

**CONSULTING SERVICES AGREEMENT BETWEEN  
THE CITY OF SAN LEANDRO AND  
TJKM TRANSPORTATION CONSULTANTS  
FOR  
EAST 14TH STREET/144TH AVENUE AND EAST 14TH STREET/JOAQUIN AVENUE  
SIGNAL PROJECT  
PROJECT NO. 2019.5615 AND 2018.5690**

THIS AGREEMENT for consulting services is made by and between the City of San Leandro ("City") and TJKM Transportation Consultants ("Consultant") (together sometimes referred to as the "Parties") as of \_\_\_\_\_, 20\_\_ (the "Effective Date").

**Section 1. SERVICES.** Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2021, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant's obligations hereunder.
- 1.5 Public Works Requirements.** Because the services described in Exhibit A include "work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work," the services constitute a public works within the definition of Section 1720(a)(1) of the California Labor Code. As a result, Consultant is required to comply with the provisions of the California Labor Code applicable to public works, to the extent set forth in Exhibit D.

- 1.6 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.
- 1.7 **Public Works Contractor Registration.** Consultant agrees, in accordance with Section 1771.1 of the California Labor Code, that Consultant or any subconsultant shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in Chapter 1 of Part 7 of Division 2 of the California Labor Code, unless currently registered and qualified to perform public work pursuant to California Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded. No contractor or subcontractor may be awarded a contract for public work on a public works project unless registered with the Department of Industrial Relations pursuant to California Labor Code section 1725.5. Consultant agrees, in accordance with Section 1771.4 of the California Labor Code, that if the work under this Agreement qualifies as public work, it is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

**Section 2. COMPENSATION.** City hereby agrees to pay Consultant a sum not to exceed Seventy-two thousand six hundred and twelve dollars (\$72,612.00), notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:



- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

**2.2 Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

**2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.

**2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement,

unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

**Section 3. FACILITIES AND EQUIPMENT.** Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

**Section 4. INSURANCE REQUIREMENTS.** Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof



satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

#### **4.1 Workers' Compensation.**

**4.1.1 General Requirements.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agents, and subcontractors.

**4.1.2 Submittal Requirements.** To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

#### **4.2 Commercial General and Automobile Liability Insurance.**

**4.2.1 General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than **\$2,000,000** and automobile liability insurance for the term of this Agreement in an amount not less than **\$1,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this

Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

**4.2.2 Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

**4.2.3 Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

**4.2.4 Submittal Requirements.** To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and



- d. Primary Insurance Endorsement as required by the section.

#### 4.3 **Professional Liability Insurance.**

**4.3.1 General Requirements.** Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than **\$2,000,000** covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

**4.3.2 Claims-Made Limitations.** The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

**4.3.3 Additional Requirements.** A certified endorsement to include contractual liability shall be included in the policy.

**4.3.4 Submittal Requirements.** To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

#### 4.4 **All Policies Requirements.**

**4.4.1 Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

**4.4.2 Verification of Coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person

authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

**4.4.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**4.4.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

**4.4.5 Endorsement Requirements.** Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

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

**4.5 Submittal of Proof of Insurance Coverage.** All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City's online insurance document management program, PINS Advantage. Contractor shall comply with all requirements provided by City related to the PINS Advantage program.

**4.6 Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or



- Terminate this Agreement.

**Section 5.** **INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

**Section 6.** **STATUS OF CONSULTANT.**

**6.1** **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

**6.2** **Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

**Section 7.** **LEGAL REQUIREMENTS.**

**7.1** **Governing Law.** The laws of the State of California shall govern this Agreement.

**7.2** **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

**7.3** **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

**7.4** **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications,

and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

- 7.5 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

## **Section 8. TERMINATION AND MODIFICATION.**

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 14 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.



- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
  - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
  - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
  - 8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

**Section 9. KEEPING AND STATUS OF RECORDS.**

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are

confidential and will not be released to third parties without prior written consent of both Parties.

- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

**Section 10. MISCELLANEOUS PROVISIONS.**

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.



- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At City's sole discretion, Consultant may be required to file with the City a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the San Leandro City Clerk for the Form 700 and directions on how to prepare it.

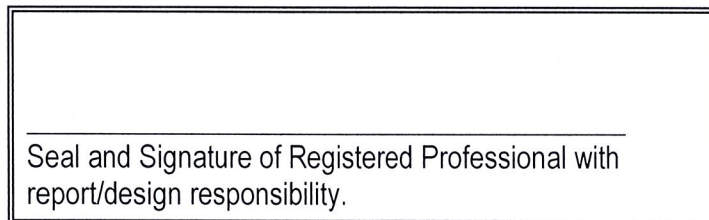
- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by Dean Hsiao ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** Any written notice to Consultant shall be sent to:  
Atul Patel, P.E., P.T.O.E  
Director of ITS & Design  
TJKM Transportation Consultants  
4305 Hacienda Drive, Suite 550  
Pleasanton, CA 94588

Email: apatel@TJKM.com

Any written notice to City shall be sent to:  
Dean Hsiao, Traffic Operations Engineer  
Engineering & Transportation Department  
City of San Leandro  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577  
dhsiao@sanleandro.org

With a copy to:  
City of San Leandro  
Department of Finance  
c/o Purchasing Agent  
835 East 14<sup>th</sup> Street  
San Leandro, CA 94577

- 10.11 Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.





**10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, C, and D represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule & Reimbursable Expenses
<u>Exhibit C</u>	Indemnification
<u>Exhibit D</u>	California Labor Code Section 1720 Information

**10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

**10.14 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.


**SIGNATURES ON FOLLOWING PAGE**

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

TJKM Transportation Consultants

\_\_\_\_\_  
Jeff Kay, City Manager

  
\_\_\_\_\_  
Atul Patel, Director of ITS & Design

Attest:

1000030564  
\_\_\_\_\_  
Consultant's DIR Registration Number  
(if applicable)

\_\_\_\_\_  
Leticia I. Miguel, City Clerk

Approved as to Fiscal Authority:

\_\_\_\_\_  
David Baum, Finance Director

144-38-397, 150-36-397, 144-38-396, 150-36-396  
Account Number

Approved as to Form:

\_\_\_\_\_  
Richard D. Pio Roda, City Attorney

Per Section 10.7:

- Form 700 Not Required  
 Form 700 Required

\_\_\_\_\_  
Keith R. Cooke  
Engineering & Transportation Director



## EXHIBIT A

### SCOPE OF SERVICES

This project will provide for pedestrian safety improvements at two (2) intersections on East 14<sup>th</sup> Street (State Route 85), within Caltrans right of way – intersections of East 14<sup>th</sup> Street and Joaquin Ave and East 14<sup>th</sup> Street and 144<sup>th</sup> Avenue. The project is funded with a federal aid grants. Hence, the project design will both meet Caltrans requirements for work within its right-of-way and federal aid grant requirements.

The following are the proposed improvements.

- East 14<sup>th</sup> Street/144<sup>th</sup> Avenue: The HSIPL-5041(047) project (City project No. 2019.5615) will install a new High-intensity Activated crossWalk (HAWK) signal with Accessible Pedestrian Signal Equipment; improve street lighting features and signing & striping for crosswalks; upgrade ADA curb ramps to enhance pedestrian and bike safety crossing East 14<sup>th</sup> Street; provide signal interconnect to East 14<sup>th</sup> Street/143<sup>rd</sup> Avenue to neighboring Caltrans traffic signals on SR 185; and establish dilemma zone detection for vehicles on East 14<sup>th</sup> Street approaching 144<sup>th</sup> Avenue.
- East 14<sup>th</sup> Street/Joaquin Avenue: This HSIPL-5041(046) project (City project No. 2018.5690) will upgrade the existing, aged traffic signal equipment, including adding a scramble pedestrian crosswalk with a dedicated pedestrian signal phase, adding accessible pedestrian signals; and improve signing, striping, and ADA curb ramps which may require bulb outs and drainage modification.

#### **Task 1: Project Initiation & Management**

##### **Task 1.1 Project Initiation**

The objective of this task is to meet and discuss the overall objectives of the project, to discuss the extent of existing information for the project, establish lines of communication and to review and finalize the scope in detail. An updated schedule will be provided at the Kick-off meeting.

The Consultant will prepare an agenda for a project initiation or kick-off meeting. The preliminary agenda for the meeting will include, but not limited to:

- Introductions/Goals of the meeting
- Contact information, protocol for communicating project information
- Schedule/Required time for City reviews
- The Consultant will request the following items prior to the kick-off meeting and identify discussion items for the meeting:
  - Utility contact information
  - Sample technical specifications in word format

- Other issues, as appropriate
- Milestones and invoicing information
- Project Schedule

At the conclusion of the kickoff meeting, the Consultant will prepare minutes and distribute them to all meeting participants. Consultant will also prepare and e-mail a project contact list based upon the sign in sheet at the meeting, plus business cards collected.

***Deliverables***

- ✓ Kick-off meeting minutes and updated project schedule within one week of the meeting

**Task 1.2 Project Management**

Consultant will manage the schedule and budget throughout the duration of the project. The Consultant will take the lead on preparing the E-76 forms necessary for obtaining the Request for Authorization for construction approval from Caltrans Local Assistance Program, including the Right-of-Way, and Utility Certification forms.

Consultant will maintain frequent and timely communication with the City during the design and construction phase of the project. A biweekly conference call will be scheduled with the City's Project Manager to go over outstanding issues and work completed in the previous two weeks and work to be conducted over the next few weeks.

Consultant will prepare meeting minutes at all the meetings attended and provide action item logs for subsequent follow-up via email. Consultant has budgeted in person meetings at the following stages:

- Kick-off Meeting
- Preliminary 30% Submittal Review Meeting
- 70% Submittal Review Meeting
- 100% Submittal Review Meeting
- Up to two site visit meetings during construction

The Consultant will coordinate with PG&E and prepare all applications required to establish a point of service for the proposed HAWK signal system. The City will pay the associated application/service fees for establishing a point of service.

The Consultant will conduct their quality assurance/quality control over the work deliverables prepared for the City.

***Deliverables***

- ✓ Project schedule updates, meeting minutes, E-76 forms, PG&E service forms

**Task 2: Preliminary 30% Design**



### **Task 2.1 Field Review**

The Consultant will perform a site visit to project location to better understand geometric constraints, utility running through the intersections, identify appropriate locations for proposed HAWK signal poles and also for the signal modifications at East 14th/Joaquin intersection. Consultant will conduct a safety lighting photometric analysis of both intersections to meet Caltrans lighting level standards. Consultant will observe pedestrian/bicyclist activity and vehicular behavior through the intersections. The field visit will also help the designers better understand the issues faced by pedestrians and bicyclists and prepare a design to improve the safety for all modes of travel.

### **Task 2.2 Preliminary 30% Design**

The Consultant will prepare the 30% preliminary plans based on the topographic file prepared by Consultant's surveyor. The drawings will show the existing street right-of-way and existing utility information. Consultant will use the City's tract maps to determine street right-of-ways. The Consultant will obtain record copies from utility companies and service districts to locate existing electrical, gas, telephone, fiber optic, and cable television services. Utilities for sanitary and storm sewers, water mains, and fire hydrants will be researched, and request letters will be prepared, as necessary. Research will be verified by field investigations. Consultant will coordinate with all utilities to resolve any utility issues and to eliminate conflicts encountered during construction.

The preliminary plans will be developed with adequate detail for conveying the design intent, final geometry and key design elements. The major goal of this phase is to fully define the project limits and identify previously unknown constraints or impacts.

The preliminary plans will identify locations of proposed HAWK signal poles at East 14th/144th Avenue and traffic signal modification poles at East 14th/Joaquin and also include, but not limited to, proposed accessible pedestrian system, safety lighting, conduits, pull boxes, signage and striping changes, and service cabinet location. Anticipated point of service location will be shown on the initial concept drawing based on the field visit. Further investigation will be conducted on the point of service with PG&E and the location of the service cabinet will be refined based on coordination with PG&E. Design will be in accordance with Caltrans design standards, CA MUTCD guidelines, and the City of San Leandro's current design standards.

Two civil plan sheets will be developed with one sheet dedicated to each intersection layout. Deliverables also include an engineer's estimate of probable construction costs for the improvements.

The Consultant will provide the City with a list of any facilities belonging to the utility companies that will need to be adjusted as a result of the proposed construction.

#### **Task 2.2.1 Topographic Surveying**

The Consultant will provide topographic surveying for both locations. The topographic survey will include the following:

- Roadway features, such as back of walk, top of curb, flowline, lip of gutter, pavement grade breaks, lane line striping, pavement markings, signs, guard rails, barriers, and fences.
- Spot elevations around critical areas such as driveways or handicap ramps, and curb returns.
- All corners of surface-visible utilities such as valves, manholes, vaults, cabinets, poles, hydrants.

- Rim/grate elevations, invert elevations, pipe sizes, pipe directions for accessible gravity-flow utilities.
- Location of underground utility locator markings (if observed, provided by others).
- Spot shots at curb lines every 50' and median island for:
  - 100 feet in both directions from the intersection along East 14th Street,
  - 50 feet in both directions from the intersection along the side street

The Consultant will prepare design-level topographic map. Show contours at one-foot intervals and spot elevations on an approximate 25-foot grid over the project limits. The survey will be based on City of San Leandro's horizontal and vertical coordinate system. The City will provide survey monument information in the project vicinity to establish horizontal and vertical datums. The accuracy of all surveys shall meet U.S. National Mapping Standards.

### **Boundary Survey**

The Consultant will research and review recorded maps; search for and survey monuments shown on recorded maps; and survey face of curb and back of sidewalk for split of improvements where monuments are not found. Based on surveyed field data, provide right of way lines at the two intersections.

### **Deliverables**

- ✓ Survey control information for all control points established (for later use as construction layout control)
- ✓ AutoCAD Civil 3D (2017 version) file containing point elevations with descriptions, named breaklines, Civil 3D terrain model, and 1-foot contours
- ✓ PDF copy of a signed and stamped plan accurately depicting the information above
- ✓ Preliminary 30% design plans
- ✓ 30% Engineer's cost estimate

### **Task 3: Detailed PS&E Phase**

#### **Task 3.1 70% PS&E**

The Consultant will receive one set of non-conflicting comments on the initial 30% submittal from the City of San Leandro to incorporate into the more detailed 70% PS&E submittal. Consultant will setup an in-person meeting to review and clarify any comments as necessary. In this phase, the design submittal will be refined further and taken to the construction ready document level. The Consultant will prepare the project plans, which include the following sheets:

- |  |                                    |
|--|------------------------------------|
| • Cover Sheet  | • Conductor and Equipment Schedule |
| • General Note Sheet                                     | • Electrical Detail Sheets (two)   |
| • East 14th/144th Ave HAWK Signal Electrical Layout Plan | • Signage and Striping Plan        |
| • Conductor and Equipment Schedule                       | • Curb Ramp Design Plans (two)     |
| • East 14th/Joaquin Signal Layout Plan                   | • Civil Detail sheet               |



The plans will provide further detail on design intent, include typical general notes for the City of San Leandro on installation of HAWK Signal, provide detail sheets necessary for installation of HAWK signal, signage and striping plan will be refined further and show more level of detail civil drawings showing details of proposed curb ramp design will be prepared and civil details as appropriate. Consultant will prepare a comment matrix noting all comments addressed to city satisfaction based on the 30% comments.

The Engineer's estimate will be refined based on the more detailed design.

The Consultant will use the sample specifications provided by City of San Leandro and prepare project specifications in accordance with Caltrans Standard Specifications and City standards.

At this stage, Consultant will start coordinating with PG&E and prepare applications necessary to establish a point of service for the project. Based on input from PG&E service cabinet location will be adjusted in the subsequent design plans.

Consultant will get the process started to obtain all approvals from Caltrans which include preparation of E-76 documentation with Caltrans Local Assistance and Caltrans Encroachment permit application.

***Deliverables***

- ✓ 70% Plans (pdf), Specifications (MS Word), and Estimate (pdf)
- ✓ 30% Review comment matrix
- ✓ PG&E application for service point
- ✓ Caltrans E-76 documentation
- ✓ Caltrans Encroachment Permit

**Task 3.2 100% PS&E**

Consultant will receive one set of non-conflicting comments from the City and Caltrans on the 70% PS&E submittal and incorporate the comments into the 100% Submittal. At this stage, the plans will be refined further and the package will be get closer to a full bid ready document.

The cost estimate and specifications will be refined based on any comments received from the City and the front-end sample specifications, such as insurance forms, and supplemental general provisions, from the City will be incorporated into one complete specification package.

***Deliverables***

- ✓ 100% Plans (pdf), Specifications (MS Word), and Estimate (pdf)
- ✓ 70% Review comment matrix

**Task 3.3 Final Design PS&E**

Consultant will receive one set of non-conflicting comments from the City and Caltrans on the 100% PS&E submittal and incorporate the comments into the Final Design Documents. At this stage, the contract documents are ready for Bidding. The Consultant will coordinate the plans and technical specifications with the City's front end bid instructions, standard provisions, and revised special provisions ready for the City to bid for construction.

The E-76 Request for Authorization for Construction documentation with Caltrans Local Assistance Program is finalized and the authorization from Caltrans is completed.

The City will provide updated traffic signal timing plans for each intersection.

***Deliverables***

- ✓ Final PS&E – Bid Ready Documents
- ✓ Caltrans Encroachment permit and authorization for construction
- ✓ Any other required documents by City

**Task 4: Bidding & Construction Support Phase**

**Task 4.1 Bidding Support**

During the bid process, the Consultant will answer bidder's questions and provide clarifications to the bid questions. Consultant will respond to Requests for Information (RFIs), prepare addenda, and prepare conformed documents, as necessary.

***Deliverables***

- ✓ Addendum(s), clarifications, conformed documents, as necessary

**Task 4.2 Construction Support**

The construction support can vary depending on the Contractor selected and the City Inspector requiring assistance from the Consultant. Consultant will bill the effort on a time and materials basis for this task.

During the construction, the Consultant will assist City staff as follows:

- Prepare responses to contractor's RFI's during construction, as necessary
- Review up to 10 contractor submittals
- Attend up to two site visits to discuss any issues that come up during construction
- Prepare final record drawings
- Submit award package to Caltrans Local Assistance per Chapter 15 of the Procedures Manual

**Optional Services**

The Consultant may be required to provide additional services at the discretion of the City. A contract change order will be negotiated at the time it is determined by the City that any additional services are required.



## EXHIBIT B

### COMPENSATION SCHEDULE & REIMBURSABLE EXPENSES

	Project at E14/144 <sup>th</sup>	Project at E14/Joaquin	Total
Task 1 – Project Initiation & Management			
Task 1.1 - Project Initiation	\$718	\$1,307	\$2,025
Task 1.2 - Project Management	\$2,998	\$5,462	\$8,460
Task 2 – Preliminary 30% Design			
Task 2.1 - Field Review	\$594	\$1,082	\$1,676
Task 2.2 – Preliminary 30% Design	\$2,556	\$4,658	\$7,214
Task 2.2.1 – Topographic Surveying	\$3,489	\$6,356	\$9,845
Task 3 – Detailed PS&E			
Task 3.1 – 70% PS&E	\$4,618	\$8,414	\$13,032
Task 3.2 – 100% PS&E	\$3,427	\$6,243	\$9,670
Task 3.3 – Final Design PS&E	\$2,314	\$4,216	\$6,530
Task 4 – Bidding & Construction Support Phase			
Task 4.1 – Bidding Support	\$736	\$1,340	\$2,076
Task 4.2 – Construction Support	\$4,282	\$7,802	\$12,084
<b>TOTAL NOT TO EXCEED</b>	<b>\$25,732</b>	<b>\$46,880</b>	<b>\$72,612</b>

### HOURLY RATE SCHEDULE

<b>TJKM</b>	
Principal	\$244.94
Director/Project Manager	\$190.94
Senior Engineer	\$122.31
Assistant Transportation Engineer	\$74.68
Administration	\$75.41
<b>ActiveWayz</b>	
Principal	\$173.25
Senior Civil Engineer	\$92.40

### REIMBURSABLES

Plotting (per sheet)	\$18.00
Travel Cost (per mile, subject to change; based on IRS standard mileage rates)	\$0.54
FedEx, Postage	at cost

## EXHIBIT C

### INDEMNIFICATION

- A. Consultant shall, to the extent permitted by law, including without limitation California Civil Code 2782 and 2782.8, indemnify, hold harmless and assume the defense of, in any actions at law or in equity, the City, its employees, agents, volunteers, and elective and appointive boards, from all claims, losses, and damages, including property damage, personal injury, death, and liability of every kind, nature and description, arising out of, pertaining to or related to the negligence, recklessness or willful misconduct of Consultant or any person directly or indirectly employed by, or acting as agent for, Consultant, during and after completion of Consultant's work under this Agreement.
- B. With respect to those claims arising from a professional error or omission, Consultant shall defend, indemnify and hold harmless the City (including its elected officials, officers, employees, and volunteers) from all claims, losses, and damages arising from the professionally negligent acts, errors or omissions of Consultant, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.
- C. Consultant's obligation under this section does not extend to that portion of a claim caused in whole or in part by the sole negligence or willful misconduct of the City.
- D. Consultant shall also indemnify, defend and hold harmless the City from all suits or claims for infringement of any patent rights, copyrights, trade secrets, trade names, trademarks, service marks, or any other proprietary rights of any person or persons because of the City or any of its officers, employees, volunteers, or agents use of articles, products things, or services supplied in the performance of Consultant's services under this Agreement, however, the cost to defend charged to Consultant shall not exceed Consultant's proportionate percentage fault.



## EXHIBIT D

### PROVISIONS REQUIRED FOR PUBLIC WORKS CONTRACTS PURSUANT TO CALIFORNIA LABOR CODE SECTION 1720 *ET SEQ.*

#### HOURS OF WORK:

- A. In accordance with California Labor Code Section 1810, 8 hours of labor in performance of the services described in Exhibit A shall constitute a legal day's work under this contract.
- B. In accordance with California Labor Code Section 1811, the time of service of any worker employed in performance of the services described in Exhibit A is limited to 8 hours during any one calendar day, and 40 hours during any one calendar week, except in accordance with California Labor Code Section 1815, which provides that work in excess of 8 hours during any one calendar day and 40 hours during any one calendar week is permitted upon compensation for all hours worked in excess of 8 hours during any one calendar day and 40 hours during any one calendar week at not less than one-and-one-half times the basic rate of pay.
- C. The Consultant and its subcontractors shall forfeit as a penalty to the City \$25 for each worker employed in the performance of the services described in Exhibit A for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day, or more than 40 hours in any one calendar week, in violation of the provisions of California Labor Code Section 1810 and following.

#### WAGES:

- A. In accordance with California Labor Code Section 1773.2, the City has determined the general prevailing wages in the locality in which the services described in Exhibit A are to be performed for each craft or type of work needed to be as published by the State of California Department of Industrial Relations, Division of Labor Statistics and Research, a copy of which is on file in the City Public Works Office and shall be made available on request. The Consultant and subcontractors engaged in the performance of the services described in Exhibit A shall pay no less than these rates to all persons engaged in performance of the services described in Exhibit A.
- B. In accordance with California Labor Code Section 1775, the Consultant and any subcontractors engaged in performance of the services described in Exhibit A shall comply with California Labor Code Section 1775, which establishes a penalty for each worker engaged in the performance of the services described in Exhibit A that the Consultant or any subcontractor pays less than the specified prevailing wage. The amount of such penalty shall be determined by the Labor Commissioner and shall be based on consideration of the mistake, inadvertence, or neglect of the Consultant or subcontractor in failing to pay the correct rate of prevailing wages, or the previous record of the Consultant or subcontractor in meeting applicable prevailing wage obligations, or the willful failure by the Consultant or subcontractor to pay the correct rates of

prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages is not excusable if the Consultant or subcontractor had knowledge of their obligations under the California Labor Code. The Consultant or subcontractor shall pay the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate. If a subcontractor worker engaged in performance of the services described in Exhibit A is not paid the general prevailing per diem wages by the subcontractor, the Consultant is not liable for any penalties therefore unless the Consultant had knowledge of that failure or unless the Consultant fails to comply with all of the following requirements:

1. The contract executed between the Consultant and the subcontractor for the performance of part of the services described in Exhibit A shall include a copy of the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815.
  2. The Consultant shall monitor payment of the specified general prevailing rate of per diem wages by the subcontractor by periodic review of the subcontractor's certified payroll records.
  3. Upon becoming aware of a subcontractor's failure to pay the specified prevailing rate of wages, the Consultant shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for performance of the services described in Exhibit A.
  4. Prior to making final payment to the subcontractor, the Consultant shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages for employees engaged in the performance of the services described in Exhibit A and any amounts due pursuant to California Labor Code Section 1813.
- C. In accordance with California Labor Code Section 1776, the Consultant and each subcontractor engaged in performance of the services described in Exhibit A shall keep accurate payroll records showing the name, address, social security number, work, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in performance of the services described in Exhibit A. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
1. The information contained in the payroll record is true and correct.
  2. The employer has complied with the requirements of California Labor Code Sections 1771, 1811, and 1815 for any work performed by the employer's employees on the public works project.



The payroll records required pursuant to California Labor Code Section 1776 shall be certified and shall be submitted directly to the Labor Commission, and available for inspection by the Owner and its authorized representatives, the Division of Labor Standards Enforcement, the Division of Apprenticeship Standards of the Department of Industrial Relations and shall otherwise be available for inspection in accordance with California Labor Code Section 1776.

- D. In accordance with California Labor Code Section 1777.5, the Consultant, on behalf of the Consultant and any subcontractors engaged in performance of the services described in Exhibit A, shall be responsible for ensuring compliance with California Labor Code Section 1777.5 governing employment and payment of apprentices on public works contracts.
  
- E. In case it becomes necessary for the Consultant or any subcontractor engaged in performance of the services described in Exhibit A to employ for the services described in Exhibit A any person in a trade or occupation (except executive, supervisory, administrative, clerical, or other non manual workers as such) for which no minimum wage rate has been determined by the Director of the Department of Industrial Relations, the Consultant or subcontractor shall pay the minimum rate of wages specified therein for the classification which most nearly corresponds to services described in Exhibit A to be performed by that person. The minimum rate thus furnished shall be applicable as a minimum for such trade or occupation from the time of the initial employment of the person affected and during the continuance of such employment.

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