

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services (“Agreement”), dated as of _____ (“Effective Date”) is made by and between the Sonoma Clean Power Authority (“SCPA”), a California joint powers authority, and _____ (“Consultant”). SCPA and Consultant may be individually referred to as a “Party” or collectively as “Parties.”

1. Scope of Services: Consultant agrees to provide any and all of the services as described in Exhibit A.
2. Performance Standard: Consultant warrants that it possesses the necessary training, experience and skill to competently and professionally provide the services described in Exhibit A. If SCPA determines that any of Consultant's work is not in accordance with the level of competency and standard of care normally observed by a person practicing in Consultant's profession, SCPA, in its sole discretion, shall have the right to do any or all of the following:
 - a. require Consultant to meet with SCPA to review the quality of Consultant's work and resolve matters of concern;
 - b. require Consultant to repeat the work at no additional charge until the work meets the level of competency and standard of care normally observed by a person in Consultant's profession;
 - c. terminate this Agreement pursuant to Section 6; or
 - d. pursue any and all other remedies at law or in equity.
3. Payment: Consultant shall submit one invoice for each calendar month in which services are performed. Invoices shall be signed by key staff, include copies of receipts for pre-approved reimbursable expenses, and contain the following detail for each billable entry:
 - a. Date;
 - b. Detailed description of work performed and person(s) involved; and
 - c. Time spent in 1/10th hour increments.

Upon receipt of properly prepared invoicing, SCPA shall pay Consultant within thirty (30) calendar days for services provided in accordance with this Agreement, applying the following rates:

- a. Fees based on the Fee Schedule, as set forth in Exhibit B; and
- b. Reimbursable expenses must be pre-approved by SCPA.

4. NOT TO EXCEED AMOUNT. IN NO EVENT SHALL THE AMOUNT PAYABLE FOR SERVICES PERFORMED DURING THE TERM OF THIS AGREEMENT EXCEED _____ dollars (\$_____). This dollar amount is not a guarantee that SCPA will pay that full amount to Consultant, but is merely a limit of potential SCPA expenditures under the Agreement.
5. Term of the Agreement: The initial term of this Agreement shall be from the Effective Date to _____, unless terminated pursuant to Section 6 or amended by a written, executed amendment to the Agreement. Consultant understands and agrees that funding for costs under this Agreement after July 1, 2017 is subject to approval by SCPA's Board of Directors of a budget including such funding, and that SCPA may terminate this Agreement pursuant to Section 6 below if such funding is not approved.
6. Termination:
 - a. Notwithstanding any other provision of this Agreement, at any time and without cause, the CEO of SCPA shall have the unequivocal right to terminate this Agreement by giving thirty (30) calendar days written notice to the other Party.
 - b. Notwithstanding any other provision of this Agreement, should Consultant fail to perform any of its obligations or violate any of the terms of this Agreement (Termination for Cause), the CEO of SCPA may, upon providing Consultant written notice stating the reason for termination, immediately terminate this Agreement. In the event of termination, Consultant, within fourteen (14) calendar days following the date of termination, shall deliver to SCPA all materials and work product subject to Section 16 and shall submit to SCPA a final invoice for all outstanding payments.
7. Indemnification: Consultant agrees to accept all responsibility for loss or damage to any person or entity, including the SCPA, and to indemnify, hold harmless, and release the SCPA, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Consultant, that arise out of, pertain to, or relate to Consultant's performance of or obligations or omissions under this Agreement. Consultant agrees to provide a complete defense for any claim or action brought against the SCPA based upon a claim relating to Consultant's performance or obligations or omissions under this Agreement. Consultant's obligations under this Section apply whether or not there is concurrent negligence on the SCPA's part, but to the extent required by law, excluding liability due to the SCPA's conduct, specifically SCPA's sole negligence, active negligence or willful misconduct. The SCPA shall have the right to select its legal counsel at Consultant's expense, subject to Consultant's approval, which shall not be unreasonably withheld.

8. Insurance: Consultant shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived in writing by SCPA.
- a. Workers' Compensation. If Consultant has employees at any time during the term of this Agreement, Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California, and Employers Liability with minimum limits of \$1,000,000 per accident; \$1,000,000 disease per employee; \$1,000,000 disease per policy.
 - b. Commercial General Liability. Commercial General Liability Insurance with Minimum Limits: \$1,000,000 per occurrence; \$2,000,000 general aggregate; \$2,000,000 products/completed operations aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Umbrella Liability Insurance. If Consultant maintains higher limits than the specified minimum limits, SCPA requires and shall be entitled to coverage for the higher limits maintained by Consultant.
 - i. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. Deductibles or self-insured retention that exceeds \$25,000 must be approved in advance by SCPA. Consultant is responsible for any deductible or self-insured retention and shall fund it upon SCPA's written request, regardless of whether Consultant has a claim against the insurance or is named as a party in any action involving SCPA.
 - ii. SCPA shall be an additional insured for liability arising out of operations by, or on behalf of, the Consultant in the performance of this Agreement.
 - iii. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
 - iv. The policy shall cover inter-insured suits between the additional insureds and Consultant and include a "separation of insureds" or "severability" clause which treats each insured separately.
 - c. Automobile Liability. Automobile Liability Insurance with Minimum Limit of \$1,000,000 combined single limit per accident. Automobile Insurance shall apply to all owned autos. If Consultant currently owns no autos, Consultant agrees to obtain such insurance should any autos be acquired during the term of this Agreement. Automobile Insurance shall apply to hired and non-owned autos.
 - d. Professional Liability. Professional Liability/Errors and Omissions Insurance with Minimum Limit of \$1,000,000 per claim or per occurrence. Any deductible or self-insured retention shall be shown on the Certificate

of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by SCPA. If the insurance is on a Claims-Made basis, the retroactive date shall be no later than the commencement of the work. Coverage applicable to the work performed under this Agreement shall be continued for two (2) years after completion of the work. Such continuation coverage may be provided by one of the following: (1) renewal of the existing policy; (2) an extended reporting period endorsement; or (3) replacement insurance with a retroactive date no later than the commencement of the work under this Agreement.

e. All Policies Requirements.

- i. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A: VII.
- ii. The Certificate of Insurance must include the following reference: Sonoma Clean Power Authority.
- iii. All required Evidence of Insurance shall be submitted to SCPA within 3 business days of the Effective Date. Consultant agrees to maintain current Evidence of Insurance on file with SCPA for the entire term of this Agreement.
- iv. The name and address for Additional Insured endorsements and Certificates of Insurance is: Sonoma Clean Power Authority, Attn: Contract Administration, 50 Santa Rosa Avenue, Fifth Floor, Santa Rosa, CA, 95404.
- v. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) business days before expiration or other termination of the existing policy.
- vi. Consultant shall provide SCPA immediate written notice if: (A) any of the required insurance policies are terminated; (B) the limits of any of the required policies are reduced; and/or (C) the deductible or self-insured retention is increased.
- vii. Upon written request, certified copies of required insurance policies must be provided within thirty (30) calendar days.
- viii. Consultant's indemnity and other obligations shall not be limited by these insurance requirements.

9. Status of Consultant: Consultant, in performing the services under this Agreement, shall act as an independent contractor and shall control the work and the manner in which it is performed. At no time shall Consultant work as an agent or employee of SCPA and at no time shall Consultant be entitled to participate in any pension plan, worker's compensation plan, insurance, bonus,

or similar benefits SCPA provides its employees. In the event SCPA exercises its right to terminate this Agreement pursuant to Section 6, Consultant expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.

10. No Suspension or Debarment: Consultant warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in covered transactions by any state or federal department or agency. Consultant also warrants that it is not suspended or debarred from receiving federal funds as listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs issued by the General Services Administration.
11. Taxes: Consultant agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement. Consultant shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Consultant agrees to indemnify and hold SCPA harmless from any liability which it may incur to the United States or to any US State as a consequence of Consultant's failure to pay, when due, all such taxes and obligations. In the event SCPA is audited for compliance regarding any withholding or other applicable taxes, Consultant agrees to, in a timely fashion, furnish SCPA with proof of payment of taxes on these earnings.
12. Records Maintenance: Consultant shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to SCPA for inspection at any reasonable time. Consultant shall maintain such records for a period of five (5) years following the expiration or termination of this Agreement.
13. Conflict of Interest: Consultant warrants that it presently has no interest, and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with Consultant's performance under this Agreement. Consultant further warrants that in the performance of this Agreement no person having any such interests shall be assigned by Consultant to perform work under this agreement nor be given access to the information described in Section 16. Consultant shall comply with any and all applicable California Fair Political Practices Act requirements.
14. Statutory Compliance: Contractor shall comply with all applicable federal, state and local laws, regulations, statutes and policies applicable to the Services provided under this Agreement.
15. Nondiscrimination: Without limiting any other provision of this Agreement, Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical

condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by reference.

16. Confidentiality, Ownership and Disclosure of Work Product: All information obtained by Consultant under this Agreement shall be deemed confidential ("Confidential Information"). Unless SCPA provides written permission, Consultant is compelled by a court of law or regulatory agency, or Consultant obtained Confidential Information from a source or sources other than SCPA, Consultant shall not share Confidential Information with any other person or entity outside of SCPA staff and SCPA authorized representatives. Consultant further agrees to execute non-disclosure agreements related to protecting Confidential Information as requested by SCPA. Provisions related to Confidential Information shall survive expiration or termination of the Agreement for a period of five (5) years. All reports, original drawings, graphics, plans, studies, and other data or documents ("Documents"), in whatever form or format, produced by Consultant or Consultant's subcontractors, consultants, and other agents within the term and scope of this Agreement shall be the property of SCPA. SCPA shall be entitled to immediate possession of such Documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Consultant shall promptly deliver to SCPA all such Documents, which have not already been provided to SCPA in such form or format, as SCPA deems appropriate. Such Documents shall be and will remain the property of SCPA without restriction or limitation.
17. Assignment and Delegation: Parties shall not assign, delegate, sublet, or transfer any interest in, or duty under, this Agreement without the prior written consent of the other.
18. Written Communications: All written communications, including notices, bills and payments, may be made via electronic mail or to the following addresses:

TO SCPA: Sonoma Clean Power Authority
Attn: Contract Administration
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, CA 95404
[PROJECT MANAGER EMAIL]

With Copies to: Sonoma Clean Power Authority
ATTN: General Counsel
50 Santa Rosa Avenue, 5th Floor
Santa Rosa, CA 95404
jmullan@sonomacleanpower.org

TO CONSULTANT: [TO BE PROVIDED BY CONSULTANT]

19. No Waiver of Breach: The waiver by SCPA of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or

provision or any subsequent breach of the same or any other term or promise contained in this Agreement.

20. Construction: To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The Parties agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated. The Parties acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one Party in favor of the other. Parties acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
21. Consent: Wherever in this Agreement the consent or approval of one Party is required to an act of the other Party, such consent or approval shall not be unreasonably withheld or delayed.
22. No Third-Party Beneficiaries: Nothing contained in this Agreement shall be construed to create, and the Parties do not intend to create, any rights in third parties.
23. Choice of Law and Forum: This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement, or for the breach of this Agreement, shall be brought and tried in Santa Rosa, California, or the forum nearest to the city of Santa Rosa, in the County of Sonoma.
24. Exhibits; Order of Precedence:
 - a. Exhibits. This Agreement includes the following Exhibits:
 - i. Exhibit A - Scope of Services
 - ii. Exhibit B - Fee Schedule
 - iii. Optional Exhibits. Consultant agrees to be bound by the terms and conditions set forth in any of the exhibits selected below as if the terms and conditions were fully set forth in this Agreement. Exhibits not selected below do not apply to this Agreement.
 - Exhibit C - Non-Disclosure Agreement Terms and Conditions.
 - Exhibit D - Prevailing Wage Requirements

- b. Order of Precedence. In the event of a conflict between the body of this Agreement and any Exhibits or attachments, the language in the body of this Agreement shall prevail. In the event of a conflict between the Exhibits, the order of precedence set forth in section 24(a) applies.
25. Captions: The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
26. Merger: This writing is intended both as the final expression of the Agreement between the Parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to California Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both Parties.
27. Survival of Terms: All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
28. Time of Essence: Time is and shall be of the essence of this Agreement and every provision within this Agreement.
29. Joint Powers Authority. Consultant hereby acknowledges that SCPA is organized as a Joint Powers Authority in accordance with the Joint Powers Act of the State of California (Cal. Govt. Code section 6500 *et seq.*, as the same may be amended from time to time) pursuant to a Third Amended and Restated Joint Powers Agreement dated October 13, 2016 (the "Joint Powers Agreement"), that SCPA is a public entity separate from its members, and that under the Joint Powers Agreement the members have no liability for any obligations or liabilities of SCPA. Consultant agrees that SCPA shall solely be responsible for all debts, obligations and liabilities accruing and arising out of the Agreement and Consultant agrees that it shall have no rights against, and shall not make any claim, take any actions or assert any remedies against, any of SCPA's members, any cities or counties participating in SCPA's community choice aggregation program, or any of SCPA's retail customers in connection with this Agreement.

[SIGNATURES TO APPEAR ON FOLLOWING PAGE]

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By signing below, the signatories warrant that each has authority to execute this Agreement on behalf of their respective Parties, and that this Agreement is effective as of the Effective Date.

SONOMA CLEAN POWER AUTHORITY

CONSULTANT

BY: _____
Geof Syphers
Chief Executive Officer

BY: _____
TITLE
: _____

DATE: _____

DATE: _____

APPROVED AS TO FORM

BY: _____
General Counsel

DATE: _____

EXHIBIT A
SCOPE OF SERVICES

This Exhibit A (Scope of Services) is attached to, and made a part of and incorporated by reference into the Agreement.

1 Definitions

- 1.1 "Agreement" means that Agreement for Professional Services between SCPA and Consultant dated [Date].
- 1.2 "Applicable Law" means those statutory and other obligations referenced in section 14 of the Agreement.
- 1.3 "Architect of Record" or "AOR" means the Architect of Record engaged by SCPA in connection with the Project.
- 1.4 "Construction Contract" means that contract(s) entered into by SCPA for demolition and construction in connection with the Project.
- 1.5 "Construction Contractor" means those contractor(s) engaged by SCPA to perform demolition and construction in connection with the Project.
- 1.6 "Contract Documents" means the Advertisement for Bids, Instruction to Bidders, Supplementary Instructions to Bidders, Bid Form, Agreement, General Conditions, Supplementary Conditions, Affirmative Action Program, Exhibits to the Construction Documents, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other documents related to the solicitation and execution, and administration of the Construction Contract.
- 1.7 "Consultant" means [Consultant Name]
- 1.8 "Daily Reports" means the reports described in section 6.4.9(a).
- 1.9 "Deliverables" means the documents, reports and other items identified in section 4 of this Exhibit A.
- 1.10 "Monthly Project Update" has the meaning set forth in section 5.12.
- 1.11 "Project" means the SCPA Headquarters Project, located at 431 E Street, Santa Rosa, Ca., including all phases of work described as part of the Basic Services set forth herein, beginning with design and constructability reviews, demolition and construction and construction completion and closeout.
- 1.12 "Project Budget" means the document described in section 4.1 of this Exhibit A, as the same may be amended as provided for herein, and as reasonably requested by SCPA.
- 1.13 "Project Manager" means the individuals set forth in section 18 of the Agreement, as the same may be amended from time to time with advance written notice of one party to the other.

- 1.14 “Project Schedule” means the document described in section 4.2 of this Exhibit A, as the same may be amended as provided for herein, and as reasonably requested by SCPA.
- 1.15 “SCPA” means the Sonoma Clean Power Authority.
- 1.16 “Services” means the services to be provided by Consultant described in this Exhibit A, including Basic Services and any Additional Services requested by SCPA.
- 1.17 “Subconsultant” means those individuals and/or entities identified in section 2.2.2 below. “Subconsultants” may be used interchangeably with Subcontractor.
- 1.18 “Weekly Construction Impact Report” has the meaning set forth in section 6.4.9(c).
- 1.19 Any items not defined in this Exhibit A has the meaning set forth in the Contract Documents.

2 Consultant Team and Subconsultants

- 2.1 Adequate Personnel, Engagement of Subconsultants. Consultant shall have adequate personnel to complete Consultant’s Services. Consultant agrees to engage all appropriate Subconsultants, including in various specialized service areas, as are necessary for proper completion of Consultant’s Services. Consultant agrees to utilize its Subconsultants at Consultant’s sole expense.
- 2.2 Consultant’s Team. Consultant’s team consists of the following personnel working on the Project and the listed Subconsultants and Subcontractors below:
 - 2.2.1 Consultant’s personnel: [to be provided by Consultant]
 - 2.2.2 Consultant’s Subconsultants, Subcontractors (collectively referred to as Subconsultants): [to be provided by Consultant]
- 2.3 Management of Subconsultants. Consultant shall provide Construction Management Services, and is the prime consultant, with the other Subconsultants and Subcontractors serving as subconsultants.
- 2.4 Substitution, Addition of Personnel or Subconsultants. Consultant shall use only the personnel and subconsultants identified in this section, in performing the Services. If Consultant desires to substitute or add other personnel and/or Subconsultants, SCPA must provide advance, written approval to such changes.
- 2.5 Flow-Down Provisions, Subconsultants. Consultant shall require each of its Subconsultants to execute agreements containing a standard of care and indemnity provisions coextensive with those in this Agreement and which will indemnify and hold SCPA harmless from any negligent errors or omissions of the Subconsultants.

3 Standard of Care

Consultant shall perform such Services consistent with the Performance Standard set forth in section 2 of the Agreement.

4 Consultant's Project Budget, Project Schedule, and Deliverables

4.1 Project Budget. Consultant agrees to assist SCPA with review of a budget for the Project, which will include, among other details, the anticipated total of all of the separate contracts for the Project, existing budget data and possible contingencies. Consultant agrees to report regularly, on a schedule approved by SCPA, concerning the Project Budget, and any shortfalls or surpluses in the budget, recommendations for cost reductions, value engineering, or revisions, and/or reasonable adjustments in the scope of the Project.

4.2 Project Schedule. Consultant agrees to assist SCPA with review of a schedule showing, among other details, the Project milestones, funding, design, design review, construction, and other deadlines applicable to the Project, and update the Project Schedule on a schedule and as requested by SCPA.

4.3 Deliverables.

4.3.1 General Requirements for Deliverables.

- (a) Consultant is required to provide SCPA with the Deliverables identified below, and in some cases discussed in more detail in section 6 (Basic Services).
- (b) Each Deliverable shall be reviewed by the SCPA. The SCPA shall determine the acceptability of the Deliverables.
- (c) Consultant shall promptly correct deficiencies that SCPA identifies in the Deliverables and shall promptly make modifications to conform with Project requirements and modifications to achieve acceptability of Deliverables to SCPA. Such corrections are considered Basic Services.

4.3.2 List of Deliverables. Consultant agrees to provide all Deliverables reasonably requested by SCPA, including, without limitation the following:

- (a) Daily Reports, as described in section 6.4.9(a).
- (b) Weekly Construction Impact Report, as described in section 6.4.9(c).
- (c) Monthly Progress Updates, as described in section 5.12.
- (d) Schedule of Submittals for AOR, Regulatory, and such other schedules of submittals reasonably requested by SCPA.
- (e) Change Order and Claims Protocol, consistent with SCPA agreements, contracts and other Applicable Law.

- (f) Change Order and Claims Logs, in a form acceptable to SCPA.
- (g) Final Project Report, as described in section 6.5.5.
- (h) Such other Deliverables as SCPA may request as the Project proceeds.

5 General Requirements

- 5.1 Consultant agrees to provide full-time on-site construction management staff, including a representative of Consultant present at the Project site anytime construction on the Project occurs.
- 5.2 Consultant agrees to provide other Services as are reasonable and necessary to assist SCPA in the maintenance of a Project Budget and Schedule, as described in more detail below.
- 5.3 As part of the Consultant's Services, Consultant agrees to carry out all duties and responsibilities listed herein; however, Consultant does not have authority to:
 - 5.3.1 Authorize a change in the cost, scope, or time of performance under the Construction Contract;
 - 5.3.2 Issue Notices of Completion;
 - 5.3.3 Issue contracts; and/or
 - 5.3.4 Approve pay requests.

The CM shall make findings and recommendations associated with such effort, or any effort requested by SCPA to carry out the duties listed herein.
- 5.4 Consultant agrees to promptly report to SCPA any non-conformity or potential problems with SCPA's Project objectives of quality construction, timely completion, and economy, with SCPA's Project Program, Construction Budget, and Project Schedule.
- 5.5 Review of Project Documents. Consultant shall review SCPA data, reports, plans, and other information regarding the Project at SCPA's request, including as specifically described in this Agreement
- 5.6 Professional Services Covered. Services shall include all professional services within the scope of Consultant's professional discipline (including the professional disciplines of Consultant's Subconsultants) necessary to accomplish the tasks and deliverables defined in this Exhibit A.
- 5.7 Ability to Complete Services. Consultant shall have adequate personnel, facilities, equipment and supplies to complete Consultant's Services.

- 5.8 Stakeholder and Staff Meetings. Performance of Services will require Consultant to work with, meet with, and attend meetings with SCPA staff, the SCPA Board of Directors, the SCPA Community Advisory Committee, with other governmental agencies, the AOR, Construction Contractor, and with such other consultants as SCPA determines necessary, for performance of Consultant's Services under this Agreement, including, but not limited to, Consultant's Services related to coordination with other consultants.
- 5.9 Written Evaluations. Consultant shall provide SCPA with written evaluations, when applicable, of the effect of any and all governmental and private regulations, licenses, patents, permits, and any other type of applicable restriction and associated requirements on the Consultant's Services and its incorporation of services with the Project.
- 5.10 Coordination of Services. Consultant shall fully coordinate its Services with the services of all Subconsultants and other SCPA consultants involved in completing the Project under the Agreement. The objective of this coordination, among other goals, shall be to develop and provide the Deliverables set forth in the Agreement. Consultant shall immediately advise SCPA in writing if any SCPA staff, Subconsultants or other SCPA consultant fails in any manner to coordinate its work with Consultant, and the nature of the non-compliance.
- 5.11 Safety Training, Protocols and Requirements for Consultant, Subconsultants.
- 5.11.1 Consultant agrees to provide appropriate safety training for Consultant's personnel and Subconsultants.
- 5.11.2 Consultant shall review and train Consultant's personnel and Subconsultants in appropriate safety procedures for work in the Project construction area.
- 5.11.3 Consultant shall require all personnel and Subconsultants under Consultant's direction to wear personal protection equipment (PPE) when entering the construction area, such as hard hats and any other safety equipment such as vests and appropriate shoes, ear and eye protection whenever these precautions are required by Applicable Law, including specifically Occupational Safety and Health Administration safety standards.
- 5.11.4 Consultant shall provide all safety equipment for Consultant's personnel and Subconsultants.
- 5.11.5 Consultant agrees to maintain current Injury, Illness Prevention Program ("IIPP") forms/documentation required under OSHA for all of Consultant and Subconsultant staff and for SCPA staff working on site.
- 5.12 Monthly Project Update. Consultant agrees to provide SCPA with a monthly Project Update, which will be a written report in a format acceptable to the SCPA, describing the general status, problems, concerns, and progress including, but not limited to, Project description, executive summary, Project status summary, Project Budget and costs,

Project Schedule, Project summaries, support information (as appropriate such as Project tracking logs), agency/staff updates, communications of significance, and outreach/procurement reports. In addition, the Monthly Project Update will include, without limitation, the Consultant's percent complete for each phase of the work, identify any actions and approvals needed, and any problems in performing the Services (whether by Consultant, SCPA or any third party) of which Consultant becomes aware. The Monthly Project Update

6 Basic Services. Consultant shall provide and perform these generally described and specified Basic Services as indicated below for the Project:

6.1 Basic Services includes the performance of any, and all tasks necessary to comply with the General Requirements set forth above.

6.2 PRE-CONSTRUCTION ASSISTANCE

6.2.1 Design Submittal and Constructability Review

(a) Consultant agrees to review the AOR's submittals for purposes of determining consistency with the Project program, Project Budget, and Project Schedule. Consultant agrees to report inconsistencies reported in writing to SCPA. As requested by SCPA, Consultant agrees to meet with Design Professional to discuss its review findings.

(b) Consultant agrees to consult with SCPA, AOR, and others, as approved by SCPA, to analyze, evaluate, and make recommendations regarding elements of the Project site, including Construction Contractor access, storage, site offices, Project site limit lines, coordination with existing or proposed utility systems, and the effect of construction on adjacent buildings, walkways, and streets.

(c) Consultant agrees to review the AOR's submittals of design development documents and evaluate the proposed Project design features, systems and materials, and recommend alternatives that would, in the Consultant's opinion, increase constructability, lessen the construction time, or reduce the Project Budget without deviating from minimum Project program requirements ("Constructability Review"). Consultant's Constructability Review will be a written evaluation to SCPA that includes conclusions, alternatives, and recommendations. As requested by SCPA, Consultant agrees to meet with AOR to discuss Constructability Review findings.

(d) Consultant agrees to confirm that the Drawings and Specifications are consistent with the SCPA's Contract Documents.

(e) Consultant agrees to check for coordination of the documents in terms of consistency and conformity each part with all other parts.

- (f) Consultant agrees to develop a recommendation list of cost items that the Construction Contractor should include in its cost breakdown (as required by the Contract Documents). Consultant agrees to submit this list to SCPA for inclusion in the Contract Documents.
- (g) Upon request from SCPA, Consultant agrees to prepare a draft Project Schedule for inclusion in the Contract Documents.
- (h) Consultant agrees to schedule and conduct a final Constructability Review on the 100% construction documents.

6.2.2 Project Construction Solicitation.

- (a) In general, Consultant agrees to provide SCPA with assistance in advance of and during preparation of the solicitation and award of the Construction Contract(s) for the Project, including multiple solicitation should SCPA elect to complete construction on the Project in phases.
- (b) In particular, Consultant agrees to:
 - (i) Assist SCPA and its consultants in developing prequalification criteria, and preparation of prequalification documents, as requested by SCPA;
 - (ii) Assist SCPA and its consultants in preparation of documents related to the solicitation of construction work on the Project;
 - (iii) Actively encourage contractors with known expertise on projects of similar size and scope to bid on the Project; and
 - (iv) As requested by SCPA, Consultant agrees to assist with preparation and conducting the pre-bid conferences, and assist in the preparation of required Addenda to be issued by SCPA, and with bid review.

6.3 PROJECT SUPPORT SERVICES

6.3.1 Management Systems and Controls

- (a) Consultant shall in consultation with the SCPA and according to any applicable SCPA approved policies, procedures, and standards, implement procedures, forms and reporting requirements for the Project.
- (b) Consultant agrees to work with SCPA to develop a communication protocol for the Project that allows for decision making at appropriate levels of responsibility and accountability.

- (c) Consultant agrees to develop and implement a management controls systems to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for the Project.
- (d) Meetings: Consultant agrees to participate in Project management team meetings, and construction management team meetings conducted by SCPA and attended by principal representatives of SCPA, and others, at a frequency that SCPA deems necessary. Consultant may be required to maintain and distribute written minutes of the meeting(s) within five (5) calendar days of each meeting. Consultant shall attend and manage weekly or by-weekly meetings with Project management staff, users and applicable other project consultants as required, and shall prepare agendas, maintain records and distribute minutes of such meetings.
- (e) Permits and Regulatory Requirements: Consultant agrees to coordinate and attend meetings with SCPA staff, governmental agencies, including those necessary to assist SCPA in obtaining the requisite permits for Project and managing the permits and utilities service agreements/connections process. At SCPA's request, Consultant agrees to assist SCPA, and its AOR, Construction Contractor, or consultants/contractors with any aspect of the permitting and Project approvals process.

6.3.2 Project Scheduling

- (a) With SCPA, Consultant agrees to develop, update and maintain the Project Schedule, in coordination with AOR, other SCPA Construction Contractors, or other SCPA consultants/contractors, to include milestones and activities determined for the Project.
- (b) In connection with development and maintenance of the Project Schedule, Consultant agrees to monitor any schedule(s) of development from the AOR, Construction Contractor or other SCPA contractors/consultants for conformance with the Project Schedule, including relevant milestone dates.
- (c) As necessary, Consultant agrees to advise SCPA on methods to adjust progress to meet Project Schedule milestone dates, including recommendations to adjust the Project Schedule to be consistent with current conditions.

6.3.3 Project Cost Reporting and Project Budget Coordination

- (a) At SCPA's request, Consultant agrees to review AOR, Construction Contractor, other SCPA contractors or

consultant's invoices and provide recommendations for payment to the SCPA.

- (b) Consultant agrees to review with SCPA monthly or quarterly cost reporting of forecasted expenditures for the project.
- (c) Consultant agrees to provide the SCPA with a Monthly Project Update, as described in more detail in this Exhibit A.

6.3.4 Construction Contractor Labor Compliance. Consultant agrees to oversee and ensure Construction Contractor compliance with any prevailing wage and related requirements, to the extent required by Applicable Law (including the California Labor Code), the Contract Documents, or Construction Contract.

6.4 CONSTRUCTION PHASE

6.4.1 Construction Management

- (a) Consultant agrees to perform any administrative and management functions in the Construction Contract or Contract Documents for the Project, as may be assigned by SCPA. Consultant agrees to use Consultant's best efforts to enforce all Construction Contract and Contract Document requirements including, but not limited to, scheduling, claims submission, warranties, and contract close out requirements, and shall do so consistent with the latest approved budget and Project Schedule and Project Budget. Consultant services include, but are not limited to, the following:
 - (i) Provide overall management control and coordination of all the parties involved in the construction phase including, but not limited to Construction Contractor, SCPA's material, equipment or furniture suppliers/vendors, inspection and/or quality control consultants.
 - (ii) Provide overall coordination with state and local authorities.
 - (iii) Prepare and process letters, paperwork and other related elements for the administration of the Project.
 - (iv) Maintain construction files to properly organize and keep all necessary Project documents.
 - (v) Maintain at the Project site a current copy of approved documents including but not limited to: Project drawings and all such related documents.
 - (vi) Consultant agrees to confirm that the Construction Contractor prepares "Record Drawings" and "As-

Built” documents in conformance with the Construction Contract and Contract Documents.

- (vii) Monitor Contractors’ compliance with Construction Contract and Contract Document requirements and recommend courses of action to SCPA when Construction Contractor fails to fulfill contractual requirements.
- (viii) In coordination with Construction Contractor, document pre-construction conditions of the site and adjacent improvements through photographs. Consultant shall advise SCPA if other measures are reasonably necessary.
- (ix) Monitor Construction Contractor’s compliance with SCPA’s Construction Waste Management requirements.

6.4.2 Meetings and Conferences

- (a) Consultant agrees to coordinate the pre-construction conferences, weekly coordination meetings and other meetings as necessary with the Construction Contractor and its sub-contractors, Subconsultants and SCPA representatives to discuss procedures, progress, problems, scheduling, quality and other appropriate matters. Consultant agrees to prepare agendas for each meeting; take minutes of each meeting, indicating actions items and responsible parties, transcribe, and distribute copies to all participants for meetings led by Consultant.
- (b) Consultant agrees to schedule, coordinate and participate in meetings and conferences with SCPA, its departments and consultants, SCPA affiliated groups, government agencies, and private groups as required by the SCPA during the administration of the Construction Contract and Contract Documents and provide action minutes from these sessions when appropriate.
- (c) As required by SCPA, all Consultant personnel assigned to the Project shall have cellular/mobile telephones sufficient to permit 24 hour a day access for response to emergency situations that may arise.

6.4.3 Shop Drawings and Submittals

- (a) Consultant agrees to coordinate the submittal review process required in the Construction Contract. Consultant agrees to maintain records of required submittals, dates and actions taken, and shall notify any party in writing who is delaying any submittal in process.
- (b) Consultant agrees to coordinate the submittal review process with AOR. Consultant agrees to maintain records

of AOR submittal reviews, dates and actions taken, and shall notify AOR and SCPA in writing if AOR review is delaying any submittal in process.

- (c) Consultant agrees to coordinate the submittal review process with governmental agencies. Consultant agrees to maintain records of governmental agency submittal reviews, dates and actions taken, and shall notify SCPA in writing if governmental agency review is delaying any submittal in process.

6.4.4 Project Schedules

- (a) Consultant agrees to receive, forward to SCPA and review the Construction Contractor's schedule of submittals. Consultant shall review Construction Contractor's schedule(s) for conformity with the Construction Contract, Contract Documents and conformity with the Project Schedule and make recommendations to SCPA regarding acceptance. Where Construction Contractor's schedule(s) do not conform, Consultant will take appropriate measures to secure compliance, subject to SCPA approval. However, Consultant's review shall not dictate Construction Contractor's means and/or methods of performance.
- (b) Consultant agrees to recommend to SCPA Project Schedule adjustments and actions to be taken by SCPA in case of changed or unexpected conditions, or otherwise as necessary to maintain schedule or mitigate delays.
- (c) Consultant agrees to receive and review the Construction Contractor's weekly schedule submittals and compare progress against latest accepted Project Schedule updates.
- (d) Consultant agrees to incorporate Construction Contractor's schedule updates and revisions into the Project Schedule.

6.4.5 Proposed Change Order/Change Orders

- (a) Assist SCPA in developing and managing the owner-initiated change order process for project(s).
- (b) Recommend to SCPA the issuance of Requests for Change Order Proposals to Construction Contractor whenever it appears necessary. Prepare and issue Requests for Change Order Proposal upon concurrence from SCPA.
- (c) Upon receipt of a change order proposal from a Construction Contractor, Consultant agrees to conduct negotiations with Construction Contractor and provide SCPA with written recommendations on acceptance, rejection, price, time, and any other appropriate decision and/or action, with reasonable supporting documentation including, where appropriate, schedule analysis, calculations, takeoffs, etc.

- (d) Consultant agrees to maintain a change order log for the Project and implement procedures to expedite processing of proposed change orders.
- (e) Consultant may authorize minor variations in the work from the requirements of the Contract Documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the Contract Documents. Consultant agrees to provide to the SCPA copies of these authorizations.
- (f) Consultant agrees to log Construction Contractor submittals to governmental agencies and any subsequent actions. Consultant agrees to notify SCPA promptly if governmental agency review has the potential to impact the Project Schedule.
- (g) Consistent with the timeframes set forth in the Construction Contract and Contract Documents, Consultant agrees to: (i) immediately notify SCPA of any potential or actual claim on the Project; and (ii) review, in consultation with SCPA and SCPA Counsel, all Construction Contractor claims and recommend to SCPA in writing a course of action including acceptance, rejection, price, time, or other appropriate decision or response.

6.4.6 Quality Assurance

- (a) Consultant shall implement a quality assurance program to monitor work of the Construction Contractor to determine that the work is being performed in accordance with the requirements of the respective Contract Documents. As appropriate, with assistance of the AOR, Consultant agrees to make recommendations to SCPA regarding special inspection or testing of work that is not in accordance with the provisions of the Contract Documents.
- (b) To guard SCPA against defects in the work of the Construction Contractor, Consultant agrees to establish and implement a quality assurance program to monitor the quality and workmanship of construction for conformity with:
 - (i) The Contract Documents;
 - (ii) Applicable Law; and
 - (iii) Accepted industry standards.
- (c) Where the work of Construction Contractor does not conform as set forth above, Consultant shall:
 - (i) Notify SCPA of any non-conforming work;

- (ii) Maintain a list of observed defects and omissions on the Project and provide a copy of the list to the SCPA and the Construction Contractor monthly, or more often as needed;
- (iii) With SCPA approval, Consultant shall take action(s) necessary to compel the Construction Contractor to correct non-conforming work including recommending that SCPA issue a Stop Work Notice when necessary.
- (d) Perform daily Project inspections and maintain copies of daily inspection reports, daily logs and other documentation of inspections as available.
- (e) Consultant agrees to facilitate coordination of all Construction Contractor start up, testing and training activities with SCPA whenever arising, whether at Project commencement, Project close-out or during Construction Contract performance.

6.4.7 Governmental Agency Coordination. Consultant agrees to verify that the Project's construction adheres to Applicable Law, including, without limitation, environmental requirements such as those promulgated by the Environmental Protection Agency ("EPA"), Cal/EPA, the California Environmental Quality Act ("CEQA"), Air Quality Management and State of California and Regional Water Quality Control Board laws, regulations and rules. Consultant shall verify that Construction Contractor and its sub-contractors comply with any requirements applicable to the Project.

6.4.8 Project Safety

- (a) Construction Contractor's Safety Programs. Consultant agrees to verify that Construction Contractor develops and administers safety programs as required by Construction Contract and/or Contract Documents.
- (b) Other Safety Programs. Consultant agrees to verify that other contractors, consultants or subconsultants working on the Project develop and implement project specific safety programs that include, without limitation: precautions, plans and safety measures specifically directed towards public safety and precluding public access to construction site or public exposure to construction hazardous conditions.

6.4.9 Project Reporting

- (a) Consultant agrees to record the progress of work on the project throughout the project duration when construction activity is taking place, including, without limitation: preparation of Daily Reports for the Project containing a record of weather, the presence of Construction Contractor,

consultants and/or subconsultants, major equipment utilized, work accomplished, problems encountered, and other relevant data.

- (b) In connection with Consultant's Daily Reports, Consultant agrees to provide SCPA with a photographic record of progress on the project, problem areas, work involved in disputes, changed or nonconforming work, and other work items or areas of work which need an enhanced or visual means of recording to provide a full and complete record.
- (c) Consultant agrees to provide SCPA with a Weekly Construction Impact Report for the project which includes a summary of construction activities with potential impact to facility operations and personnel in a format acceptable to the SCPA.

6.5 PROJECT COMPLETION

- 6.5.1 Punchlist. Following Construction Contractor's written notice of Substantial Completion, Consultant shall, in consultation with SCPA, prepare a list of incomplete or unsatisfactory work or work which does not conform to the requirements of the contract documents ("Punchlist"). Following SCPA approval of the Punchlist, Consultant shall provide this list to the Construction Contractor and monitor Construction Contractor's performance and completion of work to address the Punchlist. Upon completion of work to address the Punchlist, Consultant will review it with the SCPA and verify, in consultation with SCPA, whether the work addresses Punchlist items and otherwise complies with applicable provisions of the Construction Contract and Contract Documents.
- 6.5.2 At the conclusion of all corrective actions to address all Punchlist items, Consultant agrees to make a final comprehensive review of the Project, prepare a report to SCPA which will indicate whether Consultant finds the work performed acceptable under the Contract Documents, and also make recommendations to SCPA about issuance of Notice of Completion to the Construction Contractor and assist SCPA with preparation and processing of final payment consistent with Contract Documents.
- 6.5.3 Consultant shall participate in documentation tracking, transmission and delivery to SCPA of all keys, manuals, record drawings and maintenance stock in a timely manner and obtain all such documentation and other closeout submittals from Construction Contractor and transmit all to SCPA in a timely manner.
- 6.5.4 At the conclusion of the Project, Consultant shall provide SCPA a Final Project Report, which will include final cost of the project and explanation of any deviations from originally estimated costs; summary of the scheduled and actual completion dates and reasons for variations.

6.5.5 In addition to the Final Project Report, as requested by SCPA, Consultant will assist SCPA in preparing final project accountings and close out reports for all above indicated report systems.

6.5.6 Occupancy/Move-In after Construction

- (a) Consultant agrees to assist SCPA in obtaining all necessary permits and licensing including occupancy or operating Permits and final approvals from governmental agencies, including, without limitation: accompanying governmental officials (for example: Fire Marshal, Licensing Authorities, etc.) during inspections of the Project, assisting and preparing and submitting proper documentation to the appropriate approving agencies, and assisting in final testing and other necessary activities.
- (b) Consultant agrees to observe, with SCPA, the Construction Contractor and its subcontractors check-outs of utilities, operational systems and equipment, and start-up and testing. Consultant will maintain records of start-up and testing as provided by the Construction Contractor, notify SCPA of compliance with applicable provisions of the contract that all work has been performed and accepted, and that all systems are complete and operative.
- (c) Consultant will assist SCPA and its consultants with transition planning and move-in activities pertaining to construction.

6.5.7 Facility Systems Training, Orientation & Education. Consultant will coordinate the facilities systems training efforts for orientation and education of building maintenance personnel and occupant users, as applicable.

6.6 FINAL DOCUMENTS

Consultant agrees to review, monitor and compile final copies of all as-built drawings, maintenance and operations manuals, and other closeout documents upon completion of the Project and ensure all such plans and documents are well organized for any appropriate audit or review of the Project.

6.7 WARRANTY

6.7.1 Consultant will develop and implement warranty inspection and warranty work procedures that Construction Contractor and its subcontractors are to follow. Unless otherwise approved by SCPA, such warranty procedures shall include a twelve (12) month call back period and a final warranty inspection nine (9) months after project completion date to inspect the Project and identify any outstanding warranty work.

6.7.2 Consultant shall identify all warranty items, length of warranty periods, names and addresses of contact personnel. Consultant

also agrees to establish procedures for SCPA tracking of Construction Contractor provided maintenance during the warranty period.

6.7.3 Consultant shall participate in initial implementation of the project warranty period(s) for the management of any warranty compliance measures, call backs, and/or conformance requirements.

6.8 CONSULTANT'S RECORDS, POST-CONSTRUCTION ASSISTANCE

6.8.1 SCPA and SCPA's authorized representative shall have access to, the right to audit and the right to copy pertinent parts of the Consultant's books and records. Consultant's records shall include but not be limited to accounting records (hard copy, as well as computer readable data); contracts; payroll records; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this Agreement.

6.8.2 All such books and records shall be preserved for a period of at least 3 years from the date of Final Payment under this Agreement.

6.8.3 Consultant agrees to make files available for inspection and copying by SCPA upon reasonable notice. SCPA or SCPA's authorized representative shall have access to the Consultant's premises and records for inspection and auditing during normal business hours, shall be allowed to interview Consultant's employees, and be provided adequate and appropriate work space in order to conduct audits in compliance with this Article.

6.8.4 Consultant agrees to provide reasonable assistance to SCPA in connection with disputes between SCPA, its AOR, Construction Contractor and other parties connected with the Project that may arise following completion of the Project. Such reasonable assistance shall be considered part of Basic Services.

7 Additional Services

7.1 All Services identified in the Agreement, including but not limited to the foregoing sections of this Exhibit A are "Basic Services." Any services in addition to Basic Services, are referred to hereafter as "Additional Services". Additional Services must be authorized by SCPA in writing prior to performance.

7.2 Consultant shall provide additional services only by advanced, written request from SCPA. Consultant at SCPA's request, shall submit a detailed written proposal including a description of the scope of services, schedule, level of effort and Consultant's proposed maximum compensation amount Reimbursable Expense(s), for such services based on any rates previously provided to SCPA. The Additional Services scope, schedule and maximum compensation shall be negotiated and agreed to by SCPA and Consultant prior to commencement of any of the

Additional Services. Payment for Additional Services is subject to all requirements and restrictions in this Agreement.

- 7.3 Under no circumstances shall Additional Services be deemed to include work or services necessary because of Consultant's errors, omissions or conflicts of any type in Consultant's work product. Any such services shall be performed at no cost to SCPA, including, but not limited to, any required corrections or revisions to reports, drawings or specifications that are a result of any errors or omissions by Consultant. Nor shall Additional Services include work performed prior to receipt from SCPA of written notice, agreement and authorization to perform the Additional Services.

END OF EXHIBIT A

EXHIBIT B
FEE SCHEDULE

This Exhibit B (Fee Schedule) is attached to, and made a part of and incorporated by reference into the Agreement.

1 Amount of Compensation for Services of Consultant

1.1 THE AMOUNT OF COMPENSATION TO BE PAID TO CONSULTANT FOR ALL SERVICES UNDER THIS AGREEMENT SHALL NOT EXCEED THE NOT-TO-EXCEED AMOUNT (“NTE”) SET FORTH IN SECTION 4 OF THE AGREEMENT.

1.2 Total compensation due Consultant shall be the actual amount invoiced, which may be less than the NTE amount. Reimbursable Expenses are included in the NTE. The NTE also includes within its scope the scope of all Subconsultants and their reimbursables and shall constitute full compensation for the Services.

1.3 “Reimbursable Expenses” means job-related expenses directly incurred by Consultant in the performance of Services provided under the Agreement.

1.3.1 Reimbursable Expenses include mail and overnight delivery services, reproduction of reports, drawings, specifications, photographs and similar, as requested by the SCPA. Reimbursable Expenses shall be billed at actual cost.

1.3.2 Without limitation, Reimbursable Expenses does not include normal travel expenses for Consultant and Subconsultants to and from the Project site and to SCPA offices or Consultant and Subconsultants costs for the use/service of their electronic equipment/devices (owned or leased). Consultant and Subconsultant office space, office supplies, computers, or any office function/administration overhead costs are not Reimbursable Expenses.

2 Additional Services. SCPA only agrees to compensate Consultant for Additional Services, to the extent and under the terms such Additional Services are approved by SCPA in accordance with the requirements for Additional Services set forth in Exhibit A.

END OF EXHIBIT B

EXHIBIT C

[INTENTIONALLY OMITTED]

EXHIBIT D

PREVAILING WAGE REQUIREMENTS

- 1 General. Pursuant to California Labor Code § 1720 et seq., this Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.
- 2 Rates. These prevailing rates are on file with SCPA and are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.
- 3 Compliance. The Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code § 1771.4.
- 4 Discrimination Prohibited. Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Consultant and its Subconsultants are required to comply with all applicable Laws prohibiting discrimination, including the California Fair Employment and Housing Act (Govt. Code § 12900 et seq.), Government Code § 11135, and Labor Code §§ 1735, 1777.5, 1777.6, and 3077.5. This requirement is in addition to those set forth in Section 15 of the Agreement.
- 5 Labor Code Requirements.
 - 5.1 Eight Hour Day. Pursuant to Labor Code § 1810, eight hours of labor constitute a legal day's work under this Agreement.
 - 5.2 Pursuant to Labor Code § 1813, Consultant will forfeit to SCPA as a penalty, the sum of \$25.00 for each day during which a worker employed by Consultant or any Subconsultant is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code § 1815.
 - 5.3 Apprentices. Consultant is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code § 1777.5, which is fully incorporated by reference.
 - 5.4 Notices. Pursuant to Labor Code § 1771.4, Consultant is required to post all job site notices prescribed by Laws.
 - 5.5 Prevailing Wages. Each worker performing Work under this Agreement that is covered under Labor Code §§ 1720 or 1720.9, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in §§ 1771 and 1774 of the Labor Code. The prevailing wage rates are on file with SCPA and available online at <http://www.dir.ca.gov/dlsr>. Consultant must post a copy of the applicable prevailing rates at the Project site.

- 5.6 Penalties. Pursuant to Labor Code § 1775, Consultant and any Subconsultant will forfeit to SCPA as a penalty up to \$200.00 for each calendar day, or portion a day, for each worker paid less than the applicable prevailing wage rate. Consultant must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.
- 5.7 Federal Requirements. If this Project is subject to federal prevailing wage requirements in addition to California prevailing wage requirements, Consultant and its Subconsultants are required to pay the higher of the currently applicable state or federal prevailing wage rates.
- 5.8 Payroll Records. Consultant must comply with the provisions of Labor Code §§ 1776 and 1812 and all implementing regulations, which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.
- 5.9 Consultant and Subconsultant Obligations. Consultant and each Subconsultant must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Services. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
- 5.9.1 The information contained in the payroll record is true and correct; and
- 5.9.2 Consultant or the Subconsultant has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Services performed by its employees on the Project.
- 5.10 Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to SCPA, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.
- 5.11 Enforcement. Upon notice of noncompliance with Labor Code § 1776, Consultant or Subconsultant has ten (10) days in which to comply with the requirements of this section. If Consultant or Subconsultant fails to do so within the ten (10) day period, Consultant or Subconsultant will forfeit a penalty of \$100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Consultant.

END OF EXHIBIT D