

## Standard City of San José Agreement

(8721 – San José Family Camp-SCSJG (/PW #1138 – LOP#3)

This Agreement is between the City of San José, a municipal corporation ("City"), and Cal Engineering & Geology, Inc., a California corporation ("Contractor").

This Agreement is made and entered into this \_\_\_ day of \_\_\_\_\_, 2018 ("Contract Date").

THE CITY AND CONTRACTOR AGREE AS FOLLOWS:

### 1. AGREEMENT SCOPE

- 1.1 General:** This Agreement sets forth the terms and conditions under which the Contractor will provide professional consulting services to the City.
- 1.2 Exhibits:** This Agreement consists of this agreement form and the following exhibits, which are incorporated herein by reference:
- Exhibit A:** Scope of Basic Services
  - Exhibit B:** Compensation
  - Exhibit C:** Insurance Requirements
  - Exhibit D:** FEMA Provisions – Contractor Agreements
- 1.3 Director:** "Director" means the Director of Public Works or the Director's designee.
- 1.4 Business Days:** "Business Day" and "Business Days" means the day(s) on which City Hall is open to conduct business.
- 1.5 Entire Agreement:** This Agreement is the final, complete and exclusive understanding of the parties as to the matters contained herein. It supersedes all prior communications and understandings regarding such matters.
- 1.6 Amendments:** This Agreement can be modified only by mutual agreement of the parties. To be binding, a modification of the Agreement must be in writing and signed by each party by a person properly authorized to bind the party.

Either party can propose a modification of the scope of work, method of performing the work, price of the work, schedule for completing the work, or any other part of the Agreement by providing the other party with a written proposal of the modification. The written proposal must contain a detailed description of the proposed modification along with its cost implications. The written proposal must include the specific language of the proposed modification. The party receiving a modification proposal will respond in writing by either agreeing to the proposal, rejecting the proposal, or requesting additional information needed to evaluate the proposal.

### 2. AGREEMENT TERM

The Agreement term is from the Contract Date to December 31, 2020, unless terminated earlier pursuant to Section 19 below.

### 3. SCOPE OF SERVICES

- 3.1 Basic Services:** "Basic Services" means the services set forth in **Exhibit A**. The Contractor must perform the Basic Services to the Director's satisfaction.
- 3.2 Additional Services.** Not applicable.

### 4. Design Service Requirements

- 4.1 General:** This Section applies to any design services the Contractor performs as part of the Basic Services.
- 4.2 Standard Documents:** The Contractor is, or will become, familiar with the City of San Jose, Department of Public Works, Standard Specifications, dated July 1992 (and any amendments thereto), the City of San Jose, Department of Public Works, Standard Details, dated July 1992 (and any amendments thereto), and any other standard documents the City uses to design and implement its capital projects (collectively "Standard Project Documents").
- 4.3 Use of Standard Documents:** Unless the Director provides prior written approval to the contrary, the final design documents prepared by the Contractor must be based on, and must incorporate, the Standard Project Documents.

### 5. CITY'S CONTRACT MANAGER

The City's contract manager for this Agreement is:

Name: Stacey K. Palomar	Phone No.: (408) 535-8409
Department: Public Works	E-mail: Stacey.Kwok-Palomar@Sanjoseca.gov
Address: 200 East Santa Clara St, 6 <sup>th</sup> Floor, San Jose, California 95113	

The Director can change the above contract manager by giving the Contractor written notice.

### 6. CONTRACTOR'S STAFFING

- 6.1 Contractor's Contract Manager and Other Staffing:** Identified below are the following: (a) the Contractor's contract manager, and (b) the Contractor(s) and/or employee(s) of the Contractor who will be principally responsible for providing the Basic Services. If any individual identified below is required to file a Statement of Economic Interests, Form 700 ("Form 700"), and the individual does not have a current Form 700 on file with the City Clerk for a separate agreement with the City, the Contractor must comply with the requirements of Subsection 17.2 below.

		<u>Required to File Form 700?</u>		
		Yes Already Filed (Insert Date Filed)	Yes Need to File	No
<b><u>CONTRACTOR's Contract Manager</u></b>				
Name: Dan Peluso	Phone No.: (925) 935 - 9771		X	

Address: 6455 Almaden Expwy., Suite 100 San Jose, CA 95120		E-mail: dpeluso@caleng.com			
<b>Other Staffing</b>					
<u>Name:</u>		<u>Assignment:</u>			
1. Phil Gregory		Quality Control		X	
2. Eli Zane		Lead Geo-Structural Design Engineer, Cost Estimating		X	
3. Dan Peluso		Lead Geotechnical Engineer		X	
4. Wilson Radford		Project Designer			X
5. Paul Sorci		Project Engineer			X
6. Rocio Briseno		Project Geologist			X
7. Ronaldo Longoria		Project Engineer			X

6.2 **Contract Manager's Authority:** The Contractor's contract manager is authorized to act on behalf of the Contractor.

6.3 **Staffing Changes:** The Director's prior written approval is required for the Contractor to remove, replace or add to any of its staffing identified in this provision.

## 7. USE OF SUBCONTRACTORS

7.1 **Authority to Use:** Whichever of the following is marked applies to this Agreement:

- The Contractor can *not* use any subcontractors without the Director's prior written approval.
- The Contractor will use the following subcontractors for the specified areas of work. The Contractor can not remove, replace or add to any of the subcontractors identified in this provision without the Director's prior written approval.

Subcontractor's Name	Area of Work
1. Wood Rodgers	Civil Design
2. Horizon Water & Environmental	Environmental Permitting

7.2 **Subcontractor Work:** The Contractor warrants all services and deliverables provided by any subcontractors it uses, and represents that each such subcontractor is specially trained, experienced, and competent to perform its portion of the work.

- 7.3 **Subcontractor Compliance:** The Contractor shall place in each subcontractor agreement the requirement that the subcontractor and all lower tier subcontractors comply with all the terms and conditions of this Agreement including FEMA obligations in exact form and substance of those contained in Exhibit D.

## 8. INDEPENDENT CONTRACTOR

- 8.1 **General:** The Contractor has complete control over its operations and employees, and is an independent contractor. The Contractor is not an agent or employee of the City, and shall not represent or act as the City's agent or employee. The Contractor does not have any rights to retirement benefits or other benefits accruing to City employees, and expressly waives any claim it may have to any such rights.
- 8.2 **Subcontractors:** As an independent contractor, the Contractor has complete control over its subcontractors, suppliers, agents and any other person or entity with whom the Contractor contracts in furtherance of this Agreement (collectively "Subcontractors"). Subject to the requirements of Section 7 of this Agreement, the Contractor is solely responsible for selecting, managing and compensating its Subcontractors, and for ensuring they comply with this Agreement.
- 8.3 **Indemnity:** The shall place in each Subcontractor agreement indemnity obligations in favor of the City in the exact form and substance of those contained in Section 11 below.

## 9. STANDARD OF PERFORMANCE

The Contractor represents that it possesses all necessary training, licenses and permits needed to perform the Basic Services. The Contractor represents that its performance of the Basic Services will conform to the standard of practice of the industry that specializes in performing these services of a like nature and complexity.

## 10. COMPENSATION

- 10.1 **Cost Plus Fixed Fee:** The City will pay the Contractor for all Basic Services completed in accordance with this Agreement based on actual cost plus a fixed fee.
- 10.2 **Maximum Total Compensation:** The maximum compensation the City will pay the Contractor for completing the Basic Services is \$545,222 ("Maximum Total Compensation"). The fixed fee portion of the Maximum Total Compensation is \$67,100 ("Fixed Fee"); the remaining \$478,122 of the Maximum Total Compensation is the maximum amount the City will reimburse the Contractor for actual costs incurred in performing the Basic Services ("Maximum Actual Costs").
- 10.3 **Actual Costs:** Actual costs are the cost of labor, employee benefits, equipment rental, overhead and other direct costs incurred by the Contractor in performing the Basic Services. The City will reimburse the Contractor for actual costs in accordance with this Section 10.3.
- 10.3.1 **Labor Costs:** Employees of Contractor and its subcontractors will be paid at the hourly rates set forth the Schedule of Rates and Charges, which is attached as Part II of Exhibit B, entitled "Compensation."
- 10.3.1.1 **Premium Pay:** "Premium Pay" is a special pay rate for working during times that are less desirable, such as weekends, holidays or late shifts. The City will not pay Premium Pay.

**10.3.1.2 Billing Increments:** Except as otherwise provided in Exhibit B, entitled "Compensation," the Contractor will bill the City in increments of 1/4<sup>th</sup> of an hour. Compensation for a service will be determined by multiplying the applicable increment by the hourly rate applicable to the category of person performing the service. For example, if a Senior Engineer spent 1 hour and 15 minutes completing a service, the compensation for that service would be \$167.50 (1.25 hours x \$134).

**10.3.1.3 Lowest Hourly Rate:** The Contractor must bill the City for a service at the hourly rate applicable to the category of persons with the lowest hourly rate who is reasonably capable of performing the service within the budget and schedule constraints. For example, if a Senior Engineer performs services that a Staff Engineer reasonably could have performed, then the Contractor must use the hourly rate applicable to the Staff Engineer for billing purposes.

**10.3.1.4 Properly Performed Services:** The Contractor is only entitled to payment for services properly performed in accordance with this Agreement, as reasonably determined by the City's Project Manager.

**10.3.2 Prevailing Wages.** For purposes of this Agreement, "construction" has the meaning set forth in California Labor Code Section 1720(a) and includes construction-oriented work performed during the design and preconstruction phases, such as inspection, surveying, drilling, trenching, and excavation ("Construction").

**10.3.2.1 Requirement:** Notwithstanding anything to the contrary in this Agreement, the Contractor and its Subcontractors will pay, or cause to be paid, to all workers performing Construction the applicable prevailing wage for such work in accordance with California prevailing wage requirements. The applicable prevailing wage shall be the wage rate established by the State Department of Industrial Relations for the applicable job classification.

**10.3.2.2 Records:** The Contractor shall maintain, or cause to be maintained, all records documenting the payment of prevailing wages, including, but not limited to, certified payroll records conforming to California Labor Code Section 1776. The Contractor shall maintain these records in accordance with the requirements of Subsection 16.1 of this Agreement. The Contractor shall provide to the City, at no cost to the City, a copy of all such records within 10 Business Days of a request for such records by the division of the City responsible for labor compliance.

**10.3.2.3 Subcontractor:** The Contractor shall include these provisions in all Subcontractor agreements involving Construction.

**10.3.3 Reimbursable Expenses:** The City will reimburse the Contractor for expenses in accordance with the following:

Reimbursable Expense Schedule		Mark Up
1.	The actual cost of mailing, shipping and/or delivery of any documents or materials.	No Markup

2.	The actual cost of photographing, printing, reproducing and/or copying any documents or materials.	No Markup
3.	Actual telephone and facsimile transmission charges.	No Markup
4.	The actual rental cost of any specialized equipment under the following conditions: a) the equipment is necessary to perform the Basic Services, and b) the City's Contract Manager <i>preapproves, in writing</i> , the use and cost of such rental.	No Markup
5.	Mileage and other travel-related expenses under the following conditions: a) The expense complies with the more restrictive of (i) the requirements applicable to the City's reimbursement of its employees pursuant to the Employee Travel Policy (City Policy Manual, Sections 1.8.2 and 1.8.3) or (ii) any applicable Federal requirements applicable to the reimbursement of travel expenses; and b) The City's Contract Manager <i>preapproves, in writing</i> , the travel-related expense.	No Markup
6.	Any other expenses as set forth in the Schedule of Rates and Charges in Exhibit B.	No Markup

**10.3.3 No Increases:** The City will *not* increase the Schedule of Rates and Charges during the Agreement term.

**10.3.4 Conflict:** In the event of a discrepancy between this Section and the Schedule of Rates and Charges, this Section governs.

**10.3.5 Federal Cost Principles:** The Contractor agrees that, to the best of its knowledge, all direct costs identified in the Agreement are actual, reasonable, allowable, properly allocable to this Agreement, and otherwise comply with the Federal cost principles, including 48 Code of Federal Regulations Part 31, entitled "Contractor Cost Principles and Procedures."

**10.3.6 Milestone Actual Cost Estimates Per Task:** The Compensation Table, attached as Part I of Exhibit B, entitled "Compensation," sets forth the estimated Maximum Actual Cost for each task. The City's Project Manager may modify the estimated Maximum Actual Cost of the various tasks in writing, provided that the total Maximum Actual Cost is not exceeded.

**10.4 Fixed Fee:** In addition to paying the Contractor Reimbursable Actual Costs, the City will pay the Contractor the Fixed Fee in accordance with this provision. The City and Contractor negotiated the Fixed Fee based on the size, complexity, duration, and risk involved in providing the Basic Services.

**10.4.1 Nonadjustable:** The Fixed Fee is nonadjustable for the term of the Agreement. Notwithstanding the foregoing, the Fixed Fee can be adjusted if there is a significant

change in the scope of the Basic Services and such adjustment is made by amending the Agreement.

**10.4.2 Payment of Fixed Fee:** The City will pay a percentage of the Fixed Fee upon the completion of the tasks as more specifically stated in the Compensation Table, attached as Part 1 of Exhibit B, entitled Compensation. For purpose of this provision, "completion" means that the Contractor has completed all work for the task in accordance with this Agreement and the City's Project Manager has accepted all such work as being completed. Payment of the Fixed Fee is subject to the following additional conditions:

**10.4.2.1 City's Termination of Agreement for Convenience:** If the City terminates this Agreement early for convenience, the City will pay the Contractor the percentage of the Fixed Fee equal to the percentage of work completed as of the date of termination. For example, if on the date of termination the Contractor completed 40 percent of Task A and 75 percent of Task B, the City would pay 40 percent of the Fixed Fee allocated to Task A and 75 percent of the Fixed Fee allocated to Task B.

**10.4.2.2 City's Termination of Task for Convenience:** If the City deletes a task or tasks for convenience, the City will pay the Contractor the percentage of the Fixed Fee equal to the work completed as of the date the City deletes the task. For example, if the City deletes Task A after the Contractor has completed 80 percent of the work on Task A, the City will pay the Contractor 80 percent of the Fixed Fee allocated to Task A.

**10.4.2.3 Delay in Completing a Task:** If completion of a portion of a task is delayed due to no fault of the Contractor, the City's Project Manager can authorize, in writing, the payment of the percentage of the Fixed Fee equal to the percentage of the task completed. For example, if Contractor completes 60 percent of Task A and completion of the remaining 40 percent of the Task is delayed for reasons beyond the Contractor's control, the City's Project Manager can authorize, in writing, the payment to Contractor of 60 percent of the Fixed Fee for Task A.

**10.5 Limitations:** The City will not reimburse the Contractor for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in Exhibit B, entitled "Compensation," unless additional reimbursement is provided for by contract amendment. In no event will the City reimburse the Contractor for overhead costs at a rate that exceeds overhead rates set forth in Exhibit B. In the event, that City determines that a change to the work from that specified in this Agreement is required, the Agreement time and/or actual costs reimbursable by City will be adjusted by contract amendment to accommodate the changed work.

**10.6 Exclusive Compensation:** The Contractor is not entitled to any other fees, markups or other forms of compensation for services performed in accordance with this Agreement.

**10.7 Invoices:** The City will make progress payments monthly in arrears on Basic Services and allowable incurred costs. Contractor will track all time for the Project work sheet (8721 – San José Family Camp-SCSJG\*/(PW #1138 – LOP#3). Each invoice must meet the following minimum requirements:

- Provide line item detail for actual work performed on each task of the Basic Services, including the date and hours of work, the name and title (category/classification) of the

person who performed the work, a detailed description of the work the person performed, and a statement as to why a person in a lower pay classification could not have performed the work;

- If the actual time for performing the work exceeded the agreed upon time estimate, explain why the work took longer;
- Separately show each item of actual cost for each item of work, and
- Provide a detailed explanation of any expenses for which reimbursement is requested, including the written pre-authorization of the City's Project Manager if required by the Agreement for the expense to be reimbursable.

**10.8 Tax Forms Required:** The following are conditions on the City's obligation to process any payment pursuant to this Agreement:

**10.8.1 U.S. Based Person or Entity:** If the Contractor is a U.S. based person or entity, the Contractor acknowledges and agrees that the Contractor is required to provide the City with a properly completed Internal Revenue Service Form W-9 before the City will process payment. If the Contractor is a U.S. based person or entity, but has neither a permanent place of business in California nor is registered with the California Secretary of State to do business in California, the Contractor acknowledges and agrees that the Contractor is required to provide the City with a properly completed California Franchise Tax Board form related to nonresident withholding of California source income.

**10.8.2 Non-U.S. Based Person or Entity:** If the Contractor is not a U.S. based person or entity, the Contractor acknowledges and agrees that the Contractor is required to provide the City with the applicable Internal Revenue Service form related to its foreign status and a California Franchise Tax Board form related to nonresident withholding before the City will process payment.

## 11. INDEMNIFICATION

**11.1 Obligation:** The Contractor shall defend, indemnify and hold harmless the City and its officers, employees and agents against all claims, losses, damages, injuries, expenses or liabilities that – directly or indirectly, or in whole or in part - arise out of, pertain to, or relate to any of the following:

- The Contractor's negligent performance of all or any part of the Basic Services; or
- Any negligent act or omission, recklessness or willful misconduct of the Contractor, any of its Subcontractors, anyone directly or indirectly employed by either the or any of its Subcontractors, or anyone that they control; or
- Any infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person(s) caused by the City's use of any services, deliverables or other items provided by the Contractor pursuant to the requirements of this Agreement; or
- Breach of this Agreement by the Contractor.

**11.2 Limitation on Obligation:** The obligation in Subsection 11.1 above shall not apply to the extent that any claim, loss, damage, injury, expense or liability results from the sole negligence or willful misconduct of the City or its officers, employees or agents.



- 11.3 Duty to Defend:** The Contractor's obligation in Subsection 11.1 above applies to the maximum extent allowed by law and includes defending the City, its officers, employees and agents as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Contractor, at its own expense, shall defend any suit or action that is subject to the obligation in Subsection 11.1 above.
- 11.4 Insurance:** The City's acceptance of any insurance in accordance with Section 12 does not relieve the Contractor from its obligations under this Section 11. The Contractor's obligations under this Section 11 apply whether or not the insurance required by the Agreement covers any damages or claims for damages.
- 11.5 Survival:** The Contractor's obligations under this Section 11 survive the expiration or earlier termination of the Agreement, and is limited in time only by the applicable statute of limitations for bringing a claim or cause of action."
- 11.6 Release:** Contractor acknowledges that performance of the Basic Services may expose its employees, agents and contractors to inherently dangerous activities and Contractor is voluntarily performing the Basic Services with knowledge of the danger involved.

## 12. INSURANCE REQUIREMENTS

- 12.1 General:** The CONTRACTOR shall comply with the insurance requirements set forth in **Exhibit C** for the Agreement term.
- 12.2 Documentation:** Before performing any services, the Contractor must submit to the City's designated risk manager ("Risk Manager"), for the Risk Manager's written approval, all documents demonstrating compliance with the requirements of **Exhibit C**.
- 12.3 Changes:** The Risk Manager may amend or waive, in writing, any of the requirements contained in **Exhibit C**.

## 13. OWNERSHIP OF WORK PRODUCT

- 13.1 Ownership:** The City owns all rights in and to any of the following work product (including electronic equivalents) without restriction or limitation upon their use, and immediately when and as created by the Contractor or any other person engaged directly or indirectly by the Contractor to perform the Contractor's services pursuant to this Agreement: reports, drawings, plans, data, software, models, documents or other materials developed or discovered (collectively "Work Product").
- 13.2 Copyright:** To the extent permitted by Title 17 of the United States Code, the Work Product is deemed a work for hire and all copyrights in such Work Product are the property of the City. In the event it is ever determined that any Work Product is not a work for hire under United States law, the Contractor hereby assigns to the City all copyrights to such works when and as created.
- 13.3 City's Reuse:** Notwithstanding Subsection 13.1, the City's reuse of any Work Product is subject to California business and Professions Code Sections 5536.25, 6735, 6735.3, 6735.4 or 8761.2, whichever is applicable.
- 13.4 Contractor's Reuse:** With the Director's prior written consent, the Contractor may retain and use copies of the Work Product for reference and as documentation of experience and capabilities.

## 14. DISCLOSURE OF WORK PRODUCT

- 14.1 Prohibition:** Except as authorized by the Director or as otherwise required by law, the Contractor shall not disclose any of the following to a third party: (a) Work Product, (b) discussions between the City and Contractor, or (c) information prepared, developed or received by the Contractor or any of its SubContractors in the course of performing services pursuant to this Agreement.
- 14.2 Notification:** The Contractor will immediately notify the Director if it is requested by a third party to disclose any Work Product, discussions or information that the Contractor is otherwise prohibited from disclosing.
- 14.3 Limit on Prohibition:** The prohibition in Subsection 14.1 above does not apply to disclosures between the Contractor and its Subcontractor's that are needed to perform the Basic Services.
- 14.4 Survival:** This Section 14 survives the expiration or earlier termination of this Agreement.

## 15. AUDIT/INSPECTION OF RECORDS

- 15.1 Retention Period:** The Contractor shall retain the following records (collectively "Records") for a minimum of 3 years from the date of the City's final payment to the Contractor under this Agreement or for any longer period required by law:
- All ledgers, books of accounts, invoices, vouchers, canceled checks, and other records relating to the Contractor's charges for performing services, or to the Contractor's expenditures and disbursements charged to the City; and
  - All Work Product and other records evidencing Contractor's performance.
- 15.2 Producing Records:** At any time during the Agreement term or during the period of time that the Contractor is required to retain the Records, the City Manager, the Director, the City Attorney, the City Auditor, or a designated representative of any of these officers may request, in writing, production of all or a portion of the Records. The Contractor shall produce the requested Records at City Hall during normal business hours, or at any other location and time mutually agreed upon by the parties. The Contractor shall produce the requested Records at no cost to the City.
- 15.3 State Auditor:** In accordance with Government Code Section 8546.7, the Contractor may be subject to audit by the California State Auditor with regard to the Contractor's performance of this Agreement if the compensation under this Agreement exceeds \$10,000.

## 16. NON-DISCRIMINATION/NON-PREFERENCE

- 16.1 Prohibition:** The Contractor shall not discriminate against, or grant preferential treatment to, any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin. This prohibition applies to recruiting, hiring, demotion, layoff, termination, compensation, fringe benefits, advancement, training, apprenticeship and other terms, conditions, or privileges of employment, subcontracting and purchasing.
- 16.2 Conditions of Prohibition:** The prohibition in Subsection 16.1 is subject to the following conditions:

- 16.2.1 Reasonable Accommodation:** The prohibition is not intended to preclude the Contractor from providing a reasonable accommodation to a person with a disability.
- 16.2.2 Compliance Reports:** The City's "Compliance Officer", as defined in Section 4.08.020 of the San José Municipal Code, is responsible for administering this Section 16. The Compliance Officer may require the Contractor to file, and cause any Subcontractor to file, reports demonstrating compliance with this Section 16. Any such reports shall be filed in the form and at such times as the Compliance Officer designates. They shall contain such information, data and/or records as the Compliance Officer determines is needed to show compliance with this provision.
- 16.2.3 Waiver:** The Compliance Officer may waive any of the requirements of this Section if the Compliance Officer determines that the Contractor has its own nondiscrimination/nonpreference requirements or is bound in the performance of this Agreement by the nondiscrimination/nonpreference requirements of another governmental agency, and the nondiscrimination/nonpreference provisions of the Contractor or other governmental agency are substantially the same as those imposed by the City.
- 16.2.4 Violation:** A violation of the prohibition or any part of this Section 16 constitutes the following: (a) a material breach of this Agreement, (b) a misdemeanor violation of Chapter 4.08 of the San José Municipal Code and (c) a ground for debarment in accordance with Chapter 4.10 of the San José Municipal Code.

**16.3 Subcontracts:** The Contractor shall include Subsections 16.1 and 16.2 of this Agreement in each subcontract that it enters into in furtherance of this Agreement.

**16.4 Fair Practices Act:** The Contractor acknowledges that the funding for the Basic Services to be performed under this Agreement is in whole or in part from the State Government. Contractor agrees to comply with the Fair Practices Act in connection with the performance of work under this Agreement wherein it agrees it will not willfully discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age or national origin; and it agrees to take affirmative action to insure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, age or national origin, and hereby give assurance that it will immediately take any measures necessary to effectuate this Agreement.

## 17. CONFLICT OF INTEREST

- 17.1 General:** The Contractor represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Contractor certifies that, as of the Contract Date, it was unaware of any facts constituting a conflict of interest or creating an appearance of a conflict of interest. The Contractor shall avoid all conflicts of interest or appearances of conflicts of interest in performing this Agreement. The Contractor has the obligation of determining if the manner in which it performs any part of this Agreement results in a conflict of interest or an appearance of a conflict of interest, and shall immediately notify the City in writing if it becomes aware of any facts giving rise to a conflict of interest or the appearance of a conflict of interest.
- 17.2 Filing Form 700:** In accordance with the California Political Reform Act (Government Code Section 81000 et seq.), the Contractor shall cause each person performing services under this Agreement, and identified as having to file a Form 700 to do each of the following:

- Disclose the categories of economic interests in Form 700 as required by the Director;
- Complete and file the Form 700 no later than 30 calendar days after the person begins performing services under this Agreement and all subsequent Form 700s in conformance with the requirements specified in the California Political Reform Act; and
- File the original Form 700 with the City's Clerk with a copy submitted to the Director.

**17.3 Future Services:** The Contractor acknowledges each of the following with regard to performing future services for the City:

- The Contractor's performance of the services required by this Agreement may create an actual or appearance of a conflict of interest with regard to the Contractor performing or participating in the performance of some related **future** services, particularly if the services required by this Agreement comprise one element or aspect of a multi-phase process or project;
- Such an actual or appearance of a conflict of interest would be a ground for the City to disqualify the Contractor from performing or participating in the performance of such future services; and
- The Contractor is solely responsible for considering what potential conflicts of interest, if any, performing the services required by this Agreement might have on its ability to obtain contracts to perform future services.

## **18. ENVIRONMENTALLY PREFERABLE PROCUREMENT POLICY**

**18.1 General:** The Contractor shall perform its obligations under the Agreement in conformance with City Council Policy 1-19, entitled "Prohibition of City Funding for Purchase of Single Serving Bottled Water," and City Council Policy 4-6, entitled "Environmentally Preferable Procurement Policy."

**18.2 Prohibition of City Funding for Purchase of Single Serving Bottled Water:** The City's policy is that City funds should not be used for the purchase of single-serving bottled water except for any of the following:

- Public safety emergencies, investigations and extended deployments or activation of the Office of Emergency Services;
- Situations where there is a high risk of cross-contamination with non-potable water; or
- Situations where there are no reasonable alternatives to bottled water, such as large public events and when large quantities of water need to be distributed for health and safety reasons.

An invoice seeking reimbursement from City for the cost of single-serving bottled water under one of the above exceptions must be accompanied by a waiver form provided by the City and signed by the Director.

**18.3 Environmentally Preferable Procurement Policy:** The Environmentally Preferable Procurement Policy, along with a brief policy description, is located on the City's website at the following link: <http://www.sanjoseca.gov/?nid=1774>. Environmental procurement policies and

activities related to the completion of Contractor's work will include, whenever practicable, but are not limited to:

- The use of recycled and/or recyclable products in daily operations (i.e. 30%, 50%, 100% PCW paper, chlorine process free, triclosan free hand cleaner, etc.);
- The use of Energy-Star Compliant equipment;
- The use of alternative fuel and hybrid vehicles, and implementation of protocols aimed at increasing the efficiency of vehicle operation;
- The implementation of internal waste reduction and reuse protocol(s); and
- Water and resource conservation activities within facilities, including bans on individual serving bottled water and the use of compostable food service products.

## 19. TERMINATION

**19.1 For Convenience:** The Director may terminate this Agreement at any time and for any reason by giving the Contractor written notice of the termination. The written notice must set forth the effective date of the termination, which must be at least 7 Business Days' after the date of the written notice.

**19.2 For Cause:** The Director may terminate this Agreement immediately upon written notice for any material breach by the Contractor. If the Director terminates the Agreement for cause and obtains the same services from another Contractor at a greater cost, the Contractor is responsible for such excess cost in addition to any other remedies available to the City.

The Contractor may terminate this Agreement immediately upon written notice for any material breach by the City.

**19.3 Delivery of Work:** If the Director terminates the Agreement – whether for convenience or for cause – the Director has the option of requiring the Contractor to provide to the City any finished or unfinished Work Product prepared by the Contractor up to the date of Contractor's receipt of the written notice of termination.

**19.4 Compensation:** The City will pay the Contractor the reasonable value of services satisfactorily rendered by the Contractor to the City up to the date of Contractor's receipt of the written notice of termination. For services to be "satisfactorily rendered," the Director must determine that the Contractor provided them in accordance with the terms and conditions of this Agreement. The Director will determine the reasonable value of satisfactorily rendered services based on the Compensation Table and any Schedule of Rates and Charges attached to this Agreement.

**19.5 Receipt of Notice:** For purposes of this provision, the Contractor's receipt of the written notice of termination will be determined based on the date of actual receipt or based on Subsection 20.2 below, whichever occurs first.

## 20. NOTICES

**20.1 Manner of Giving Notice:** All notices and other communications required by this Agreement must be in writing, and must be made via e-mail, personal service or United States mail, postage prepaid.

- 20.2 When Effective:** A notice or other communication that is e-mailed is effective when sent provided the sender receives an acknowledgement from the intended recipient (e.g. return receipt, return e-mail, or other written acknowledgement). A notice or other communication that is personally served is effective when personally delivered. A notice or other communication that is mailed is effective 3 calendar days after deposit in the United States mail.
- 20.3 To Whom Given:** All notices and other communications between the parties regarding the Agreement must be given to the individuals identified below using the appropriate contact information for giving notice:

To the City:

Public Works  
Attn: Stacey K. Palomar  
200 East Santa Clara Street, 6<sup>th</sup> Floor  
San Jose, California 95113  
408-535-8409  
[Stacey.Kwok-Palomar@sanjoseca.gov](mailto:Stacey.Kwok-Palomar@sanjoseca.gov)

To the Contractor:

Cal Engineering & Geology, Inc.  
Attn: Dan Peluso  
6455 Almaden Expressway, Suite 100  
San José, California 95120  
(925) 935-9771  
[dpeluso@caleng.com](mailto:dpeluso@caleng.com)

- 20.4 Changing Contact Information:** Either party may change its contact information for receiving written notices and communications regarding the Agreement by providing notice of such change to the other party pursuant to this Section 20.

## 21. MISCELLANEOUS

- 21.1 Gifts Prohibited:** The Contractor represents that it is familiar with Chapter 12.08 of the San José Municipal Code, which generally prohibits a City officer or designated employee from accepting any gift. The Contractor shall not offer any City officer or designated employee any gift prohibited by Chapter 12.08. The Contractor's violation of this Subsection 21.1 is a material breach.
- 21.2 Disqualification of Former Employees:** The Contractor represents that it is familiar with Chapter 12.10 of the City's Municipal Code, which generally prohibits a former City officer and a former designated employee from providing services to the City connected with his/her former duties or official responsibilities. The Contractor shall not use either directly or indirectly any officer, employee or agent to perform any services if doing so would violate Chapter 12.10. The Contractor's violation of this Subsection 21.2 is a material breach.
- 21.3 Waiver of a Violation:** The City's waiver of any violation of this Agreement by the Contractor is not a waiver of any other violation by the Contractor.
- 21.4 Acceptance of Services Not a Waiver:** The City's acceptance of any service or deliverable is not a waiver or release of any professional duty of care applicable to such service or deliverable,

or of any right of indemnification, any insurance requirements, or any other term or condition of this Agreement.

- 21.5 Compliance with Laws:** The Contractor shall perform all services consistent with all applicable federal, state and local laws, ordinances, codes and regulations. This obligation is not limited in any way by the Contractor's obligation to comply with any specific law, ordinance, code or regulation set forth elsewhere in this Agreement.
- 21.6 Business Tax:** The Contractor represents and warrants that it currently has a City business tax certificate or exemption, if qualified, and will maintain such certificate or exemption for the Agreement term.
- 21.7 Assignability:** Except to the extent this Agreement authorizes the Contractor to use Subcontractors, the Contractor shall not assign any part of this Agreement without the Director's prior written consent. The Director, at the Director's discretion, may void this Agreement if a violation of this provision occurs.
- 21.8 Governing Law:** California law governs the interpretation and performance of this Agreement.
- 21.9 Disputes:** Any litigation resulting from this Agreement will be filed and resolved by a federal or state court in California.
- 21.10 Survival of Provisions:** If a court finds any part of this Agreement unenforceable, all other parts shall remain enforceable.
- 21.11 Headings:** The section and exhibit headings are for convenience only and are not to be used in its construction.
- 21.12 Acknowledgement and Exhibits:** This is an acknowledgement that Federal Emergency Management Agency (FEMA) financial assistance will be used to fund the Agreement. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. Additional terms and conditions required by the state and/or federal government are attached in these Exhibits. Contractor shall comply with all the terms and conditions in the Exhibits. To the extent there is a conflict between the provisions of this Agreement, the most stringent requirements shall apply.

///

**IN WITNESS WHEREOF**, the City and Contractor have caused this Agreement to be executed by their respective duly authorized representatives as follows.

**NOTE:** The Contractor must make one of the following representations by placing its initials in the space provided. **The City will not process this Agreement unless the Contractor has initialed one of the provisions.**


Contractor certifies that the Contractor has a permanent place of business in California or is registered with the California Secretary of State to do business in California. The Contractor will file a California tax return and withhold on payments of California source income to nonresidents when required. If the Contractor ceases to have a permanent place of business in California or ceases to do any of the above, the Contractor will promptly notify the City at the address specified in Subsection 20.3 of this Agreement.

Or

\_\_\_\_\_ If the Contractor is unable to make the above certification, the Contractor acknowledges and agrees to provide the City with the applicable tax forms issued by the Internal Revenue Service and California Franchise Tax Board, as applicable, as specified in Section 10.8 of this Agreement.


**City of San José**

By \_\_\_\_\_  
Toni J. Taber, CMC Date  
City Clerk

**Contractor**  
By  9-19-2018  
Name: Dan Peluso, P.E. 49562, G.E. 2367 Date:  
Title: Principal Engineer

**Approval as to Form (City Attorney):**

**Approved as to Form:**

 10-2-2018  
[Sr.] Deputy City Attorney Date



## EXHIBIT A: SCOPE OF BASIC SERVICES

(8721 – San José Family Camp-SCSJG\*/(PW #1138 – LOP#3)

The Contractor shall provide services and deliverables as set forth in this **Exhibit A**. The Contractor shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the Director.

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**General Description of Project for which Contractor will Provide Services:** Heavy rains from storm events in early 2017 resulted in significant damages within San Jose Family Camp (Family Camp), specifically to a rock revetment wall located at the "Pool" area of the Tuolumne River, a concrete retaining wall adjacent to the play structures and river, and to the existing two-story play structure. San Jose Family Camp is located in the Sierra Mountains between the town of Groveland and Yosemite National Park in Tuolumne County, California. Contractor shall provide services for the following Projects:

The rock revetment wall adjacent to the pool area experienced partial failure to complete failure at several locations along the north and south banks of the Tuolumne River. Along the south bank complete failure of the wall adjacent to the existing flash board dam resulted in embankment subsidence and voids behind the original wall location. Family Camp staff placed temporary rock slope protection (RSP) at the toe of the embankment to minimize further erosion of the embankment and dam abutment. Several other locations further upstream but downstream of the pedestrian crossing bridge has experienced erosion behind the wall with subsidence of the embankment.

Additional failures along the north bank of the rock revetment wall were observed in the form of subsidence and it is still unclear the current condition of an existing outfall to the pool area that drains the hillsides above the pool.

An existing 3-foot concrete retaining wall located between the existing play structure and the Tuolumne River failed with the stem wall leaning over at approximately 45 degrees. The ground behind the wall has partially eroded as a result of the storm and settled. In order to reopen the play area Family Camp staff have moved the perimeter fence around the play area further up slope encroaching on minimum required fall distances required for the play area. The project will involve design and construction of a replacement retaining wall and fence in order to reestablish the previous play area footprint.

An existing two-story play structure/fort located at the northwest corner of the fenced play area experienced significant damage during the winter storms. The fort was subsequently removed and all that remains is the wood deck that was once the floor of the fort and part of a 2-foot concrete masonry unit (CMU) wall along the northwest corner. The project will include design and construction of a wood shade structure on top of the existing wood deck.

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### Task No. 1: Project Management

**A. Services:** Contractor shall designate a Project Manager, acceptable to the City, who shall be responsible for initiating the work, implementing the project management procedures and controls, and maintaining effective communications among the Contractor, City, and other agencies and organizations involved. The working interface between the Contractor and the City shall be defined by the following:

1. Provide Project Management assistance throughout the execution of the Project to ensure that the Project is on track and resources are being appropriately utilized.

2. Furnish monthly Engineering Progress Reports based on the Project schedule. The Engineering Progress Reports shall include the following with the monthly invoice:
  - i. A narrative report of specific milestones accomplished during the reporting period, problems encountered or anticipated, future goals or tasks to be scheduled for the next reporting period, and review dates and results of quality control programs, technical evaluations, and inspections related to the design or construction of the Project.
  - ii. A cost report that shows, for each task, the current period and cumulative expenditures to date, the estimated cost to completion, the approved budget, and a comparison of the latter two to show variation.
3. Contractor will provide to the City administrative assistance with FEMA documentation and support throughout all Project phases from preliminary site damage analysis or field investigation to Project completion/close out.
4. Quality Assurance (QA) shall be ongoing throughout the Project. Contractor shall assign a Quality Assurance Manager (QAM), who shall have specialized experience in the structural design and construction. A technical memorandum report, design or other deliverable is a QA milestone triggering action.
5. Manage and monitor the design review process throughout the project design (initial site assessment, preliminary design, 35%, 65%, 95%, and final design submittals); and ensure closing/following through comments and decisions at each design milestone prior to proceeding to the next one.

**B. Deliverables:** Contractor shall provide the following:

1. Kick-off meeting agenda and minutes
2. Invoices and financial updates
3. Project Schedule in Critical Path Method that lists deliverable dates
4. Routine communication via email, meeting minutes
5. Engineering Progress Reports

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before Project Acceptance \_\_\_\_\_

**Task No. 2: Data Collection and Topographic Survey**

**A. Services:** CONTRACTOR will provide utilities research and surveying for the project. These services will include the following:

1. Collect/Review Documents

The CITY will provide relevant as-builts and improvement plans available to them to CONTRACTOR. CONTRACTOR will review as-builts and improvement plans for the Family Camp site provided by the CITY, as well as any pertinent as-builts from other sources within the project area. CONTRACTOR will collect necessary utility data from the CITY, Tuolumne County (County), Pacific Gas & Electric (PG&E), AT&T and other telecommunications

companies, petroleum pipe companies, and permitting agencies. The CITY will assist the CONTRACTOR in obtaining as-builts/record drawings if utility companies are being non-responsive or difficult. CONTRACTOR may send written requests to the CITY to copy onto CITY letterhead prior to sending the requests to utility providers.

## 2. Surveying

The CONTRACTOR will develop a site topographic map for use in the development of project plans, creek geomorphic studies, and for inclusion in permit applications. The CONTRACTOR will set ground control in the area of the planned work for use during construction of repairs. The topographic survey will be completed by a licensed California Land Surveyor. The site topographic map will be supplemented with topography of the camp areas in the vicinity of the repairs. The supplemented topography will be developed using existing Tuolumne County LIDAR and aerial imagery obtained using an Unmanned Aerial Vehicle (UAV).

B. **Deliverable:** Topographic Survey, PDF (24" x 36") and DWG format, Release 2016 or later, to scale.

C. **Completion Time:** The Contractor must complete the services and deliverable for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before the start of the 35% Design Plans and Specifications, or twenty (20) Business Days after receipt of the Notice to Proceed (NTP) for this Agreement, whichever is sooner.

### Task No. 3: Damage Assessment and Alternatives Evaluation

A. **Services:** CONTRACTOR shall conduct a damage assessment focusing on the rock revetment wall around the "pool" area, reinforced concrete retaining wall along the Tuolumne River, and the former two-story play structure/fort, providing a detailed description of the pre-existing condition of these facilities and a description of the damages caused by the early 2017 storms. CONTRACTOR shall develop repair alternatives for the retaining wall repair and/or replacement at the play area and pool areas and for the play structure/fort. Conceptual plans shall be developed using AutoCAD Civil 3D and shall show retaining wall repair options and replacement options at each location. Figures shall be developed based on the topographical map (AUTOCAD) and geotechnical report. The footprints of each repair alternative shall be shown on the figures. The total number of figures shall be based on the damaged site and shall depict each of the repair alternative options.

CONTRACTOR'S damage assessment will require documents and photographs to be provided by City staff of the subject facilities prior to the early 2017 flood damage.

CONTRACTOR shall visit the Family Camp Repair location one time with City staff for a meeting and visual observations of existing conditions. CONTRACTOR shall complete alternatives evaluations and recommend repair alternatives for each location in conformance with regulations established by the City, FEMA, State of California, and Federal Government. CONTRACTOR will prepare a Damage Assessment and Alternatives Evaluation Memorandum that will include for each alternative:

1. Detailed description of the condition of the subject facilities prior to the early 2017 storm damage
2. Figures which depict conceptual repair alternatives evaluated for damaged site
3. Recommendation of Preferred Alternative
4. Engineer's preliminary Opinion of Probable Construction Costs (OPCC)
5. Alternative and cost comparison
6. Storm drainage impacts
7. Project schedule
8. Property ownership as determined by as-builts

Contractor will perform Quality Assurance / Quality Control (QA/QC) on deliverables to City in accordance with Contractor's standard requirements. This will consist of submittals reviewed at preliminary investigation level and assurance that review recommendations are addressed.

Contractor shall provide a preliminary (OPCC) for the Project. OPCCs shall be based on Caltrans Contract Cost Data and experience on similar projects.

- Review all pertinent technical reports and information, including: bare-earth LIDAR/ aerial photographic/topographic base map, GIS, parcel maps, geology maps, and any additional data made available from the City of San Jose.
- Conduct site investigation and damage assessment of the concrete retaining wall adjacent to the play area, rock revetment walls, revetment wall outfall, and other pertinent site features.
- Perform structural inspection and damage assessment of the failed walls
- Provide an evaluation of the site drainage, hydraulics, and hydrology of the creek. To complete this task, CONTRACTOR shall:
  - a. Complete a Hydrologic and Hydraulic (HH) Analysis to determine water surface elevation and flow velocity design constraints. Evaluation of the existing drainage system for identification of any deficiencies.
  - b. Identify the drainage areas to the existing culvert and determine if the capacity of the inlet and pipe are adequate to safely convey the required design storm events.
  - c. Inspect the condition of the drainage areas, drainage conveyance system, and drainage discharge points for condition and potential erosion and creek bank stability.
  - d. Complete a geomorphic survey and assessment of Tuolumne River in the vicinity of the repair sites.
  - e. Prepare a report documenting CONTRACTOR's methodology and findings as well as present recommendations for drainage system upgrades.

**B. Deliverables:** CONTRACTOR shall provide the following:

1. Three (3) hard copies of the Damage Assessment and Alternatives Evaluation Memorandum summarizing recommendations and electronic copies of Figures, Memorandum, and Preliminary Engineer's OPCC. The Technical Memorandum summarizing recommendations (Damage Assessment and Alternatives Evaluation Memorandum) will also break down the cost estimates and pros and cons of various structural stabilization methods at each damaged location. The Technical Memorandum will include alternative repair figures (11"x17") in PDF, AutoCAD, and hard copy (three) formats.
2. Project design meeting in San Jose to present findings and alternatives. Contractor will provide meeting minutes.

**C. Completion Time:** The CONTRACTOR must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before 25 Business Days from Completion of Task 2.

#### **Task No. 4: Geotechnical Investigation**

##### **A. Services:**

1. Review Documents  
CONTRACTOR will review available existing documents related to the site geology, development history, and geotechnical conditions. The documents to be reviewed will include but not be limited to:
  - a. Published soil and geologic maps
  - b. Review selected historical stereo-paired aerial photographs
  - c. Existing geotechnical reports from any adjacent improvements
  - d. As-built plans

2. Geologic Mapping & Mark for USA  
The topographic survey completed as part of Task 3 will be utilized to map in pertinent geologic and surface features including but not limited to, the limits of the wall failures and creek bank features. The field geologic map will be prepared by the CONTRACTOR and used as the basis for determining locations and depths of subsurface explorations and will help define the extents of wall repair.

Clearance of underground utilities will be accomplished through Underground Service Alert (USA). The project site will be marked at the time of the geologic mapping and a minimum of 48 hours prior to the subsurface exploration.

Contractor will coordinate with City staff, Family Camp personnel, and the local tribe to obtain permission and approval prior to any site visit and/or investigation.

3. Subsurface Exploration  
A subsurface exploration program will be undertaken to obtain information needed to characterize the geologic and geotechnical conditions in the vicinity of the repair area. It is anticipated that two days of drilling and sampling will be needed in order to complete up to five borings in the vicinity of the anticipated wall repairs.

The borings will be drilled using a track/truck and/or portable Minute Man drilling rig up to approximately 20 feet in depth below the ground surface or until drilling refusal. Soil and rock samples will be obtained for testing using Standard Penetration Test (SPT) and Modified California samplers. The borings will be logged in the field by an engineer or geologist from our office. The borings will be sealed in accordance with Tuolumne County requirements. It is assumed that all cuttings and waste that result from the drilling operation will be drummed and disposed of off-site at Contractors expense.

- **Laboratory Testing**  
Soil and rock samples retrieved from the borings will be reviewed and classified in accordance with the Unified Soil Classification System. Selected samples will be tested in CE&G's geotechnical laboratory. Anticipated testing will include index properties such as soil/rock strength, in situ moisture and density, and Atterberg Limits.

The project will not address the potential presence of any hazardous materials at the site.

- **Geotechnical Analysis**  
Geotechnical analyses will be completed to develop geotechnical design parameters, provide soil strength parameters, and calculate lateral earth pressures.
- **Geotechnical Design Report**

Once the subsurface exploration is complete and a preferred alternative has been selected by the City, recommendations for repair will be formalized in a geotechnical report. We anticipate the report will include the following:

- Introduction including site location, description, and purpose of the investigation;
- A summary of the information for the vicinity of the proposed repair compiled from previous reports in our files;
- Description of the local and site-specific geology and a description of the soil, bedrock, and groundwater conditions;
- Findings and recommendations pertaining to surface and subsurface drainage conditions at the site to mitigate potential adverse impacts on the performance of the repair;
- Boring logs and test results from the exploration program; and
- Findings and geotechnical recommendations pertaining to the design parameters for the planned project.

The report will likely be made available to contractors during the bidding phase of the project and will serve as the geotechnical baseline for potential changed conditions claims. The report will be issued in draft format and will be finalized after review by the CITY.

**B. Deliverable:** CONTRACTOR shall provide the following:

1. Draft Geotechnical Design Report, including conceptual drawings, sketches, and schematics as required. The report will be provided in PDF format along with four (4) hard copies.

2. Final Geotechnical Design Report, including conceptual drawings, sketches, and schematics as required. Final Geotechnical Investigation Report shall incorporate City review comments of the Draft report, be signed, dated, and stamped by Contractor and the Geotechnical Engineer. The report will be provided in PDF format along with six (6) hard copies.
3. One community meeting at the City Offices with project stakeholders to inform the public of project.

C. **Completion Time:** The Contractor must complete the services and deliverable for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_.
- On or before the start of 35% Design Plan and Specifications or twenty (20) Business Days after the subsurface investigation that will take place after Family Camp closes.

Upon completion of Task 1 through 4, the City shall re-evaluate subsequent tasks listed in Exhibit A: Scope of Basic Services and associated compensation amounts listed in Exhibit B: Compensation. Depending on the extent of the scope of work identified in Task 1 through 3, the City has the ability to modify the scope of remaining work listed in Exhibit A: Scope of Basic Services, and associated compensation amounts listed in Exhibit B: Compensation. Additionally, if it is determined that the subsequent Tasks are no longer appropriate, said Tasks may be modified or eliminated from Exhibit A: Scope of Basic Services and, therefore, Exhibit B: Compensation.

#### Task No. 5: Plans, Specifications, and Estimate – 35% Design Submittal

A. **Services:** CONTRACTOR shall develop the 35% Design Submittal and shall prepare the 35% Plans and Specifications based on the results of the site investigation, geotechnical investigation, topographic surveys, recommendations, and technical memoranda completed in the previous tasks. CONTRACTOR shall design repairs and improvements for the Family Camp sites in conformance with regulations established by the State of California, FEMA, and Federal Government. The purpose of the 35% Design Submittal is to provide the City with a clear and complete picture of construction of all major and critical project components. The 35% Design Submittal shall include sufficient layouts and dimensions to capture the general magnitude of construction, major project components, magnitude of construction cost and schedule, and to help identify any major potential project risks or design flaws (i.e. constructability, utility conflicts, and environmental and permitting concerns). The 35% Design Submittal shall include sufficient layouts, dimensions and details to show clearly the scope of all major and critical project components, and to provide cost and schedule estimates of the project construction.

CONTRACTOR shall prepare the 35% Plans. Plans shall be developed using AutoCAD Civil 3D and shall show stabilization of the embankment, scour protections, repair of the manhole and storm drain pipe, and outfall design. Plans shall be developed based on the topographical map (AUTOCAD) and geotechnical investigation and include the repair footprint. The total number of sheets shall be based on the repair method proposed. Plans shall include:

- a. Cover sheet and General Notes, Legends and Detail sheet
- b. Site Plan Sheets to scale (showing existing topography developed under Task 3)
- c. Improvement Plan sheets to scale with accompanying general details (showing proposed improvements, proposed grading, plus other proposed design and pertinent features, including the existing topography developed under Task 3)

- d. Profile sheets to scale with accompanying general details (showing profiles of the proposed improvements, including the existing ground surface profile)
- e. Cross Section sheets to scale with accompanying general details (showing appropriate cross sections of the proposed improvements, including the existing ground surface)
- f. Major utility conflicts and resolutions, if any.
- g. Major environmental and permitting concerns and resolutions, if any.

CONTRACTOR shall prepare the 35% Specifications. The 35% Specifications shall include specifications for major design components and shall conform to City of San Jose and CSI format. The 35% Specifications shall include the draft specifications of major design components shown in the 35% Plans. The 35% Specifications shall specify the construction materials for major design components, quantity estimates, and measurement and payment methods.

CONTRACTOR shall provide a preliminary Opinion of Probable Construction Costs (OPCC) for the project. OPCCs shall be based on Caltrans guidelines.

CONTRACTOR shall prepare Proposed Construction Schedule and Duration.

CONTRACTOR shall coordinate with franchised utilities to relocate utility facilities affected by the construction of improvements. This scope is limited to coordination and excludes design and details of any utility relocation.

CONTRACTOR will perform Quality Assurance / Quality Control (QA/QC) on deliverables to CITY in accordance with CONTRACTOR's standard requirements. This will consist of submittals reviewed at preliminary investigation level and assurance that review recommendations are addressed.

**B. Deliverables:** CONTRACTOR shall provide the following:

1. A copy of the 35% Plans in AUTOCAD and PDF that include all the drawing sheets required under this task.
2. Six (6) 11"x17" hard copies, and Two (2) 24"x36" hard copies of the 35% Plans.
3. A copy of the 35% Specifications in Microsoft Word and PDF.
4. Six (6) 8 ½" x 11" hard copies of the 35% Specifications.
5. A copy of the OPCC in PDF.
6. Project design meeting at the City to go over City comments and overall design concept.
7. A copy of the updated Project Schedule and Duration in Microsoft Project and PDF.
8. Documentation of any coordination or correspondence with franchised utilities in PDF within 3 business days of occurrence related to the 35% design decisions.
9. Documentation of any coordination or correspondence with FEMA and regulatory agencies in PDF within 3 business days of occurrence related to the 35% design decisions.

**C. Completion Time:** CONTRACTOR must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:



- On or before the following date: \_\_\_\_\_
- On or before 25 Business Days from Completion of Task 3 & 4.

**Task No. 6: Environmental Permitting and Coordination**

**A. Services:**

**1. Clean Water Act (CWA) Section 404 Nationwide Permit (NWP) Application for the USACE**

Contractor will prepare a permit application and supporting materials for a CWA Section 404 NWP to be submitted to the USACE. Contractor will conduct surveys and studies necessary to complete supporting documentation required with the NWP application. This will include mapping of aquatic resources (wetland delineation) and riparian habitat, assessment of potential habitat for species listed under the Endangered Species Act (ESA), and preparation of a Cultural Resources Report compliant with Section 106 of the National Historic Preservation Act. One round of review comments by the City is assumed in the task budget. *Coordination and approval from the City and tribal members will be obtained prior to any site investigation.*

Wetland Delineation

Contractor will conduct a wetland delineation of the Tuolumne River drainage adjacent to the family camp swimming area and toddler playground, including all adjacent areas where grading and recontour are proposed as part of project improvements. The wetland delineation will be conducted in accordance with the USACE's 1987 Wetland Delineation Manual and the 2008 Arid West Regional Supplement. Potential waters of the U.S., including the limits of ordinary high water (OHW), will be delineated using field indicators along with aerial photography and topographic data. Contractor will organize and attend one field visit with the USACE to review the wetland delineation, if requested by USACE. Based on feedback received from the USACE, Contractor will revise the wetland delineation, if necessary, and submit the revised version to the USACE. It is assumed that refinements based on USACE comments will be minor and related to adjustments to report mapping or minor text edits.

Cultural Resources Assessment and Report

The Contractor will develop an Area of Potential Effect (APE) for the project. A preliminary assessment of the APE will be conducted for potential historic resources and buried archaeological sites using relevant maps and documents (e.g., archaeological studies, geologic reports, Quaternary geologic maps, County Soil Survey, as appropriate). The APE will include any other area subject to ground disturbing impact.

The cultural resources assessment will include a record search at the California Historical Resources Information System (CHRIS). This review will identify any previously identified cultural resources within ¼-mile of the APE in order to (1) determine whether known cultural resources had been recorded within or adjacent to the project area; (2) assess the likelihood of unrecorded cultural resources based on historical references and the distribution of environmental settings of nearby sites; and (3) develop a context for identification and preliminary evaluation of cultural resources.

The Native American Heritage Commission (NAHC) will be contacted to determine whether Native American sacred sites are known to be located in or near the project and to request a list of contacts for Native American tribes who may have an interest in the proposed project. Request for information letters will subsequently be sent to all those identified by the NAHC

who might have additional information about the project area. Follow up phone calls or emails will be made to letter recipients about two weeks after the initial contact to verify that the letter has been received. An attempt will be made to solicit information from those contacted during the telephone or email exchange, if possible. Local historical societies and knowledgeable individuals will also be solicited for any information they may have regarding the project area.

A cultural resources inventory of the APE will be conducted once the record search results are received. Archaeologists will exam the ground surface within the APE by walking closely-spaced transects. Any archaeological resources will be recorded on the standard California Department of Parks and Recreation Form 523. These will include photographs and a site map, and global positioning system data will be collected to accurately delineate the locations of all resources.

A cultural resource report will be prepared for the archaeological inventory in compliance with the requirements of the USACE Sacramento District. The report will document the methods and findings of the record search, contacts with Native Americans, maps, results of field studies, and a preliminary assessment of resource significance, as appropriate. A copy of the report will be submitted to the Northwest Information Center.

Resources identified will not be evaluated for eligibility for inclusion to the California Register of Historical Resources (CRHR) or the National Register of Historic Places (NRHP). We assume that if potentially significant archaeological resources are identified on the project property, then measures will be taken to avoid impacts so that there is no need to formally evaluate their significance. Should archaeological resources be identified, and it is determined that the site(s) cannot be avoided by project construction, the resource(s) will need to be evaluated for the CRHR and NRHP. A subsequent scope of work for evaluation of archaeological resources will be prepared at that time.

#### ESA Section 7 Consultation

Impacts to federally-listed species are not anticipated based on the previous assessment completed by H.T. Harvey & Associates in 2012 for the San Jose Family Camp Improvement Project. As such, consultation with the USFWS under ESA Section 7 should not be necessary and preparation of a biological assessment for Section 7 consultation by the USACE is not included in this scope of work. A subsequent scope of work will be prepared should project circumstances change relative to effects on ESA-listed species.

#### **2. CWA Section 401 Permit Application for the RWQCB**

Contractor will prepare a permit application and supporting materials for a CWA Section 401 Water Quality Certification to be submitted to the RWQCB. One round of review comments by the City is assumed in the task budget. The City will pay all costs associated with the permit application.

#### **3. California Fish and Game Code (F&GC 1602 Streambed Alteration Agreement for the CDFW**

Contractor will prepare a notification package for a Lake and Streambed Alteration Agreement (LSAA) pursuant to Section 1602 of the California Fish and Game Code to be submitted to the CDFW. One round of review comments by the City is assumed in the task budget. The City will pay all associated permit application fees.

#### **4. Permit Coordination**

Contractor will coordinate with the City and regulatory agencies to track progress on project approvals and permits. The tracking and coordination process may include participating in meetings/site tours with agency representatives; coordinating comments on applications and

reports; and answering or clarifying agency informational type questions.

**5. Design Support**

Contractor will provide review and comments on proposed designs focused on reducing impacts to federal and state waters, including wetlands, or mitigating project impacts. Contractor will provide recommendations for site restoration/revegetation plans where appropriate. Contractor will review geomorphic evaluation prepared by others.

**6. California Environmental Quality Act (CEQA) Compliance**

Based on an initial site visit and understanding of anticipated project activities, it is believed that an Initial Study (IS) followed by a Mitigated Negative Declaration (MND) will provide sufficient impact analysis and consideration and CEQA compliance. Contractor will prepare an IS/MND to comply with CEQA. This will include preparation of: (1) a draft project description; (2) administrative draft, screen check, and public draft versions of the IS/MND; (3) a response to comments memorandum; and (4) a Final Mitigation Monitoring and Report Program (MMRP) and Notice of Determination.

If the Contractor determines that an IS/MND is not sufficient, the Contractor will discontinue work under this Task until it was coordinated how to proceed with the City.

Draft Project Description

Contractor will prepare a project description for the CEQA analysis based on information provided by the City and the project design team.

Administrative Draft IS/MND

Contractor will prepare an Administrative Draft document that contains the necessary elements of an IS/MND and required sections as outlined by CEQA Guidelines. Technical analyses and impact assessments will be prepared using the impact topics prescribed in Appendix G of the CEQA Guidelines, and appropriate mitigation measures will be identified for any significant impacts. Each topical section will include a brief physical and regulatory setting, project impact discussions, feasible mitigation measures, and identification of the level of significance both prior to and following mitigation. The standards of significance will be based on the CEQA guidelines and City input.

The IS/MND will contain the following standard sections:

- **Introduction.** The Introduction to the IS/MND will instruct readers on how to find information in the IS/MND and will explain the regulatory purpose of the document, the public's role, and steps in the process.
- **Project Description.** The project description prepared above will be updated based on City comments and included.
- **Environmental Analysis.** The Administrative Draft IS/MND will contain environmental analysis for the standard issue areas, including recent and/or evolving issues such as global climate change and greenhouse gas emissions. In addition, the document will be prepared in compliance with federally-applicable regulations (such as the Clean Air Act, Endangered Species Act, and National Historic Preservation Act). The evaluation approach for major environmental topics is provided below.
  - **Air Quality and Global Climate Change and Greenhouse Gas**

**Emissions.** This section will evaluate potential air quality impacts of project construction, including combustion emissions from fossil fuels used to power equipment and vehicles, and fugitive dust emissions from equipment operating over exposed soils. Emissions of air quality contaminants and GHGs from demolition of the entire Project will be evaluated. It is assumed that there would be no operational activities for the project.

- **Biological Resources.** This section will document existing vegetation and wildlife resources/ habitats observed at the project site, and identify any suitable habitat for special-status species, including federal and state-listed ESA species based database queries and field reconnaissance surveys. The Biological Resources section will assess potential direct or indirect impacts on special-status plant and wildlife species and their habitat. The section will also address impacts on sensitive natural communities, if present.
- **Cultural Resources.** Contractor will integrate the cultural resources analysis from Task 6.A.1 into the IS/MND.
- **Agencies and Persons Contacted, References and Literature Cited, and Report Preparers.**
- **Mitigation Monitoring and Reporting Program.** The IS/MND will include a Mitigation Monitoring and Reporting Program (MMRP) in compliance with CEQA Guidelines. The MMRP will be an appendix to the IS/MND and will include the following information for each mitigation measure:
  - the entity responsible for performing the mitigation measure;
  - the timing for implementation of the mitigation measure;
  - the specific results or performance standards that the mitigation is intended to accomplish; and a checkbox for when compliance is completed.

**Assembly Bill 52 Tribal Consultation:** The requirements of Assembly Bill (AB) 52, chaptered under the Public Resources Code, were implemented on July 1, 2015 and must also be addressed in the updated IS/MND. Public Resources Code 21084.2 specifies that “[a] project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment.” As a result, CEQA lead agencies (in this instance the City of San Jose) will consult with tribes “prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project.” The Contractor will conduct these consultations with tribes as appropriate on behalf of the City, should such consultation be requested of the City by any of the tribes. Contractor will prepare a draft initial AB 52 notification letter to tribes for use by the City. This scope of work includes two conference calls with the City and tribes to discuss AB 52 consultation requirements, and one full-day field visit with individual tribes should a field visit be requested. Contractor will work with the City and tribes to develop effective avoidance or treatment plans for tribal cultural resources that might be in the project area and could be affected by project activities. Contractor will provide meeting minutes. The results of the AB 52 tribal consultation process will be incorporated into the tribal cultural resources section of the IS/MND. If additional assistance with AB 52 consultations is requested by the City, this scope of work and budget will require modification.

#### Screen Check Draft IS/MND

Contractor will update the Administrative Draft IS/MND based on one round of review and comment. Comments will be provided electronically in a single document in a tracked

changes format. It is assumed that comments will be coordinated for consistency such that the Contractor does not receive contradictory guidance from the City. Contractor will conduct a conference call with the City to discuss comments and agree on the appropriate revisions. Based on the conference call and comments received, Contractor will prepare a Screen Check Draft IS/MND that incorporates the revisions. The Screen Check Draft will be submitted to the City for review and confirmation prior to finalizing the IS/MND.

#### Public Draft IS/MND

Contractor will finalize the Public IS/MND based on comments received from the City on the Screen Check Draft IS/MND. It is assumed that at this stage comments will be primarily related to final editing and document layout and format.

In addition, Contractor will prepare a draft Notice of Intent (NOI), Notice of Completion (NOC) for submittal to the State Clearinghouse, and other public notices (if any) for review by the City. Contractor will obtain the public distribution mailing list from State Clearinghouse and will review and provide input on the list to ensure the document is appropriately distributed according to CEQA guidelines. The City will review the draft public distribution mailing list and provide edits as appropriate. The draft NOI and other public notices will be updated and finalized as directed by the City's review.

The IS/MND will be circulated for 30 days for public and agency review. Contractor will be responsible for noticing and distribution of the Public IS/MND, the NOI, and submittal of the NOC and necessary copies of the IS/MND to the State Clearinghouse. The Contractor will be responsible for submittal of the NOI to the local County Clerk's office and any newspaper or website postings.

#### Response to Comments Memorandum

Following the close of the public comment period on the IS/MND, Contractor will review the comments received. Contractor will conduct a conference call with the City to discuss the key comments received and the approach to response preparation. Contractor will then prepare a memorandum which briefly considers the comments received and provides responses for City's use in certifying the IS/MND. Both a draft and final memo will be prepared. Contractor will distribute the final Responses to Comments Memorandum to the commenting agencies.

#### Final MMRP and NOD

In conformance with CEQA Guidelines §15132, Contractor will finalize the MMRP for adoption and will prepare a draft NOD for City review and signature. Contractor will be responsible for submittal of the NOD to the local County Clerk's office and for paying the California Department of Fish and Wildlife filing fee.

#### **7. Construction Monitoring**

Contractor will provide biological resources and cultural resources monitors during construction to ensure adherence to permit conditions and mitigation measures. Monitoring tasks will include, but not be limited to, preconstruction surveys for nesting birds, flagging and staking of sensitive biological or cultural areas to be avoided, monitoring of vegetation removal within work limits, and preparation of reporting documentation.

#### **8. Project Management**

Contractor will communicate with project team via email and conference calls. Contractor will provide monthly status reports tracking schedule and budget with invoice submittals.

**9. NEPA Support**

Upon completion of Task 5, the need for National Environmental Policy Act (NEPA) support to be provided by the Contractor will be evaluated by City staff, and City staff will inform the Contractor of whether NEPA support by the Contractor team is required. If required, Contractor will provide NEPA compliance in support of the Project. This scope of work assumes that FEMA will be the NEPA lead agency. This scope of work assumes that the CEQA analysis for most natural resource topics will provide an adequate basis for NEPA evaluation; however, there are additional evaluations required for NEPA including potential economic and social impacts, and alternatives under NEPA must be evaluated to an equal level of detail, which is different than CEQA. This task assumes that an Environmental Assessment (EA) document will be adequate to provide NEPA compliance. This task will also include preparing notices for the NEPA document in the Federal Register and supporting FEMA review according to the level of effort as supported by the proposed task budget.

**B. Deliverable:**

1. CWA Section 404 Permit Application with associated wetland delineation and cultural resources report. Contractor will provide electronic copies (Microsoft Word and PDF) of application and supporting materials to City for review. Contractor shall prepare a completed hard copy binder of final application for submittal to the USACE and provide 2 hard copies and electronic files (Microsoft Word and PDF) to the City.
2. CWA Section 401 Permit Application. Contractor will provide electronic copies (Microsoft Word and PDF) of application and supporting materials to City for review. Contractor shall prepare a completed hard copy binder of final application for submittal to the RWQCB and provide 2 hard copies and electronic files (Microsoft Word and PDF) to the City.
3. F&GC 1602 Streambed Alteration Agreement Notification. Contractor will provide electronic copies (Microsoft Word and PDF) of application and supporting materials to City for review. Contractor shall prepare a completed hard copy binder of final application for submittal to the CDFW and provide 2 hard copies and electronic files (Microsoft Word and PDF) to the City.
4. Supplemental information and communications. Permit coordination will be provided to a level of effort (time and expenses) as shown in the fee for this task. This may include answering questions from regulatory agencies regarding the submitted permit applications in emails and technical memoranda.
5. Contractor to provide comments in emails and technical memoranda on design submittals and geomorphology report; revegetation planting palette focusing on how the project designs may result in any potential environmental effects.
6. CEQA compliance documents including a Draft CEQA Project Description, Admin Draft IS/MND, Screen Check Draft IS/MND, Public Draft IS/MND, Response to Comments Memorandum, and MMRP. Contractor will provide electronic files (Microsoft Word and PDF) of draft CEQA documents for City review. CEQA document development assumes City will provide one-round of consolidated comments on each submittal, provided through a single track-change version document. Contractor will also provide electronic files of final CEQA documents. In addition, Contractor will provide the City with twelve (12) hard copies of the Public Draft IS/MND and MMRP. Contractor will distribute copies of the final Responses to Comments Memorandum to commenting agencies.

7. Required CEQA Notices (NOI, NOC, NOD). Contractor will provide electronic files (Microsoft Word and PDF) of draft CEQA notices to the City for review. Contractor will submit them to the responsible state agency.
8. NEPA Compliance Document and Noticing: If the Contractor provides the NEPA Support, Contractor will provide electronic files (Microsoft Word and PDF) of draft NEPA document (assuming Environmental Assessment document) and NEPA notices for City review. Contractor will submit NEPA document to FEMA for review and provide noticing to the Federal Register.

C. **Completion Time:** The Contractor must complete the services and deliverable for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_.
- On or before 190 Business Days from Completion of Task 5.

This schedule assumes there is no contingency for the schedule and that at least 30 days of the permit application period can be performed concurrently with other earlier tasks.

**Task No. 7: Plans, Specifications, and Estimate – 65% Design Submittal**

A. **Services:** CONTRACTOR shall develop the 65% Design Submittal and shall prepare the 65% Plans and Specifications based on the results of the 35% Design Submittal, the City's review and comments, and any decisions made. It should provide the City with a clear and complete picture of the entire project scope, cost, and schedule of project construction. The 65% Design Submittal shall have captured/resolved all previously made design comments/decisions, and resolved all remaining potential project risks (i.e. constructability, utility conflicts, and environmental and permitting concerns). The 65% Design Submittal shall include complete layouts, dimensions and details to show clearly the entire scope, cost, and schedule of the project construction.

CONTRACTOR shall prepare the 65% Plans. The 65% Plans shall be a further development from the 35% Plans, and shall include complete layout and details of the repairs and improvements for the Family Camp site, erosion control measures, and all pertinent project components. The 65% Drawing shall include:

- a. Cover sheet and General Notes, Legends and Detail sheet
- b. Site Plan sheets to scale
- c. Site Access and Traffic Control sheet
- d. Demolition Plan sheets
- e. Improvement Plan sheets to scale showing the complete work with complete details
- f. Profile sheets to scale showing the complete work with complete details
- g. Cross Section sheets to scale showing the complete work with complete details
- h. Special details and sections of the entire project scope
- i. Water Pollution Prevention and Erosion Control Plan sheets
- j. Water Pollution Prevention and Erosion Control Details sheets
- k. Remaining utility conflicts and resolutions, if any

I. Remaining environmental and permitting concerns and resolutions, if any

CONTRACTOR shall prepare the 65% Specifications. The 65% Specifications shall be a further development from the 35% Specifications and shall conform to City of San Jose and CSI format. The 65% Specifications shall include the complete specifications of the entire project construction.

CONTRACTOR shall incorporate the City's front end specifications (to be prepared by City) into the 65% Specifications.

CONTRACTOR shall prepare the Engineer's Estimate and the Schedule of Quantities.

CONTRACTOR shall prepare further refined Project Construction Schedule and Duration

CONTRACTOR shall coordinate with franchised utilities to relocate utility facilities affected by the construction of improvements. This scope is limited to coordination and excludes design and details of any utility relocation. Any communication or coordination with franchised utilities must be documented and submitted to the CITY in PDF within 3 business days of occurrence.

CONTRACTOR shall coordinate and resolve with regulatory agencies any remaining environmental-related design conflicts.

CONTRACTOR will perform Quality Assurance / Quality Control (QA/QC) on deliverables to CITY in accordance with CONTRACTOR's standard requirements. This will consist of submittals reviewed at preliminary investigation levels and assurance that review recommendations are addressed.

B. **Deliverables:** CONTRACTOR shall provide the following:

1. A copy of the 65% Plans in AUTOCAD, release 2016 or later, and PDF that include all the drawing sheets required under this task.
2. Six (6) 11"x17" hard copies, and Two (2) 24"x36" hard copies of the 65% Plans.
3. A copy of the 65% Specifications in Microsoft Word and PDF.
4. Six (6) 8 ½" x 11" hard copies of the 65% Specifications.
5. A copy of the updated Engineer's Estimate and Schedule of Quantities in Microsoft Excel and PDF
6. Project design meeting at the City to go over City comments and overall design concept.
7. A copy of the updated Project Schedule and Duration in Microsoft Project and PDF.
8. Documentation of any coordination or correspondence with franchised utilities in PDF within 3 business days of occurrence related to the 65% design decisions.
9. Documentation of any coordination or correspondence with FEMA and regulatory agencies in PDF within 3 business days of occurrence related to the 65% design decisions.

C. **Completion Time:** CONTRACTOR must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:



- On or before the following date: \_\_\_\_\_
- On or before 25 Business Days from Receipt of 65% Design Phase notice to proceed.

**Task No. 8: Plans, Specifications, and Estimate – 95% Design Submittal**

- A. Services:** CONTRACTOR shall develop the 95% Design Submittal and shall prepare the 95% Plans and Specifications based on the results of the 65% Design Submittal, the City's review and comments, and any decisions made. The 95% Design Submittal shall be a complete set of construction contract documents that would be biddable and buildable, except for some editorial corrections, typos and drafting errors. The 95% Design Submittal shall have captured/resolved all previously made design comments/decisions and shall have resolved completely all the project potential risks.

CONTRACTOR shall prepare the 95% Plans. The 95% Plans shall be a final development from the 65% Plans, and shall be complete set of plans, except for minor editorial corrections, typos and/or drafting errors.

CONTRACTOR shall prepare the 95% Specifications. The 95% Specifications shall be a final development from the 65% Specifications, and shall be complete set of specifications, except for minor editorial corrections, typos and/or errors. The 95% Specifications shall incorporate the City's front end specifications (to be prepared by City).

CONTRACTOR shall prepare and update the Engineer's Estimate and Schedule of Quantities.

CONTRACTOR shall prepare the Project Construction Schedule and Duration.

CONTRACTOR shall coordinate with franchised utilities to relocate utility facilities affected by the construction of improvements. This scope is limited to coordination and excludes design and details of any utility relocation. Any communication or coordination with franchised utilities must be documented and submitted to the CITY in PDF within 3 business days of occurrence.

CONTRACTOR will perform Quality Assurance / Quality Control (QA/QC) on deliverables to CITY in accordance with CONTRACTOR's standard requirements. This will consist of submittals reviewed at preliminary investigation levels and assurance that review recommendations are addressed.

- B. Deliverables:** CONTRACTOR shall provide the following:

1. A copy of the 95% Plans in AUTOCAD, release 2016 or later, and PDF.
2. Six (6) 11"x17" hard copies, and Two (2) 24"x36" hard copies of the 95% Plans.
3. A copy of the 95% Specifications in Microsoft Word and PDF.
4. Six (6) 8 1/2" x 11" hard copies of the 95% Specifications.
5. A copy of the updated Engineer's Estimate and Schedule of Quantities in Microsoft Excel and PDF
6. Project design meeting at the City to go over City comments and overall design concept.
7. A copy of the updated Project Schedule and Duration in Microsoft Project and PDF.

8. Records (PDF or emails) of any correspondence relating to coordination with utility companies and coordination related to other required permitting.

**C. Completion Time:** CONTRACTOR must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before 15 Business Days from Receipt of 95% Design Phase notice to proceed.

**Task No. 9:** Plans, Specifications, and Estimate – 100% Final Contract Documents for Signature Submittal (San Jose Family Camp Project)

- A. Services:** CONTRACTOR shall develop the 100% Design Submittal and shall prepare the 100% Plans and Specifications based on the results of the 95% Design Submittal, the City's review and comments, and any decisions made. The 100% Design Submittal shall be a complete set of construction contract documents that would be biddable and buildable, free of errors, and ready for signatures.

CONTRACTOR shall prepare the Final Plans. The Final Plans shall be free of errors; and shall be signed, dated, and stamped by CONTRACTOR, and ready for City's acceptance signatures.

CONTRACTOR shall prepare the Final Specifications. The Final Specifications shall be free of errors; and shall be signed, dated, and stamped by CONTRACTOR, and ready for City's acceptance signatures. The Final Specifications shall incorporate the City's front end specifications (to be prepared by City).

CONTRACTOR shall prepare the Final Engineer's Estimate and Schedule of Quantities.

CONTRACTOR shall prepare the Final Project Construction Schedule and Duration.

CONTRACTOR shall coordinate with franchised utilities to relocate utility facilities affected by the construction of improvements. This scope is limited to coordination and excludes design and details of any utility relocation. Any communication or coordination with franchised utilities must be documented and submitted to the CITY in PDF within 3 business days of occurrence.

CONTRACTOR will perform Quality Assurance / Quality Control (QA/QC) on deliverables to CITY in accordance with CONTRACTOR's standard requirements. This will consist of submittals reviewed at preliminary investigation levels and assurance that review recommendations are addressed.

- B. Deliverables:** CONTRACTOR shall provide the following:

1. A copy of the signed and stamped Final Plans in AUTOCAD and PDF.
2. Six (6) 11"x17" hard copies, and Two (2) 24"x36" hard copies of the Final Plans.
3. A copy of the signed and stamped Final Specifications in Microsoft Word and PDF.
4. Six (6) 8 ½" x 11" hard copies of the Final Specifications.
5. A copy of the Final Engineer's Estimate and Schedule of Quantities in Microsoft Excel and PDF.

6. A copy of the Project Schedule and Duration in Microsoft Project and PDF.
7. Records (PDF or emails) of any correspondence related to environmental clearance, coordination with utility companies, coordination related to other required permitting.

**C. Completion Time:** CONTRACTOR must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before 15 Business Days from Receipt of 100% Design Phase notice to proceed.

**Task No. 10: Calculations and Design Memorandum**

**A. Services:**

- a. Contractor shall prepare a design memorandum with retaining wall, revetment wall, and shade structure calculations completed for design of the projects which will be based on recommendations and design parameters presented in the geotechnical report, results from the site investigations, and topographic survey. Contractor shall complete engineering calculations prior to the 65% PS&E to support refinement of the design. After the 100% PS&E submittal, Contractor shall prepare and submit final design calculations as a separately bound deliverable.

**B. Deliverables:**

- a. Design Memorandum, including design assumptions and calculations

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following times is marked:

- On or before the following date: \_\_\_\_\_
- On or before 15 Business Days from Receipt of 100% Design Phase notice to proceed.

**Task No. 11: Review Contractor's Bid Questions**

**C. Services:**

- a. Contractor shall review bid questions submitted during public bidding and provide a written response for the City to provide to the bidders.

**D. Deliverables:**

- a. Contractor shall return bid answers to City, in electronic format, marked with review status stamp and any comments.

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following times is marked:

- On or before the following date: \_\_\_\_\_
- On or before 3 Calendar Days from date of receipt of each question.

**Task No. 12: Prepare addenda drafts**

**A. Services:**

- a. Contractor shall prepare project document addenda during project advertisement if required by the City or in response to a bid question.

**B. Deliverables:**

- a. Contractor shall return addenda drafts to the City, in electronic format, marked with required signatures.

**C. Completion Time: The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following times is marked:**

- On or before the following date: \_\_\_\_\_.
- On or before 3 Calendar Days from date of receipt of bid question or City notice.

**Task No. 13: Pre-construction Meeting**

**A. Services:**

- a. Contractor shall attend one pre-construction meeting with City and construction Contractor at the project site. It is assumed that the City will prepare the meeting agenda, lead the pre-construction meeting, and prepare meeting minutes
- b. As required by City, Contractor shall provide responses to questions raised by the Contractor during the meeting.

**B. Deliverables:**

- a. Contractor shall provide notes taken during the meeting to the City summarizing items discussed.

**b. C. Completion Time: The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:**

- On or before the following date: \_\_\_\_\_.
- On or before 7 Calendar Days from date of the pre-construction meeting.

**Task No. 14: Review Contractor's Submittals and Resubmittals**

**A. Services:**

- a. Contractor shall review construction General Contractor submittals and resubmittals and provide a written response.
- b. City will convert paper copies, if any, received from Contractor into electronic PDF format or other acceptable electronic format. Submittals and resubmittals will be transmitted by City to Contractor in electronic format only. No paper originals or paper copies will be transmitted to Contractor.

**B. Deliverables:**

- a. Contractor shall return submittals and resubmittals to City, in electronic format, marked with review status stamp and any comments.

**C. Completion Time: The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following times is marked:**

- On or before the following date: \_\_\_\_\_.
- On or before 7 Calendar Days from date of receipt of each submittal or 3 Calendar Days from date of receipt of each resubmittal. However, if first submittal is returned with a status of 'Rejected' or 'Incomplete', then the next version will be considered the first submittal, not a resubmittal, for the purpose of determining completion time.

**Task No. 15: Review and Respond to General Contractor's Requests for Information**

**A. Services:**

- a. Contractor shall review general construction contractor's Requests for Information (RFI's) and provide a written response.
- b. City will convert paper copies, if any, received from contractor into electronic PDF format or other acceptable electronic format. RFI's will be transmitted by City to Contractor in electronic format only. No paper originals or paper copies will be transmitted to Contractor.

**B. Deliverables:**

- a. Contractor shall return RFI's to City, in electronic format, marked with a written response.

**C. Completion Time: The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:**

- On or before the following date: \_\_\_\_\_.
- On or before 7 Calendar Days from date of receipt of each RFI.

**Task No. 16: Contract Change Orders**

**A. Services:**

- a. Contractor shall assist City in preparing Contract Change Orders (CCO's). CCO's may be initiated and prepared by the City with written comments from Contractor; or CCO's may be requested by the Contractor and prepared by the City with written comments from Contractor.

**B. Deliverables:**

- a. Contractor shall provide written comments (via a memorandum to City, or a mark-up of a draft CCO prepared by City, or both).

**C. Completion Time: The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:**

- On or before the following date: \_\_\_\_\_.
- On or before 7 Calendar Days from date of receipt of draft CCO from City.

**Task No. 17: Construction Site Meetings**

**A. Services:**

- a. Contractor shall attend construction site meetings (6 meetings at City's request with scheduled authorization).

**B. Deliverables:**

- a. Contractor shall prepare a memorandum to the City summarizing the meeting and providing supplemental responses to unanswered questions from the meeting.

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_.
- On or before 7 Calendar Days from date of each construction site meeting.

**Task No. 18: Environmental Monitoring and Permitting**

**A. Services:**

- a. Contractor shall coordinate and prepare all environmental permits or documentation required by but not limited to FEMA during construction.
- b. Contractor shall provide all biological or other environmental monitoring during construction as required by but not limited to FEMA during construction (estimated 60 hours for the purpose of budgeting).

**B. Deliverables:**

- a. Provide draft versions to the City of any required environmental permits just prior to or during construction.
- b. Provide environmental monitoring reports for each trip to Project location during construction.

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_.
- On-call during project construction, as needed basis at the request of the City.

**Task No. 19: Construction Management & Special Inspection**

**A. Services:**

- a. Contractor shall provide coordination with the General Contractor and other related construction management services to facilitate submittal review, RFI review and response, and change order review, as noted in Tasks 14, 15, & 16 outlined above.
- b. Contractor shall provide special construction inspection for structural improvements for the following planned improvements:
  - i. Rock revetment wall adjacent to the pool area;
  - ii. Shade structure located in the fenced play area; and
  - iii. Concrete retaining wall located along the Tuolumne River.
- c. Contractor shall provide all materials testing (concrete cylinders and grout blocks for compressive strength, inspection of rebar, modified proctor compaction curves, in-situ density testing of backfill, etc.).
- d. Contractor will provide final documentation for construction management services in a report at the conclusion of the construction work for each of the planned improvements noted above.

**B. Deliverables:**

- a. Provide field observation and inspection reports for each day on-site outlining subcontractors present, equipment and personnel working, testing performed that day, summary of work performed that day, documentation of verbal communication with contractor such as deficiencies noted or corrected, clarification provided, and questions

asked by the contractor. Reports will also include attached quality assurance forms, samples collected, nonconformance notices, representative photographs.

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_.
- On-call during project construction, as needed basis at the request of the City.

**Task No. 20: Construction and Project Close Out Assistance**

**A. Services:** Contractor shall provide assistance services to City for both City and FEMA project close out documents. These services for project close out include:

1. Provide to the City administrative assistance with FEMA documentation through construction and project completion/close out.
2. Attend final project walk-through and develop final punch list.
3. Review final record drawings submitted by the contractor and prepare draft recommendation to the City.
4. Analyze and provide recommendations on up to two potential claims as requested by the City.
5. Prepare draft of final project report for the City or FEMA, as requested by the City.

**B. Deliverables:** Contractor shall provide the following:

1. Construction punch list
2. Final record drawings recommendation stamped and signed "As-Built"
3. Analysis and recommendations on any potential claims
4. Draft final project report
5. Other FEMA documentation during construction and project close out as required by FEMA or the City

**C. Completion Time:** The Contractor must complete the services and deliverables for this task in accordance with whichever one of the following time is marked:

- On or before the following date: \_\_\_\_\_
- On or before Project Acceptance \_\_\_\_\_

## EXHIBIT B: Compensation

### Part 1: Compensation Table

Tasks from Exhibit A	Maximum Actual Costs Allocable to Task	Portion of Fixed Fee Payable Upon Completion of Task
Task 1	\$ 18,450.00	\$ 2,700.00
Task 2	\$ 13,250.00	\$ 1,800.00
Task 3	\$ 11,550.00	\$ 1,700.00
Task 4	\$ 28,525.00	\$ 2,200.00
Task 5	\$ 45,075.00	\$ 6,800.00
Task 6	\$ 189,647.00	\$ 27,600.00
Task 7	\$ 26,475.00	\$ 3,900.00
Task 8	\$ 20,575.00	\$ 3,000.00
Task 9	\$ 14,075.00	\$ 2,100.00
Task 10	\$ 6,025.00	\$ 900.00
Task 11	\$ 2,400.00	\$ 400.00
Task 12	\$ 1,300.00	\$ 200.00
Task 13	\$ 1,850.00	\$ 300.00
Task 14	\$ 6,900.00	\$ 1,000.00
Task 15	\$ 6,300.00	\$ 900.00
Task 16	\$ 3,900.00	\$ 600.00
Task 17	\$ 16,500.00	\$ 2,300.00
Task 18	\$ 700.00	\$ 100.00
Task 19	\$ 55,250.00	\$ 7,200.00
Task 20	\$ 9,375.00	\$ 1,400.00
<b>Maximum Actual Costs:</b>	<b>\$ 478,122.00</b>	
<b>Fixed Fee:</b>		<b>\$ 67,100.00</b>



**Part 2: Schedule of Rates and Charges**

A. Cal Engineering and Geology, Inc. (Contractor)

Personnel	Actual Hourly Rates **	Fringe Benefits Rate	Overhead Rate	Total
Senior Principal Engineer/Geologist	\$ 92.98	35.99 %	121.08 %	\$239.00
Principal Engineer/Geologist	\$ 78.91	35.99 %	121.08 %	\$203.00
Associate Engineer/Geologist	\$ 64.33	35.99 %	121.08 %	\$165.00
Senior Engineer/Geologist	\$ 53.78	35.99 %	121.08 %	\$138.00
Project Engineer/Geologist	\$ 42.71	35.99 %	121.08 %	\$110.00
Staff Engineer/Geologist	\$ 32.17	35.99 %	121.08 %	\$ 83.00
Field Technician (Straight rate prevailing wage)	\$ 70.51		121.08 %	\$156.00
Senior GIS/CADD Specialist	\$ 31.36	35.99 %	121.08 %	\$ 81.00
GIS/CADD Specialist	\$ 31.66	35.99 %	121.08 %	\$ 81.00
Project Assistant	\$ 28.23	35.99 %	121.08 %	\$ 73.00
Administration/Clerical*	\$ 43.72	35.99 %	121.08 %	\$112.00
Special Inspector (Straight rate prevailing wage; no 4-hr min)	\$ 79.02		121.08 %	\$175.00

\*The cost of normal accounting services for invoicing has been considered in the overhead expense which is included in the above hourly rates. Additional requirements for invoice verification, such as copies of time sheets, detailed expense records, and supplemental daily work justification will be billed on an hourly basis at the Administration/Clerical rate.

\*\* Average rate over two years (2018-2019) based on 3% escalation

Field and Laboratory Tests	Rates	Unit
Concrete Compressive Strength Testing	\$ 37	per cylinder
Moisture Content (ASTM D 2216)	\$ 22	per test
Moisture & Density (ASTM D 4318)	\$ 29	per test
Atterberg Limits (ASTM D 4318)	\$ 191	per test
Compaction Curve, 4" mold (ASTM D 1557)	\$ 242	per test
Compaction Curve, 6" mold (ASTM D 1557)	\$ 299	per test
Wash over #200 Sieve (ASTM D 1140)	\$ 67	per test
Sieve Analysis with #200 Wash (ASTM D 422)	\$ 139	per test
Sieve & Hydrometer (ASTM D 422)	\$ 216	per test

Reimbursables	Rates	Unit
Nuclear Gage	\$ 54	per day
Inclinometer	\$ 184	per day
Vane Shear Device	\$ 106	per day

B. Wood Rodgers (Subcontractor)

Professional & Office	Actual Hourly Rates	Fringe Benefits Rate	Overhead Rate	Total
Principal I	105.84	25.2%	150.9%	\$292
Associate I	82.96	25.2%	150.9%	\$229
Eng III	65.45	25.2%	150.9%	\$181
Eng I	42.34	25.2%	150.9%	\$117
2 Person Survey	100.41	25.2%	150.9%	\$277
Associate Surveyor	83.02	25.2%	150.9%	\$229
CADD Technician	56.23	25.2%	150.9%	\$155
GIS	33.32	25.2%	150.9%	\$92

\*\* Average rate over two years (2018-2019) based on 3% escalation

C. Horizon Water & Environmental (Subcontractor)

Title	Actual Hourly Rates	Fringe Benefits Rate	Overhead Rate	Total
Principal	\$83.14	43.71%	128.14%	\$226.00
Director	\$69.95	43.71%	128.14%	\$190.00
Project Manager/Sr. Associate II	\$66.21	43.71%	128.14%	\$180.00
Sr. Associate II	\$66.21	43.71%	128.14%	\$180.00
Associate II	\$62.53	43.71%	128.14%	\$170.00
Associate	\$60.00	43.71%	128.14%	\$163.00
Analyst II	\$54.10	43.71%	128.14%	\$147.00
Analyst I	\$47.50	43.71%	128.14%	\$129.00
Graphics/GIS/CADD	\$41.75	43.71%	128.14%	\$113.00
Desktop Publishing/Editing	\$38.75	43.71%	128.14%	\$105.00
Admin/Clerical	\$33.12	43.71%	128.14%	\$90.00

\*\* Average rate over two years (2018-2019) based on 3% escalation

## EXHIBIT C: INSURANCE REQUIREMENTS

### INSURANCE REQUIREMENTS

Contractor, at Contractor's sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by Contractor, its agents, representatives, employees or subcontractors.

#### A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage ("occurrence") Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services pursuant to the scope of work under this contract.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City's Risk Manager.

#### B. Minimum Limits of Insurance

Contractor shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$2,000,000 per claim and aggregate limit. Coverage to be maintained following completion of work on project for 3 years or if policy is canceled, extended reporting period to equal the same.  
Professional liability coverage shall extend to environmentally-related consulting services pursuant to the scope of work as outlined in Exhibit A.

#### C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by City's Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

**D. Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. **Commercial General Liability and Automobile Liability Coverages**

- a. The City of San Jose, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, Contractor; products and completed operations of Contractor; premises owned, leased or used by Contractor; and automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its officers, employees, agents and contractors.
- b. Contractor's insurance coverage shall be primary insurance as respects City, its officers, employees, agents and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents or contractors shall be excess of Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies by Contractor shall not affect coverage provided City, its officers, employees, agents, or contractors.
- d. Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents and contractors.

2. ***Workers' Compensation and Employers' Liability***

Coverage shall contain waiver of subrogation in favor of the City of San Jose, its officers, employees, agents and contractors.

3. **All Coverages**

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to City, *except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.*

**E. Acceptability of Insurers**

Insurance is to be placed with insurers acceptable to City's Risk Manager.

**F. Verification of Coverage**

Contractor: Cal Engineering & Geology, Inc.  
September 2018

Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. 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.

Proof of insurance shall be either emailed in pdf format to: [Riskmgmt@sanjoseca.gov](mailto:Riskmgmt@sanjoseca.gov), or mailed to the following postal address or any subsequent address as may be directed in writing by the Risk Manager:

City of San Jose—Finance  
Risk Management  
200 East Santa Clara Street, 14th Floor Tower  
San Jose, CA 95113-1905

**G. Subcontractors**

Contractor shall include all Subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each Subcontractor.

**EXHIBIT D**  
**FEMA Provisions – Contractor Agreements**  
**(Non-Construction)**

Contractor agrees to comply with the following FEMA-related provisions in the performance of this Agreement:

**A. Additional Remedies for Violation of Contract Terms.**

If the Maximum Total Compensation for this Contract exceeds \$150,000, the following provisions will apply in addition to Section 19, entitled "Termination":

"As an alternative to immediately terminating the Contract "for cause" upon written notice of a material breach, the City has the right to request the Contractor to cure the breach within a fixed period of time set forth in a written notice to the Contractor. The City also may seek reasonable assurance from the Contractor of adequate future performance.

If the City gives the Contractor written notice of a material breach and an opportunity to cure, it may withhold payment of any further funds due the Contractor until the default is corrected. The City must notice that it will withhold payments in the written notice it gives to the Contractor.

If the Contractor fails to cure a material breach or provide reasonable assurances of adequate future performance after being given written notice by the City, then the City may:

- Declare the Contractor to be in default,
- Terminate this Contract in whole or in part,
- Withhold further payment of any further funds which may be due the Contractor, and/or
- Pursue any and all other remedies afforded by law."

**B. Contractor Work Hours and Safety Standards Act.**

If the Maximum Total Compensation for this Agreement exceeds \$100,000 and requires the employment by the Contractor or a Subcontractor of laborers or mechanics, the following provision will apply:

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such work week.
2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. **Withholding for unpaid wages and liquidated damages.** The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. **Subcontracts.** The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**C. Compliance with Federal Law, Regulations, and Executive Orders**

1. **This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.**

**D. Notice of FEMA Reporting Requirements and Regulations**

1. **General.** The City is using Public Assistance grant funding awarded by FEMA to the State of California to pay, in whole or in part, for the costs incurred under this Agreement. As a condition of Public Assistance funding under (major disaster or emergency) declaration 4308-DR-CA, FEMA requires the State of California to provide various financial and performance reporting.
  - a. It is important that the Contractor is aware of these reporting requirements, as the City may require the Contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to the State of California which, in turn, will enable the State of California to satisfy reporting requirements to FEMA.
  - b. Failure of the City to satisfy reporting requirements and information and documentation requests made by the State of California and FEMA could result in loss of Federal financial assistance awarded to fund this Project.

**E. Access to Records (44 C.F.R. § 13.36(i)(10))**

The following access to records requirements apply to this Agreement in addition to Section 15:

1. The Contractor agrees to provide the City, the State of California, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

**F. Retention of Records (44 C.F.R. § 13.36(i)(11))**

The following retention requirements apply to this Agreement in addition to Section 15:

The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than 3 years after the State of California's closure of the project, as specified in the "Application Closeout" letter that will be sent to the authorized agent for the City by the State Public Assistance Officer of the Governor's Office of Emergency Services at City's request after project's completion, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until the City, State of California, the FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.

**G. Clean Air Act Requirements**

If the Maximum Total Compensation for this Agreement exceeds \$100,000, the following provision applies to the extent applicable:

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*
2. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

**H. Federal Water Pollution Control Act**

If the Maximum Total Compensation for this Agreement exceeds \$100,000, the following provision applies to the extent applicable:

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.*
2. The Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the State of California, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office
3. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA."

**I. Energy Efficiency/Conservation (44 C.F.R. § 13.36(i)(13))**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**J. Suspension and Debarment**

1. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2



C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

2. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
3. This certification is a material representation of fact relied upon by the City. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City and the State of California, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
4. The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**K. Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352 (as amended))**

A Contractor who applies or bids for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

**L. DHS Seal, Logo, and Flags**

The Contractor shall not use the Department of Homeland Security (DHS) seal(s), logos, crests, or reproductions of flags or likeness of DHS agency officials without specific FEMA pre-approval.

**M. No Obligation by Federal Government**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the City, Contractor, or any other party pertaining to any matter resulting from the Agreement.

**N. Fraud and False or Fraudulent or Related Acts**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Agreement.

**O. Subcontractors**

If the Contractor is using Subcontractors, then the following provisions apply:

1. **Subcontractor Compliance:** The Contractor shall place in any Subcontractor agreement the requirement that the Subcontractor and all lower tier subcontractors comply with all the terms and conditions of this Contract, including the FEMA requirements.
2. **Small and Minority Businesses, Women-Owned Businesses, and Labor Surplus Area Firms:** If the Contractor is authorized by this Agreement to use Subcontractors, the Contractor warrants that it took the following affirmative steps, and that it has retained documentation of these steps:

Contractor: Cal Engineering & Geology, Inc.  
September 2018

- Made reasonable efforts to identify (including using outside entities that specialize in this area) and place qualified small, minority, and women-owned business on Subcontractor solicitation list(s) for this Agreement;
- Made reasonable efforts to solicit the businesses on the list as Subcontractors for this Agreement;
- Divided the scope of work to be subcontracted, when economically feasible, into smaller tasks or quantities to permit maximum participation by qualified small, minority, and women-owned business; and
- Made reasonable efforts to establish delivery schedules for subcontracted work, where requirements permit and it is otherwise appropriate, which encourage qualified small, minority, and women-owned business to respond to Subcontractor solicitations; and

If at any time during the term of the Agreement the Contractor seeks and obtains authorization to use Subcontractors to complete any of the scope of work, the Contractor shall take the affirmative steps listed above when selecting the Subcontractor and will maintain documentation of all such efforts.

**End of Agreement**



**CAL ENGINEERING & GEOLOGY**

235 Ygnacio Valley Road | Walnut Creek | CA 94596  
6425 Almaden Expressway, Suite 100 | San Jose | CA 95120  
25765 Cabot Blvd., Suite 321 | Hayward | CA 94545  
www.celeng.com

**CORPORATE SIGNATURES CERTIFICATION**

(By Corporate Resolution)

I, Kimberly Deem Coleman, HEREBY CERTIFY as follows:


1. That I am the Corporate Secretary for Cal Engineering & Geology, Inc., a corporation duly organized, existing and in good standing under the laws of the State of California;
2. That on 1 June 2018 a meeting was held by the Board of Directors for Cal Engineering & Geology, Inc. wherein the following resolution was duly passed and adopted:

“RESOLVED, that the following personnel are hereby authorized to execute contracts and all other transaction documents on behalf of the Corporation, and that his/her execution thereof shall be the official act and deed of this Corporation:

- Dave Burger – Associate Geologist
- Dave Buscheck – Principal Engineer
- Kim Coleman – Controller, Corporate Secretary
- Kevin Crane – Associate Engineer
- Reid Fisher – Principal Engineer
- Phil Gregory – Senior Principal Engineer, CEO
- Chris Hockett – Principal Engineer
- Mark Myers – Principal Engineer
- Dan Peluso – Principal Engineer
- Paul Sorci - Senior Engineer
- Mitch Wolfe – Principal Geologist
- Elijah Zane – Associate Engineer

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand for the corporation this 1st day of June 2018

  
\_\_\_\_\_  
Kimberly Deem Coleman  
Corporate Secretary

TASK DESCRIPTION	OTHER DIRECT COSTS										Project Totals		Project Totals			Total Cost (with ODC)	
	Senior Principal	Principal	Associate	Junior	Project	Per Diem	Daily Field Vehicle	Reproduction Cost	Subtotal Cost	Actual Cost (with ODC)	Fluct Fee	Actual Cost (with ODC)	Fluct Fee	Maximum Total Compensation (Cost + Fee + ODC)			
	\$279	\$205	\$165	\$278	\$110	\$0	\$150	\$150	\$125								
San Jose Family Camp																	
1 - Project Management	10	50	20		20				\$ 450	\$ 450	\$ 18,450	\$ 2,700	\$ 18,450	\$ 2,700	\$ 21,150	\$ 21,150	
2 - Data Collection and Topographic Survey		2	2		8		\$ 1,000	\$ 150	\$ 1,150	\$ 13,250	\$ 1,800	\$ 13,250	\$ 1,800	\$ 15,050	\$ 15,050		
4 - Geotechnical Investigation		1	2		10				\$ -	\$ -	\$ 5,000	\$ 200	\$ 28,525	\$ 2,200	\$ 30,725	\$ 3,200	
4.1 Review Documents									\$ -	\$ -	\$ 1,900	\$ 300	\$ -	\$ -	\$ 2,200	\$ 2,200	
4.2 Geologic Mapping & Mark for USA									\$ -	\$ -	\$ 2,900	\$ 400	\$ -	\$ -	\$ 3,300	\$ 3,300	
4.3 Drilling Permit and Coordination		2	1		20				\$ -	\$ -	\$ 2,900	\$ 400	\$ -	\$ -	\$ 3,300	\$ 3,300	
4.4 Subsurface Exploration (assumes 2 days)		2	1		26		\$ 300	\$ 300	\$ 10,600	\$ 14,200	\$ 500	\$ -	\$ 14,700	\$ -	\$ 14,700	\$ 14,700	
4.5 Laboratory Testing		1	2		2	2,500			\$ 2,500	\$ 3,300	\$ 100	\$ -	\$ 3,400	\$ -	\$ 3,400	\$ 3,400	
4.6 Geotechnical Analysis		2	2		8				\$ -	\$ -	\$ 1,600	\$ 200	\$ -	\$ -	\$ 1,800	\$ 1,800	
4.7 Geotechnical Report	2	2	4		12				\$ 125	\$ 125	\$ 2,625	\$ 500	\$ -	\$ -	\$ 4,125	\$ 4,125	
3 - Damage Assessment and Alternative Evaluation	2	8	20		40				\$ 150	\$ 150	\$ 11,550	\$ 1,700	\$ 11,550	\$ 1,700	\$ 13,250	\$ 13,250	
5 - 85% PS&E									\$ 150	\$ 125	\$ 275	\$ 9475	\$ 1,400	\$ 9,475	\$ 1,400	\$ 10,875	\$ 10,875
5.1 Hydrologic & Hydraulic Study									\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Develop short HEC-RAS model based on survey and available topo									\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Estimate post 5-, 10-, and 100-year Qs									\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Run model and document stages and velocity results in TM for design									\$ -	\$ -	\$ 30,400	\$ 4,600	\$ 35,000	\$ 5,400	\$ 41,000	\$ 35,000	
5.2 33% Plans			8						\$ -	\$ -	\$ 1,400	\$ 200	\$ -	\$ -	\$ 1,600	\$ 1,600	
5.3 33% Specifications									\$ -	\$ -	\$ 2,500	\$ 400	\$ -	\$ -	\$ 2,900	\$ 2,900	
5.4 33% Estimate									\$ -	\$ -	\$ 1,300	\$ 200	\$ -	\$ -	\$ 1,500	\$ 1,500	
5.5 Review Meeting			8						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
7 - 65% PS&E									\$ 150	\$ 125	\$ 275	\$ 22,875	\$ 3,400	\$ 26,475	\$ 3,900	\$ 30,375	\$ 26,275
7.1 65% Plans									\$ -	\$ -	\$ 900	\$ 100	\$ -	\$ -	\$ 1,000	\$ 1,000	
7.2 65% Specifications									\$ -	\$ -	\$ 2,700	\$ 400	\$ -	\$ -	\$ 3,100	\$ 3,100	
7.3 65% Estimate									\$ -	\$ -	\$ 1,300	\$ 200	\$ -	\$ -	\$ 1,500	\$ 1,500	
7.4 Review Meeting			8						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
8 - 95% PS&E									\$ 150	\$ 125	\$ 275	\$ 17,975	\$ 2,600	\$ 20,575	\$ 3,000	\$ 23,575	\$ 20,475
8.1 95% Plans									\$ -	\$ -	\$ 500	\$ 100	\$ -	\$ -	\$ 600	\$ 600	
8.2 95% Specifications									\$ -	\$ -	\$ 900	\$ 100	\$ -	\$ -	\$ 1,000	\$ 1,000	
8.3 95% Estimate									\$ -	\$ -	\$ 1,300	\$ 200	\$ -	\$ -	\$ 1,500	\$ 1,500	
8.4 Review Meeting			8						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
9 - 100% PS&E									\$ 150	\$ 125	\$ 275	\$ 10,075	\$ 1,500	\$ 14,075	\$ 2,100	\$ 16,175	\$ 11,575
9.1 100% Plans									\$ -	\$ -	\$ 1,800	\$ 300	\$ -	\$ -	\$ 2,100	\$ 2,100	
9.2 100% Specifications									\$ -	\$ -	\$ 900	\$ 100	\$ -	\$ -	\$ 1,000	\$ 1,000	
9.3 100% Estimate									\$ -	\$ -	\$ 1,300	\$ 200	\$ -	\$ -	\$ 1,500	\$ 1,500	
9.4 Review Meeting			8						\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
10 - Calculations and Design Memorandum	2	4	8		24				\$ 125	\$ 125	\$ 6,025	\$ 900	\$ 6,025	\$ 900	\$ 6,925	\$ 6,925	
6 - Environmental Permitting and Coordination			8						\$ 6,011	\$ 189,647	\$ 27,600	\$ 189,647	\$ 27,600	\$ 217,247	\$ 217,247		
11 - Review Contractor's Bid Questions			4		16				\$ -	\$ -	\$ 2,400	\$ 400	\$ 2,400	\$ 400	\$ 2,800	\$ 2,800	
12 - Prepare Addenda Drafts		2	1		4				\$ -	\$ -	\$ 1,800	\$ 200	\$ 1,800	\$ 200	\$ 2,000	\$ 2,000	
13 - Pre-Construction Meeting			4		10			\$ 150	\$ 150	\$ 1,850	\$ 300	\$ 1,850	\$ 300	\$ 2,150	\$ 2,150		
14 - Review Contractor's Submittals and Resubmittals			4		10				\$ -	\$ -	\$ 6,900	\$ 1,000	\$ 6,900	\$ 1,000	\$ 7,900	\$ 7,900	
15 - Review and Respond to Contractor's RFIs	1	4	8		30				\$ -	\$ -	\$ 6,300	\$ 900	\$ 6,300	\$ 900	\$ 7,200	\$ 7,200	
16 - Contract Change Orders	2	6	10		20				\$ -	\$ -	\$ 3,900	\$ 600	\$ 3,900	\$ 600	\$ 4,500	\$ 4,500	
17 - Construction Site Meetings (assumes 6)		12	60		30			\$ 900	\$ 900	\$ 16,500	\$ 2,300	\$ 16,500	\$ 2,300	\$ 18,800	\$ 18,800		
18 - Environmental Monitoring and Permitting		8	4		16	1,750	\$ 4,500	\$ 1,200	\$ 7,450	\$ 55,250	\$ 7,200	\$ 55,150	\$ 7,200	\$ 62,450	\$ 62,450		
19 - Special Inspection (assumes 6 weeks at 46 hrs/week)		12	8		24			\$ 150	\$ 125	\$ 275	\$ 9,375	\$ 1,400	\$ 9,375	\$ 1,400	\$ 10,775	\$ 10,775	
20 - Construction and Project Close Out Assistance																	
Subtotal Hours	20	122	217		350												
Subtotal Cost	\$ 4,780	\$ 24,766	\$ 35,895		\$ 38,568	\$ 4,250	\$ 5,800	\$ 4,050	\$ 825	\$ 30,986						\$ 1,820,445	
Total Hours	20	122	217		350												
Total Cost	\$ 4,780	\$ 24,766	\$ 35,895		\$ 38,568	\$ 4,250	\$ 5,800	\$ 4,050	\$ 825	\$ 30,986						\$ 5,452,222	

TASK	TASK NAME / DESCRIPTION	(PENSES)		Postage/ Delivery	Mileage	Conference Calls	Sub-Total Direct Expense Fee per Task	Markup on Direct Expenses	Total per Subtask	Total per Task
		Jeff Thomas Principal	Eric Christensen PM/Senior Associate II							
	2019 Hourly Rate	\$226	\$180		\$0.545/mile			6%		
<b>6.A.1</b>	<b>CWA Section 404 NWP Application for USACE</b>									<b>\$20,191</b>
	Wetland Delineation	1	4		\$200		\$200	\$10	\$9,186	
	Cultural Resources Assessment & Report	1	2		\$200		\$1,000	\$50	\$11,376	
	404 Permit Application & Supplemental Materials	2	8	\$25			\$75	\$4	\$7,629	
<b>6.A.2</b>	<b>CWA Section 401 Application for RWQCB</b>									<b>\$14,091</b>
	401 Permit Application & Supplemental Materials	2	8	\$25			\$75	\$4	\$14,091	
<b>6.A.3</b>	<b>F&amp;GC Section 1602 SAA Application for CDFW</b>									<b>\$7,697</b>
	1602 Agreement Notification & Supplemental Materials	2	8	\$25			\$75	\$4	\$7,697	
<b>6.A.4</b>	<b>Permit Coordination</b>									<b>\$9,643</b>
	Coordination and Meetings	4	24		\$200	\$50	\$250	\$13	\$9,643	
<b>6.A.5</b>	<b>Design Support</b>									<b>\$6,024</b>
	Design Review and Recommendations	4	12			\$25	\$25	\$1	\$6,024	
<b>6.A.6</b>	<b>CEQA Compliance</b>									<b>\$62,288</b>
	Draft Project Description	2	8				\$0	\$0	\$5,318	
	Admin Draft IS/MND	4	16			\$25	\$25	\$1	\$26,266	
	AB52 Consultation Support	1	2		\$200	\$50	\$250	\$13	\$4,649	
	Screen Check Draft IS/MND	2	12				\$0	\$0	\$10,268	
	Public Draft IS/MND	1	6	\$50		\$25	\$825	\$41	\$6,440	
	Response to Comments Memorandum	4	12			\$25	\$75	\$4	\$6,543	
	Final MMRP and NOD	1	3				\$0	\$0	\$2,806	
<b>6.A.7</b>	<b>Construction Monitoring</b>									<b>\$23,247</b>
	Surveys, Monitoring, and Reporting	2	16		\$2,000	\$50	\$2,100	\$105	\$23,247	
<b>6.A.8</b>	<b>Project Management</b>									<b>\$6,433</b>
	Monthly Reporting, Tracking, and Coordination	6	24		\$200	\$50	\$250	\$13	\$6,433	
<b>6.A.9</b>	<b>NEPA Compliance</b>									<b>\$30,449</b>
	NEPA Document, Noticing, Coordination	24	24		\$200	\$50	\$500	\$25	\$30,449	
	<b>Subtotal Labor Hours</b>	<b>82</b>	<b>189</b>							
	<b>Subtotals</b>	<b>\$14,012</b>	<b>\$34,020</b>	<b>\$125</b>	<b>\$3,200</b>	<b>\$350</b>	<b>\$5,725</b>	<b>\$286</b>	<b>\$188,348</b>	
									<b>TOTAL</b>	<b>\$188,061</b>