Contractor shall be subject to the State and local laws governing prevailing wage rates, hours and working conditions, and benefits applicable to similar work or services performed in San Francisco. Contractor further agrees that the inclusion of the above provision in this Contract shall not be construed to relieve Contractor or any subcontractor from the pertinent requirements of any applicable Federal labor standards provision. Where minimum rates of pay required under State or local law are higher than the minimum rates of pay required by or set forth in applicable Federal labor standards, said State or local minimum rates shall be the applicable minimum rates of pay for such classifications.

8a. INDEMNIFICATION

NOT APPLICABLE. Contractor is a design professional.

8b. INDEMNIFICATION BY DESIGN PROFESSIONALS

This section applies to Contractor, a design professional as defined in California Civil Code Section 2782.8 who is or will provide construction design services under this Contract. Contractor shall hold harmless, defend at its own expense, and indemnify OCII, the City and County of San Francisco and their respective commissioners, members, officers, and employees of and from losses, damages and judgments, arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law but only to the extent they are caused by the negligence, recklessness, or willful misconduct of Contractor, its employees, and its subconsultants in the performance of construction design services under this Contract. Contractor has no obligation to pay for any of the indemnitees' costs prior to a final determination of liability or to pay any amount that exceeds Contractor's finally determined percentage of liability based upon the comparative fault of Contractor, its employees, and its subconsultants. It is expressly agreed and understood that the duty of indemnification pursuant to this section, including the duty to defend, is to be interpreted consistent with California Civil Code Section 2782.8.

9. INDEPENDENT CONTRACTOR

Contractor hereby declares that it is engaged in an independent business and agrees to perform its services as an independent contractor and not as the agent or employee of OCII. Contractor has and hereby retains the right to exercise full control and supervision of the services and work to be provided under this Contract and full control over the employment, direction, compensation and discharge of all persons assisting it in the performance of the services and work hereunder. Contractor agrees to be solely responsible for all matters relating to payment of employees, including, but not limited to, compliance with all federal, state, and local payroll tax and withholding requirements, workers' compensation requirements and all regulations governing such matters. Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of the Contract.

10. INSURANCE

A. Contractor must procure and maintain for the duration of the Contract, including any extensions, insurance against claims for injuries to person or damages to property which may arise from or in connection with the performance of the work under this Contract by the Contractor, its agents, representatives, employees, or subcontractors. If the Contractor maintains additional coverages and/or higher limits than the minimums shown in this Article 10, OCII requires and shall be entitled to the additional coverage and/or the higher limits maintained by the Contractor.

B. Minimum Scope of Insurance. Coverage must be at least as broad as:

- (1) Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- (2) Insurance Services Office Automobile Liability coverage, code 1 (form number CA 00 01- any auto). If Contractor does not have corporately owned vehicles and therefore would not be able to comply with "Code 1" requirement, Contractor shall provide proof of non-owned and hired auto liability (Symbols "8" and "9") as an endorsement under the General Liability policy required under Section 10.B(1).
- (3) Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- (4) Professional Liability Insurance appropriate to the Contractor's profession covering all negligent acts, errors and omissions.

C. Minimum Limits of Insurance. Contractor must maintain limits no less than:

- (1) General Liability:
 - a. For contracts not involving demolition or construction, or during phases of contracts prior to demolition or construction: \$2,000,000

per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit (\$4,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

- b. For contracts involving demolition or construction or during phases involving demolition or construction: \$5,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit must apply separately to this project/location or the general aggregate limit must be twice the required occurrence limit (\$10,000,000). Applicable Umbrella or Excess Liability limits may be used to meet the terms of this paragraph.

(2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation and Employer's Liability: Workers' Compensation limits as required by the State of California and Employer's Liability limits of \$1,000,000 for bodily injury by accident and \$1,000,000 per person and in the annual aggregate for bodily injury by disease. (Required only if Contractor has employees).

(4) Professional Liability Insurance: \$2,000,000 per claim and in the annual aggregate. If the Contractor's Professional Liability Insurance is "claims made" coverage, these minimum limits shall be maintained by the Contractor for no less than five (5) years beyond completion of the Scope of Services.

D. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by OCII. At the option of OCII, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees; or Contractor shall provide a financial guarantee satisfactory to OCII guaranteeing payment of losses and related investigations, claim administration and defense expenses.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

- (1) The "Office of Community Investment and Infrastructure/Successor Agency to the Redevelopment Agency of the City and County of San Francisco, the City and County of San Francisco and their respective commissioners, members, officers, agents and employees" are to be covered

as additional insureds as respects: liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Contractor; and liability arising out of work or operations performed by or on behalf of the Contractor.

- (2) For any claims related to this Contract, the Contractor's insurance coverage must be primary insurance as respects to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents, and employees. Any insurance or self-insurance maintained by OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees shall be in excess of Contractor's insurance and shall not contribute with it.
- (3) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to OCII, the City and County of San Francisco and their respective commissioners, members, officers, agents or employees.
- (4) Each insurance policy required by this clause must be endorsed to state that coverage will not be suspended, voided, canceled by either party, or reduced in coverage or in limits, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to OCII.
- (5) Contractor hereby grants to OCII a waiver of any right to subrogation which any insurer of said Contractor may acquire against OCII by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not OCII has received a waiver of subrogation endorsement from the insurer.
- (6) If any of the required policies provide coverage on a claims-made basis:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five years after completion of contract work.

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise approved by OCII's Risk Manager.

G. Verification of Coverage. Contractor must furnish OCII with certificates of insurance and with original endorsements evidencing coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements may be on forms provided by OCII. All certificates and endorsements are to be received and approved by OCII before work commences. OCII reserves the right to require complete, certified copies of all required insurance policies, including endorsements demonstrating the coverage required by these specifications at any time.

H. Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all the requirements stated herein.

11. RECORDS, REPORTS AND AUDITS

A. Records

- (1) Records shall be established and maintained in accordance with OCII requirements with respect to all matters covered by this Contract. Except as otherwise authorized by OCII, such records shall be maintained for a period of four years from the date of the termination of the Contract; except that records that are the subject of audit findings shall be retained for four years or until such audit findings have been resolved, whichever is later.
- (2) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

B. Reports and Information

At such times and in such forms as OCII or the City and County of San Francisco, may require, there shall be furnished to OCII or its designated representative such statements, records, reports, data and information as OCII or the City and County of San Francisco may request pertaining to matters covered by this Contract.

C. Audits and Inspections

At any time during normal business hours and as often as OCII or the City and County of San Francisco may deem necessary, there shall be made available to OCII or its representatives for examination all records with respect to all matters covered by this Contract and Contractor will permit OCII or the City and County of San Francisco to audit, examine and make excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls,

records of personnel, conditions of employment and other data relating to all matters covered by this Contract.

12. CONFLICTS

Except for approved eligible administrative or personnel costs, no employee, agent, contractor, officer or official of OCII who exercises any functions or responsibilities with respect to this Contract or who is in a position to participate in a decision making process or gain inside information with regard to it, shall obtain a personal or financial interest in or benefit from any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for himself or herself or for those with whom they have family or business ties, during his or her tenure or for two years thereafter. The term "Contractor" also includes the employees, officers (including board members), agents and subcontractors of a Contractor under this Contract. In order to carry out the purposes of this Section, Contractor shall incorporate, or cause to be incorporated, in all contracts and subcontracts relating to activities pursuant to this Contract, a provision similar to that of this Section.

13. CONTRACTOR'S DUTY OF LOYALTY

Contractor for itself and subcontractors, if any, agrees to abide by OCII's duty of loyalty, which appears at Section IX.H. (Prohibited Activities of Present and Former Employees, Commissioners and Consultants) of OCII's Personnel Policy and which states in part the following: "Unless approved in advance in writing by OCII, no present or former employee, Commissioner or consultant of OCII shall knowingly act for anyone other than OCII in connection with any particular matter in which OCII is a party, or has a direct and substantial interest, and in which he or she participated personally and substantially as an OCII employee, Commissioner or consultant whether through decisions, recommendations, advice, investigation or otherwise. Violation of this section by a present employee, consultant or Commissioner may, in the case of an employee or consultant, be grounds for discharge or termination of the consultant contract, and in the case of a Commissioner, be considered misconduct in office pursuant of California Health and Safety Code Section 33115."

14. LIMITATIONS ON CONTRIBUTIONS

Through execution of this Agreement, Contractor acknowledges that it is familiar with section 1.126 of the San Francisco Campaign and Governmental Conduct Code, which prohibits any person who contracts with OCII for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) the Mayor or members of the Board of Supervisors, (2) a candidate for Mayor or Board of Supervisors, or (3) a committee controlled by such office holder or candidate, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Contractor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Contractor further acknowledges that the prohibition on contributions applies to each

prospective party to the contract; each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Contractor. Additionally, Contractor acknowledges that Contractor must inform each of the persons described in the preceding sentence of the prohibitions contained in section 1.126.

Finally, Contractor agrees to provide to OCII the names of each member of Contractor's board of directors; Contractor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Contractor; any subcontractor listed in the bid or contract; and any committee that is not sponsored or controlled by Contractor.

15. CONFIDENTIALITY/PROPERTY OF AGENCY

All of the reports, information, data or other materials prepared or assembled by Contractor under this Contract, including Contractor's opinions and conclusions based upon such items, are confidential. Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without the prior written approval of OCII. Unless otherwise stated in the Scope of Services, all such reports, information, data or other materials and work product are instruments of professional services of Contractor. However, after payment for services rendered and expenses incurred by Contractor are paid to Contractor by OCII, Contractor assigns ownership including copyright to OCII except Contractor retains copyright in its standard systems, sections, details, specifications, and other information, data (including source codes), and intellectual property prepared or owned by Contractor prior to or not specific to the Project (collectively "Contractor's Proprietary Material"). Contractor grants OCII a license to use Contractor's standard systems, sections, details, and specifications but only for the projects subject of this contract. Contractor's instruments of service and all of the reports, information, data or other materials prepared or assembled by Contractor under this Contract are subject to disclosure under the Public Records Act, Cal. Gov't Code §§ 6250 et seq., and the Agency Public Records Policy, Agency Resolution No. 182-2005 (Nov. 1, 2005).

16. COMPLIANCE WITH CALIFORNIA GOVERNMENT CODE

It is understood and agreed that Contractor shall comply with California Government Code Section 7550. California Government Code Section 7550 provides in part that when the total cost for work performed for a local agency by nonemployees of such agency exceeds \$5,000.00, any document or written report prepared in whole or in part by nonemployees for such agency shall contain, in a separate section, the numbers and dollar amount of all contracts and subcontracts relating to the preparation of such document or written report.

17. NONDISCRIMINATION AND EQUAL BENEFITS

A. There shall be no discrimination against or segregation of any person, or group of

persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of this Contract. Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations to clients or the general public.

B. Contractor will, in all solicitations or advertisements for employees placed by it or on its behalf, state it is an equal opportunity employer.

C. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

D. Contractor agrees not to discriminate in the provision of benefits between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, and shall comply fully with all provisions of OCII's Nondiscrimination in Contracts Policy ("Policy"), adopted by Agency Resolution No. 175-97, as such Policy may be amended from time to time. The City and County of San Francisco has certified Contractor as being in compliance with Chapter 12B of the San Francisco Administrative Code (the "Equal Benefits Ordinance"). See vendor no. 22641 on list of Vendors that Comply with Chapter 12B Equal Benefits Ordinance, available at <http://sfgsa.org/index.aspx?page=6128> (as of 8/16/2023). Accordingly, OCII deems this certification under the Equal Benefits Ordinance as compliance with the Policy.

E. Contractor shall provide all services to the public under this Contract in facilities that are accessible to persons with disabilities as required by state and federal law.

18. COMPLIANCE WITH SMALL BUSINESS ENTERPRISE PROGRAM

OCII implements a Small Business Enterprises ("SBE") Program that was adopted by OCII Resolution No. 43-2015 and that requires consideration in awarding contracts in the following order: 1) Project Area SBEs, 2) San Francisco-based SBEs (outside an OCII Project Area), and 3) All other SBEs. Non San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non San Francisco-based SBEs (see **Attachment D** "SBE Agreement").

Under the SBE Program, the Contractor, in awarding subcontracts, must make good faith efforts to achieve SBE participation of 50% for professional, personal services, and construction contracts; provided, however, that this goal may vary depending on the extent of subcontracting

opportunities under OCII contract and the availability of SBE subcontractors capable of providing goods or services required by the contract; and provided further, that OCII has the sole discretion to modify the 50 % SBE participation goal consistent with the SBE Program, as specified in the SBE Agreement.

OCII relies on the information that a business may have provided to qualify under another public entities' business certification program in determining whether that business qualifies as an SBE under OCII's SBE Program. Those other programs include: City and County of San Francisco Local Disadvantaged Business Enterprises (LBE) certification, *information available at - <https://sf.gov/14b-local-business-enterprise-lbe-program>* and State of California – Small Business Enterprises certification – <https://caleprocure.ca.gov/pages/sbdvbe-index.aspx>. OCII retains the discretion, however, to determine if the information provided for those other programs meets SBE eligibility under OCII's SBE Program.

19. COMPLIANCE WITH MINIMUM COMPENSATION POLICY AND HEALTH CARE ACCOUNTABILITY POLICY

Contractor agrees, as of the date of this Contract and during the term of this Contract, to comply with the provisions of OCII's Minimum Compensation Policy and Health Care Accountability Policy (the "Policies"), adopted by Agency Resolution 168-2001, as such policies may be amended from time to time (See **Attachment E** "Minimum Compensation Policy" and **Attachment F** "Health Care Accountability Policy"). Such compliance includes providing all "Covered Employees," as defined under Section 2.7 of the Policies, a minimum level of compensation and offering health plan benefits to such employees or to make payments to the City and County of San Francisco's Department of Public Health, or to participate in a health benefits program developed by the City and County of San Francisco's Director of Health.

20. TERMINATION

OCII may terminate this Contract at any time without cause upon written Notice of Termination to the Contractor; provided, however, that in the event of such termination, OCII shall compensate the Contractor for work completed to the satisfaction of OCII as of the date of such notice or the date of termination specified in and directed by such notice.

21. MISCELLANEOUS PROVISIONS

A. Notices

All notices, demands, consents or approvals required under this Contract shall be in writing and shall be deemed given when delivered personally or by facsimile transmission or three (3) business days after being deposited in the U.S. Mail, first class postage prepaid, return receipt requested, addressed as follows:

If to OCII: Office of Community Investment and Infrastructure/Successor Agency to the San Francisco Redevelopment Agency
One South Van Ness Avenue, Fifth Floor

San Francisco, CA 94103
Attention: Executive Director

If to Contractor: CMG Landscape Architecture
444 Bryant Street
San Francisco, CA 94107
Attention: Chris Guillard

or to such other addresses as the parties may designate by notice as set forth above.

B. Time of Performance

- (1) Contractor shall perform its duties in accordance with the agreed upon project schedule and the terms and conditions of this Contract. Time is of the essence in the performance of all the terms and conditions of this Contract.
- (2) All performance and cure periods expire at 5 p.m., San Francisco, California time, on the applicable date.
- (3) A performance or cure date which otherwise would be a Saturday, Sunday or OCII holiday shall be extended to the next OCII working day.

C. Successors and Assigns

This Contract shall be binding upon and inure to the benefit of the successors and assigns of OCII and the Contractor. Where the term "Contractor" or "Agency" is used in this Contract, it shall mean and include their respective successors and assigns; provided, however, that OCII shall have no obligation under this Contract to, nor shall any benefit of this Contract accrue to, any unapproved successor or assign of Contractor where OCII approval of a successor or assign is required by this Contract.

D. Modification, Waiver and Amendment

Any modification, waiver or amendment of any of the provisions of this Contract must be in writing and signed by both OCII and Contractor.

E. Entire Contract

This Contract represents the complete agreement between the parties as to the matters described herein, and there are no oral understandings between Contractor and OCII affecting this Contract not set forth herein. This Contract supersedes all previous negotiations, arrangements, agreements and understandings between Contractor and OCII with respect to the subject matter hereof.

F. Severability

If any provision of this Contract shall be determined to be illegal or unenforceable, such determination shall not affect any other provision and all such other provisions shall remain in full force and effect.

G. Governing Law; Venue

This Contract shall be governed by the laws of the State of California. It is the responsibility of Contractor to be informed of local, state and federal laws and requirements applicable to this Contract and to perform all work in compliance with those laws and requirements. The parties agree that all actions or proceedings arising directly or indirectly under this Contract shall be litigated in courts located within the County of San Francisco, State of California.

H. Headings

Titles of parts or sections of this Contract are inserted for convenience only and shall be disregarded in construing or interpreting its provisions.

I. Attorneys' Fees

In any action or proceeding arising out of this Contract, the prevailing party shall be entitled to reasonable attorneys' fees and costs but only to the extent determined at the conclusion of binding dispute resolution or other agreed upon resolution of a claim or dispute arising from this Contract.

J. Authority

The undersigned represents and warrants that he or she has full power and authority to enter into this Contract and to bind the Contractor in accordance with its terms.

K. Designated Representative

The initial designated representative for OCII for this Contract is Benjamin Brandin, and OCII representative's phone number is 415-749-2533. The initial Contractor designated representative for this Contract is Chris Guillard, and the Contractor's designated representative's phone number is 415-495-3070.

L. Counterparts

This Contract may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute one and the same document, binding on all Parties hereto notwithstanding that each of the Parties hereto may have signed different counterparts. Delivery of this Contract may be effectuated by hand delivery, mail, overnight courier services, or electronic communication (including by PDF sent by electronic mail, facsimile,

or similar means of electronic communication). Any electronic signatures shall have the same legal effect as manual signatures.

IN WITNESS WHEREOF OCII and Contractor have executed this Contract as of the date first above written.

CONGER MOSS GUILLARD, a California corporation

By: _____
Chris Guillard
Principal
Federal Tax Identification No. 94-3371721

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO, a public body, corporate and politic

By: _____
Thor Kaslofsky
Executive Director

APPROVED AS TO FORM:

By: _____
James B. Morales
Agency General Counsel

Authorized by Resolution No. _____, adopted _____.

ATTACHMENTS

Attachment A1: Scope of Services

Attachment A2: ARUP Dynamic Structural Analysis Scope of Work

Attachment A3: Surveying Scope of Work

Attachment B1: Fee Summary

Attachment B2: Fee Update Comparison

Attachment C: Intentionally Blank

Attachment D: Small Business Enterprise Agreement

Attachment E: Minimum Compensation Policy Declaration

Attachment F: Health Care Accountability Policy Declaration

ATTACHMENT A1: SCOPE OF SERVICES

PROJECT AREAS:

The Project Areas are defined by the Approved Schematic Design Documents.

SCOPE OF WORK:

CMG and its consultant team will provide the following design services:

General Under Ramp Park Scope

1. Existing site topographic and utility survey as identified in **Exhibit X**.
2. Design of all hard and soft scape areas within the zones identified in the project areas.
3. Coordination with City Departments such as SFMTA and SFPW in designing the interface of planned and existing bicycle facilities at the intersection of Essex and Folsom Streets, at Howard Street and TJPA's bicycle ramp and pathway at north sidewalk of Howard Street.
4. Tree report and soil testing for areas identified in Exhibit G in the original contract proposal.
5. Rough and finish grading and surface drainage of pavements and planting areas.
6. Landscape walls, steps, railings, fences, bollards detectable pedestrian warning strips and related site structural elements not associated with adjacent buildings.
7. Site furniture, including fire pits, benches, seating, planter pots, trash receptacles, drinking fountains, fencing.
8. Study the design and detailing for potentially affixing swing elements under the TJPA structures. TJPA will approve the final design of swings.
9. Physical Security: TJPA has requested a detailed vector analysis performed by the Arup Security team to assess attainable vehicle speeds and recommend a vehicle security barrier design scheme to maintain standoff between vehicles and the TJPA bus ramps & columns. The primary purpose of the barrier scheme is to mitigate risks from vehicle-borne blast threats. The vehicle barrier scheme will also consider pedestrian protection from accidental or hostile vehicle ramming. Rated bollards or other certified barrier types (e.g., planters, benches) & vehicle deterrent measures shall be proposed to protect the bus ramp structures and pedestrians surrounding the park area. Coordinate with TJPA and Caltrans staff in the finalization and approval of physical security specifications.
10. Collaborate with TJPA and East Cut CBD on the final selection of trash/recycling receptacle product approved for service by Recology.
11. Planting and soil preparation.
12. Irrigation.
13. Lighting Design, fixture selection and layout, photometric analysis, and electrical engineering.
14. Cost estimating services at 50% DD, 100% DD, 50% CD, and 100% CD.
15. Participation in design presentations as defined below.
16. Regulatory Agency meeting attendance as defined below.



17. Civil engineering pavement design including design and documentation of sidewalks and crosswalks.
18. Civil engineering of proposed utility relocations, new utilities required to serve the parks and open spaces and proposed points of connection (for potable water, irrigation, storm drain, sanitary sewer, electrical, natural gas, and communications). Utility relocations will be limited to minor relocations in the open space areas only (less than 30 feet total length per relocation). Relocations are assumed to require open trench construction only.
19. Civil engineering of temporary erosion and sediment control plans in accordance with the requirements of the new General Construction Permit.
20. Preparation of a Stormwater Pollution Prevention Plan (SWPPP).
21. Submission of an updated Notice of Intent (NOI) to the State Water Resources Control Board.
22. Dynamic Structural Analysis and Coordination with Caltrans and the TJPA as required for review and approval of the park design. Refer to **Exhibit X**, for the Dynamic Structural Analysis Scope for detailed assumptions.
23. Structural engineering of walls, stairs, site furniture and lighting footings, and pavement reinforcement and required structural calculations for these items.
24. Geotechnical Engineering services includes review of existing geotechnical data, proposed new build, development of GI plan and execution of field work composing up to one day of Cone Penetration Testing, one day of infiltration testing, and select laboratory testing of soil samples collected from infiltration test location(s). Will provide a single geotechnical memo (one draft, one final) with recommendations for foundations, bearings pressures, earthworks, earth pressures for minor retaining structures, and pavements.
25. Provide security camera design, drawings & specs for the open space. In absence of criteria, we will design as per good practice.
26. Wi-Fi design and documentation to buildings and infrastructure for future site Wi-Fi.
27. Signage and Environmental Graphics, including basic wayfinding signage and park rules. The signage and environmental graphics shall be coordinated with the Planning Department,, OCII, TJPA and the East Cut Community Benefit District.
28. Water Feature Design for Dog Park Splash Pad.
29. Concept Design of Special Feature at 'oculus' opening within the TJPA Ramp Structure.

Park Pavilion Scope

30. Architecture design and documentation of an approximately 5,550 total square foot 2-story warm shell Park Pavilion. The primary structure, exterior envelope, restrooms, trash room, basic casework, lighting, and flooring will be constructed as part of this scope. Future tenants may include a restaurant, café, retail, office, or community benefits district (East Cut CBD) space and may range from 1 to 4 tenants. Design, documentation, and construction administration services will be provided for the warm shell structure including public restrooms (3 unisex), a private restroom (1 unisex), office, community flex space, and park maintenance storage facilities. The Architect's scope includes waterproofing.
31. Building Waterproofing

32. Interior wall finishes and fixture specifications will be limited to the office, community flex space, maintenance storage room, corridors and restrooms.
33. Fit-out and/or tenant improvements (TI) of the tenant spaces to be designed and implemented as part of a separate agreement with the current design team or with another Architect per the Owner's authorization and approval.
34. Structural engineering and calculations. Arup will fulfill the duties of the Structural Engineer of Record. This includes signing and sealing documents for the purpose of obtaining a building permit.
35. An allowance will be made in the warm shell MEP design to accommodate up to 3 retail/food purveyors as future tenants in the Park Pavilion. Complete Mechanical, Electrical, and Plumbing (MEP) design services for warm shell design of the Park Pavilion and Concession Garden Building from Schematic Design through Bid Negotiations and Permit Review. MEP design will include design of cooling plant, heating plant, electrical system, plumbing system, and Fire Protection system to serve the buildings. Arup will fulfill the duties of the Mechanical Engineer of Record and Electrical Engineer of Record for the respective building systems. This includes signing and sealing documents for the purpose of obtaining a building permit. The MEP Scope includes the following building systems:
 - a. Incoming electrical, gas and water services
 - b. Outgoing sanitary sewer service
 - c. Air conditioning and mechanical and passive ventilation services
 - d. Heating installations
 - e. Distribution mains for all services
 - f. Electrical distribution services
 - g. Cold water services
 - h. Hot water services
 - i. Plumbing services
 - j. Fire protection (performance specifications only)
 - k. Service supplies capped off for restaurant installations
36. The MEP scope does not include future TI work.
37. Lighting design to include restrooms, the maintenance storage room, corridors, flex space, offices, food service/prep, and support spaces on the interiors, as well as exterior façade lighting, and outdoor terrace/dining/games areas.
38. Civil Engineering services for the Park Pavilion include the design of new utilities required to serve the pavilion and show points of connection for potable water, storm drain, sanitary sewer, electrical, natural gas and communications. Arup will fulfill the duties of the Civil Engineer of Record for the utilities. This includes signing and sealing documents for the purpose of obtaining a building permit.
39. Cost estimating services for the Park Pavilion at 50% DD, 100% DD, 50% CD, and 100% CD.
40. Coordination of mechanical or passive lighting and ventilation is limited to the public restrooms and maintenance/storage area.



41. Performance specifications for shoring and underpinning at the adjacent buildings and at Folsom Street.

Concession Building and TB5 Zig-Zag Moderne Structure Integration

42. Architecture design and documentation of an approximately 880 square foot Concession Building that integrates the TB5 Zig-Zag Moderne, structure consistent with the Schematic Design and concept defined in the TB5 Pavilion Feasibility analysis dated March 2022. The primary structure and the exterior envelope will be constructed as part of this scope. Scope to also include lighting and color integration of Zig-Zag Moderne structure in coordination with OCII and the East Cut CBD. Design, documentation, and construction administration services are provided for the core and warm shell of the structure.
43. Study alternatives for better use of the crawl space below the building in close coordination with OCII, TJPA and the East Cut CBD. Study how any potential access openings to this space will be integrated with the building façade.
44. Structural engineering and calculations. Arup will fulfill the duties of the Structural Engineer of Record. This includes signing and sealing documents for the purpose of obtaining a building permit.
45. TB5 Structure Relocation Logistics. Coordinate with storage yard and crane operators to confirm relocation logistics and prepare performance specifications for relocation.
46. Building Waterproofing
47. Fit-out of the tenant spaces will be designed and implemented by others in (a) separate project(s).
48. An allowance will be made in the core and shell MEP design to accommodate a food and beverage tenant. Mechanical, Electrical, and Plumbing (MEP) design services for core and shell design of Concession Building from DD through CA. MEP design will include design of cooling plant, heating plant, electrical system, plumbing system, and Fire Protection system to serve the building. Arup will fulfill the duties of the Mechanical Engineer of Record and Electrical Engineer of Record for the respective building systems. This includes signing and sealing documents for the purpose of obtaining a building permit. The MEP Scope includes the following building systems:
 - a. Incoming electrical, gas and water services
 - b. Outgoing sanitary sewer service
 - c. Air conditioning and mechanical and passive ventilation services
 - d. Heating installations
 - e. Distribution mains for all services
 - f. Electrical distribution services
 - g. Cold water services
 - h. Hot water services
 - i. Plumbing services
 - j. Fire protection (performance specifications only)
 - k. Service supplies capped off for restaurant installations



1. Electrical stub-outs for exterior lighting and signage.

49. The MEP scope does not include future TI work.
50. Lighting design for illumination of glass wall system of the primary building.
51. Exterior lighting and color design of the Zig-Zag Moderne Structure that is harmonious with the proposed lighting design of the primary building.
52. Civil Engineering services for the Concession Building include the design of new utilities required to serve the building and show points of connection for potable water, storm drain, sanitary sewer, electrical, natural gas and communications. Arup will fulfill the duties of the Civil Engineer of Record for the utilities. This includes signing and sealing documents for the purpose of obtaining a building permit.
53. Cost estimating services at 50% DD, 100% DD, 50% CD, and 100% CD.

Conditions of Scope:

1. The project will be administered by OCII, not the Transbay Joint Powers Authority. Accordingly, CMG and its sub consultants will not be required to comply with TJPA standards nor to satisfy the TJPA submittal and QMP requirements.
2. OCII will provide drawings of 33 Clementina and 532 Folsom Streets needed to prepare the geotechnical analysis for the Park Pavilion.
3. Division 0 Procurement and Contracting Requirements and Division 1 General Requirements Specifications will be provided by OCII or it's designated Project and Construction Manager.
4. All programmatic assumptions affecting utility demands and hence utility sizing will be confirmed by OCII at the end of the Design Development stage. Any changes to the design that are required as a result of subsequent programmatic changes will be considered additional services.
5. Cost estimates will be in \$US and based on time of submission. Estimates will consider labor, equipment, material, subcontracts, indirects, overhead, escalation & profit and contingency.
6. Meetings with OCII, PUC, PG&E and other stakeholders will be two hours duration (including travel time) and held in San Francisco or remotely.
7. There will be one design package for construction.
8. The 95% CD documents will be submitted for building permit to the San Francisco Department of Building Inspection; plan check comments will be incorporated into the 100% CD documents; the 100% CD drawings will be the approved permit and bid set.
9. Temporary shoring of the excavation and the underpinning of adjacent buildings will be designed by the contractor; the contractor will obtain the necessary permits for this work.
10. We understand there is no need for emergency power for the Park Pavilion.
11. We will participate in Value Engineering (VE) during the SD and DD phases. No VE scope is assumed after the DD phase.
12. Submission of Notice of Intent (NOI) to utility providers within project area will be organized and executed by OCII and all information to be provided to CMG for consideration in construction documents.



13. OCII, TJPA, SFPW (as applicable) and Caltrans to provide comments within one month of receipt of OCII's completeness determination of each submission.
14. Compilation of comments from OCII, SFPW (as applicable), DBI, TJPA, and Caltrans at each required project plan submission will be aggregated, organized, and submitted to CMG by OCII Project Managers in a single, Excel Document organized by each reviewing agency's comments. OCII will lead the negotiation among agencies if and when conflicting comments arise. OCII, as CMG's client, is solely responsible for directing CMG's work.
15. TJPA has not provided written requirements for the physical security vector analysis and associated improvements. CMG and Arup have made our best judgement of the required scope based on TJPA communications and best practice. If TJPA requirements exceed our assumptions for the level of effort we will advise OCII and update the scope as needed.
16. If the project is suspended for more than thirty (30) days or abandoned in whole or in part, CMG shall be paid its compensation for services performed prior to receipt of written notice from OCII of such suspension or abandonment, together with Reimbursable Expenses then due. If the project is resumed after being suspended more than three months, CMG's compensation shall be subject to renegotiation, and CMG's obligation to perform shall continue only upon execution of a revised and mutually agreeable compensation schedule.

The following services are excluded, but can be provided as additional services if required:

1. Permits—Filing, tracking and coordination of applications for building or other permits, or the payments of any fees associated with permit or variance applications.
2. Preparation of Division 0 and Division 1 Specifications, with the exception of work outlined below.
3. Water feature design, except as identified.
4. District Gateway Environmental Graphics or improvements.
5. Hazardous material soils engineering, process management, and permitting.
6. Designs for any elements of a building, penetrations of a building, connections to a building, or waterproofing of any part of the building. Other than those provided for in this scope.
7. Design of extensive utility relocations (greater than 30 feet long per relocation).
8. DD and CD design of sustainable infrastructure strategies, not otherwise described herein, that are incorporated from the Concept and SD stages, e.g., recycled water and renewable energy systems.
9. Sustainability consulting including coordination of the design team and design documentation required to prepare an application for LEED Certification
10. Design of temporary items required during construction e.g., temporary fencing, staging plans, traffic management plans, etc.
11. Photorealistic lighting renderings or animations.
12. Design of iconic or feature lighting as a public art element.
13. Noise studies for internal or external spaces.
14. Security systems, e.g., CCTV.
15. Parking lot ticket vending machines and control barriers, including associated utility connections.
16. Preparation of CEQA/NEPA documentation.
17. Coordination of public art fabrication, construction, and installation.
18. Traffic engineering studies or modeling.

19. Temporary shoring designs for basement excavations, with the exception of work outlined in scope.
20. Environmental and Hazardous Soils investigations or engineering.
21. Traffic signal and striping design, inclusive of automobile, bicycle and pedestrian facilities.
22. Presentation models or renderings other than those listed below.
23. Meetings or presentations other than those listed below.
24. Creation and issuance of a building information model (BIM).
25. Building commissioning.
26. Performance-based compliance studies and energy modelling beyond what is required for building permit.
27. Specialist studies such as life cycle costing, daylighting, natural ventilation, computational fluid dynamics, and comfort studies.
28. Selection of equipment and exhaust hoods for kitchens, laboratories, shops or specialized work rooms.
29. Performance based seismic design using FEMA 356 guidelines to explicitly determine seismic performance based on a stated seismic hazard level and/or use of non-linear time-history/response analysis.
30. Equipment anchorage details: these will be designed and constructed by the contractor based on the final equipment procured.
31. Preparation of demolition drawings, site surveys, or building services surveys utilizing non-invasive activities, including the creation of a drawing set for the existing structures.
32. Tenant improvement design with the exception of scope outlined above.
33. Design of smoke exhaust system is not included in our MEP/FP scope of work.
34. Building envelope thermal and comfort performance comparisons.
35. Façade thermal/vapor barrier and dew point analyses.
36. Construction phase geotechnical services
37. Building Conditioning.
38. Dynamic Structural Analysis except as identified.

PROCEDURE AND DELIVERABLES BY PROJECT PHASE:

- 1. Project Restart and Coordination:** The design team will mobilize to restart the project and reinitiate coordination with agencies. Tasks will include:
 - a. Remobilize team and conduct project kickoff meeting with OCII.
 - b. Project schedule development and coordination.
 - c. Two meetings with SFMTA to confirm interface design between park and streets including
 - Proposed Howard Street Improvements
 - Loading Zones

- Other considerations
- d. One meeting with Caltrans to reinitiate the project coordination process and discuss next steps for project coordination.

2. Survey and Geotechnical Services

- a. Provide a topographic and utility survey of the project areas identified in **Attachment F**. *Deliverable: Field-verified survey in Auto CAD and PDF formats, conforming to the TJPA CAD standards.*
- b. Review the City of San Francisco's street lighting design criteria and decorative light standards and determine the design luminosity required for each of the streets, public spaces and parks and hardscape features. *Deliverable: Perform preliminary luminance analysis to determine a typical light fixture spacing recommendations. Provide light pollution guidelines to minimize light trespass.*
- c. Geotechnical Engineering services: a geotechnical investigation including obtaining additional borings in order to issue foundation recommendations for the Park Pavilion and Concessions Garden Building. Arup will revise the 2013 geotechnical memo for the Park Pavilion per CBC 2016 code changes. Scope includes (1) round of comment incorporation and verification. During the Construction Documentation Phase, Arup will update both geotechnical memos (Park Pavilion and Concessions Garden Building) to incorporate CBC 2019 code updates. Arup will fulfill the duties of the Geotechnical Engineer of Record for the foundations. This includes signing and sealing documents for the purpose of obtaining a building permit.

3. **Design Development:** The Design Team will provide the following services for each area and structure within the project scope. Upon Client's approval and acceptance of the Schematic Design and Budget Authorization study, CMG will commence with Design Development. This phase of work shall refine the design and identify all key construction systems, materials and finishes, and critical coordination issues. Tasks will include:
 - a. Develop the design to describe the character and construction method for all of the key elements.
 - b. Preparation of design studies as required for coordination, regulatory compliance, and refinement of design.
 - c. Select key materials, including site elements, paving, walls, fences, and significant plant materials.
 - d. Preparation of Plans, Sections, Details, and Outline Specifications.
 - e. Coordination of landscape and Park Pavilion design with consultant team and documentation.
 - f. Development of Preliminary Stormwater Control Plan for submission to the PUC.
 - g. Submittals will be made at 50% and 100% completion.
 - h. Preparation of cost estimate at 50% and 100% completion. The estimates will be classified as a Level 2 Budget Control studies, in accordance with the Arup Estimate Classification Matrix. See Exhibit I in original contract proposal. The cost estimates will



- be separated by project area (2A, 2B and 3A).
- i. The Design Team will prepare for and attend the following meetings during Design Development:
 - Internal design meetings held approximately every month (10 meetings total).
 - Design review meetings with OCII, DPW and the Planning Department held approximately every month (7 meetings total).
 - One DD Review meeting with the TASC (1 meeting total).
 - Two meetings with Caltrans and the TJPA design team to coordinate with the ramp design (2 meetings total).
 - One meeting with Mayor's Office on Disabilities (MOD) design team to coordinate with the park/sidewalks design (1 meeting total).
 - One meeting with SFPUC to coordinate storm drainage, sanitary sewer and water designs (1 meeting total).
 - One meeting PG&E to coordinate electric and gas utilities (1 meeting total).
 - Two design review / hearings with the SFAC Civic Design Committee for Phase 2 approval of Area 2 and Area 3A combined (2 meetings total).
 - Two public art coordination meetings with SFAC staff (2 meetings total).
 - j. *Deliverables:*
 - *Oculus Feature Concept Design Presentation*
 - *Design Development Documents at 50% and 100% completion*
 - *50% and 100% Cost Estimate*
 - k. The Design Development Phase shall be 6 months.
- 4. Construction Documents:** The Design Team will provide the following services for each area and structure within the project scope. Upon the Client's approval of design development drawings and budget authorization study, CMG will fully document all aspects of the design, including all relevant sections of technical specifications. The Construction Documents will be completed as one (1) set of contract documents.
- a. Detailed documentation of all elements within the scope of work, including specifications.
 - b. Coordination of Documents with other Consultants. Submittals will be made at 50%, 95%, and 100% completion.
 - c. Preparation of cost estimate at 50%, 95%, and 100% completion. Estimates will be classified as a Level 1 Bid studies, in accordance with the Arup Estimate Classification Matrix. See Exhibit I in original contract proposal. The cost estimates will be separated by project area (2A/2B, and 3A).
 - d. Division 1 specification review at 95% submittal to assist OCII Construction Manager, who is responsible for the preparation of Division 0 and Division 1 specification sections.
 - e. The Design Team will prepare for and attend the following meetings during

Construction Documents:

- Internal design meetings held approximately every month.
- Design and coordination meetings with OCII, and OCII's designated Project Manager.
- Two CD Review meetings with the TASC (2 meetings total).
- Three meetings with Caltrans and the TJPA design team to coordinate with the ramp design (3 meetings total).
- Two meetings SFPUC to coordinate storm drainage, sanitary sewer and water designs (2 meetings total).
- Two meetings with the Pacific Gas & Electric Company (PG&E) to coordinate electric and gas utilities (2 meetings total).
- Two design review / hearings with the SFAC Civic Design Committee for Phase 3 approval

f. Deliverables:

- *Construction Documents at 50%, 95% and 100% completion*
- *50%, 95% and 100% Cost Estimate*

g. The Construction Documents Phase shall be 11 months.

- 5. Permitting:** As of the date of the contract amendment the permitting agency(ies) and process are undetermined. The Design Team will coordinate with OCII and OCII's designated Project/Construction Manager to develop the permit review process. Services for this task will be provided on an hourly basis and include the following assumptions:
- a. Assumes that the San Francisco Department of Building Inspection will be the permitting agency.
 - b. Site Improvements: (3) Permit Backcheck submittals, including document revisions and responses to comments.
 - c. Buildings: (3) Permit Backcheck submittals, including document revisions and responses to comments.
 - d. Caltrans Review: Review and Respond to Caltrans Comments, as part of each submittal above, and (2) final backcheck submittals.
- 6. Bid and Award:** The Design Team will provide the following services.
- a. The Design Team will review and assist in the evaluation of bids, including meetings and interviews with Contractors.
 - b. Attend one pre-bid meeting.
 - c. Respond to Bid Requests for Information
 - d. Prepare contract document Addenda (three maximum).
 - e. The Bid Phase shall be 4-5 months.
- 7. Construction Administration:** OCII will contract with a Project/Construction Manager to administer construction of the project. The Design Team will provide standard Construction



Administration services. Representatives from the Design Team will attend weekly Construction Progress Meetings as needed, see below for assumptions. The Construction Manager will provide meeting minutes to OCII and the Design Team. The Design Team will provide the following Construction Administration services:

- a. Attendance at Construction Progress Meetings:
 - CMG Prime Consultant – Biweekly during procurement stage of construction, weekly or as needed during field construction.
 - ARUP Engineering, Civil and MEP– Biweekly, with disciplines attending as needed based on agenda.
 - YA Architecture - Biweekly, as needed based on agenda.
 - Other Consultants – as needed
- b. Site Visits: The Design Team will make site visits, to review the progress of construction and to determine in general if the construction is proceeding in accordance with the design intent of the construction documents. This scope assumes a total of (36) site visits by CMG and (18) by ARUP and YA Studio
- c. The Design Team may recommend the rejection of work failing to conform to the contract documents.
- d. The Design Team will respond to Requests for Information routed through the Construction Manager from the contractor, and review submittals for those parts of the project in the above scope of services.
- e. The Design Team will issue Construction Bulletins, compiling responses to request for information and other changes to the documents. The Scope includes (6) Bulletins.
- f. The Design Team will review Change Orders and provide comments at the request of the Construction Manager.
- g. OCII's Construction Manager will be responsible for administering the contract including review and approval of the project schedule, review and approval of requests for payment, review and approval of construction change orders, coordination with the Owner, City and regulatory agencies, and informing the Owner and OCII of the progress of construction.
- h. The Construction Administration Phase shall be 22 months.

8. Project Close Out and Maintenance Period

- a. Maintenance Period Services: The Design Team will prepare a punch list and issue a determination of signification completion establishing the maintenance period. The maintenance period will extend 3 months from the determination of significant completion. CMG will make monthly visits to review project conditions and issue field reports for each visit.
- b. Final Acceptance: The Design Team will advise OCII and the Owner on the determination of final acceptance.
- c. Record Drawings: The Design Team shall provide digital record drawings that incorporate RFI responses and bulletins issued during construction. The Contractor shall provide as-built documents based on Division 0 and 1 requirements.

- 9. East Cut CBD Coordination:** The Design Team will coordinate with the East Cut CBD to address design issues associated with operations and maintenance. The coordination will include meetings as follows:

 - a. Three meetings during the Design Development phase.
 - b. Six meetings during the Construction Documents phase.
 - c. Three meetings during the construction phase.

- 10. Signage and Environmental Graphics:** The Design Team will coordinate with the Planning Department, OCII, the East Cut CBD, and TJPA to select an environmental graphics consultant and provide design and documentation services for park signage design. The signage program will include wayfinding and park rules signage at key locations. The process will include:

 - a. Development of signage program requirements.
 - b. Typology of signs.
 - c. Graphic vocabulary/style.
 - d. Sign locations
 - e. Signage details and documentation for fabrication and construction.

- 11. Oculus Feature:** Preparation of Oculus Feature concept at TJPA Ramp including options review and approval by OCII and ECCBD. Preliminary feasibility review meeting with TJPA.

- 12. Physical Security:** Perform a vector analysis, or vehicle dynamics assessment (VDA), to assess attainable vehicle speeds and confirm the recommended vehicle security barrier layout and specifications to protect TJPA ramp structures and pedestrians in accordance with industry-accepted standards (e.g., ASTM F2656). Bollards & other certified vehicle deterrents to be designed as part of the DD drawing set following TJPA/OCII/East Cut CBD coordination & approval.



By email

May 9, 2023

1330 Broadway, 13th floor

Oakland, CA 94612

USA

Chris Guillard & Sam Woodhams-Roberts
CMG

t +1 510 368 9933

Our ref 218859-00

arup.com

Dear Chris & Sam,

Under Ramp Park

Dynamic Structural Analysis Proposal v2

1. Introduction:

The Under Ramp Park Streetscape Plan calls for re-grading the ground surface below the existing TJPA Bus Ramps and Fremont Street Off Ramp, which will result in significant soil removal at Bent #23 of the Fremont Street Off Ramp. To assess the impact of these changes on the existing structure, we propose the following scope of work.

2. Scope of work:

2.1 Type Selection:

1. Evaluate the balanced stiffness of the impacted column bent and adjacent ones in accordance with Caltrans Seismic Design Criteria (SDC). Estimate the location of pile fixity for the impacted column using Caltrans common practice.
2. If the balanced stiffness requirements cannot be met for these column bents, estimate the maximum depth of soil removal allowed for client's consideration in a revised design.
3. Perform pseudo-static analyses for the frame with the impacted column using "Safety" ARS Curve and "Functional" ARS Curve in the as-built plans.
4. Evaluate demand/capacity ratios, ductility, performance of the column pile, and p-delta effect for all of the column bents (total 6) within this frame.
5. Prepare Type Selection Memo and general plan of the impacted frame.
6. conduct one meeting with Caltrans to present findings and gather review comments.

7. Update the Type Selection Memo and general plans based on Caltrans' comments.

Deliverables:

- Type Selection Memo
- General plans of the impacted frame

Fee: \$ 49,500.00

2.2 65% Design:

1. Perform lateral pile analysis for piles (total 7) within the impacted frame and check axial capacity of the impacted column.
2. Perform dynamic analysis for the impacted frame using "Safety" ARS Curve and "Functional" ARS Curve in the as-built plans.
3. Update demand/capacity ratios, ductility, performance of the column pile, and p-delta effect for all 6 column bents within the frame.
4. Prepare structural plans and specifications for the modification of existing column steel casings (total 4).
5. Submit structural plans, specifications and electronic CAD files for Caltrans' review.
6. Respond to Caltrans's review comments and hold one meeting with Caltrans for resolve comments.
7. Update plans and specifications

Deliverables:

- Structural calculations
- 65% structural plans and specifications
- Electronic CAD files
- Comment resolution form for 65% design

Fee: \$75,600.00

2.3 90% Design:

1. Prepare independent check calculations and provide review comments on the structural plans and specifications. This task will be led by a license engineer different from the engineer-of-record, per Caltrans policy,
2. Update structural plans and specifications based on independent check review comments.

3. Submit updated structural plans, specifications and electronic CAD files for Caltrans' review.
4. Respond to Caltrans's review comments hold one meeting with Caltrans to resolve comments.
5. Update plans and specifications

Deliverables:

- Updated structural calculations
- Independent check calculations
- 90% structural plans and specifications
- Electronic CAD files
- Comment resolution form for 90% design

Fee: \$44,500.00

2.4 Final design:

1. Finalize structural plans and specifications
2. Hold up to two meetings with Caltrans to resolve any outstanding comments.
3. Finalize, package and submit all design documents to Caltrans for record.

Deliverables:

- Structural calculations
- Independent check calculations
- Final structural plans and specifications
- Electronic CAD files
- Comment resolution forms through the design process

Fee: \$17,700.00

2.5 Headwall – Type Selection

A 2.6ft headwall has been proposed along the TJPA abutment #1 to level the open space for multiuse courts. The abutment has a spread footing which will need to be structurally assessed to ensure the removal of approximately 1/3rd of the fill above the footing is feasible.

Deliverables:

- Type Selection Memo

- General plans of the impacted abutment

Fee: \$ 15,000.00

2.6 Exclusions:

- Interaction between the impacted frame and the adjacent frames is expected to be insignificant. Evaluation of the adjacent frames is not anticipated.
- Quantity and cost estimate are assumed to be performed by others.
- Evaluation of the existing TJPA bus ramps is not included in this scope.

Sincerely,

Jacob Wood
Associate Principal

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m +1 (415) 697 5614
e Jacob.Wood@arup.com

Arup US, Inc.

MARTIN M. RON ASSOCIATES, INC.
LAND SURVEYORS

MARTIN M. RON, L.S. (1923-1983)
BENJAMIN B. RON, P.L.S.
ROSS C. THOMPSON, P.L.S.
BRUCE GOWDY, P.L.S.
RON WAGNER, P.L.S.
DAVID RON, P.L.S.
ROBERT SLATER, P.L.S.

July 13, 2023

Sam Woodhams-Roberts
CMG Landscape Architecture
500 Third Street, Suite 215
San Francisco, CA 94107

SUBJECT: UNDER RAMP PARK (URP), SAN FRANCISCO

Dear Sam:

We are pleased to submit this proposal for the provision of surveying and mapping services for this site. We understand the scope of work to be as follows:

SCOPE OF WORK

1. Topographic Survey, including, but not limited to the following:

- Subject site is defined by the area shown in the drawing provided by client (URP-Site Plan).
- a. Locate all on-site improvements and structures, such as, but not limited to: buildings (footprint at ground level), curb, gutters, sidewalks, walls, stairs, fences, trees, signs, surface material (A/C, concrete, ground, etc.) and the like.
- b. Locate all the visible surface utilities within the above defined site. Storm and sewer manholes/catch basins pipe size, rim and invert elevations (excluding invert elevations within City Streets) will be measured, if accessible. Storm drain lines exiting the bus ramp ceiling and entering the ground will also be located horizontally and vertically.
- c. The elevated bus ramp and Folsom Street exit ramp will be located along with the support columns. Elevations will be measured along the bottom of the ramps in order to determine ceiling heights for the proposed park below.

- d. Spot elevations will selectively be shown on hard surfaces to ± 0.01 feet and on ground surface to ± 0.1 feet. Contours at a 0.5 foot interval will be shown throughout.
- e. Stake out the locations of all the former columns and walls associated with the old bus ramp (now demolished). Elevations will be measured at each location for determining the depths of the remaining structures.
*Note: the demoed columns and walls located easterly of the westerly building wall of the Mexican consulate to the westerly line of First Street, must be provided to Martin Ron Associates in the CAD drawing file as prepared by ARUP. These columns had not been previously located by Martin Ron Associates. The accuracy of locating these buried walls and columns is dependent on the accuracy of the drawings provided to us.
- f. Subcontract to a company which will conduct a geophysical survey to determine the depths of the demoed columns and walls using GPR technology. These depths will be annotated on the survey.
- g. Underground utility lines per record data as provided by the client will mapped in the streets adjacent to the project site for their entire width and on-site if records are provided by the client.

2. Horizontal and vertical survey control:

Horizontal and vertical control for this survey are the same as that used in the survey drawing prepared by Martin M. Ron Associates, entitled, "Topographic & Utility Survey of Transbay Streetscape for CMG Landscape Architects", last revision dated March 28, 2014.

3. CAD Standards and Mapping:

- a. All mapping and utility location data shall be provided electronically in AutoCAD Civil 3D, version 2020 or later. Deliverables will be via eTransmit zip file with all associated files including a "dwg" drawing file format. PDF files of each sheet at drawing scale shall also be included.
- b. All CAD work shall conform to TJPA CAD Standards as used in the 2007-2009 surveys.
- c. Annotation shall be provided for a drawing scale of 1"=20'. The drawing shall be compiled in one file and Layout sheets at drawing scale may be created upon the client's request.
- d. The survey and mapping shall be 100% field verified by the Project Manager prior to submittal.

Attachment B1: Fee Summary

Under Ramp Park- Work Breakdown and Fee			CMG landscape Architecture							ARUP												
2023 RESCOPE AND FEE UPDATE			Prime Consultant - Landscape Architecture							Engineering												
Task No.	Task / Deliverable	Duration (weeks)	Fee Total	Chris Guillard Principal	Designer LA-5	Sam Woodham-Roberts	Designer LA-3	Designer LA-2	Designer LA-1	Fee Subtotal	Jacob Wood Project Director	Wenyu Ong Project Manager Civil Engineer	Daniel Kim ITC Consultant	Giuliana Galante Cost Estimator	Mike Lepisto Fire and Life Safety Consultant	Giacomo Di Lorenzo MEP Engineer	Erik Sekulski Geotechnical Engineer	Deborah Blass Security Consultant	Elif Ayalp Lighting Designer	Brian Austin Structural Engineer	Fee Subtotal	
1. PROJECT RESTART AND COORDINATION (Hourly NTE)		12																				
	(2) Project Kick-off Team Meetings			8	0	12	0	0	0	\$4,680.00	4	4	4	4	4	4	4	4	4	4	4	\$9,800.00
	(3) meetings with MTA			12	0	12	0	0	0	\$5,880.00	4	4	2	2	2	2	2	2	2	2	2	\$5,960.00
	(3) Caltrans meeting			12	0	12	0	0	0	\$5,880.00	4	4										\$2,120.00
	General Project Management/Coordination			40	0	120	0	0	0	\$34,800.00	2	2										\$1,060.00
	SubTotal		\$77,155.00	72	0	156	0	0	0	\$51,240.00	14	14	6	6	6	6	6	6	6	6	\$18,940.00	
2. SURVEY AND GEOTECHNICAL SERVICES (Lump Sum)		12	\$ 163,000.00							\$ 15,000.00											\$ 75,000.00	
3. DYNAMIC STRUCTURAL ANALYSIS (Hourly NTE)																						
	Type Selection									\$10,000.00											\$49,500.00	
	65% Deisgn									\$5,000.00											\$75,600.00	
	90% Design									\$5,000.00											\$44,500.00	
	Final Design									\$5,000.00											\$17,700.00	
	Headwall Type Selection									\$5,000.00											\$15,000.00	
	SubTotal		\$227,300.00	0	0	0	0	0	0	\$25,000.00	0	0	0	0	0	0	0	0	0	0	\$202,300.00	
4. DESIGN DEVELOPMENT (Lump Sum)		24	\$ 950,480.00							\$ 399,000.00											\$ 310,500.00	
5. CONSTRUCTION DOCUMENTS (Lump Sum)		44	\$ 1,600,580.00							\$ 630,000.00											\$ 506,500.00	
6. PERMITTING (Hourly NTE)		16																				
	Permitting Coordination			40	0	160	80	0	0	\$55,600.00	4	8	4		4	4	4	4	4	4	\$9,800.00	
	(3) Permit Backcheck Submittals			24	0	120	40	0	0	\$36,600.00	8	12	6		6	8	6	6	6	8	\$16,170.00	
	(2) Caltrans Backcheck Submittals			16	0	40	40	0	0	\$19,000.00	8	8	4		4	4	4	4	4	4	\$11,100.00	
	SubTotal		\$175,820.00	80	0	320	160	0	0	\$111,200.00	20	28	14	0	14	16	14	14	14	16	\$37,070.00	
7. BIDDING AND AWARD (Lump Sum)		20	\$ 93,000.00							\$ 42,000.00											\$ 25,000.00	
8. CONSTRUCTION ADMINISTRATION (Lump Sum)		88	\$ 785,860.00							\$ 450,000.00											\$ 110,000.00	
9. PROJECT CLOSE-OUT AND MAINTENANCE PERIOD (Hourly NTE)		12																				
	Record Drawings			4	0	40	40	0	0	\$15,400.00	1	2	2			4		2	2	4	\$3,885.00	
	Punch List Back Check (Field Review)			6	0	32	32	0	0	\$13,160.00	2	4				4		2	4	2	\$4,070.00	
	Maintenance Period Field Review			6	0	32	32	0	0	\$13,160.00		2							2		\$820.00	
	SubTotal		\$63,825.00	16	0	104	104	0	0	\$41,720.00	3	8	2	0	0	8	0	4	8	6	\$8,775.00	
10. EAST CUT CBD COORDINATION (Hourly NTE)																						
	(3) Meetings during Design Development Phase			9	0	16	0	0	0	\$5,740.00	4	16									\$4,580.00	
	(6) Meetings during Construction Documents Phase			18	0	30	0	0	0	\$11,100.00	4	16									\$4,580.00	
	(3) Meetings during Construction Phase			9	0	16	0	0	0	\$6,027.00												
	SubTotal		\$41,747.00	0	0	0	0	0	0	\$22,867.00	8	32	0	0	0	0	0	0	0	0	\$9,160.00	
11. SIGNAGE - ENVIRONMENTAL GRAPHICS (Allowance)			\$ 90,000.00							\$ 15,000.00												
12. OCULUS FEATURE CONCEPT (Lump Sum)			\$ 22,500.00							\$ 15,000.00											\$ 7,500.00	
13. TJPA VECTOR ANALYSIS AND SECURITY (Hourly NTE)																						
	General Coordination and Meetings			16	40					\$13,600.00											\$0.00	
	Vector Analysis			2	4					\$1,480.00								45			\$12,375.00	
	DD-Barriers			4	24		40			\$13,080.00								40			\$11,000.00	
	CD-Barriers			8	16		24			\$9,880.00								50			\$13,750.00	
	CA-Barriers			8	16		24			\$10,374.00								30			\$8,250.00	
	SubTotal		\$93,789.00	0	0	0	0	0	0	\$48,414.00	0	0	0	0	0	0	0	165	0	0	\$45,375.00	
14. REIMBURSABLE EXPENSES			\$ 25,000.00																			
15. CONTINGENCY			\$ 500,000.00																			
TOTAL			\$4,910,056.00							\$1,866,441.00											\$1,356,120.00	

YA					RDMA				MMRA				Raeber	Aquatech	TBD	TBD
Architecture					Irrigation				Surveying				Specifications	Waterproofing	Signage	Water Feature
Yakuh Askew Principal	Yu Tsuji Project Architect	Robert Gilson Project Manager	Staff III Designer		Chris Mitchell Role PM	Marcio Sanchez Role Design	David Munger Role Drafsman		Name Role	Name Role	Name Role					
\$250	\$190	\$155	\$125	Fee Subtotal	\$175	\$125	\$100	Fee Subtotal	\$100	\$100	\$100	Fee Subtotal	Fee Subtotal	Fee Subtotal	Fee Subtotal	Fee Subtotal
2.5	0	4	2	\$1,495.00	0	0	0	\$0.00	0	0	0	\$0.00				
2.5	0	4	2	\$1,495.00	0	0	0	\$0.00	0	0	0	\$0.00				
1.5	0	2	1	\$810.00	0	0	0	\$0.00	0	0	0	\$0.00				
5	0	10	3	\$3,175.00	0	0	0	\$0.00	0	0	0	\$0.00				
12	0	20	8	\$6,975.00	0	0	0	\$0.00	0	0	0	\$0.00				
				\$ 4,000.00								\$ 69,000.00				
0	0	0	0		0	0	0	\$0.00	0	0	0	\$0.00				
				\$ 216,480.00				\$ 5,000.00				\$ -	\$ 10,000.00	\$ 4,500.00		\$ 5,000.00
				\$ 396,880.00				\$ 12,000.00				\$ -	\$ 15,000.00	\$ 20,200.00		\$ 20,000.00
				\$0.00	0	0	0	\$0.00	0	0	0	\$0.00				
				\$0.00	0	4	12	\$1,700.00	0	0	0	\$0.00				
				\$0.00	0	2	8	\$1,050.00	0	0	0	\$0.00				
0	0	0	0	\$24,800.00	0	6	20	\$2,750.00	0	0	0	\$0.00				
				\$ 24,800.00				\$ 1,200.00				\$ -	\$ -	\$ -		
				\$ 190,560.00				\$ 2,500.00						\$ 27,800.00		\$ 5,000.00
0	0	16	0	\$2,480.00	0	4	4	\$900.00	0	0	0	\$0.00				
0	0	24	0	\$3,720.00	0	4	4	\$900.00	0	0	0	\$0.00				
0	0	16	0	\$2,480.00	0	6	6	\$1,350.00	0	0	0	\$0.00				
0	0	56	0	\$8,680.00	0	14	14	\$3,150.00	0	0	0	\$0.00				\$1,500.00
6	0	6	0	\$2,430.00	0	0	0	\$0.00	0	0	0	\$0.00				
12	0	12	0	\$4,860.00	0	0	0	\$0.00	0	0	0	\$0.00				
6	0	6	0	\$2,430.00	0	0	0	\$0.00	0	0	0	\$0.00				
0	0	0	0	\$9,720.00	0	0	0	\$0.00	0	0	0	\$0.00				
															\$ 75,000.00	
0	0	0	0	\$0.00	0	0	0	\$0.00	0	0	0	\$0.00				
				\$882,895.00				\$26,600.00				\$69,000.00	\$25,000.00	\$52,500.00	\$75,000.00	\$31,500.00



Attachment B2: Fee Update Comparison

Transbay - Under Ramp Park 2018 - 2023 Fee Comparison

Project Number: SFRA 1101.2

Contract Item	Description	Billing Type	2018 Total Fee	2023 Proposed	% Inc.	Additional Scope	% of Inc.
1.	Project Restart	Hourly	\$ -	\$ 77,155		\$ 77,155	
2.	Survey and Geotechnical Services	Lump Sum	\$ -	\$ 163,000			
3.	Dynamic Structural Analysis	Hourly NTE	\$ -	\$ 227,300		\$ 227,300	
4.	Design Development	Lump Sum	\$ 656,861	\$ 950,480	145%	\$ 105,098	
	Team Meetings, Presentations, Mgmt	NA	\$ 94,820	\$ -			
5.	Construction Documentation	Lump Sum	\$ 925,041	\$ 1,600,580	173%	\$ 148,007	
6.	Permitting	Hourly	\$ -	\$ 175,820		\$ 175,820	
7.	Bid and Award	Lump Sum	\$ 89,430	\$ 93,000	104%		
8.	Construction Administration	Lump Sum	\$ 339,428	\$ 785,860	232%	\$ 54,308	
9.	Project Close-Out	Hourly		\$ 63,825		\$ 63,825	
10.	East Cut CBD Coordination	Hourly		\$ 41,747		\$ 41,747	
11.	Signage and Environmental Graphics	Hourly		\$ 90,000		\$ 90,000	
12.	Oculus Feature (Concept)	Lump Sum		\$ 22,500		\$ 22,500	
13.	TJPA Vector Analysis and Security	Hourly		\$ 93,789		\$ 93,789	
14.	Reimbursable Expenses			\$ 25,000			
15.	Contingency	TBD		\$ 500,000			
TOTAL			\$ 2,105,580	\$ 4,910,056	233%	\$ 1,099,549	39.2%

ATTACHMENT D

SMALL BUSINESS ENTERPRISE AGREEMENT

The company or entity executing this Small Business Enterprise Agreement, by and through its duly authorized representative, hereby agrees to use good faith efforts to comply with all of the following:

I. PURPOSE. The purpose of entering into this Small Business Enterprise Program agreement (“**SBE Program**”) is to establish a set of Small Business Enterprise (“SBE”) participation goals and good faith efforts designed to ensure that monies are spent in a manner which provides SBEs with an opportunity to compete for and participate in contracts by or at the behest of the Successor Agency to the San Francisco Redevelopment Agency (“**Agency**”) and/or the Agency-Assisted Contractor. A genuine effort will be made to give First Consideration to Project Area SBEs and San Francisco-based SBEs before looking outside of San Francisco.

II. APPLICATION. The SBE Program applies to all Contractors and their subcontractors seeking work on Agency-Assisted Projects on or after November 17, 2004 and any Amendment to a Pre-existing Contract.

III. GOALS. The Agency’s SBE Participation Goals are:

CONSTRUCTION	50%
PROFESSIONAL SERVICES	50%
SUPPLIERS	50%

IV. TRAINEE HIRING GOAL. In addition to the goals set forth above in Section III, there is a trainee hiring goal for all design professionals (architects, engineers, planners, and environmental consultants) on contracts or subcontracts over \$100,000. The trainee hiring goal requires architects, engineers and other design professionals only to hire qualified San Francisco residents as trainees. The trainee hiring goal is based upon the total amount of the design professional’s contract as follows:

<u>Trainees</u>	<u>Design Professional Fees</u>
0	\$ 0 – \$99,000
1	\$ 100,000 – \$249,999
2	\$ 250,000 – \$499,999
3	\$ 500,000 – \$999,999
4	\$1,000,000 – \$1,499,999
5	\$1,500,000 – \$1,999,999
6	\$2,000,000 - \$4,999,999
7	\$5,000,000 - \$7,999,999
8	\$8,000,000 – or more

A. Procedures For Trainee Hires

1. Compliance with the Trainee Hiring Goal

Design professionals will be deemed in compliance with this Agreement by meeting or exceeding the trainee hiring goal or by take the following steps in good faith towards compliance.

2. **Execution and Incorporation of this Agreement to Sub-agreements**

The Agency-Assisted Contractor shall execute this Agreement and shall incorporate by reference or attach this Agreement to its contract(s) with the architects, engineers and other design professionals. Thus, each design professional (regardless of tier) will be obligated to comply with the terms of this Agreement. The Agency-Assisted Contractor and/or the design professionals shall retain the executed Agreements and make them available to the Agency Compliance Officer upon request.

3. **Contact Educational Institutions**

Each design professional shall call the City and County of San Francisco Office of Economic and Workforce Development (OEWD) or educational institution(s) and request referrals for the required trainee positions. The request will indicate generally: (1) the number of trainees sought; (2) the required skills set (keeping in mind that these are trainee positions); (3) a brief description of job duties; (4) the duration of the trainee period; and (5) any other information that would be helpful or necessary for the educational institution or OEWD to make the referral. The minimum duration of assignment is part-time for one semester. However, design professionals are strongly encouraged to offer longer trainee employment periods to allow a more meaningful learning experience. (For example, a half-time or full-time assignment over the summer.) Although the initial contact shall be made by phone, the educational institution(s) or OEWD may require the design professionals to send a confirming letter or complete its form(s). Each design professional is required to timely provide all of the information requested by the OEWD or educational institution(s) in order to get the referrals.

4. **Response from Educational Institutions**

Each educational institution may have a different way of referring applicants, such as: sending resumes directly to the design professional; having the applicant contact the design professional by phone; require design professionals to conduct on-campus interviews; or some other method. The timing and method of the response will normally be discussed with the design professional during the initial phone request. The design professional is required to follow the process set by the educational institution(s) in order to get the referrals.

5. **Action by Design Professionals When Referrals Available**

The design professional shall interview each applicant prior to making the decision to hire or not to hire. The design professional shall make the final determination whether the applicant is qualified for the trainee position and the ultimate hiring decision. The Agency strongly encourages the design professional to hire a qualified San Francisco resident referred by the educational institution(s). The design professional shall notify the educational institution in writing of the hiring decision.

6. **Action by Design Professionals When Referrals Unavailable**

If after contacting two or more educational institutions the design professional is informed that no San Francisco residents are currently available, then the design professional should wait thirty (30) days and contact the educational institutions a second time to inquire whether qualified San Francisco residents are currently available for hire as trainees. If no qualified San Francisco residents are currently available after the second request, then the design professional has fulfilled its obligation under this Agreement, provided that the design professional has acted in good faith. The design professional must retain its file on all of the steps it took to comply with this Section IV and submit a copy of its file to the Agency Compliance Officer upon request.

7. **Action by Design Professional When No Response From Educational Institutions**

If a design professional has not received a response to its request for referrals from any of the

educational institutions within five (5) business days after the design professional has fully complied with the procedures, if any, set by the educational institution(s) for obtaining referrals, then the design professional should immediately advise the Agency Compliance Officer by phone, fax or email. The Agency Compliance Officer or his/her designee shall cause the educational institution(s) to respond to the design professional within five (5) business days of the Agency Compliance Officer being notified. If the design professional still has not received a response from the educational institution(s) after this additional five (5) business day period has run, then the design professional has fulfilled its obligation under this Section IV, provided that the design professional has acted in good faith. Each design professional must retain its file on all of the steps it took to comply with this Agreement and submit a copy of its file to the Agency Compliance Officer upon request.

8. **Termination of Trainee for Cause**

If at any time during the Term, it becomes necessary to terminate for cause a trainee who was hired under this Agreement and the design professional has not met the minimum duration requirements under this policy, then the design professional shall hire a new trainee by following the process set forth above.

B. Reporting Requirements For Trainee Hires

1. **Reporting**

Upon completion of the Term of the Agreement or the term of the design professional's contract with the Agency-Assisted Contractor, whichever is less, the design professional (i.e. Employer) shall fax or email a report to the Agency Compliance Officer stating in detail: (1) the names of the San Francisco resident(s) interviewed for trainee positions; (2) the date(s) of each interview; (3) the reasons for not hiring the San Francisco resident(s) interviewed; (4) the name, address, gender and racial/ethnic background of the successful candidate for the trainee position; and (5) the number of San Francisco residents hired as trainees.

2. **Report on Terminations**

In the event a San Francisco resident hired pursuant to this Agreement is terminated for cause, the responsible design professional shall within five (5) days fax or email a termination report to the Agency Compliance Officer stating in detail: (1) the name of the trainee(s) terminated; (2) his/her job title and duties; (3) the reasons and circumstances leading to the termination(s); and (4) whether the design professional replaced the trainee(s).

V. TERM. The obligations of the Agency-Assisted Contractor and/or Contractor(s) with respect to SBE Program shall remain in effect until completion of all work to be performed by the Agency-Assisted Contractor in connection with the original construction of the site and any tenant improvements on the site performed by or at the behest of the Agency-Assisted Contractor unless another term is specified in the Agency-Assisted Contract or Contract.

VI. FIRST CONSIDERATION. First consideration will be given by the Agency or Agency-Assisted Contractor in awarding contracts in the following order: (1) Project Area SBEs, (2) San Francisco-based SBEs (outside an Agency Project or Survey Area, but within San Francisco), and (3) Non-San Francisco-based SBEs. Non-San Francisco-based SBEs should be used to satisfy participation goals only if Project Area SBEs or San Francisco-based SBEs are not available, qualified, or if their bids or fees are significantly higher than those of non-San Francisco-based SBEs.

VII. ASSOCIATIONS AND JOINT VENTURES (JV). OCII will recognize JVs and Associations between non-SBE firms and SBE firms where the SBE partner performs at least 35% of the work defined in the JV or Association agreement, and receives at least 35% (or a proportionate share, whichever is higher) of the dollars to be earned by the JV or Association. Under this arrangement, OCII will deem the JV or Association to be an SBE for the purposes of meeting the SBE goal. Due to the technical nature of the disciplines and the various standards of each industry, OCII will not require a standardized agreement. However, each JV and Association agreement must be in writing and contain, at a minimum, the following terms:

- Define the management of the agreement between the parties;
- Define the technical and managerial responsibilities of each party;
- Define the scope of work to be performed by each party, and where possible identify the percentage and break-down of scope of work for each party;
- Identify any additional subcontractors or consultants that will perform the work under the agreement;
- Define the schedule, duration, and deliverable of the agreement;
- Detail the fee schedule, fee breakdown, or division of compensation;
- Specify insurance requirements and/or if each party shall maintain its own insurance;
- Specify how additional work or changes in scope shall be negotiated or determined and which party shall be responsible for notifying OCII of the changes;
- Specify how claims and disputes will be resolved.

A copy of the JV or Association agreement must be provided to OCII for approval in order for the JV or Association to be recognized.

VIII. CERTIFICATION. The Agency no longer certifies SBEs but instead relies on the information provided in other public entities' business certifications to establish eligibility for the Agency's program. Only businesses certified by the Agency as SBEs whose certification has not expired and economically disadvantaged businesses that meet the Agency's SBE Certification Criteria will be counted toward meeting the participation goals. The SBE Certification Criteria are set forth in the SBE Policy.

IX. INCORPORATION. Each contract between the Agency, Agency-Assisted Contractor or Contractor on the one hand, and any subcontractor on the other hand, shall physically incorporate as an attachment or exhibit and make binding on the parties to that contract, a true and correct copy of this SBE Agreement.

X. DEFINITIONS. Capitalized terms not otherwise specifically defined in this SBE Agreement have the meaning set forth in the Agency's SBE Policy adopted on November 16, 2004 and amended on July 21, 2009 ("**Policy**") or as defined in the Agency-Assisted Contract or Contract. In the event of a conflict in the meaning of a defined term, the SBE Policy shall govern over the Agency-Assisted Contract or Contract which in turn shall govern over this SBE Agreement.

Affiliates means an affiliation with another business concern is based on the power to control, whether exercised or not. Such factors as common ownership, common management and identity of interest (often found in members of the same family), among others, are indicators of affiliation. Power to control exists when a party or parties have 50 percent or more ownership. It may also exist with considerably less than 50 percent ownership by contractual arrangement or when one or more parties own a large share compared to other parties. Affiliated business concerns need not be in the same line of business.

Agency-Assisted Contract means, as applicable, the Development and Disposition Agreement (“DDA”), Land Disposition Agreement (“LDA”), Lease, Loan and Grant Agreements, and other similar contracts, and agreement that the Agency executed with for-profit or non-profit entities.

Agency-Assisted Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed an Agency-Assisted Contract.

Agency Contract means personal services contracts, purchase requisitions, and other similar contracts and operations agreements that the Agency executes with for-profit or non-profit entities.

Amendment to a Pre-existing Contract means a material change to the terms of any contract, the term of which has not expired on or before the date that this Small Business Enterprise Policy (“SBE Policy”) takes effect, but shall not include amendments to decrease the scope of work or decrease the amount to be paid under a contract.

Annual Receipts means “total income” (or in the case of a sole proprietorship, “gross income”) plus “cost of goods sold” as these terms are defined and reported on Internal Revenue Service tax return forms. The term does not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts. Receipts are averaged over a concern's latest three (3) completed fiscal years to determine its average annual receipts. If a concern has not been in business for three (3) years, the average weekly revenue for the number of weeks the concern has been in business is multiplied by 52 to determine its average annual receipts.

Arbitration Party means all persons and entities who attend the arbitration hearing pursuant to Section XIII, as well as those persons and entities who are subject to a default award provided that all of the requirements in Section XIII.L. have been met.

Association means an agreement between two parties established for the purpose of completing a specific task or project. The associate agreement shall provide the SBE associate a significant project management role and the SBE associate shall be recognized in marketing and collateral material. The Association shall be distinguished from traditional subcontracting arrangements via a written Association agreement that defines the management of the agreement, technical and managerial responsibilities of the parties, and defined scopes and percentages of work to be performed by each party with its own resources and labor force. Unlike the more formal Joint Venture, an Association does not require formation of a new business enterprise between the parties. The Associate agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Commercially Useful Function means that the business is directly responsible for providing the materials, equipment, supplies or services in the City and County of San Francisco (“City”) as required by the solicitation or request for quotes, bids or proposals. Businesses that engage in the business of providing brokerage, referral or temporary employment services shall not be deemed to perform a “commercially useful function” unless the brokerage, referral or temporary employment services are required and sought by the Agency.

Contract means any agreement between the Agency and a person(s), firm, partnership, corporation, or combination thereof, to provide or procure labor, supplies or services to, for, or on behalf of the Agency.

Contractor means any person(s), firm, partnership, corporation, or combination thereof, who is negotiating or has executed a Contract.

Joint Venture means an entity established between two parties for the purposes of completing a venture or project. The Joint Venture agreement typically creates a separate business entity and requires acquisition of additional insurance for the newly created joint business entity. The Joint Venture agreement shall contain, at a minimum, provisions required by Section VII and be subject to OCII approval.

Non-San Francisco-based Small Business Enterprise means a SBE that has fixed offices located outside the geographical boundaries of the City.

Office” or “Offices means a fixed and established place(s) where work is performed of a clerical, administrative, professional or production nature directly pertinent to the business being certified. A temporary location or movable property or one that was established to oversee a project such as a construction project office does not qualify as an “office” under this SBE Policy. Work space provided in exchange for services (in lieu of monetary rent) does not constitute an “office.” The office is not required to be the headquarters for the business but it must be capable of providing all the services to operate the business for which SBE certification is sought. An arrangement for the right to use office space on an “as needed” basis where there is no office exclusively reserved for the business does not qualify as an office. The prospective SBE must submit a rental agreement for the office space, rent receipt or cancelled checks for rent payments. If the office space is owned by the prospective SBE, the business must submit property tax or a deed documenting ownership of the office.

Project Area Small Business Enterprise means a business that meets the above-definition of Small Business Enterprise and that: (a) has fixed offices located within the geographical boundaries of a Redevelopment Project or Survey Area where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a Project Area or Survey Area business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in a Project Area or Survey Area for at least six months preceding its application for certification as a SBE; and (e) has a Project Area or Survey Area office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a SBE. Post office box numbers of residential addresses alone shall not suffice to establish a firms’ location in a Project Area or Survey Area.

Project Area means an area of San Francisco that meets the requirements under Community Redevelopment Law, Health and Safety Code Section 33320.1. These areas currently include the Bayview Industrial Triangle, Bayview Hunters Point (Area B), Hunters Point Shipyard, Mission Bay (North), Mission Bay (South), Rincon Point/South Beach, South of Market, and Transbay.

San Francisco-based Small Business Enterprise means a SBE that: (a) has fixed offices located within the geographical boundaries of the City where a commercially useful function is performed; (b) is listed in the Permits and License Tax Paid File with a San Francisco business street address; (c) possesses a current Business Tax Registration Certificate at the time of the application for certification as a SBE; (d) has been located and doing business in the City for at least six months preceding its application for certification as a SBE; and (e) has a San Francisco office in which business is transacted that is appropriately equipped for the type of business for which the enterprise seeks certification as a

SBE. Post office box numbers or residential addresses alone shall not suffice to establish a firm's status as local.

Small Business Enterprise (SBE) means an economically disadvantaged business that: is an independent and continuing business for profit; performs a commercially useful function; is owned and controlled by persons residing in the United States or its territories; has average gross annual receipts in the three years immediately preceding its application for certification as a SBE that do not exceed the following limits:

Industry	OCII SBE Size Standard
Construction Contractors	\$20,000,000
Specialty Construction Contractors	\$14,000,000
Suppliers (goods/materials/ equipment and general services)	\$10,000,000
Professional Services	\$2,500,000
Trucking	\$3,500,000

In addition, an economically disadvantaged business shall meet the other certification criteria described in Exhibit I of the SBE Policy in order to be considered an SBE by the Agency.

In order to determine whether or not a firm meets the above economic size definitions, the Agency will use the firm's three most recent business tax returns (i.e., 1040 with Schedule C for Sole Proprietorships, 1065s with K-1s for Partnerships, and 1120s for Corporations) to calculate the firm's three year average annual gross receipts. In addition, the calculation of a firm's size shall include the receipts of all affiliates.

Once a business reaches the 3-year average size threshold for the applicable industry the business ceases to be economically disadvantaged, it is not an eligible SBE and it will not be counted towards meeting SBE contracting requirements (or goals).

Specialty Construction Contractor means a contractor licensed by the Contractors State License Board under the "C" classification license pursuant to California Business and Professions Code Section 7058.

Survey Area means an area of San Francisco that meets the requirements of the Community Redevelopment Law, Health and Safety Code Section 33310. These areas currently include the Bayview Hunters Point Redevelopment Survey Area C.

XI. GOOD FAITH EFFORTS TO MEET SBE GOALS Compliance with the following steps will be the basis for determining if the Agency-Assisted Contractor and/or Consultant has made good faith efforts to meet the goals for SBEs:

A. Outreach. Not less than 30 days prior to the opening of bids or the selection of contractors, the Agency-Assisted Contractor or Contractor shall:

1. **Advertise.** Advertise for SBEs interested in competing for the contract, in general circulation media, trade association publications, including timely use of the *Bid and Contract Opportunities* newsletter published by the City and County of San Francisco Purchasing Department and

media focused specifically on SBE businesses such as the *Small Business Exchange*, of the opportunity to submit bids or proposals and to attend a pre-bid meeting to learn about contracting opportunities.

2. **Request List of SBEs.** Request from the Agency's Contract Compliance Department a list of all known SBEs in the pertinent field(s), particularly those in the Project and Survey Areas and provide written notice to all of them of the opportunity to bid for contracts and to attend a pre-bid or pre-solicitation meeting to learn about contracting opportunities.

B. Pre-Solicitation Meeting. For construction contracts estimated to cost \$5,000 or more, hold a pre-bid meeting for all interested contractors not less than 15 days prior to the opening of bids or the selection of contractors for the purpose answering questions about the selection process and the specifications and requirements. Representatives of the Contract Compliance Department will also participate.

C. Follow-up. Follow up initial solicitations of interest by contacting the SBEs to determine with certainty whether the enterprises are interested in performing specific items involved in work.

D. Subdivide Work. Divide, to the greatest extent feasible, the contract work into small units to facilitate SBE participation, including, where feasible, offering items of the contract work which the Contractor would normally perform itself.

E. Provide Timely and Complete Information. The Agency-Assisted Contractor or Contractor shall provide SBEs with complete, adequate and ongoing information about the plans, specifications and requirements of construction work, service work and material supply work. This paragraph does not require the Agency-Assisted Contractor or Contractor to give SBEs any information not provided to other contractors. This paragraph does require the Agency Assisted Contractor and Contractor to answer carefully and completely all reasonable questions asked by SBEs and to undertake every good faith effort to ensure that SBEs understand the nature and the scope of the work.

F. Good Faith Negotiations. Negotiate with SBEs in good faith and demonstrate that SBEs were not rejected as unqualified without sound reasons based on a thorough investigation of their capacities.

G. Bid Shopping Prohibited. Prohibit the shopping of the bids. Where the Agency-Assisted Contractor or Contractor learns that bid shopping has occurred, it shall treat such bid shopping as a material breach of contract.

H. Other Assistance. Assist SBEs in their efforts to obtain bonds, lines of credit and insurance. (Note that the Agency has a Surety Bond Program that may assist SBEs in obtaining necessary bonding.) The Agency-Assisted Contractor or Contractor(s) shall require no more stringent bond or insurance standards of SBEs than required of other business enterprises.

I. Delivery Scheduling. Establish delivery schedules which encourage participation of SBEs.

J. Utilize SBEs as Lower Tier Subcontractors. The Agency-Assisted Contractor and its Contractor(s) shall encourage and assist higher tier subcontractors in undertaking good faith efforts to utilize SBEs as lower tier subcontractors.

K. Maximize Outreach Resources. Use the services of SBE associations, federal, state and local SBE assistance offices and other organizations that provide assistance in the recruitment and

placement of SBEs, including the Small Business Administration and the Business Development Agency of the Department of Commerce. However, only SBEs certified by the Agency shall count towards meeting the participation goal.

L. Replacement of SBE. If during the term of this SBE Agreement, it becomes necessary to replace any subcontractor or supplier, the Agency's Contract Compliance Specialist should be notified prior to replacement due to the failure or inability of the subcontractor or supplier to perform the required services or timely delivery the required supplies, then First Consideration should be given to a certified SBE, if available, as a replacement.

XII. ADDITIONAL PROVISIONS

A. No Retaliation. No employee shall be discharged or in any other manner discriminated against by the Agency-Assisted Contractor or Contractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or relating to enforcement of this Agreement.

B. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) in the performance of an Agency-Assisted Contract or Contract. The Agency-Assisted Contractor or Contractor will ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, national origin or ancestry, sex, gender identity, age, marital or domestic partner status, sexual orientation or disability (including HIV or AIDS status) or other protected class status. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship; and provision of any services or accommodations.

C. Compliance with Prompt Payment Statute. Construction contracts and subcontracts awarded for \$5,000 or more shall contain the following provision:

“Amounts for work performed by a subcontractor shall be paid within seven (7) days of receipt of funds by the contractor, pursuant to California Business and Professions Code Section 7108.5 *et seq.* Failure to include this provision in a subcontractor or failure to comply with this provision shall constitute an event of default which would permit the Agency to exercise any and all remedies available to it under contract, at law or in equity.”

In addition to and not in contradiction to the Prompt Payment Statute (California Business and Professions Code Section 7108.5 *et seq.*), if a dispute arises which would allow a Contractor to withhold payment to a subcontractor due to a dispute, the Contractor shall only withhold that amount which directly relates to the dispute and shall promptly pay the remaining undisputed amount, if any.

D. Submission Of Electronic Certified Payrolls. For any Agency-Assisted Contract which requires the submission of certified payroll reports, the requirements of Section VII of the Agency's Small Business Enterprise Policy shall apply. Please see the Small Business Enterprise Policy for more details.

XIII. PROCEDURES

A. Notice to Agency. The Agency-Assisted Contractor or Contractor(s) shall provide the Agency with the following information within 10 days of awarding a contract or selecting subconsultant:

1. the nature of the contract, e.g. type and scope of work to be performed;
2. the dollar amount of the contract;
3. the name, address, license number, gender and ethnicity of the person to whom the contract was awarded; And
4. SBE status of each subcontractor or subconsultant.

B. Affidavit. If the Agency-Assisted Contractor or Contractor(s) contend that the contract has been awarded to a SBE, the Agency-Assisted Contractor or Contractor(s) shall, at the same time also submit to the Agency a SBE Application for Certification and its accompanying Affidavit completed by the SBE owner. However, a SBE that was previously certified by the Agency shall submit only the short SBE Eligibility Statement.

C. Good Faith Documentation. If the 50% SBE Participation Goals are not met in each category (Construction, Professional Services and Suppliers), the Agency-Assisted Contractor or Contractor(s) shall meet and confer with the Agency at a date and time set by the Agency. If the issue of the Agency-Assisted Contractor's or Contractor's good faith efforts is not resolved at this meeting, the Agency-Assisted Contractor or Contractor shall submit to the Agency within five (5) days, a declaration under penalty of perjury containing the following documentation with respect to the good faith efforts ("**Submission**"):

1. A report showing the responses, rejections, proposals and bids (including the amount of the bid) received from SBEs, including the date each response, proposal or bid was received. This report shall indicate the action taken by the Agency-Assisted Contractor or Contractor(s) in response to each proposal or bid received from SBEs, including the reasons(s) for any rejections.
2. A report showing the date that the bid was received, the amount bid by and the amount to be paid (if different) to the non-SBE contractor that was selected. If the non-SBE contractor who was selected submitted more than one bid, the amount of each bid and the date that each bid was received shall be shown in the report. If the bidder asserts that there were reasons other than the respective amounts bid for not awarding the contract to an SBE, the report shall also contain an explanation of these reasons.
3. Documentation of advertising for and contacts with SBEs, contractor associations or development centers, or any other agency which disseminates bid and contract information to small business enterprises.
4. Copies of initial and follow-up correspondence with SBEs, contractor associations and other agencies, which assist SBEs.
5. A description of the assistance provided SBE firms relative to obtaining and explaining plans, specifications and contract requirements.
6. A description of the assistance provided to SBEs with respect to bonding, lines of credit, etc.

7. A description of efforts to negotiate or a statement of the reasons for not negotiating with SBEs.
8. A description of any divisions of work undertaken to facilitate SBE participation.
9. Documentation of efforts undertaken to encourage subcontractors to obtain small business enterprise participation at a lower tier.
10. A report which shows for each private project and each public project (without a SBE program) undertaken by the bidder in the preceding 12 months, the total dollar amount of the contract and the percentage of the contract dollars awarded to SBEs and the percentage of contract dollars awarded to non-SBEs.
11. Documentation of any other efforts undertaken to encourage participation by small business enterprises.

D. Presumption of Good Faith Efforts. If the Agency-Assisted Contractor or Contractor(s) achieves the Participation Goals, it will not be required to submit Good Faith Effort documentation.

E. Waiver. Any of the SBE requirements may be waived if the Agency determines that a specific requirement is not relevant to the particular situation at issue, that SBEs were not available, or that SBEs were charging an unreasonable price.

F. SBE Determination. The Agency shall exercise its reasonable judgment in determining whether a business, whose name is submitted by the Agency-Assisted Contractor or Contractor(s) as a SBE, is owned and controlled by a SBE. A firm's appearance in any of the Agency's current directories will be considered by the Agency as prima facie evidence that the firm is a SBE. Where the Agency-Assisted Contractor or Contractor(s) makes a submission the Agency shall make a determination, as to whether or not a business which the Agency-Assisted Contractor or Contractor(s) claims is a SBE is in fact owned and controlled by San Francisco-based SBEs. If the Agency determines that the business is not a SBE, the Agency shall give the Agency-Assisted Contractor or Contractor a Notice of Non-Qualification and provide the Agency-Assisted Contractor or Contractor with a reasonable period (not to exceed 20 days) in which to meet with the Agency and if necessary make a Submission, concerning its good faith efforts. If the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to Section XIII.

G. Agency Investigation. Where the Agency-Assisted Contractor or Contractor makes a Submission and, as a result, the Agency has cause to believe that the Agency-Assisted Contractor or Contractor has failed to undertake good faith efforts, the Agency shall conduct an investigation, and after affording the Agency-Assisted Contractor or Contractor notice and an opportunity to be heard, shall recommend such remedies and sanctions as it deems necessary to correct any alleged violation(s). The Agency shall give the Agency-Assisted Contractor or Contractor a written Notice of Non-Compliance setting forth its findings and recommendations. If the Agency-Assisted Contractor or Contractor disagrees with the findings and recommendations of the Agency as set forth in the Notice of Non-Compliance, the Agency-Assisted Contractor or Contractor may request arbitration pursuant to this SBE Agreement.

XIV. ARBITRATION OF DISPUTES.

A. Arbitration by AAA. Any dispute regarding this SBE Agreement shall be determined by arbitration through the American Arbitration Association, San Francisco, California office ("AAA") in accordance with the Commercial Rules of the AAA then applicable, but subject to the further revisions thereof. The arbitration shall take place in the City and County of San Francisco.

B. Demand for Arbitration. Where the Agency-Assisted Contractor or Contractor disagrees with the Agency's Notice of Non-Qualification or Notice of Non-Compliance, **the Agency-Assisted Contractor or Contractor shall have seven (7) business days, in which to file a Demand for Arbitration**, unless otherwise stipulated by the parties. The Demand for Arbitration shall contain at a minimum: (1) a cover letter demanding arbitration under this provision and identifying any entities believed to be involved in the dispute; (2) a copy of the Notice of Non-Qualification or Notice of Non-Compliance; and (3) any written response to the Notice of Non-Qualification or Notice of Non-Compliance. If the Agency-Assisted Contractor and Contractor fail to file a timely Demand for Arbitration, the Agency-Assisted Contractor and Contractor shall be deemed to have accepted and to be bound by the finding of Non-Qualification or the findings and recommendations contained in the Notice of Non-Compliance.

C. Parties' Participation. The Agency and all persons or entities who have a contractual relationship affected by the dispute shall be made an Arbitration Party. Any such person or entity not made an Arbitration Party in the Demand for Arbitration may intervene as an Arbitration Party and in turn may name any other such person or entity as an Arbitration Party, provided however, that the Agency-Assisted Contractor or Contractor made an initial timely Demand for Arbitration pursuant to Section XIII.B. above.

D. Agency Request to AAA. Within seven (7) business days after service of a Demand for Arbitration, the Agency shall transmit to AAA a copy of the Demand for Arbitration, the Notice of Non-Qualification or Notice of Non-Compliance, and any written response thereto from the affected party. Such material shall be made part of the arbitration record.

E. Selection of Arbitrator. One arbitrator shall arbitrate the dispute. The arbitrator shall be selected from the panel of arbitrators from AAA by the parties to the arbitration in accordance with the AAA rules. The parties shall act diligently in this regard. If the Arbitration Parties fail to agree on an arbitrator within seven (7) days from the receipt of the panel, AAA shall appoint the arbitrator. A condition to the selection of any arbitrator shall be that person's agreement to render a decision within ninety (90) days from the arbitrator's fulfillment of the disclosure requirements set forth in California Code of Civil Procedure Section 1281.9.

F. Setting of Arbitration Hearing. A hearing shall be held within ninety (90) days of the date of the filing of the Request, unless otherwise agreed by the parties. The arbitrator shall set the date, time and place for the arbitration hearing(s) within the prescribed time periods by giving notice by hand delivery or first class mail to each Arbitration Party.

G. Discovery. In arbitration proceedings hereunder, discovery shall be permitted in accordance with Code of Civil Procedure §1283.05.

H. Burden of Proof. The burden of proof with respect to SBE status and/or Good Faith Efforts shall be on the Agency-Assisted Contractor and/or Contractor. The burden of proof as to all other alleged breaches by the Agency-Assisted Contractor and/or Contractor shall be on the Agency.

I. California Law Applies. Except where expressly stated to the contrary in this SBE Agreement, California law, including the California Arbitration Act, Code of Civil Procedure §§ 1280 through 1294.2, shall govern all arbitration proceedings.

J. Arbitration Remedies and Sanctions. The arbitrator may impose only the remedies and sanctions set forth below:

1. Order specific, reasonable actions and procedures, in the form of a temporary restraining order, preliminary injunction or permanent injunction, to mitigate the effects of the non-compliance and/or to bring any non-compliant Arbitration Party into compliance.

2. Require any Arbitration Party to refrain from entering into new contracts related to work covered by the Agency-Assisted Contract or this SBE Agreement, or from granting extensions or other modifications to existing contracts related to services covered by the Agency-Assisted Contract or this SBE Agreement, other than those minor modifications or extensions necessary to enable compliance with this SBE Agreement.

3. Direct any Arbitration Party to cancel, terminate, suspend or cause to be cancelled, terminated or suspended, any contract or portion(s) thereof for failure of any party to the arbitration to comply with any of the SBE Program requirements in the Agency-Assisted Contract or this SBE Agreement. Contracts may be continued upon the condition that a program for future compliance is approved by the Agency.

4. If any Arbitration Party is found to be in willful breach of its obligations hereunder, the arbitrator may impose a monetary sanction not to exceed Fifty Thousand Dollars (\$50,000.00) or ten percent (10%) of the base amount of the breaching party's contract, whichever is less, for each such willful breach; provided that, in determining the amount of any monetary sanction to be assessed, the arbitrator shall consider the financial capacity of the breaching party. No monetary sanction shall be imposed pursuant to this paragraph for the first willful breach of this SBE Agreement unless the breaching party has failed to cure after being provided notice and a reasonable opportunity to cure. Monetary sanctions may be imposed for subsequent willful breaches by any Arbitration Party whether or not the breach is subsequently cured. For purposes of this paragraph, "willful breach" means a knowing and intentional breach.

5. Direct any Arbitration Party to produce and provide to the Agency any records, data or reports which are necessary to determine if a violation has occurred and/or to monitor the performance of any Arbitration Party.

K. Arbitrator's Decision. The arbitrator shall make his or her award within twenty (20) days after the date that the hearing is completed; provided that where a temporary restraining order is sought, the arbitrator shall make his or her award not later than twenty-four (24) hours after the hearing on the motion. The arbitrator shall send the decision by certified or registered mail to each Arbitration Party.

L. Default Award; No Requirement to Seek an Order Compelling Arbitration. The arbitrator may enter a default award against any person or entity who fails to appear at the hearing, provided that: (1) said person or entity received actual notice of the hearing; and (2) the complaining party has a proof of service for the absent person or entity. In order to obtain a default award, the complaining party need not first seek or obtain an order to arbitrate the controversy pursuant to Code of Civil Procedure §1281.2.

M. Arbitrator Lacks Power to Modify. Except as otherwise provided, the arbitrator shall

have no power to add to, subtract from, disregard, modify or otherwise alter the terms of the Agency-Assisted Contract, this SBE Agreement or any other agreement between the Agency, the Agency-Assisted Contractor or Contractor or to negotiate new agreements or provisions between the parties.

N. Jurisdiction/Entry of Judgment. The inquiry of the arbitrator shall be restricted to the particular controversy which gave rise to the Demand for Arbitration. A decision of the arbitrator issued hereunder shall be final and binding upon all Arbitration Parties. The non-prevailing Arbitration Party(ies) shall pay the arbitrator's fees and related costs of arbitration (or reimburse the Arbitration Parties that advanced such arbitration fees and costs). Each Arbitration Party shall pay its own attorneys' fees, provided, however, that attorneys' fees may be awarded to the prevailing party if the arbitrator finds that the arbitration action was instituted, litigated, or defended in bad faith. Judgment upon the arbitrator's decision may be entered in any court of competent jurisdiction.

O. Exculpatory Clause. Agency-Assisted Contractor or Contractor (regardless of tier) expressly waive any and all claims against the Agency for damages, direct or indirect, including, without limitation, claims relative to the commencement, continuance and completion of construction and/or providing professional and consulting services ("the Work"). Agency-Assisted Contractor or Contractor (regardless of tier) acknowledge and agree that the procedures set forth herein for dealing with alleged breaches or failure to comply with the obligations and requirements of this SBE Agreement are reasonable and have been anticipated by the parties in securing financing, in inviting, submitting and receiving bids and proposals for the planning, design and construction of the improvements and in determining the times for commencement and completion of the planning, design and construction and/or for providing consulting, professional or personal services.

P. Severability. The provisions of this SBE Agreement are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this SBE Agreement or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this SBE Agreement or the validity of their application to other persons or circumstances.

Q. Arbitration Notice: BY INITIALING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS SUCH RIGHTS ARE SPECIFICALLY INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY.

WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE "ARBITRATION OF DISPUTES" PROVISION TO NEUTRAL ARBITRATION.

Agency

Agency-Assisted Contractor

XV. AGREEMENT EXECUTION

I, hereby certify that I have authority to execute this SBE Agreement on behalf of the business, organization or entity listed below and that it will use good faith efforts to comply with the Agency's 50% SBE Participation Goals. I declare under penalty of perjury under the laws of the State of California that the above statement is true and correct.

Signature

Date

Print Your Name

Title

Company Name and Phone Number

ATTACHMENT E

MINIMUM COMPENSATION POLICY (MCP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (OCII) (Successor Agency to the San Francisco Redevelopment Agency) adopted the Minimum Compensation Policy (MCP), which became effective on September 25, 2001. The MCP requires contractors and subcontractors to provide the following to their employees covered by the MCP on OCII contracts and subcontracts for services: for Commercial Business MCP the wage rate is \$13.34 per hour effective January 1, 2016; for Nonprofit MCP the wage rate is \$12.25 per hour effective May 1, 2015 and \$13.00 per hour effective July 1, 2016. The Minimum Compensation rate is adjusted on January 1 each year. In addition, 12 paid days off per year (or cash equivalent) and 10 days off without pay per year shall be offered.

The OCII may require contractors to submit reports on the number of employees affected by the MCP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the MCP will have the following effect:

- in each contract, the contractor will agree to abide by the MCP and to provide its employees the minimum benefits the MCP requires, and to require its subcontractors subject to the MCP to do the same.
- if a contractor does not provide the MCP minimum benefits, OCII can award a contract to that contractor only if the contract is exempt under the MCP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII's contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the MCP to your covered employees, and will ensure that your subcontractors also subject to the MCP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the MCP, available from the OCII's Contract Compliance Department at (415) 749-2400 or <http://www.sfocii.org/index.aspx?page=126>.

Routing. Return this form to: Contract Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the MCP to our covered employees, and will ensure that our subcontractors also subject to the MCP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone

ATTACHMENT F

HEALTH CARE ACCOUNTABILITY POLICY (HCAP) DECLARATION

What the Policy does. The Office of Community Investment and Infrastructure (“OCII”) (as Successor Agency to the Redevelopment Agency) adopted the San Francisco Health Care Accountability Policy (the “HCAP”), which became effective on September 25, 2001. The HCAP requires contractors and subcontractors that provide services to OCII, contractors and subcontractors that enter into leases with OCII, and parties providing services to tenants and sub-tenants on OCII property to choose between offering health plan benefits to their employees or making payments to OCII or directly to their employees.

Specifically, contractors can either: (1) offer the employee minimum standard health plan benefits approved by the OCII Commission; (2) pay OCII \$4.50 per hour for each hour the employee works on the covered contract or subcontract or on property covered by a lease (but not to exceed \$180 in any week) and OCII will appropriate the money for staffing and other resources to provide medical care for the uninsured (rates and amounts effective July 1, 2015 and subject to annual change).

The OCII may require contractors to submit reports on the number of employees affected by the HCAP.

Effect on OCII contracting. For contracts and amendments signed on or after September 25, 2001, the HCAP will have the following effect:

- in each contract, the contractor will agree to abide by the HCAP and to provide its employees the minimum benefits the HCAP requires, and to require its subcontractors to do the same.
- if a contractor does not provide the HCAP’s minimum benefits, OCII can award a contract to that contractor **only if** the contract is exempt under the HCAP, or if the contract has received a waiver from OCII.

What this form does. Your signed declaration will help OCII’s contracting practice. Sign this form if you can assure OCII that, beginning with the first OCII’s contract or amendment you receive after September 25, 2001 and until further notice, you will provide the minimum benefit levels specified in the HCAP to your covered employees, and will ensure that your subcontractors also subject to the HCAP do the same.

If you cannot make this assurance now, please do not return this form.

For more information, please see the complete text of the HCAP, available from the OCII’s Contract Compliance Department at: (415) 749-2400.

Routing. Return this form to: Contact Compliance Department, Office of Community Investment and Infrastructure (Successor to the San Francisco Redevelopment Agency), 1 South Van Ness Avenue, Fifth Floor, San Francisco, CA 94103.

Declaration

Effective with the first OCII contract or amendment this company receives on or after September 25, 2001, this company will provide the minimum benefit levels specified in the HCAP to our covered employees, and will ensure that our subcontractors also subject to the HCAP do the same, until further notice. This company will give such notice as soon as possible.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Signature

Date

Print Name

Company Name

Phone