

RESOLUTION NO. 2012-114

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ROHNERT PARK AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH VALI-COOPER & ASSOCIATES, INC FOR PROJECT MANAGEMENT OF THE WILFRED AVENUE WIDENING PROJECT NO. 2010-05

WHEREAS, the City desires to construct the Wilfred Avenue Widening Project No. 2010-05;

WHEREAS, project management services are needed to move the project forward in an expeditious manner;

WHEREAS, inspection and construction management services will be needed during construction;

WHEREAS, the Wilfred Avenue Widening Project contains project complexities including property acquisition, permitting, utility relocation and coordination with multiple agencies.

WHEREAS, the City of Rohnert Park Municipal Code Title 3 Chapter 3.04 provides that the city's purchasing functions shall be governed by the city's purchasing policy; and

WHEREAS, consistent with City of Rohnert Park Purchasing Policy Section 3.6.6D, staff set forth to identify a qualified team that can assist the City with the construction management of such a complex project; and

WHEREAS, a request for proposals was distributed via email to various consultants in the area and posted on the City of Rohnert Park's website.

WHEREAS, the City received two proposals on September 13, 2012, which staff reviewed using the following criteria: (1) Quality of construction management team including RE, inspector and administrative personnel and ability to appropriately commit staffing to the project, (2) experience managing projects including property acquisition and utility relocations, (3) experience working with multiple agencies including Cities, County, utilities and regulatory agencies and (4) experience doing constructability reviews and solving constructability problems. Two consultants were interviewed by staff.

WHEREAS, Vali-Cooper & Associates, Inc, is qualified and experienced to provide such services, has submitted a proposal for inspection and construction management services, and has been selected by staff as the most appropriate construction manager for the said projects; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Rohnert Park that it does hereby authorize and approve an agreement by and Vali-Cooper & Associates,

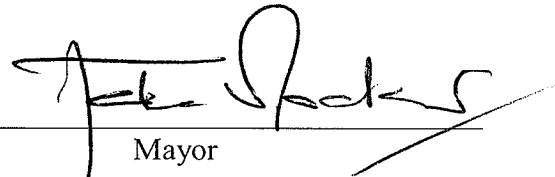
Inc, a California Corporation, and the City of Rohnert Park, a municipal corporation, for Project Management Services for Wilfred Widening Project No. 2010-05 ("Agreement").

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to take all actions to effectuate this Agreement for and on behalf of the City of Rohnert Park, including execution, if necessary, in substantially similar form to the Agreement attached hereto and incorporated by this reference as Exhibit A, subject to minor modifications by the City Manager or City Attorney.

BE IT FURTHER RESOLVED that if any action, subsection, sentence, clause or phrase of this Resolution or the Agreement approved by this Resolution shall be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity shall not affect the validity of the remaining portions of this Resolution or the Agreement approved by this Resolution that can be given effect without the invalid provisions.

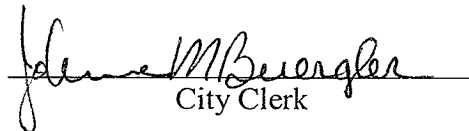
DULY AND REGULARLY ADOPTED this 25th day of September, 2012.

CITY OF ROHNERT PARK



Mayor

ATTEST:



City Clerk



AHANOTU: AYE BELFORTE: AYE CALLINAN: AYE STAFFORD: ABSENT MACKENZIE: AYE
AYES: (4) NOES: (0) ABSENT: (1) ABSTAIN: (0)

AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT FOR CONSULTANT SERVICES (“Agreement”) is made and effective as of the ____ day of _____, 2012, by and between the City of **Rohnert Park**, a municipal corporation (“City”), and **Vali Cooper & Associates, Inc.**, a California corporation, (“Consultant”), with reference to the following facts:

- A. City has determined that it is necessary and appropriate to engage a consultant to carry out the services described herein; and
- B. Consultant has represented itself as being fully qualified and available to perform the consultant services necessary to complete the work in a timely manner; and
- C. City desires to contract with Consultant and Consultant is willing to perform the consultant services, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. SERVICES.

- 1.1 **Basic Services.** City hereby retains Consultant to perform the services described and set forth in the attached Exhibit A (“**Basic Services**”), which is incorporated by this reference as though set forth in full. Consultant hereby agrees to perform said services within the designated time frames and accepts this retention. Consultant shall complete the Basic Services according to a schedule of performance which is also set forth in Exhibit A.
- 1.2 **Additional Services.** In addition to the Basic Services, City may elect to have Consultant perform additional services that are beyond the current scope of the project, but within the expertise of Consultant (“**Additional Services**”). Such Additional Services shall be mutually agreed to in advance and specified in a writing, which shall also specify the basis for the Consultant’s fee for such additional services. Basic Services and Additional Services are referenced collectively as “**Services**.”

2. PERFORMANCE.

- 2.1 **Standard of Performance.** Consultant shall faithfully, competently and diligently perform the obligations and responsibilities required by this Agreement, applying prevailing standards of professionalism and good workmanship utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.
- 2.2 **Labor and Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, tools, transportation and services necessary for the

successful completion of the Services. Consultant shall give its attention and supervision to the fulfillment of the provisions of this Agreement by its employees and subcontractors and shall be responsible for the timely performance of the Services required by this Agreement.

2.3 **Time of Performance.** The Services of Consultant are to commence upon receipt of a written notice to proceed from City, but in no event prior to receiving a fully executed agreement from City and obtaining and delivering the required insurance coverage and satisfactory evidence thereof to City.

2.4 **Review of Service.** Consultant shall furnish City with reasonable opportunities from time to time to ascertain whether the Services of Consultant are being performed in accordance with this Agreement. All work done and materials furnished shall be subject to final review and approval by City; Consultant is not providing final approval or review, which is solely City's function and role. City review and approval of such work and Services shall not, however, relieve Consultant of any of its obligations under this Agreement.

2.5 **Contract Administration.**

2.5.1 **City.** The City Manager or his/her designee shall represent the City in all matters relating to the administration of this Agreement. The City Manager or his/her designee shall have the authority to act on the City's behalf to review and approve all products submitted by Consultant and may execute all necessary documents to authorize Consultant to perform Additional Services as provided for herein.

2.5.2 **Consultant.** Consultant shall assign Connie Preston Fremier to have overall responsibility for the progress and execution of this Agreement for Consultant.

3. **TERM.** This Agreement shall be effective as of the date first above written and shall continue until all Services to be provided by Consultant are completed, as per City's acceptance of said project, unless terminated earlier as provided for herein.

4. **COMPENSATION.**

4.1 **Basic Services.** For Basic Services, City shall pay Consultant compensation in accordance with the payment rates and schedule as set forth in Exhibit B, attached hereto and incorporated herein by this reference as though set forth in full, as full compensation for all labor, materials, equipment, tools, transportation, and services. Payment by City under this Agreement shall not be deemed a waiver of unsatisfactory work, even if such defects were known to City at the time of payment.

4.2 **Additional Services.** Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in

addition to those set forth herein, unless such additional services are authorized in advance and in writing in the method provided for herein.

- 4.3 **Invoices.** Each and every payment by City shall be subject to City's receipt of an invoice outlining the items for which payment is requested. Payment to Consultant as to any undisputed fees shall be made, after verification of Consultant's performance, within thirty (30) days of receipt of invoice. If City disputes any of Consultant's fees, it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of such disputed fees.
- 4.4 **Inspection.** Consultant shall furnish City with every reasonable opportunity for City to ascertain that the services of Consultant are being performed in accordance with the requirements and intentions of this Agreement. All work done and all materials furnished, if any, shall be subject to the project manager's inspection and approval. The inspection of such work shall not relieve Consultant of any of its obligations to fulfill the Agreement as prescribed.
- 4.5 **Withholding.** City reserves the right to withhold future payment to Consultant if any aspect of the Consultant's work is found to be substantially inadequate. City shall notify Consultant in writing of deficiencies believed to be substantially inadequate within thirty (30) days after receipt of product.
- 4.6 **Taxes/Insurance/Licenses.** Consultant shall be solely responsible for the payment of any federal, state, or local income tax, social security tax, workers' compensation insurance, state disability insurance, and any other taxes, assessments and premiums or insurance contributions which Consultant is responsible for paying under federal, state or local law by reason of or in connection with the Services to be performed by Consultant. At all times during the term of this Agreement, Consultant shall have in full force and effect all licenses necessary for the performance of Services hereunder, including without limitation, business licensing from City, all at the sole cost of Consultant.
- 4.7 **No Overtime or Premium Pay.** Consultant shall receive no premium or enhanced pay for work normally understood as overtime, i.e., hours that exceed forty (40) hours per work week, or work performed during non-standard business hours, such as in the evenings or on weekends **except as required by the Department of Industrial Relations for Prevailing Wage Inspection Services.** Consultant shall not receive a premium or enhanced pay for work performed on a recognized holiday. Consultant shall not receive paid time off for days not worked, whether it is in the form of sick leave, administrative leave, or for any other form of absence.
- 4.8 **Litigation Support.** Consultant agrees to testify at City's request if litigation is brought against City in connection with Consultant's work product. Unless the action is brought by Consultant or is based upon Consultant's negligence, City will compensate Consultant for the preparation and the testimony at Consultants

standard hourly rates, if requested by City and not part of the litigation brought by City against Consultant.

5. **RECORDS.**

- 5.1 **Financial Records.** Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Consultant shall also maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible.
- 5.2 **Access to Records.** Consultant shall provide free access to the representatives of City or its designees at reasonable times to such books and records; shall give City the right to examine and audit said books and records; shall permit City to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.
- 5.3 **Original Records.** Upon completion of, or in the event of termination or suspension of this Agreement, all completed and incomplete original agreements, data, documents, designs, drawings, exhibits, maps, models, computer files, reports, studies, surveys, notes, and other work, materials or documents prepared or used to prepare Consultant's work product in the course of providing the Services pursuant to this Agreement ("**Consultant Work Product**") shall become the sole property of City. City may duplicate, disclose, disseminate, use, reuse or otherwise dispose of Consultant Work Product in whole or in part in any manner it deems appropriate, without the permission of Consultant. With respect to computer files, Consultant shall make available to the City, at Consultant's office and upon reasonable written request by City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files. Consultant may retain copies of such Consultant Work Product as a part of its record of professional activity.

6. **TERMINATION.**

- 6.1 **Termination for Convenience.** City may at any time terminate this Agreement or any portion thereof for any reason by giving Consultant at least seventy-two (72) hours prior written notice of such termination. Upon receipt of said notice, Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

6.2 **Termination for Cause.** City may terminate this Agreement with cause, effective immediately upon written notice of such termination to Consultant, based upon the occurrence of any of the following events:

- Material breach of this Agreement by Consultant;
- Cessation of Consultant to be licensed, as required;
- Failure of Consultant to substantially comply with any applicable federal, state or local law or regulation;
- Filing by or against Consultant of any petition under any law for the relief of debtors; and,
- Filing of a criminal complaint against Consultant for any crime, other than minor traffic offenses.

If this Agreement is terminated by City for cause and it is later determined that the termination was wrongful, such termination automatically shall be converted to and treated as a termination for convenience as provided for herein.

6.3 **Suspension.** City shall have the authority to suspend this Agreement and the Services contemplated herein, wholly or in part, for such period as it deems necessary due to unfavorable conditions or to the failure on the part of the Consultant to perform any provision of this Agreement.

6.4 **Payment Upon Termination.** In the event this Agreement is terminated or suspended, with or without cause, pursuant to this Section, City shall pay Consultant for the actual value of the work performed up to the time of termination or suspension, provided that the work performed is of value to City. Upon termination of the Agreement, Consultant will submit an invoice to City as provided for herein.

6.5 **Third Parties.** City shall not be obligated or liable for payment hereunder to any party other than Consultant.

7. **INSURANCE.** Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in the attached Exhibit C, which is incorporated by this reference as though set forth in full.

8. **INDEMNIFICATION.**

8.1 **Indemnification for Professional Liability.** When the law establishes a professional standard of care for Consultant's Services, to the fullest extent permitted by law, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("**Indemnified Parties**") from and against any and all liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys fees and costs, court costs, interest, defense costs and expert witness fees) ("**Claims**"), to the extent same are caused, or alleged to have been caused, in whole or in part by any act or omission, negligent or

otherwise, of Consultant, its officers, agents, employees, subcontractors or consultants or any entity or individual for whom Consultant shall bear legal liability in the performance of professional services under this Agreement. For design professionals, Consultant shall, to the fullest extent permitted by law, indemnify, protect, defend and hold harmless any Indemnified Parties from and against any and all Claims which arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, or as may be provided by statute in Civil Code § 2782.8.

- 8.2 **Indemnification for Other Than Professional Liability.** Other than in the performance of professional services as specified in Section 8.1 and to the full extent permitted by law, Consultant shall indemnify, defend and hold harmless any Indemnified Parties from and against any Claims, where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for whom Consultant is legally liable, including but not limited to, officers, agents, employees, subcontractors or consultants of Consultant. The only exception to Consultant's responsibility to indemnify, defend, and hold harmless the Indemnified Parties from Claims, is due to the active negligence or willful misconduct of City or its elective or appointive boards, officers, agents and employees.
- 8.3 **Scope of Obligation.** Consultant's duty to indemnify, protect, defend and hold harmless as set forth herein shall include the duty to defend as set forth in California Civil Code § 2778. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable by or for Consultant under worker's compensation, disability or other employee benefit acts or the terms, applicability or limitations of any insurance held or provided by Consultant and shall continue to bind the parties after termination/completion of this agreement. This indemnification shall be regardless and not in any way limited by the insurance requirements of this contract. This indemnification is for the full period of time allowed by law and shall survive the termination of this agreement.
- 8.4 **City Liability.** The City has no liability or responsibility for any accident, loss, or damage to any work performed under this Agreement whether prior to its completion or acceptance or otherwise **with the exception of active negligence or willful misconduct of City or its elective or appointive boards, officers, agents and employees.** No member of the City and no other officer, elected official, employee or agent of the City shall be personally liable to Consultant or otherwise in the event of any default or breach of the City, or for any amount which may become due to Consultant or any successor in interest, for any obligations directly or indirectly incurred under the terms of this agreement.

9. **RELEASE OF INFORMATION.**

- 9.1 **Confidentiality.** All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released except to the City, directly or indirectly, by Consultant without City's prior written authorization. Consultant, its officers, employees, subcontractors or sub-consultants shall not voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement unless requested by the City Attorney or authorized in writing by the City Manager. Response to a subpoena or court order shall not be considered "voluntary" provided that Consultant shall give City prompt written notice of any such court order or subpoena.
- 9.2 **Notice and Cooperation.** Consultant shall promptly notify the City Manager and City Attorney in writing if Consultant, its officers, employees, agents, or subcontractors or consultants should be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order or subpoena from any person or party related to this Agreement and/or Consultant's related Services. City has no obligation to, but may exercise discretion to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with City and to provide the City an opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not grant or imply a right of City to control, direct, dictate or rewrite said response.

10. **RELATIONSHIP TO CITY.**

- 10.1 **Independent Contractor.** Consultant is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of City. Consultant shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.
- 10.2 **No Employee Privileges.** No City employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

- 10.3 **Not an Agent.** Consultant, its officers, employees and agents shall not have any power to bind or commit the City to any decision.
- 10.4 **Consultant Duty to City.** Consultant understands and agrees that its responsibility to provide complete and accurate Services is owed solely to City and that its accountability under this contract shall likewise be solely to City and not to any City applicants or any other third person or entity.
- 10.5 **Interest of Consultant.** Consultant represents and warrants to City that it presently has no interests, and covenants that it shall not acquire any interests, direct or indirect, financial or otherwise, which would conflict with the performance of the services to be provided by Consultant under this Agreement. Consultant further covenants that, in the performance of this Agreement, no subcontractor or employee having such an interest shall be employed by Consultant. Consultant certifies that no one who has or will have any financial interest under this Agreement is: (a) an officer or employee of City, or (b). an officer or employee of the applicant and any of its consultants.
- 10.6 **Undue Influence.** Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of City in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement or financial inducement. No officer or employee of City will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling City to any and all remedies at law or in equity.
- 10.7 **Statement of Economic Interest.** If City determines Consultant comes within the definition of Consultant under the Political Reform Act (Gov't Code § 87100), Consultant shall complete and file and shall require any other person doing work under this Agreement to complete and file a "Statement of Economic Interest" with the City Clerk disclosing Consultant and/or other such person's financial interests.
- 10.8 **Nonexclusive Agreement.** Consultant understands that this is not an exclusive Agreement and that City shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by Consultant as City desires.

11. GENERAL PROVISIONS.

- 11.1 **Incorporation of Recitals.** The recitals set forth above, and all defined terms set forth in such recitals and in the introductory paragraph preceding the recitals, are hereby incorporated into this Agreement as if set forth herein in full.

11.2 **Further Assurances.** City and Consultant each agree to cooperate with one another, to use their best efforts, to act in good faith, and to promptly perform such acts and execute such documents or instruments as are reasonably necessary and proper to consummate the transactions contemplated by this Agreement.

11.3 **Notices.** All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To City:
City of Rohnert Park
Attn: City Manager
130 Avram Avenue
Rohnert Park, CA 94928

To Consultant:
Vali Cooper & Associates, Inc.
Attn: Connie Preston Fremier
2175 Francisco Blvd, E Ste A
San Rafael, CA 94901

Any party may change their address for the purpose of this paragraph by giving the other party written notice of the new address in the above manner.

11.4 **Compliance with Laws.**

11.4.1 **Legal Responsibilities.** Consultant shall keep itself informed of local, state and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. Any corrections or updates to Consultant's services that may be come necessary as a result of a change in said laws and regulations shall be made at Consultant's expense.

11.4.2 **Licenses.** At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses and permits required by law for the performance of services described in this Agreement. Permits and/or licenses shall be obtained and maintained by Consultant without additional compensation throughout the term of this Agreement.

11.4.3 **Labor Conditions.** City is a public entity in the state of California, and therefore, City and Consultant are subject to the provisions of the Government Code and the Labor Code of the state of California, including, but not limited to, the provisions which (a) require every employee to be insured against liability for workers compensation or to take self-insurance and (b) require every employer to adopt a written injury and illness prevention program. All provisions of law applicable to public contracts and/or this Agreement are incorporated herein by this reference and are made a part of this Agreement to the same extent as if they were fully stated in the Agreement and shall be complied with by Consultant. Consultant certifies that it will comply with such provisions

before commencing performance of the Agreement and at all times in the performance of the Agreement.

11.4.4 **Labor Requirements.** Consultant shall abide by all federal and California laws and regulations regarding wages, including, without limitation, the Fair Labor Standards Act and the California Labor Code, which, in part, require Consultant to pay the general prevailing wage rates.

11.4.5 **Discrimination.** No person shall be excluded from employment in the performance of this Agreement on the grounds of race, creed, color, sex, age, marital status, sexual orientation, or place of national origin. Consultant shall comply with all local, state, and federal laws relating to equal employment opportunity rights.

11.4.6 **City Not Responsible.** The City and its officers and employees shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

11.5 **Assignment.** Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of City, which shall have the sole discretion to consent to any proposed assignment. Because of the personal nature of the Services to be rendered pursuant to this Agreement, only Consultant shall perform the services described in this Agreement.

11.6 **Agreement Binding.** The terms, covenants, and conditions of this Agreement shall apply to, and shall bind, the heirs, successors, executors, administrators, assigns and subcontractors of both parties.

11.7 **Waiver.** No waiver of a provision of this Agreement shall constitute a waiver of any other provision, whether or not similar. No waiver shall constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

11.8 **Time is of the Essence.** Time is of the essence of this Agreement

11.9 **Force Majeure:** If performance of a Party of any portion of this Agreement is made impossible by any prevention; delay; or stoppage caused by acts of God, government, or other forces or events beyond the reasonable control of the party obligated to perform, performance by that party for a period equal to the period of that prevention, delay or stoppage is excused.

11.10 **Remedies Not Exclusive.** No remedy herein conferred upon or reserved to City is intended to be exclusive of any other remedy or remedies, and each and every such remedy, to the extent permitted by law, shall be cumulative and in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or otherwise.

- 11.11 **Construction of Terms.** All parts of this Agreement shall in all cases be construed according to their plain meaning and shall not be construed in favor or against either of the parties. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect and shall not be affected, impaired or invalidated thereby. In the event of any provision shall be adjudged invalid, void or unenforceable, the parties hereto agree to enter into a supplemental agreement to effectuate the intent of the parties and the purposes of this Agreement.
- 11.12 **Severability.** If one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision(s) shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision has not been contained herein.
- 11.13 **Controlling Law.** The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement, with venue proper only in the County of Sonoma, State of California.
- 11.14 **Attorneys Fees.** In the event any action is brought to enforce or interpret the terms of this Agreement or for damages on account of the breach hereof, the prevailing party therein shall be entitled to recover from the other party its costs and expenses incurred in connection therewith, including without limitation, reasonable attorneys fees and the costs and expenses of litigation.
- 11.15 **Authorization.** All officers and individuals executing this and other documents on behalf of the respective parties hereby certify and warrant that they have the capacity and have been duly authorized to execute said documents on behalf of the entities indicated.
- 11.16 **News Releases/Interviews.** All Consultant and sub-consultant news releases, media interviews, testimony at hearings and public comment shall be prohibited unless expressly authorized by City.
- 11.17 **Entire Agreement / Amendment.** This Agreement, along with its attached exhibits, which are incorporated herein by this reference, constitutes the entire Agreement between the parties and supersedes all prior and contemporaneous agreements, representations and understandings of the parties. This Agreement may be altered, amended or modified only by a supplemental writing executed by the parties to this Agreement and by no other means. Each party waives any future right to claim, contest, or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreement, course of conduct, waiver or estoppel.

11.18 **Counterparts.** This Agreement may be executed in counterparts, each of which shall remain in full force and effect as to each party.

IN WITNESS WHEREOF, the parties have executed this Agreement at the place and as of the date first written above.

"CITY"
City of Rohnert Park

"CONSULTANT"
Vali Cooper & Associates, Inc.

By: _____
City Manager
Per Resolution No. 2012-____ adopted by the
Rohnert Park City Council at its meeting of
September 25, 2012.

By: _____
(Name, Title)

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

EXHIBIT A

TASKS TO BE PERFORMED

**Scope of Work
for the
Rohnert Park Golf Course Drive West/Wilfred Avenue Roadway
Project No. 2010-05**

The CONSULTANT and the CONSULTANT Project Manager's overall responsibility and scope of work is to deliver the Rohnert Park Golf Course Drive West/Wilfred Avenue Roadway Project (PROJECT) through construction. The CONSULTANT will act on behalf of the City as an adjunct to staff and work to move the project forward in as expeditious a manner as possible.

Kimley-Horn is responsible for developing the plans and specifications for the project. Generally, excluding funding and environmental permitting, the CONSULTANT will be responsible for all items required to complete the construction of the roadway and deliver it to the City which are not included in the scope of work of Kimley-Horn. Additionally, the CONSULTANT will be responsible for coordinating and expediting the work of these consultants as well as the City, County and regulatory agencies.

The CONSULTANT shall provide all necessary services required for a complete project, excluding funding. Any approvals or signatures required by City staff will be presented to the City by the CONSULTANT as completed staff work and ready for signature.

Meetings with City Representatives

The CONSULTANT Project Manager will meet with City staff to discuss project details, establish goals, review the project schedule and coordinate efforts. The CONSULTANT will schedule meetings with the City, twice monthly, to cover all areas of the project and schedule. Each Friday by noon, the CONSULTANT Project Manager shall send the City a weekly update by e-mail that includes work accomplished that week, outstanding critical issues, the element of work that is critical path and a two-week look ahead schedule of critical work items.

Council Packages and Updates

The CONSULTANT Project Manager shall write a memo to the Rohnert Park City Council on a quarterly basis updating them on the progress of the project. The Project Manager is responsible for providing all resolutions and staff reports as needed for City Council approval for all aspects of the work needed to complete this roadway project.

Project Management

The CONSULTANT Project Manager will be responsible for expediting all aspects of this project, including the work of others, with which they have no contractual arrangement. Project Manager will serve as an adjunct to City staff as the owner's representative.

The CONSULTANT Project Manager will create and maintain a detailed project schedule using MS Project or similar software. This schedule shall be updated weekly. The schedule shall include all tasks and milestones needed to bring the roadway widening project to completion.

The CONSULTANT Project Manager will be responsible for tracking, managing and expediting the work of:

- The roadway designer, Kimley-Horn
- The consultant working for the Federated Indians or Graton Rancheria hired for environmental permitting
- The City of Rohnert Park Staff
- Right-of-way acquisition experts
- Utility owners including, but not limited to, PG&E, cable, telecom, and City of Santa Rosa (recycled water pipeline in Golf Course Drive/Wilfred Avenue)
- The CONSULTANT Project Manager's own staff and sub-consultants.

Design Review and Value Engineering

At each of the design submittals, the CONSULTANT shall provide review of the design consultant's work.

Review of the 60% submittal shall include a field review of the proposed alignment and comparison with the topographic information included on the drawings. This review shall note conflicts with utility separation and conflicts with existing features and any other problems that may arise in construction. The construction cost estimate shall be checked and verified. The CONSULTANT shall review the plans for proper design, conformance with City and County Standards and Low Impact Development (LID) Standards. The plans shall be checked for internal consistency. The plans shall be checked for requirements outlined in environmental studies. The consultant will provide recommendations based on funding levels on how the project should be bid or split.

Review of the 90% design will include adequacy of notes and details for constructability and a review of the specification thoroughness of the contents, testing requirements and methods, and any potential conflicts with the design drawings. A thorough constructability review shall be done including bid items and amounts, staging, traffic control, haul routes and storm water requirements. The Stormwater Pollution Prevention Plan (SWPPP) shall be checked for consistency with the plans and adequacy in meeting the General Construction Permit (GCP).

At the 100% design review, the CONSULTANT Project Manager will ensure all previous comments have been properly addressed, that the project is ready to bid and that all requirements outlined in environmental documents or permits are addressed.

At each stage, the CONSULTANT Project Manager will prepare a letter of findings and recommendations. Each consecutive review shall ensure that previous comments have been properly addressed.

Coordination with Utility Companies

The CONSULTANT Project Manager will coordinate with outside utility companies to ensure that all existing facilities, both underground and overhead, are identified accurately during the design phase. The CONSULTANT shall coordinate with PG&E, AT&T and Comcast to ensure

that any utilities impacted by the project are relocated prior to or during project construction. If any agreements are needed between the City and the utilities, the CONSULTANT shall prepare such agreements. The CONSULTANT shall draft a proposed agreement for review by the City. Upon approval by the City, the CONSULTANT will negotiate and complete the agreement with the utility.

Implement a Mitigation Monitoring Plan

The CONSULTANT will oversee implementation of the mitigation monitoring plan resulting from the environmental analysis. The CONSULTANT shall use the environmental documents and arrange for required mitigation including timeframes, order of precedence and management checks to implement the plan. Environmental monitoring will be conducted by AES and Huffman-Broadway. The CONSULTANT shall oversee the mitigation monitoring plan during all phases of the work to ensure environmental compliance except for any monitoring and reporting that is required to take place after construction completion of PROJECT.

Permitting

The Federated Indians of Graton Rancheria will hire a separate consultant to provide environmental permitting, including the General Construction Permit. The Project Manager will coordinate with that consultant as needed to complete the project. The cost of obtaining all permits, including all permit fees, is not included.

Bid, Contract and Construction Assistance

The CONSULTANT will provide services required to bid and award the construction of the project including, but not limited to, creating bid sets, advertising the project, bidding the project, conducting pre-bid meeting, writing and issuing addenda, evaluating awards, and writing staff reports and resolutions for award.

Review and Monitor General Construction Permit

The CONSULTANT will provide services required to review and monitor the General Construction Permit (GCP) for storm water protection. The CONSULTANT shall provide a QSP or QSD to oversee functions required to meet the requirements of the GCP and the project SWPPP. ***Construction Management***

After award of the construction project contract by City Council, the CONSULTANT shall provide Construction Management Services to include contract administration, construction management, field inspection to observe and document daily construction activities, and geotechnical observation and material testing. The construction manager will provide Resident Engineer services as required.

Optional Services:

Property Acquisition

The newly widened roadway will encroach onto existing properties in the County and City that are outside of the existing right-of-way. If determined needed by the City, the CONSULTANT

shall provide all work required to acquire these properties for the project working with the County and City, except the signing of completed documents by the City or County and the following:

- Legal opinions and services as necessary
- Environmental reports
- Direction as to administrative settlements, negotiating authority and condition of title acceptance

The cost of property acquisition services will be negotiated once the scope of right of way services are more defined and will be paid on a time and material basis.

Construction Staking

At the request of the City, Construction Staking can be provided. A cost estimate for this work will be negotiated once it is determined if construction staking is needed.

Work Plan

The following table describes the CONSULTANT'S assigned personnel responsible for the scope of services:

SERVICE	FUNCTION	BENEFIT	PERSONNEL ASSIGNED	DELIVERABLES
PROJECT MANAGEMENT SERVICES				
Project Development Team (PDT) Meetings	Meet with PDT to identify & monitor project issues, action items, and to track the status of project deliverable	Improved project communications	Guy Preston	Agenda, Minutes, and Action Items
Project Schedule Development & Tracking	Track project tasks and milestones needed to bring to project to a timely completion	Manage, monitor, and track project deliverable	Guy Preston	CPM Schedule
Risk Management	Identify types of risks, probability, and Impacts to project	Manage, monitor, and control project risk	Guy Preston	Risk Management Plan
City Council Updates & Reports	Prepare quarterly memo's to City Council, Staff Reports, and Resolutions for Items requiring Council action	Clear and timely communication and actions with City Council	Guy Preston	Quarterly Reports to City Council, Staff Reports and Resolutions as needed
Weekly Staff Updates	Prepare weekly updates of work accomplished & outstanding issues. Identify critical path tasks and a 2-week look ahead schedule.	Clear and timely communication with City staff	Guy Preston	Emails to City staff each Friday by noon
DESIGN, ENVIRONMENTAL & PERMIT REVIEW, VALUE ENGINEERING, & MITIGATION SERVICES				
Design Review	Review all design deliverables including plans, specifications, cost estimates and technical reports. Review and consolidate comments from all stakeholders	Conformance with City, County & LID Standards	PM Team	Consolidated comments to the consultant design team at 60%, 90% and 100% design.
Value Engineering	Evaluate and assess the most effective scope for design and cost effective construction method. Provide recommendations on phasing to meet funding and deliverability	Improved project quality & increased probability of delivering critical segments within schedule constraints	PM Team	Written recommendations to City/County staff and Consultant Design team
Constructability Review	Review the adequacy of the Plans and Specifications for constructability and any potential conflicts with the design.	Reduce construction risks, change orders and delivery delays. More biddable and buildable project	PM Team	Written recommendations to City/County staff and Consultant Design team

SERVICE	FUNCTION	BENEFIT	PERSONNEL ASSIGNED	DELIVERABLES
Environmental Review	Review all environmental deliverables including CEQA technical memorandum and technical reports. Review and consolidate comments from all stakeholders	Compliance with environmental regulations and reduce impact to project schedule	PM Team	Consolidated comments to the consultant Environmental team
Permit Review & Coordination	Review permit applications and draft permits for accuracy, with special attention on avoidance and minimization measures and required mitigation	Reduce permitting impacts to project schedule and constructability	PM Team	Comments to the consultant design team and City and County staff.
Mitigation Services	Provide RFP for all required mitigation credits, draft contracts, and obtain agencies' approvals	Reduce mitigation cost and avoid project delays	PM Team	RFP & Contracts for the purchase of mitigation credits
RIGHT OF WAY & UTILITY SERVICES				
Utility Relocation Services	Coordinate with utility companies to identify and arrange for the relocation of conflicting facilities	Ensure conflicting utilities are relocated in a timely manner	ARWS	Notices to Owners and Utility Agreements
Property Acquisition Services – Optional Service	Optional Services - provide appraisal, acquisition, and relocation services for properties needed to construct project	Ensure possession of required right-of-way is obtained in a timely manner	ARWS	Appraisal Reports, acquisition documents, relocation documents
PRECONSTRUCTION PHASE SERVICES				
Bid Process & Pre-bid Conference	Prepare bid documents for advertisement. Verify cost estimates and schedule. Manage conference to extent requested by the owner. Coordinate bidder questions with designers.	RE develops early relationship with City and designer. Provide clarification for bidders to help reduce cost.	VC&A	Agenda & Meeting Minutes Bid Documents, Q&A to bidder comments.
Pre-Construction Conference	Outline project specifics, inform contractor of project administration procedures.	Establish protocol and roles and responsibilities.	VC&A	Agenda Meeting Minutes
Contract Administration System- Document Control	Implement system for organizing, tracking, filing, and managing paper/electronic correspondence including letters, information requests, submittals, contract, reports, progress payments, and change orders, etc.	Better record keeping. Improved claim resolution capabilities.	VC&A	Paper Files Digital Files Correspondence Logs
CONSTRUCTION PHASE SERVICES				
Resident Engineer	Manage the project and	Project is	VC&A	Successful project

SERVICE	FUNCTION	BENEFIT	PERSONNEL ASSIGNED	DELIVERABLES
	enforce in accordance with the Contract Plans, Special Provisions, City Standards, and County Standards (where applicable)	administered and constructed properly. Minimizes City exposure and cost. Ensures that City is reimbursed for Federal Funds – if applicable.		Ensure funding reimbursements
Weekly Meetings	Conduct weekly meetings to discuss schedule, current, and past issues.	Maintains dialogue between team members.	VC&A Resident Engineer	Agenda Meeting Minutes
Construction Staking	Schedule surveyor to be provided by others. Coordinate construction staking request. Review staking notes.	Provides timely staking for contractor to prevent delays.	VC&A Inspector	N/A
Construction Staking – <u>Optional Service</u>	Provide Construction Staking	Provides timely staking for contractor to prevent delays.	URS	Field Surveying Staking Notes
Materials Testing	Schedule, coordinate and perform timely testing and reporting	Provides timely testing and day to day coordination with contractor's progress to prevent delays.	VC&A Inspector Brunsing	Testing Reports Materials are provided and placed in accordance with City & Caltrans Specifications.
Source Inspection	Schedule, coordinate and perform timely testing and reporting of source inspections	Ensures materials being provided are in compliance with specifications and contract plans.	VC&A Inspector Brunsing	Inspection Reports and Materials are provided and placed in accordance to Specifications.
Issues Management	Analyze issues, seek appropriate advice, and give recommendations.	Provides solutions to actual conditions found in field. Minimizes delays.	VC&A Resident Engineer	Design Clarifications Contract Change Orders
Schedule	Monitor contractor's schedule weekly. Notify parties of actual or potential deviation from schedule. Work with project team to correct noncompliance with schedule.	Better project coordination. Fewer delays. Fewer time related disputes.	VC&A Resident Engineer	Weekly Reports Schedule Reports Recommendations "As-built" Schedule and construction photos/videos
Cost Control	Monitor project funding. Monitor project budgets. Review contract item payments, material quantities, and change order payments.	Effective use of funds. Early warning of potential funding problems.	VC&A Resident Engineer	Budget Reports Cost Estimate Reviews
Change Orders	Review potential change orders	Change orders	VC&A	Independent Cost

SERVICE	FUNCTION	BENEFIT	PERSONNEL ASSIGNED	DELIVERABLES
	for contractual and technical merit. Prepare independent cost estimate and schedule analysis of work. Negotiate and prepare change orders for execution. Keep the City appraised of impact of cumulative change orders.	reflect fair price for added or deleted work.	Resident Engineer	Estimates Change Orders Ready for Execution Change Order Summary Reports
Potential Claims/ Dispute Resolution	Identify potential claims issues. Review claims for merit, documentation, and make recommendations and implement procedures for reducing the likelihood of disputes and claims. Assist in the resolution of disputes.	Disputes are avoided or resolved quickly reducing cost.	VC&A Resident Engineer	Dispute Avoidance Procedures Recommendations
Submittal Review	Process, review, coordinate, and monitor review of submittals and distribute between appropriate parties (City and Designers)	Ensures work and materials to be used are in accordance to appropriate standards and details. Timely reviews minimize schedule impacts and cost.	VC&A Resident Engineer	Submittal Log Submittal Packages
Design Clarifications (RFI)	Process and coordinate RFI review with design engineer.	Timely responses minimize cost. Ensures work is being constructed properly as intended by designers.	VC&A Resident Engineer	RFI Log RFI Responses
Review Traffic Control Plans	Review contractor's plans for detours, shutdowns and access for emergency vehicles. Coordinate with City.	Traffic control plans provide adequate traffic management and make provisions for contingencies. Provides for a safer project.	VC&A Resident Engineer	Reviewed Traffic Control Plan
Quality Control/ Inspection	Observe and monitor all aspects of project. Notify contractor when work is not in compliance. Prepare daily inspection reports. Provide photographic and video documentation of construction process. Encourage and stress quality in the constructed	Completed project meets expectations for quality and functionality.	VC&A Inspector	Photography and Video tapes Project Files Daily Inspection Reports Develop Construction Quality Control Program Manual

SERVICE	FUNCTION	BENEFIT	PERSONNEL ASSIGNED	DELIVERABLES
	product.			
Public Relations	Communicate with local residences and business community regarding temporary construction impacts, such as traffic changes, noise, limited access and construction schedule.	Minimizes public complaints. RE will be point of contact.	VC&A Resident Engineer	Verbal and Written Notices Delivered to Residences and Local Businesses Attend community meetings
Permit / Environmental Compliance	Review and enforce requirements stipulated in permits issued by regulatory and environmental agencies.	Minimize or eliminate violations of permit requirements.	VC&A Resident Engineer/Inspector	Daily Inspection Reports Correspondence
Progress Payments	Review contractor's payment requests. Verify contractor pay items. Prepare payment documentation for execution.	Ensures accuracy of quantities and payment. Controls project cost.	VC&A Resident Engineer	Progress Payment Vouchers Daily Inspection Reports Quantity Calculation Sheets Correspondence
Monthly Status Reports	Prepare monthly reports highlighting project progress, CCOs, cost issues, and schedule.	Keeps parties informed on project status.	VC&A Resident Engineer	Monthly Report
Site Safety	Review and monitor contractor's safety program for compliance with Cal/OSHA. Notify contractor if unsafe condition is observed. Notify City if contractor refuses to rectify unsafe condition. Investigate accidents.	Jobsite is safer. Avoids litigation.	VC&A Resident Engineer / Inspector	Accident Reports Monthly Reports
CLOSEOUT PHASE SERVICES				
"As-Built" Drawings	Collect, review, and transmit contractor's data to engineer.	Changes are incorporated into record drawings.	VC&A Resident Engineer	Data for Record Drawings
Final Walkthrough	Make final inspections. Prepare punchlist. Verify that required certificates of compliance. and as-built drawings have been delivered.	Project is completed according to contract documents. All paperwork required of contractor is delivered.	VC&A Resident Engineer	Punchlist
Project Completion Report	Process final progress payment to contractor. File Notice of Completion. Prepare final report. Deliver project records to the City. Prepare reports in accordance to Local Assistance Manual.	Paperwork is completed. Audit trail is completed. Ensures Federal reimbursement.	VC&A Resident Engineer	Final Progress Payment Notice of Completion Final Report

Notes for construction management services:

- All consultant personnel provided to the City are employees of VC&A and/or agents (sub-consultants) and work under the direct supervision and control of VC&A.
- VC&A shall perform all services in accordance with City criteria and guidelines.
- VC&A daily reports, extra work diaries, materials testing reports, and other reports to be used on the project will be in compliance with agreed upon format with the City. VC&A can utilize our CATS Manual for this purpose.
- VC&A reports, calculations, measurements, test data, and other documentation will be prepared on forms specified by or otherwise acceptable to the City.
- VC&A staff is provided with a company vehicle, cell phones, computers/laptops.
- An office trailer for the construction management team is not considered as part of this scope.



7. PROJECT SCHEDULE

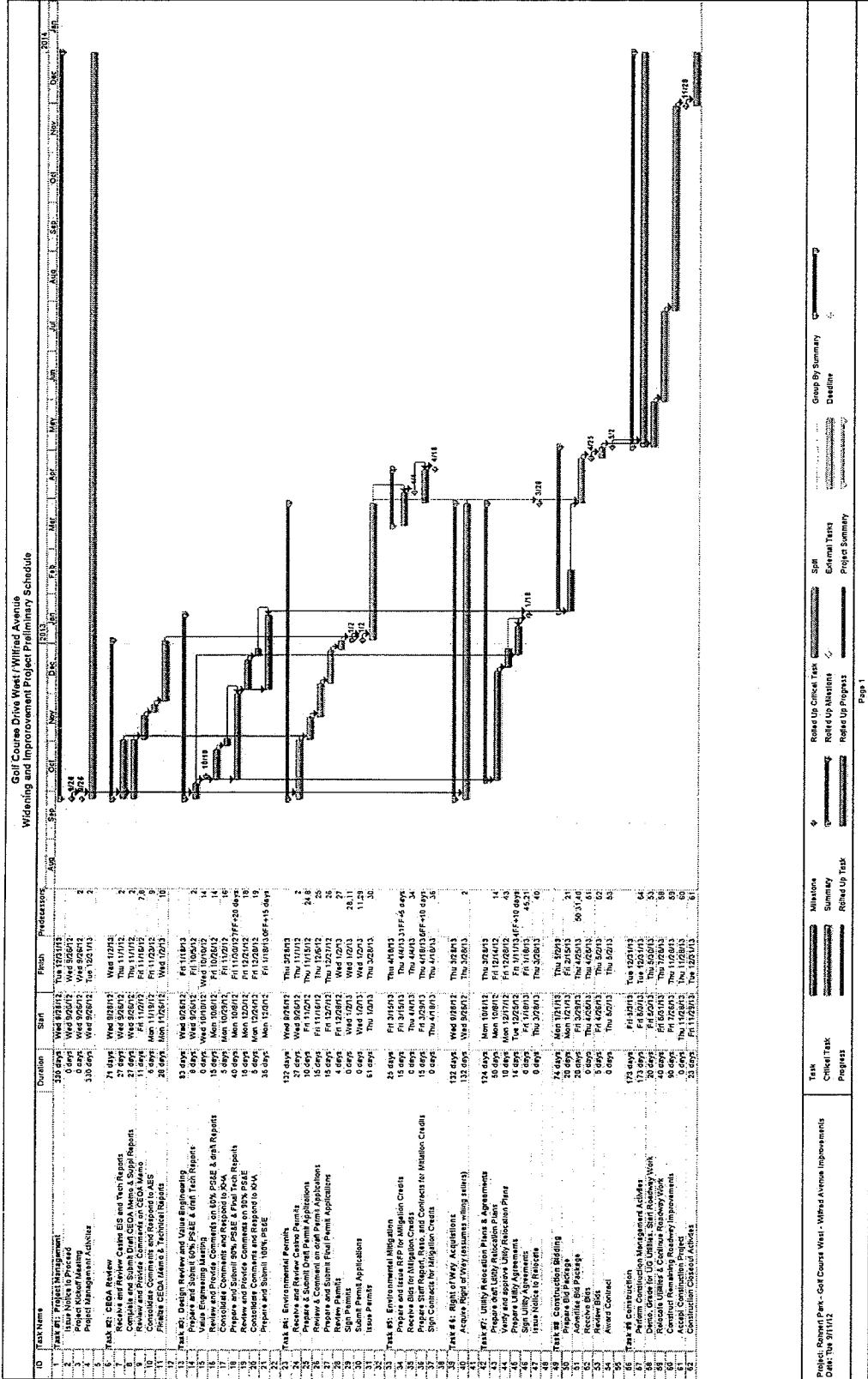


EXHIBIT B

PAYMENT SCHEDULE

GC PRESTON, P. C.
Engineering Program/Project Management
Fee Schedule - 2012/2013

Personnel	Hourly Billing Rate
Guy C Preston, Project Manager	\$215

Explanation of Rates

1. Rate is valid through 2013. Rate beyond 2013 will be calculated using an annual escalation of 5%.
2. Rate includes use of home office, local office, all communications, and use of computers.
3. Rate includes travel from GC Preston, P.C. home office to local office in Marin County. Any additional travel will be charged at time plus \$0.75/mile.
4. Other miscellaneous direct cost will be charged at actual cost.

BRUNSING ASSOCIATES, INC.
SCHEDULE OF PROFESSIONAL FEES
California

PROFESSIONAL SERVICES:
(Engineer, Geologist, Scientist)

Hourly Rate

Assistant	\$ 80 - \$ 95
Staff	\$ 95 - \$110
Project	\$110 - \$125
Senior	\$125 - \$140
Principal	\$150 - \$200
Expert Consultant	\$200 - \$350*

TECHNICAL SERVICES:

Assistant Technician	\$ 65 - \$ 75
Technician	\$ 75 - \$ 85
Senior Technician	\$ 85 - \$ 95
Supervisory Technician	\$ 95 - \$105
Special Laboratory Testing or Sample Preparation	\$ 85 - \$ 95

ADMINISTRATIVE SERVICES:

Project Administrator	\$ 75 - \$ 90
Project Manager	\$105 - \$120
Project Superintendent	\$110 - \$125
Administrative Assistant	\$ 65 - \$ 80

SUPPORT SERVICES:

Clerical	\$ 55 - \$ 60
Data Processing	\$ 65 - \$ 75
Computer (CAD) Drafting	\$ 85 - \$ 95

Telephone Calls	At cost
Postage	At cost
Copies, per page	\$.10
Oversize prints	\$3.00 or cost plus 15% admin fee

*Expert Consultant rates are increased by 50 percent for deposition, arbitration, or court testimony.

Professional fees 9/10

BRUNSING ASSOCIATES, INC.
SCHEDULE OF PROFESSIONAL FEES
California

VEHICLES:

Auto Mileage	\$.75/mile
Truck, 2 Wheel Drive	\$12.00/hour
Truck, 4 Wheel Drive (any off-surface road travel)	\$16.00/hour

MISCELLANEOUS EXPENSES:

Subsistence	\$140.00
Subcontractor/Subconsultant Charges and Materials	cost plus 15% admin. fee

OVERTIME PREMIUM FOR TECHNICIAN SERVICES:

**Multiply Hourly
Rate By**

Over 40 hours per work week or over 8 hours in one day	1.50
Up to 8 hours on Saturdays and Sundays	1.50
Over 12 hours in one day, over 8 hours on Sundays, and work on Holidays	2.00

Travel time, or two hours technician time, will be charged for services cancelled without sufficient notification to change scheduling

NOTE:

Rates shown for Technical Services and Laboratory Testing include the report of routine test results including up to ¼ hour of review and preparation by Professional Staff, per report. Where complexity of results requires more than ¼ hour of review and preparation, or when engineering analysis, conclusions or recommendations are provided, additional fees will be charged at the appropriate hourly rates.

Professional fees 9/10

**GEOTECHNICAL LABORATORY TESTING
SCHEDULE OF CHARGES
California**

SOILS TESTS

	<u>Cost/Test</u>
<u>Moisture and Density Tests</u>	
Moisture, Cal 226*	\$ 15.00
Moisture/Density (Liner Sample) ASTM D 2937	20.00
Unit Weight, ASTM C 29, Cal 212	60.00
Compaction, ASTM D 698 & D 1557	
4-inch mold, with assumed Specific Gravity for Rock Corrosivity	235.00
6-inch mold, with assumed Specific Gravity for Rock Corrosivity	285.00
California Impact, Cal 216	300.00
Maximum & Minimum Index Density, ASTM D 4253 & 4254	360.00
 <u>Classification Tests</u>	
Sieve Analysis	
Coarse and fine aggregates, ASTM C 117 & C 136, Cal 202	100.00
Fine soils, with wash through #200 sieve, ASTM D 422 & D 1140	100.00
Wash through #200 sieve, ASTM D 1140	70.00
Hydrometer Analysis	
ASTM D 422	160.00
RWQCB	70.00
Bulk Density (chunk sample), RWQCB	70.00
Specific Gravity	
(Aggregate), ASTM C 127 & C128	140.00
(Fine soils), ASTM D 854	80.00
Atterberg Limits (Plasticity Index) ASTM D 4318	150.00
Organic Content ASTM D2974	80.00

Note:

- * Agency abbreviations for testing standards:
 Cal - State of California, Department of Transportation (Caltrans)
 ASTM - American Society for Testing Materials
 RWQCB - California Regional Water Quality Control Board
 SCPHD - Sonoma County Public Health Department
 ISRM - International Society of Rock Mechanics
 USBR - United States Bureau of Reclamation



**GEOTECHNICAL LABORATORY TESTING
SCHEDULE OF CHARGES
California**

	<u>Costs/Test</u>
<u>Strength Tests</u>	
Pocket Penetrometer	\$ 7.00
Torvane Shear	12.00
Direct Shear (saturated and consolidated), ASTM D 3080	
Intact sample	190.00
Remolded sample (requires additional compaction test)	225.00
Unconfined Compression, ASTM D 2166	80.00
Triaxial Compression (undrained and unconsolidated), ASTM D 2850	
Intact sample	120.00
Remolded sample (requires additional compaction test)	175.00
 <u>Volumetric Tests</u>	
Free Swell, USBR	35.00
Shrink-Swell, SCPHD	110.00
Expansion Index, ASTM D 4829	
Untreated Samples	350.00
Treated Samples	390.00
Modified Expansion Index, 90% relative compaction at optimum moisture (compaction curve additional)	370.00
Consolidation, ASTM D 2435	
Single Load	200.00
Complete Study	340.00
 <u>Permeability Tests</u>	
Permeability (constant head), ASTM D 2434	
Intact sample	285.00
Remolded sample (requires additional compaction test)	325.00
Permeability (Triaxial cell), ASTM 5084	
Intact sample	285.00
Remolded sample (requires additional compaction test)	325.00
 <u>Pavement Section Design Tests</u>	
Stabilometer Resistance Value (R-Value), Cal 301	
Untreated sample	290.00
Sample with gravels	325.00
Lime, cement-treated sample	350.00
Sand Equivalent, ASTM D 2419, Cal 217	100.00
Durability, Cal 229	145.00
California Bearing Ratio (per point), ASTM D 1883	825.00

03/12



**MATERIALS LABORATORY TESTING
SCHEDULE OF CHARGES
California**

	<u>Costs/Test</u>
<u>Asphalt & Concrete Aggregate Tests</u>	
Organic Impurities in Sand, ASTM C 40	\$ 100.00
Cleanness Value, Cal 227	145.00
Percent Crushed Particles, Cal 205	100.00
Absorption, Cal 538	100.00
Los Angeles Rattler (500 Revs.), ASTM 131, Cal 211	260.00
Sulfate Soundness (per sieve), ASTM C 88, Cal 214	105.00
<u>Asphalt Tests</u>	
Asphalt Content, Ignition Furnace, Cal 382	145.00
Gradation (on extracted sample)	140.00
Marshall Stability, ASTM D 1559	300.00
<u>Concrete and Masonry Tests</u>	
Cement, grab sample, retained for 60 days	25.00
Compression, Concrete or Mortar Cylinders, ASTM C 39	35.00
Compression, Grout Prisms, ASTM C 942	50.00
Compression, Guniting Cylinders	45.00
Compression, Concrete Block or Brick	65.00
Untested Cylinder Processing and Curing	20.00
Unit Weight of Concrete (in Cylinders)	35.00
Flexure, Concrete, 6x6x24, ASTM C 293	120.00
Drying Shrinkage (3 samples per test, 28 day drying). ASTM C 157	450.00
Compression, Masonry Prism	120.00
<u>Rock Core Tests</u>	
Grain Size analysis, ASTM D 422	135.00
Unconfined Compressive Strength, ASTM D 2938	90.00
Direct Tensile Strength, ASTM D 2936	225.00
Split Tensile Strength, ASTM D 3967	130.00
Third Point Loading (Flexural Strength), ASTM D 1635 or C 78	245.00
Brazilian (flexural strength), ISRM	125.00
<u>Metals Tests</u>	
Reinforcing Steel, tensile & bend tests	110.00
Structural Steel, tensile tests	110.00
Structural Steel, bend tests	80.00
High Strength Bolts, Proofload tests (ASTM F606)	75.00
High Strength Bolts, ultimate strength tests	85.00
High Strength Bolts, hardness tests	55.00

03/12





Requirements:	
Ending:	A. Submittal of appraisal reports. B. Negotiations are concluded upon delivery of Memorandum of Settlement to Client or advisory from AR/WS to Client that negotiations have reached an impasse and eminent domain should be considered. C. Close of relocation file through submission of claims or substitute agreement with displacee.

- NOTES:
1. Figures are based on information provided to AR/WS as of the date of this estimate.
 2. Assumes CEQA, and if necessary, NEPA compliance has been met.
 3. Subject to AR/WS Assumptions and Limitations, contained herein.
 4. The Budget has been prepared based upon 8-month project duration. An extended or reduced project schedule will increase the estimated budget.
 5. A 20% contingency is recommended but is not included in the above figures.

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AR/WS 2012 Fee Schedule

Service	Hourly Rate
Principal Consultant	\$200.00
Managing Consultant	\$185.00
Consultant I	\$150.00
Consultant II	\$130.00
Consultant III	\$115.00
Right of Way Technician	\$80.00
Administrative Support	\$65.00
Appraisal Reports	Lump Sum
Appraisal Services (Hourly)	\$200.00
Subcontractors	Cost + 10%
Depositions, Court Appearances, Arbitrations / Mediations, Hearings, and Testimony (including preparation)	\$275.00

Fees include direct and indirect expenses and profit.



Vali Cooper & Associates, Inc.
 Fee Schedule - 2012

Classification	Hourly Billing Rate
<i>Principal</i>	\$200 - \$246
<i>Project Manager</i>	\$165 - \$220
<i>Resident Engineer/Construction Manager</i>	\$150 - \$205
<i>Assistant Resident Engineer (Prevailing Wage)</i>	\$140 - \$165
<i>Assistant Resident Engineer (Non-Prevailing Wage)</i>	\$115 - \$165
<i>Project Controls/Scheduler</i>	\$110 - \$180
<i>Office Engineer</i>	\$110 - \$180
<i>Construction Inspector (Prevailing Wage)</i>	\$140 - \$165
<i>Construction Inspector (Non-Prevailing Wage)</i>	\$95 - \$165
<i>Administrative</i>	\$55 - \$96
<i>Technician</i>	\$55 - \$96

Explanation of Rates

1. Rates are valid through 2012. All rates are straight-time rates and subject to negotiation based on the nature of a specific assignment. Rates beyond 2012 will be calculated using an annual escalation of 5%.
2. Resident engineers may or may not be licensed engineers in the State of California, as required by the project.
3. Our employees are compensated in conformance with prevailing wage requirements and the California Labor Code. We bill for our services in the same manner.
4. The above rates do not include vehicles, other project-specific direct costs, and associated markups.



URS CORPORATION
BAY AREA OPERATIONS
2012 SCHEDULE OF FEES AND CHARGES

The following describes the basis for compensation for services performed during the fiscal year 2012. This Schedule of Fees and Charges will be adjusted annually on January 1st to reflect merit and economic salary increases, and changes in the expected level and mode of operations for the new year. The new Schedule of Fees and Charges will apply to existing and new assignments.

PERSONNEL CHARGES

The charge for all time required in the performance of the Scope of Services, including office, field and travel time, will be at the Unit Price Hourly Rates set forth below for the labor classifications indicated.

<u>Labor Classification</u>	<u>Hourly Rates</u>
Clerk*	73
Word Processor/Project Assistant/Editor*	95
CADD Technician/Illustrator	82
Project Administrator/Controller	83
Technician*	84
Sr. CADD Technician/Sr. Illustrator/Designer*	117
Sr. Technician*	118
Sr. Designer/Lab, Field, or CADD Supervisor	135
Staff Professional	94
Professional	117
Project Professional	135
Senior Project Professional	205
Project Manager	174
Senior Project Manager	213
Principal Professional/Project Director	250

Charges for contract personnel under URS supervision and using URS facilities will be made according to the hourly rate corresponding to their classification. When staffs are performing field work on projects, a minimum daily charge of 4 hours will apply.

When URS staff appear as expert witnesses at court trials, arbitration hearings and depositions, their time will be charged at \$375 per hour.

Overtime (hours worked in excess of eight (8) hours per day) by exempt personnel will be charged at the above straight time hourly rate. Overtime by non-exempt personnel (classifications identified by an asterisk "**") will be charged at 1.3 times the above hourly rates.

Special project accounting reporting and financial services, including submission of invoice supporting documentation, will be charged at the rate of a clerk.

URS LABORATORY SERVICES

The charges for laboratory testing performed at URS facilities set forth in the accompanying Signal Testing Labs Fee Schedule.

OTHER PROJECT CHARGES

Subcontracts and other Non-Salary Expenses

The cost of services subcontracted by URS to others and other outside costs incurred by URS that are directly identifiable to the project, will be charged at cost plus 20% and 10%, respectively.

Communications

The cost of communications including telephone (excluding cellular phones), telex, facsimile, postage, and other incidental costs will be charged at a flat rate of 4% of total gross labor charges.

Computers

The charge for use of Computer-Aided Design and Drafting (CADD), graphics generation, modeling applications, Geographic Information Systems (GIS), and similar technical computing is \$25.00 per hour.

In addition to the above, the following charges will apply to plots generated by the CADD and GIS systems.

<u>Plot Size</u>	<u>Paper</u>	<u>Mylar</u>
Smaller than D-size	\$3.00	\$9.00
D-size	\$6.00	\$18.00
Larger than D-size	\$1.00/ft ²	\$3.50/ft ²

Document Reproduction

In-house reproduction will be charged a \$0.10 per page for black and white, and \$1.00 per page for color.

Specialized Equipment

The use of specialized URS equipment (including cellular phones) will be the fixed rental rates consistent with prevailing market rates.

Vehicles and Mileage

The mileage charges for personal vehicles used on project assignments will be the current mileage rate established by the Internal Revenue Service for tax purposes.

URS owned vehicles used on project assignments will be charged at \$85 per day, with a minimum charge of one-half day.

This Fee Schedule contains confidential business information and is not to be copied or distributed for any purpose other than the use intended in this contract.



EXHIBIT C

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$2,000,000 (Two Million Dollars) per occurrence.

Business Auto Coverage on ISO Business Auto Coverage form CA 0001 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$2,000,000 (Two Million Dollars) per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant's employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Workers Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 (One Million Dollars) per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval of City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$2,000,000 (Two Million Dollars) per occurrence.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$2,000,000 (Two Million Dollars) per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this agreement.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of California and with an A.M. Best's rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant.

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds the City, its officers, elected officials, employees, agents, and volunteers using standard ISO endorsement No. CG 20 10 or an approved equivalent. If completed operations coverage is excluded, the policy must be endorsed to include such coverage. Consultant also agrees to require all contractors, and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. The worker's compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, elected officials, employees, agents, and volunteers for losses paid under the terms of this policy which arise from the work performed by the named insured for the City.
4. All insurance coverage and limits provided by Contractor and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
5. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
6. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
7. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. **elimination of contractual liability** or reduction of discovery period) that may affect City's protection without City's prior written consent.
8. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.

9. Certificate(s) are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
10. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subcontractor, is intended to apply first and on a primary, noncontributing basis in relation to any other insurance or self insurance available to City.
11. Consultant agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
12. Consultant agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, Architect, Engineer or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.
13. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
14. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
15. Consultant acknowledges and agrees that any actual or alleged failure on the part of City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
16. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this agreement. This obligation applies whether or not the agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
17. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement as required in these specifications applicable to

the renewing or new coverage must be provided to City within five days of the expiration of the coverages.

18. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its officers, elected officials, employees, agents, and volunteers.
19. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any party or insured to be limiting or all-inclusive.
20. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
21. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
22. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
23. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.

CERTIFICATE OF CONSULTANT

I HEREBY CERTIFY that I am the _____, and a duly authorized representative of the firm of _____, whose address is _____, and that neither I nor the above firm I here represent has:

- a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit to secure this Agreement.
- b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the Agreement; or
- c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant) any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement;

Except as here expressly stated (if any);

I acknowledge that this certificate is subject to applicable State and Federal laws, both criminal and civil.

Date

Signature

