



Parks and Recreation Department
650 Shell Boulevard
Foster City, CA 94404

SUBJECT: Request for Proposal: CIP 301-682 FOSTER CITY PARKS MASTER PLAN (FNA PARKS SYSTEM MASTER PLAN) CONSULTANT

All those interested and qualified are invited to submit a proposal to develop a comprehensive Plan that re-envision the City's Parks System, as outlined in the scope of work that is outlined and delineated on the enclosed Request for Proposal (RFP).

PROPOSAL SUBMITTAL DEADLINE: FRIDAY, February 2, 2024, at 2:00 PM

RETURN PROPOSAL TO:
City of Foster City
Parks and Recreation Department
Attn: Derek Schweigart, Director
650 Shell Boulevard
Foster City, CA 94404

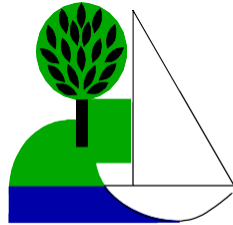
The City will evaluate qualifications and references and may conduct interviews with the proposers to provide an opportunity for proposers to demonstrate their qualifications for the services.

Schedule

Release date:	January 4, 2024
Deadline for Questions	January 26, 2024
Proposals due:	February 2, 2024
Interviews:	February 19-22, 2024
Final deliberations:	March 4-8, 2024
Submit to City Council for Approval:	April 1, 2024

The City reserves the right to make changes to any of the foregoing dates in the Schedule or any other dates identified in the Request for Proposal, as may be necessary.

CITY OF FOSTER CITY



REQUEST FOR PROPOSAL

CIP 301-682 FOSTER CITY PARKS MASTER PLAN CONSULTANT

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REQUEST FOR PROPOSAL

PROFESSIONAL DESIGN SERVICES FOR CIP 301-682 FOSTER CITY PARKS MASTER PLAN CONSULTANT

SECTION I. INTRODUCTION

The City of Foster City (CITY) is seeking a qualified consulting firm to provide professional design services for CIP 301-682 Foster City Parks Master Plan. To that end, the CITY invites qualified consulting firms to submit proposals.

Consultants shall examine all information in this Request for Proposal (RFP), including the attachments.

The deadline for submitting questions about the proposal is Friday, January 26, 2024, at 5:00 pm. The CITY will consider proposals received on or before the proposal submittal deadline of Friday, February 2, 2024, at 2:00 pm.

SECTION II. GENERAL INFORMATION

The City is seeking an experienced consulting firm to submit proposals to develop a comprehensive Plan that re-envision the City's Parks System. Consultant shall provide a proposal for professional design services for Foster City Parks Master Plan as described in Attachment A: Draft Scope of Services, Part II Description of Required Services.

Staff anticipates recommending approval for the award of the agreement for professional design services for CIP 301-682 Foster City Parks Master Plan at a City Council meeting in April 2024.

Consultant shall bear all costs and assume all liability associated with developing and/or submitting proposals. CITY shall bear no costs and/or assume no liability for developing and/or submitting proposals.

Consultants should be aware that any proposal submitted may be subject to a request for records and produced to a member of the public, if requested, in accordance with the California Public Records Act.

SECTION III. PROPOSAL REQUIREMENTS

To demonstrate the qualifications and experience necessary to perform the professional design services for the project, as described in **Attachment A**, Draft Scope of Services, Consultant shall submit a proposal that includes the information described in this section.

If Consultants have questions regarding the proposal, submit questions to Derek Schweigart, Director of Parks and Recreation at dschweigart@fostercity.org on or before **Friday, January 26, 2024, at 5:00 pm.**

The proposal shall be comprised of:

- Part 1 is comprised of electronic copy of document containing sections A, B, C, D, E, F, G, and H described below.
- Part 2 is comprised of hard copy of document containing section J, Consultant Fee Schedule and Reimbursable Expenses.

The proposal should be concise and address qualifications and experience. Consultant shall not include superfluous information or analytical work that would otherwise be performed during the course of work in the proposal. The body of the proposal, excluding appendices, should not exceed 15 pages. As an appendix, provide resumes for the proposed team members. Proposals should be bound with tabs identifying each section herein specified.

PART 1

A. Cover Letter

Consultant shall provide a cover letter. The person who signs the cover letter shall be authorized to contractually bind the Consultant. The cover letter shall include the following:

- 1) A statement that all the information in the Request for Proposal was examined.
- 2) A statement that the proposal is binding for a 90-calendar day period.
- 3) The name, title, address, email, and telephone number of the individual to whom correspondence and other communications should be directed during the consultant selection process.
- 4) The name, title, address, email, and telephone number of the individual who will negotiate the consulting agreement with CITY, if selected, and is authorized to contractually bind the firm.

B. Executive Summary

Consultant shall provide an executive summary. The executive summary shall include a statement that Consultant reviewed the Draft Scope of Services and is able to provide the required professional services. The summary shall briefly summarize those Consultant qualifications and experience, contained in the proposal, which best highlights its ability to successfully deliver the work.

C. Project Approach

A summary presentation of the proposed approach for performing the services, describing how the firm would be organized and an approach structured to ensure:

- 1) Clearly specifying the scope of work; not to exceed amount; and schedule for the work that will be included in the contract for professional engineering services.
- 2) Monitoring and controlling the scope of work, communicating potential scope of work changes prior to performing that work, and managing the change in scope of work.
- 3) Monitoring the schedule and ensuring deliverables are completed on or before schedule milestones.
- 4) Monitoring the progress of the work to ensure that each submittal is complete and has been adequately reviewed prior to submitting deliverables.
- 5) Monitoring the quality of consultant's deliverables to reduce the amount of City resources required to review the submittal.
- 6) Responsiveness to CITY Staff.
- 7) Facilitating communications.
- 8) No substituting of staff listed in the proposal and adding staff not listed in the proposal.

D. Proposal Schedule

The purpose of the proposal schedule is to ensure Consultant completes work in a timely manner and to ensure that labor projections are consistent with the proposal schedule.

Consultant shall prepare a schedule for the work described in **Attachment A**, Draft Scope of Services and shall show the key activities, their start dates, and end dates. The schedule should include a milestone for each Authorization to Proceed and each submittal identified in **Attachment A**, Draft Scope of Service. The durations required to reach milestones shown in the schedule will be incorporated into Tasks 1 and 2 of Scope of Services for the Professional Services Agreement.

The proposal schedule shall have sufficient details to achieve the above goals. CITY will request additional details from the highest ranked consultant which will be incorporated into the Professional Services Agreement.

Consultant shall use **May 1, 2024**, as the start date for the schedule.

E. Labor Projections

Consultant shall provide a schedule of hourly rates and an estimate of the number of hours by staff type to complete the work described in Attachment A, Draft Scope of Service that is consistent with the schedule created as part of Section D above. Provide descriptions of assumptions made in developing the labor hours.

F. Consultant Information

Consultant shall provide the following information for it and each of its sub-consultants, if any:

- 1) Legal name of firm.
- 2) Type of organization (partnership, corporation, etc.) and where incorporated, if applicable.
- 3) Firm's Officers.
- 4) Date firm was established.
- 5) Address of firm's headquarters.
- 6) Current number of people employed by the firm.
- 7) Name of consultant's parent company, if any.
- 8) Name of consultant's subsidiaries wholly owned or fractionally owned, if any.
- 9) List of companies associated with the consultant whose work on the project may potentially give rise to a conflict of interest, if any.
- 10) List of contracts terminated for convenience or default within the past three (3) years, if any. Include contract value, description of work, client's name and telephone number.

G. Consultant Experience and References

Consultant shall provide for it and each of its sub-consultants, if any, details of its experience working on similar projects over the last five (5) years.

Consultant shall provide for it and each of its sub-consultants, if any, details of not less than three (3) similar projects and the details shall include the following:

- 1) Project name.
- 2) Project Owner and contact information.
- 3) Project description including total project cost and location.
- 4) Description of the consultant's role (Prime Consultant or sub-consultant to Prime Consultant's Name).
- 5) Project Manager and other key personnel involved.
- 6) Sub-consultants on the proposed team that worked on the project, if any.
- 7) Contact information for the project owner.

If Consultant has a standard resume for projects, Consultant may provide the standard resumes with supplemental project information on a separate sheet. Providing supplemental project information on a separate sheet will have no effect on the evaluation process.

CITY will contact Project Owners to discuss the Consultant's current and/or past performance. For Project Owners' contact information, provide Project Owner's name and address, the name of a contact with knowledge of Consultant's performance, as well as contact's phone number and email.

H. Project Team Experience and References

The consulting team is key to delivering a successful project.

For purposes of the proposal and the selection process, the following terms are used to identify consulting team members: Project Manager, Other Key Personnel, and Other Team Members. The Project Manager is responsible for Consultant's work and is CITY's principal contact after the professional services contract is awarded, (2) Other Key Personnel are the keys to Consultant successfully executing the work; and (3) Other Team Members who will play a significant role in successfully executing the work.

Consultant shall provide the following information regarding the consulting team and its team members:

- 1) Consultant shall provide an organization chart showing the proposed relationships and the various roles and/or disciplines required to deliver the work. Within the organization chart, Consultant shall identify the project manager, other key personnel, and other team members. If a team member works for a sub-consultant, identify the sub-consultant. Consultant shall identify at least one person for each role and/or discipline.
- 2) Provide a list of office(s) in which the proposed team members will work. Provide its address, its general phone number, and the name of the principal(s) overseeing proposed staff at the office. Identify the proposed team members working at the office and their roles.
- 3) **Project Manager.** Provide the qualifications and experience of the Project Manager, his/her current commitments to other projects to confirm Consultant's ability to commit resources to the work, and not less than three (3) references for the Project Manager.
- 4) **Other Key Personnel.** Provide the qualifications and experience of the Other Key Personnel; their current commitments to other projects to confirm Consultant's ability to commit resources to the work; and not less than three (3) reference for each person who is identified as Other Key Personnel.
- 5) **Other Team Members.** Provide the qualifications and experience of the Other Team Members.

CITY will contact project owners who have worked with the project manager and other key personnel to discuss their current and/or past performance. For each reference, list the proposed team member, project name, project owner, project owner's address, the name of contact with knowledge of performance, contact's phone number, and contact's email address. Provide references from different owners, if possible.

SECTION IV. PROPOSAL SUBMITTAL REQUIREMENTS

Consultant shall submit its proposal in accordance with the following requirements:

- A. CITY will only consider proposals received by City at or before the proposal submittal deadline of Friday, February 2, 2024, at 2:00 pm.

- B. Consultant shall submit proposals to the following address:
City of Foster City
Parks and Recreation Department
Attn: Derek Schweigart, Director
650 Shell Blvd.
Foster City, CA 94404
- C. For e-mailed proposals, CITY encourages each Consultant to confirm that its proposal was received by CITY at or before the proposal submittal deadline. Contact the Parks and Recreation Department Director, Derek Schweigart at dschweigart@fostercity.org to confirm City's receipt of the proposal.
- D. For hand-delivered proposals, Consultant shall deliver the proposal to the reception desk in the building lobby. Consultant shall ensure the proposal is time and date stamped by the attendant prior to leaving the building.

SECTION V. CONSULTANT SELECTION PROCESS

CITY will review proposals and perform reference checks to evaluate consultants.

CITY may or may not conduct consultant interviews to evaluate Consultants. If CITY chooses to hold interviews as part of the selection process, CITY will notify Consultants approximately three weeks after the proposal submittal deadline.

Principle criteria used to evaluate Consultants will include the following:

- 1) Experience/Qualifications: Firm's experience on similar projects in the last five years.
 - a. Consultant's and sub-consultant's, if any, experience successfully providing professional services on similar projects in the last five (5) years.
- 2) Personnel Assigned: Experience of key personnel assigned to the project, and experience of key team members who will be assigned to the project for its full duration.
 - a. Project Manager's experience successfully providing professional consultant services and/or other related work on similar projects and their availability to perform work required by his/her role.
 - b. Other Key Personnel's experience successfully providing professional services and/or other related work on similar projects and their availability to perform the work required by his/her role.
 - c. Other Team Members' experience providing professional services and/or other related work on similar projects.

- 3) Quality and Completeness of Proposal:
 - a. Clarity and relevance of information contained in the proposal.
 - b. Consultant's understanding of work.
 - c. Consultant's approach to the work.

- 4) References

CITY may waive irregularities in any proposal, accept or reject all or any part of any proposal, or waive any requirements of the request for proposals, as may be deemed to be in the best interest of CITY. The CITY may also at any time during the review process decide not to proceed with the project.

After final evaluation, CITY will identify the highest ranked consultant, which appears to best meet the qualification criteria. CITY will attempt to negotiate a contract with the selected consultant prior to final approval of the contract by the CITY Council. If the highest ranked consultant and CITY cannot reach agreement, CITY will terminate negotiations and, at its option, negotiate with the next ranked consultant.

Consultants shall bear all costs and assume all liability associated with negotiating a consultant agreement. CITY shall bear no costs and/or assume no liability for negotiating a consultant agreement.

SECTION VI. SCOPE OF SERVICES

A. Scope of Services:

A general Draft Scope of Services is given in Attachment A. A more detailed Scope of Services will be developed during negotiations. The Draft Scope of Services is intended to cover the basic services necessary and/or other related work for proposal for professional consulting services for the Foster City Parks Master Plan project (CIP 301-682) identified herein and shall be used as the basis of negotiations. In addition, Consultant shall agree to perform the management and project controls specified in the Draft Scope of Services.

Consultant is encouraged to include in the proposal any additional tasks beyond the Draft Scope of Services that the Consultant may find necessary or beneficial in order to deliver a successful project.

CITY reserves the right to enter into agreements for none, a portion, modified portions, or all of the work listed in this Request for Proposal. CITY reserves the right to issue notice(s) to proceed for some or all the work up to 90 days after the CITY Council approves the agreement.

SECTION VII. STANDARD PROFESSIONAL SERVICES AGREEMENT AND INSURANCE REQUIREMENTS

The standard professional services agreement is attached as **Attachment B**.

The insurance requirements are described in Section 12 Insurance of CITY's Standard Professional Services Agreement. All policies, endorsements, certificates, and/or binders shall be subject to approval by CITY as to form and content. The selected consultant shall agree to provide CITY with a copy of said policies, certificates, and/or endorsements.

ATTACHMENT A – Scope of Services
RFP #
Foster City Parks Master Plan CIP 301-682

Scope of Services to be Completed by Consultant for the Parks Master Plan

I. Project Overview

The City of Foster City (City) was incorporated in 1971 and encompasses approximately (4) four-square miles and is located approximately 25 miles south of San Francisco and 30 miles north of Silicon Valley with easy access from HWY 101 and HWY 92. It is a culturally diverse community of roughly 32,000 residents. Unique to Foster City is the beauty and access to water, both the San Francisco Bay and its manmade lagoon system.

The City's Parks System consists of 24 parks, eight miles of levee pedway (Bay Trail); 68 medians, 49 cul-de-sacs, 14 easements containing ice plants, sound walls, walkways, and bridges (hereto referred to as Parks System). There are 16 playgrounds, and 9 park sites with at least one court sport activity, 9 synthetic turf sports fields, and 14 park restrooms. The City has maintained and made continuous improvements to the existing parks infrastructure, ensuring that components meet legal and City standards on a regular basis. Even so, some of the City's parks are over 50 years old, requiring attention to the aging infrastructure as well as ensuring that the Parks System remains relevant and continues to meet user needs now and in the future.

The Master Plan (Plan) is a planning and visioning tool that will guide City decision-makers in the planning, development and/or rehabilitation, maintenance, and funding of Foster City's parks for the next 20-30 years. Foster City's existing parks infrastructure needs rehabilitation or redesign to better meet current and future recreational needs of its residents and visitors.

The selected firm shall have experience and knowledge in park and recreation planning, master plan preparation, project management, and effective public involvement processes. The consultant will work closely with City staff in preparing the Plan and creating a document for distribution to the public.

II. Description of Required Services

The City is seeking an experienced consulting firm to submit proposals to develop a comprehensive Plan and help re-envision the City's Parks System. The Plan will provide valuable information for both short-term and long-term planning for current and future improvements, renovation, maintenance, programming, scheduling, strategies, and funding sources.

The following general description of the scope of services is not fully complete and only intended as a guide to illustrate the minimum project requirements. Applicants are encouraged to present their own path in producing a comprehensive Plan.

The Consultant shall, at a minimum, provide an inventory and assessment report for all City parks which includes an evaluation and assessment of park amenities. For each park site, the Consultant shall review relevant documents, and prepare a comprehensive Plan that includes design and construction recommendations. The Consultant shall review and evaluate safety concerns, code compliance, upgrade requirements, and constructability. Potential improvements or upgrades shall include, but are not limited to, access routes, pathways, lighting, irrigation, landscaping, hardscape/paving, playgrounds, play surfaces, turf, picnic area and shelters, sports fields, fencing, restrooms, site amenities, park buildings and parking areas. The table below shows all parks, trails and recreational areas that shall be included as part of this Master Plan study. *(Amenity site map attached)*

	Park Name	Acres
1	Arcturus Park	.75
2	Bay Winds Park	.95
3	Boat/Dog Park	3.18
4	Boothbay Park	11.21
5	Bridgeview Park	1.73
6	Catamaran Park	5.88
7	Edgewater Park	8.53
8	Erckenbrack Park	3.48
9	Farragut Park	3.86
10	Gateshead Park	.12
11	Gull Park	3.14
12	Ketch Park	1.6
13	Killdeer Park	2.42
14	Leo J. Ryan Park	20.73
15	Leo Park	.15
16	Levee Pedway	11.2
17	Marlin Park	3.13
18	Pompano Park	.56
19	Port Royal Park	3.98
20	Sea Cloud Park	23.9
21	Shad Park	2.16
22	Shorebird Park	1.57
23	Sunfish Park	2.41
24	Turnstone Park	1.53

TASKS

A. Establish Plan Vision, Goals and Objectives

1. Incorporate themes such as accessible, active, equity, inclusion, environmental stewardship, financial sustainability, operational efficiency, unique and distinctive.
2. Consider future trends and best practices for use of public spaces for recreation, health and wellness, and building community.

B. Existing Conditions Assessment and Facilities Study

1. Review existing plans and policies which are relevant to the City's Park system. This includes the City's General Plan, Climate Action Plan, Recreation Center Boardwalk Master Plan, Goose Population Management Plan, Foster City's Age Friendly City (AFC) Initiative Strategic Plan, previous work on Parks Master Plan.
2. Compile an inventory and assessment of the existing parks, athletic fields, trails, medians, cul-de-sacs, and easements. The analysis should consider the capacity of each amenity (playgrounds, ball fields, sports courts, trails, natural areas, amenities, etc.) as well as their use, functionality, accessibility, condition, comfort, and convenience.
3. Conduct meetings and/or interviews with City staff and other stakeholders to identify existing site challenges, desired improvements, opportunities for activation, and visioning for the parks and recreational spaces.
4. Evaluate opportunities that exist in the City's undeveloped parks and recreational spaces, including ways to activate the City's lagoon and waterways that are adjacent to many of the City's parks.
5. Evaluate opportunities to leverage or connect with the school district, and other park and open space agencies.

C. Outreach and Public Participation

1. Develop and coordinate a robust public participation plan that should include but not be limited to open houses, workshops, intercept events, pop-up kiosks, and online surveys. In coordination with the City, schedule public meetings with the community, focus groups and stakeholders to gather all information needed. Recommend to the City the most effective

way to reach as many people as possible including users and non-users of the existing parks and recreational areas.

2. In coordination with the City, administer a project website and other online engagement tools to share ideas with the community members and keep them apprised of project updates.
3. Prepare handouts, flyers, posters, press releases and other media for distribution including posting on the City's website and social media.
4. Consult will provide recommendations to a Parks Master Plan Task Force that may be created by the CITY which may include representatives from a wide cross section of community groups and advisory committees, such as the Planning Commission, Parks and Recreation Committee, City staff, and key stakeholder groups. The group will serve as a sounding board to vet options and strategies based on their inherent community knowledge and work as project ambassadors who will provide updates to their constituents and promote public participation.
5. Conduct formal presentations to the City Council, Parks and Recreation Committee, Planning Commission, and other key stakeholder groups, in addition to providing support for written staff reports and other important written documents.

D. Needs Assessment

1. Perform a comparative analysis of the Parks System with the surrounding Cities of San Mateo, Belmont, San Carlos, Burlingame including similar sized cities in the Bay Area and recommend any improvement opportunity to industry standards and trends.
2. Analyze the Park System usage, needs, desires, and interests of the community today and 20 years from today based on anticipated demographic, economic, and sociologic changes. General Plan growth projections and level of service standards will provide some of the framework for this analysis. Consultant shall use information received from surveys and other public outreach to identify the community's needs for active and passive recreation opportunities and any forthcoming trends that could possibly impact the of the parks. Use City's registration data for recreational programming statistics. Conduct a park usage study. Deploy analytics technology for determining and assessing foot traffic to various parks which may be used in assessing usage by the community.

3. Identify emerging trends and needs from national and regional studies, regional collaborations, and stakeholder input to ensure parks and recreational spaces meet current and future needs of the community while exploring ways to activate them fully.
4. Seek opportunities to enhance inclusion at existing and new amenities.
5. Evaluate the City's Park System including various amenities, facilities and sports fields and provide comparative analysis with similar cities in terms of the fee and charges schedule, how they are managed and operated and look for improvement opportunities to meet industry standards and trends.

E. Recommendations

1. Document goals and criteria for evaluating and prioritizing recommended projects to achieve stated goals.
2. Identify and prioritize modifications to existing parks, sports fields, cul-de-sacs, and other City maintained open spaces, incorporating the existing conditions and the costs of all recommended modifications.
3. Identify and prioritize opportunities for acquisition and/or development of new park spaces.
4. Identify and prioritize implementation of new projects in existing park spaces.
5. Identify new or recommended changes to citywide or specific park and field policies.
6. Recommended implementation action plan.

F. Implementation

1. Establish a detailed, prioritized implementation plan that will achieve the Plan's goal and vision for the City.
2. Provide estimates of annual costs (capital, operating, maintenance, and replacement) and funding sources.

III. Deliverables

Work products at a minimum will include the following. This is a sample list and not intended to be a complete listing.

- A. A timeline with milestones for completion of the Plan.
- B. Periodic status reports to the City and presentations before City Council, Planning Commission, Parks and Recreation Committee as required.
- C. Community questionnaires and surveys administered online and through various outreach media.
- D. Project website which includes all the project information, updates and is created and maintained by the consultant and other flyers or outreach material.
- E. Public workshops, open houses and intercept activities including all the necessary materials.
- F. Technical reports which include information on existing conditions, needs assessments and other analysis.
- G. Copies of the Master Plan Administrative Draft, Final Draft incorporating all revisions and of the Final Plan.

ATTACHMENT B
PROFESSIONAL SERVICES AGREEMENT
FOR
CONSULTANT SERVICES

This Agreement is made and entered into as of the _____ day of _____, 20____ by and between the City of Foster City hereinafter called "CITY" and _____ hereinafter called "CONSULTANT".

RECITALS

This Agreement is entered into with reference to the following facts and circumstances:

WHEREAS, CITY desires to engage CONSULTANT to provide professional services in the CITY;

WHEREAS, CONSULTANT is qualified to provide such services to the CITY and;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. Services. The services to be performed by CONSULTANT under this Agreement shall include those services set forth in Exhibit A, which is, by this reference, incorporated herein and made a part hereof as though it were fully set forth herein.

Performance of the work specified in said Exhibit A is hereby made an obligation of CONSULTANT under this Agreement, subject to any changes that may be made subsequently hereto upon the mutual written agreement of the said parties.

Where in conflict, the terms of this Agreement supersede and prevail over any terms set forth in Exhibit A.

2. Term; Termination. (a) The term of this Agreement shall commence upon the date hereinabove written and shall expire upon completion of performance of services hereunder by CONSULTANT. (b) Notwithstanding the provisions of (a) above, CITY may with or without cause, direct CONSULTANT to suspend, delay or interrupt Services, in whole or in part, for such periods of time as CITY may determine in its sole discretion. (c) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for default, should CONSULTANT commit a material breach of this Agreement, or part thereof, and not cure such breach within ten (10) calendar days of the date of CITY's written

notice to CONSULTANT demanding such cure, in which case CONSULTANT shall be liable to CITY for all loss, cost, expense, damage and liability resulting from such breach and termination. (d) CITY may terminate performance of the Services under this Agreement in whole, or from time to time in part, for convenience, whenever CITY determines that such termination is in CITY's best interests, in which case CONSULTANT shall be entitled to recover its costs expended up to the termination date plus reasonable profit thereon to the termination date as this Agreement would otherwise provide, but may recover no other cost, damage or expense. CONSULTANT shall continue its work throughout the course of any dispute, and CONSULTANT's failure to continue work during a dispute shall be a material breach of this Agreement.

3. Compensation; Expenses; Payment. CITY shall compensate CONSULTANT for all services performed by CONSULTANT hereunder in an amount based upon CONSULTANT's hourly rates during the time of the performance of said services. A copy of CONSULTANT's hourly rates for which services hereunder shall be performed are set forth in CONSULTANT's fee schedule marked Exhibit "B" hereof, attached hereto and by this reference incorporated herein.

Notwithstanding the foregoing, the combined total of compensation and reimbursement of costs payable hereunder shall not exceed the sum _____ (\$ _____). Invoices for amounts in _____ (\$ _____) shall not be paid unless the performance of services and/or reimbursement of costs and expenses in excess of said amounts have been approved in advance of performing such services or incurring such costs and expenses by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) evidenced by motion duly made and carried and a written contract amendment having been executed.

Compensation and reimbursement of costs and expenses hereunder shall be payable upon monthly billing therefor by CONSULTANT to CITY, which billing shall include an itemized statement, briefly describing by task and labor category or cost/expense items billed. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of CITY including, without limitation, CONSULTANT's transmittal of all deliverables to CITY required by EXHIBIT A.

CITY shall not incur any charges under this Agreement, nor shall any payments become due to CONSULTANT for any payment period on the Project, until CITY receives all deliverables required under Exhibit A, SCOPE OF WORK AND SCHEDULE, for the payment period (if any) and

reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where CONSULTANT has partially completed one or more deliverables due during a payment period, and if CONSULTANT demonstrates diligent progress thereon, then CITY may make a partial progress payment based upon percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon CITY. CITY shall not be liable for, and CONSULTANT shall not be entitled to, any payment for Services performed before this Agreement's execution.

4. **Additional Services.** In the event CITY desires the performance of additional services not otherwise included within the services described in Exhibit A, such services shall be authorized in advance of the performance thereof by the City Manager (for contracts less than \$50,000) or City Council (for contracts \$50,000 or more) by motion duly made and carried. Such amendment to this Agreement shall include a description of the services to be performed thereunder, the maximum compensation and reimbursement of costs and expenses payable therefor, the time of performance thereof, and such other matters as the parties deem appropriate for the accomplishment of such services. Except to the extent modified by written amendment, all other terms and conditions of this Agreement shall be deemed incorporated in each such amendment.
5. **Records.** CONSULTANT shall keep and maintain accurate records of all time expended and costs and expenses incurred relating to services to be performed by CONSULTANT hereunder. Said records shall be available to CITY for review and copying during regular business hours at CONSULTANT's place of business or as otherwise agreed upon by the parties.
6. **Authorization.** This Agreement becomes effective when endorsed by both parties in the space provided below.
7. **Reliance on Professional Skill of CONSULTANT.** CONSULTANT represents that it has the necessary professional skills to perform the services required and the CITY shall rely on such skills of the CONSULTANT to do and perform the work. In performing services hereunder CONSULTANT shall adhere to the standards generally prevailing for the performance of expert consulting services similar to those to be performed by CONSULTANT hereunder.

CONSULTANT represents that it has reviewed Exhibit A and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the

Compensation Schedule established in Exhibit A and within the times specified for each individual Project.

CONSULTANT represents that it possesses all necessary training, licenses and permits to perform the Services and that its performance of the Services will conform to the standards of practice of a professional having experience and expertise in performing professional services of like nature and complexity of the Services working on similar, successfully completed projects.

The granting of any progress payment by CITY, or the receipt thereof by CONSULTANT, or any inspection, review, approval or oral statement by any representative of CITY or any other governmental entity, shall in no way waive or limit the obligations in this Paragraph 7 or lessen the liability of CONSULTANT for unsatisfactory Services, including but not limited to cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

8. Documents. All documents, plans, drawings, renderings, and other papers, or copies thereof, as finally rendered, prepared by CONSULTANT pursuant to the terms of this Agreement, shall, upon preparation and delivery to CITY, become the property of CITY.
9. Relationship of Parties. CONSULTANT is an independent Contractor and does not act as City's agent in any capacity, whatsoever. CONSULTANT is not entitled to any benefits that CITY provides to CITY employees, including, without limitation, worker's compensation benefits or payments, pension benefits, health benefits or insurance benefits. Terms within this Agreement regarding direction apply to and concern the result of the CONSULTANT's provision of Services, not the means, methods, or scheduling of the CONSULTANT's work. CONSULTANT shall be solely responsible for the means, methods, techniques, sequences and procedures with respect to its provision of Services under this Agreement. CONSULTANT shall pay all payroll taxes imposed by any governmental entity and shall pay all other taxes not specifically identified in this Agreement as CITY's responsibility.
10. Schedule. CONSULTANT shall adhere to the schedule set forth in Exhibit A; provided, that CITY shall grant reasonable extensions of time for the performance of such services occasioned by governmental reviews of CONSULTANT's work product or other unavoidable delays; provided, further, that such unavoidable delay shall not include strikes, lockouts, work stoppages, or other labor disturbances conducted by, or on behalf of, CONSULTANT's officers or employees.

CONSULTANT acknowledges the importance to CITY of CITY's Project schedule and agrees to put forth its best professional efforts to perform its services under this Agreement in a manner consistent with that schedule.

11. Indemnity. To the fullest extent allowed by law, CONSULTANT hereby agrees to defend, indemnify, and save harmless CITY, its Council, boards, commissions, officers, employees, directors, volunteers and agents, from and against any and all claims, suits, actions liability, loss, damage, expense, injury (including, without limitation, economic harm, injury to or death of any person, including an employee of CONSULTANT or its Subconsultants), cost (including, without limitation, costs and fees of litigation) of every nature, kind or description, at law or equity, which may be brought against, or suffered or sustained by, City of Foster City, its Council, boards, commissions, officers, employees, directors, volunteers or agents that arise out of, pertain to, or relate to any negligence, recklessness, or willful misconduct of CONSULTANT, any Subconsultant, anyone directly or indirectly employed or retained by them, or anyone that they control. In the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the CONSULTANT shall meet and confer with other parties regarding unpaid defense costs.

The duty of CONSULTANT to indemnify and save harmless, as set forth herein, shall include the duty to defend as set forth in Section 2778 of the California Civil Code; provided, however, that nothing herein contained shall be construed to require CONSULTANT to indemnify City of Foster City, its Council, boards, commissions, officers, employees and agents against any responsibility or liability in contravention of Section 2782 of the California Civil Code.

CONSULTANT's responsibility for such defense and indemnity obligations shall survive the termination or completion of this Agreement for the full period of time allowed by law.

The defense and indemnification obligations of this agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained within this Agreement.

If CONSULTANT is a "design professional," as defined in California Civil Code Section 2782.8(c), CONSULTANT shall indemnify, defend, and hold the Indemnitees harmless against Liability only to the extent such Liability arises out of, pertains to, or relates to CONSULTANT's negligence, recklessness, or willful misconduct. In such an event, the cost to defend charged to CONSULTANT shall not exceed CONSULTANT's proportionate percentage of fault.

12. Insurance. Prior to execution of this Agreement, CONSULTANT shall furnish to CITY Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in EXHIBIT C, Insurance, which are attached and made a part of this Agreement. CONSULTANT shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in EXHIBIT C. In the event CONSULTANT fails to maintain any required insurance, and notwithstanding Paragraph 3 above, CITY may (but is not obligated to) purchase such insurance and deduct or retain premium amounts from any sums due CONSULTANT under this Agreement (or CONSULTANT shall promptly reimburse CITY for such expense).

CONSULTANT shall maintain insurance as required by this Agreement to the fullest amount allowed by law and shall maintain insurance for a minimum of five (5) years following completion of this project or service. In the event CONSULTANT fails to obtain or maintain completed operations coverage as required by this Agreement, the CITY at its sole discretion may purchase the coverage required and the cost will be paid by CONSULTANT.

13. WORKERS' COMPENSATION. CONSULTANT certifies that he is aware of the provisions of the Labor Code of the State of California which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and CONSULTANT certifies that he will comply with such provisions before commencing the performance of the work of this agreement.

14. NON-DISCRIMINATION. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed and the employees are treated during employment without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, advancement, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT shall at all times be in compliance with the requirements of the Federal Americans With Disabilities Act (Public Law 101-336) which prohibits discrimination on the basis of disability by public entities. The CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by the CITY setting forth the provisions of this non-discrimination clause.

15. Notice. All notices required by this Agreement shall be given to the CITY and CONSULTANT in writing, by first class mail, postage prepaid,

addressed as follows:

CITY: City of Foster City
610 Foster City Boulevard
Foster City, CA 94404-2299
Attention: _____

CONSULTANT: _____
(Fill in CONSULTANT Name, Address, Phone Number, Project Manager and Email Address for CONSULTANT)

16. Non-Assignment. This Agreement is not assignable either in whole or in part.

17. Amendments. This Agreement may be amended or modified only by written agreement signed by both parties.

18. Validity. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

19. Governing Law. This Agreement shall be deemed to have been executed in the County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. Any suit or action initiated by either party shall be brought in the County of San Mateo, California unless the parties agree otherwise in a written amendment to this Agreement. In the event of litigation between the parties hereto to enforce any provision of the Agreement, the unsuccessful party will pay the reasonable attorney's fees and expenses of litigation of the successful party.

20. Mediation. Should any dispute arise out of this Agreement, the parties shall meet in mediation and attempt to reach a resolution with the assistance of a mutually acceptable mediator. Neither party shall be permitted to file legal action without first meeting in mediation and making a good faith attempt to reach a mediated resolution. The costs of the mediator, if any, shall be paid equally by the parties. If a mediated settlement is reached neither party shall be deemed the prevailing party for purposes of the settlement and each party shall bear its own legal costs.

21. Conflict of Interest. CONSULTANT represents and warrants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of work and services required under this Agreement. Without limitation, CONSULTANT represents to and agrees with CITY that CONSULTANT has disclosed any

potential conflict of interest, and will have no future conflict of interest, in providing CITY services hereunder, including but not limited to, any interest (financial, share ownership, shared management, shared directors, or reporting responsibilities) CONSULTANT may presently have, or will have in the future, with respect to any other person or entity (including but not limited to potential suppliers, vendors, consultants, contractors, or regulatory agency) which may have an interest in the subject matter of the Services.

22. Liability of CITY.

Except as provided in Exhibit A, Services to be Provided by CONSULTANT and Exhibit C, Insurance, CITY's obligations under this Agreement shall be limited to the payment of the compensation provided for in Paragraphs 1, 3, and 4 of this Agreement,

Notwithstanding any other provision of this Agreement, in no event shall CITY be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special, consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

CITY shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by CONSULTANT, or by any of its employees, even though such equipment be furnished, rented or loaned to CONSULTANT by CITY. The acceptance or use of such equipment by CONSULTANT or any of its employees shall be construed to mean that CONSULTANT accepts full responsibility for and shall exonerate, indemnify, defend and save harmless CITY from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the CONSULTANT, its employees, CITY employees or third parties, or to property belonging to any of the above.

Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which CITY or CONSULTANT may have under this Agreement or any applicable law. All rights and remedies of CITY or CONSULTANT, whether under this Agreement or other applicable law, shall be cumulative.

23. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

24. Force Majeure. Except for defaults of subconsultants at any tier, CONSULTANT shall not be liable for any excess costs if the failure to perform the Agreement arises from causes beyond the control and without the fault or negligence of CONSULTANT, including without limitation failure to reasonably mitigate any adverse impacts (Force Majeure). Force Majeure events include the following:

Acts of God, fires, floods, earthquake, other natural disasters, epidemics and pandemics (other than COVID-19 or variants), abnormal weather conditions beyond the parameters otherwise set forth in this Article, nuclear accidents, strikes, lockouts, freight embargos, interruptions in service by a regulated utility, or governmental statutes or regulations enacted or imposed after the fact (together, "force majeure events").

Any Force Majeure event with a duration in excess of thirty (30) days entitles either party to terminate this Agreement with written notice to the other party, without further penalty or compensation.

25. Entire Agreement. This Agreement, including Exhibits A, B, C, and D comprise the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date first above written by their respective officers duly authorized in that behalf.

CITY OF FOSTER CITY

Dated: _____

Patrick Sullivan, Mayor
(for contracts \$50,000 or more)
[REMOVE signature line if less than \$50,000]

ATTEST:

Dated: _____

Priscilla Schaus, City Clerk

APPROVED AS TO FORM

Dated: _____

Benjamin Stock, City Attorney

CONSULTANT

Dated: _____

Type Name & Title of CONSULTANT
Authorized to Sign

DRAFT

EXHIBIT A

SERVICES TO BE PROVIDED, PAYMENTS, PROJECTS AND SCHEDULE, AND DELIVERABLES FOR CIP 301-682 FOSTER CITY PARKS MASTER PLAN CONSULTANT

EITHER COMPLETE EXHIBIT A OR ATTACH A PROPOSAL/SCOPE OF WORK THAT CONTAINS ALL THE INFORMATION BELOW AND DELETE THE TEXT BELOW

SERVICES TO BE PROVIDED

This is an Exhibit attached to, and made a part of and incorporated by reference to the Agreement dated [Date of Agreement](#), by and between [Consultant Name](#), hereinafter referred to as "**CONSULTANT**" and the City of Foster City, hereinafter referred to as "**CITY**" providing for professional services.

1. **Description of the Project:**

1.1 DESCRIPTION: [Description of Project](#)

2. **Basic Services:**

The CITY has developed a general scope of work as described below.

2.1 [Task 1 – Description of Task 1](#)

2.2 [Task 2 – Description of Task 2](#)

2.3 [Task 3 – Description of Task 3](#)

PAYMENTS

1. The maximum payment to CONSULTANT under this Agreement for the Project shall be: [Maximum Payment Amount](#)

2. METHODS OF PAYMENT FOR CONSULTANT'S SERVICES AND EXPENSES: [List Methods of Payment](#)

3. TIMES OF PAYMENTS. [List Times of Payments](#)

PROJECTS AND SCHEDULE

[List Project Schedule](#)

DELIVERABLES

CONSULTANT's deliverables under the Agreement are enunciated throughout the Professional Services Agreement and include but are not limited to the following:

1. **PROJECT DELIVERABLES**

1.1 **DELIVERABLES:** [List of Deliverables](#)

1.2 **OTHER:**

2. **CONSULTANT SERVICES**. The deliverables considered part of CONSULTANT's professional services are defined as, but are not limited to, the following deliverables:

2.1 **SERVICES:** [List of Services](#)

END OF EXHIBIT A

DRAFT

EXHIBIT B
FEE SCHEDULE

[Specify Consultant's hourly rates for which services hereunder shall be performed]

DRAFT

EXHIBIT C

INSURANCE FORMS

CONSULTANT shall provide, in addition to the Certificates of Insurance, original Endorsement affecting the coverages specified in herein on the attached form. No substitute form will be accepted.

This is an Exhibit to, and made a part of and incorporated by reference to the Agreement dated Date of Agreement, by and between Consultant Name, hereinafter referred to as "**Consultant**", and the City of Foster City, hereinafter referred to as "**City**", providing for professional services.

1. **Consultant's Duty to Show Proof of Insurance.** Consultant, in order to protect City and its Council members, officials, agents, officers, and employees against all claims and liability for death, injury, loss and damage as a result of Consultant's acts, errors, or omissions in connection with the performance of Consultant's obligations, as required in this Agreement, shall secure and maintain insurance as described below. Consultant shall not perform any work under this Agreement until Consultant has obtained all insurance required under this section and the required certificates of insurance and all required endorsements have been filed with the City's authorized insurance representative, insurance Tracking Services Inc. (ITS). Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of the insurance requirements set forth herein. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. Upon request, Consultant shall supply proof that such person is an authorized representative thereof, and is authorized to bind the named underwriter(s) and their company to the coverage, limits and termination provisions shown thereon, Consultant shall promptly deliver to ITS a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the term specified herein. Such certificates and endorsements shall be delivered to ITS prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. Consultant shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by Consultant or City as an additional insured.

1.1 Insurance Requirements

Commercial General Liability Insurance

Commercial General Liability Insurance including, but not limited to, Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the City), Products-Completed Operations Hazard, liability for slander, false arrest and invasion of privacy arising out of professional services rendered hereunder, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of Consultant's performance of services under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. Consultant shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence and five million dollars (\$5,000,000) aggregate.

*Please note, the City will require a separate additional insured endorsement for the Commercial General Liability policy, listing the "City of Foster City, its Council members, officials, agents, officers, and employees".

[FOR THE FOLLOWING INSURANCE REQUIREMENTS, PLEASE CONSIDER IF EACH IS APPROPRIATE FOR THE SERVICE TO BE PROVIDED AND FOR THE CONSULTANT. UNCHECK THE CHECKBOX FOR ANY INSURANCE REQUIREMENT THAT IS NOT APPLICABLE. PLEASE CONTACT THE CITY MANAGER'S OFFICE WITH ANY QUESTIONS.]

Business Automobile Liability Insurance

Automobile Liability Insurance against claims of Personal Injury (including bodily injury and death) and Property Damage covering any vehicle and/or all owned, leased, hired and non-owned vehicles used in the performance of Services pursuant to this Agreement with coverage equal to the policy limits, which shall be at least two million dollars (\$2,000,000) each occurrence.

Workers' Compensation Insurance

Consultant shall submit written proof that Consultant is insured against liability for workers' compensation in accordance with the provisions of section 3700 of the California Labor Code. Consultant shall require any Subconsultants to provide workers' compensation for all of the Subconsultants' employees, unless the Subconsultants' employees are covered by the insurance afforded by Consultant. If any class of employees engaged in work or services performed under this Agreement is not covered by California Labor Code section 3700, Consultant shall provide and/or require each Subconsultant to provide adequate insurance for the coverage of employees not otherwise covered. Consultant shall also maintain employer's liability insurance with limits of one million dollars (\$1,000,000) for bodily injury or disease.

Professional Liability Insurance

Professional Liability (Errors and Omissions) Insurance, for liability arising out of, or in connection with, all negligent acts, errors or omissions in connection with services to be provided under this Agreement, with no exclusion for claims of one insured against another insured, with coverage equal to the policy limits, which shall not be less than two million dollars (\$2,000,000) per occurrence and four million dollars (\$4,000,000) aggregate.

Installation Floater

Installation Floater, covering the work performed under this Contract, against all risks of direct physical loss. The policy shall cover the Contractor's labor, materials and equipment, including materials and equipment in transit or away from the project site, to be installed in the existing structure(s). The coverage shall be written for an amount equal to the initial contract amount plus the value of any subsequent change orders, subject to a deductible of not more than [\$10,000] payable by Contractor.

Cyber Liability Insurance

Cyber Liability Insurance, covering network risk and cyber liability (including coverage for unauthorized access, failure of security, breach of privacy perils, as well as notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

1.2 Self-Insured Retention

Any self-insured retentions in excess of \$100,000 must be declared on the Certificate of insurance or other documentation provided to City and must be approved by the City Risk Manager.

1.3 Claims-Made Basis Coverage

If any of the insurance coverages required under this Agreement is written on a claims-made basis, Consultant, at Consultant's option, shall either (i) maintain said coverage for at least five (5) years following the termination of this Agreement with coverage extending back to the effective date of this Agreement; (ii) purchase an extended reporting period of not less than five (5) years following the termination of this Agreement; or (iii) acquire a full prior acts provision on any renewal or replacement policy.

2. **City as Additional Insured**

On Consultant's Commercial General Liability and Automobile policies, the City, its Council members, officers, directors, agents, employees, and volunteers, shall be named as additional insured's, but only with respect to liability arising out of the activities of the named insured. Any endorsement shall be provided using one of the following three options: (i) on ISO form CG 20 10 1 1 85; or (ii) on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or (iii) on such other forms which provide coverage at least equal to or better than form CG 20 10 1 1 85.

3. **Insurance terms and conditions:**

3.1 Cancellation of Insurance

The above stated insurance coverages required to be maintained by Consultant shall be maintained until the completion of all of Consultant's obligations under this Agreement except as otherwise indicated herein. Each insurance policy supplied by Consultant shall not be suspended, voided, cancelled or reduced in coverage or in limits except after ten (10) days written notice by Consultant in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. This notice requirement does not waive the insurance requirements stated herein. Consultant shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

3.2 All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII Any exception to these requirements must be approved by the City Risk Manager.

3.3 If Consultant is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, Consultant shall provide coverage equivalent to the insurance coverages and endorsements required above. The City will not accept such coverage unless the City determines, in its sole discretion and by written acceptance, that the coverage proposed to be provided by Consultant is equivalent to the above-required coverages.

3.4 For any claims related to the Agreement, the Consultant's insurance coverage shall be primary insurance coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3.5 Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve Consultant for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage; nor shall it preclude the City from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

3.6 Failure by Consultant to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by Consultant. City, at its sole option, may terminate this Agreement and obtain damages from Consultant resulting from said breach. Alternatively, City may purchase such required insurance coverage, and without further notice to Consultant, City shall deduct from sums due to Consultant any premiums and associated costs advanced or paid by City for such insurance. If the balance of monies obligated to Consultant pursuant to this Agreement are insufficient to reimburse City for the premiums and any associated costs, Consultant agrees to reimburse City for the premiums and pay for all costs associated with the purchase of said insurance. Any failure by City to take this alternative action shall not relieve Consultant of its obligation to obtain and maintain the insurance coverages required by this Agreement.

3.7 Should any of the required insurance (other than errors and omissions insurance) be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defenses costs be included in such general aggregate limit, such general annual aggregate limit shall be double the occurrence or claims limit specified above.

3.8 City may (but is under no obligation to) secure project-specific insurance, wrap-up insurance, or administer an owner controlled insurance program ("OCIP"), in which case Consultant and its subconsultants shall communicate this fact to their insurance carriers and request that the risk of this project be excluded from their practice policies. Consultant's fees under this Agreement (and the fee of its subconsultants under subconsultant agreements) shall be reduced by the amount of insurance premiums that may be avoided by Consultant and its subconsultants by virtue of the City's obtaining the project-specific insurance, wrap-up insurance or administering an OCIP, and the exclusion of this project from coverage of Consultant's and subconsultants policies. Construction Manager and its subconsultants shall afford City access to their books and records and cooperate with City in verifying the amount of savings realized.

ATTACHED

1. Insurance Coverage Form

EXHIBIT C

This **INSURANCE COVERAGE FORM** modifies or documents insurance provided under the following:

Named Insured: _____ Effective Work Date(s): _____

Description of Work/Locations/Vehicles: _____

ADDITIONAL INSURED: **City of Foster City (CITY)**
610 Foster City Boulevard, Foster City, CA 94404
Attention: _____
Contract Administrator

Endorsement and Certificates of Insurance Required The Additional Insured, its elected or appointed officers, officials, employees and volunteers are included as insureds with regard to damages and defense of claims arising from: (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> General Liability: (a) activities performed by or on behalf of the Named Insured, (b) products and completed operations of the Named Insured, (c) premises owned, leased occupied or used by the Named Insured, and/or (d) permits issued for operations performed by the Named Insured. {Note: MEETS OR EXCEEDS ISO Form # CG 20 10 11 85}		
<input type="checkbox"/> Auto Liability: the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Named Insured, regardless of whether liability is attributable to the Named Insured or a combination of the Named Insured and the Additional Insured, its elected or appointed officers, officials, employees or volunteers.		
<input type="checkbox"/> Other: [Cyber Liability, Installation Floater, etc.]		
Certificates of Insurance Required (no endorsement needed) (Check all that apply)	Insurer	Policy No.
<input type="checkbox"/> Workers Compensation: work performed by employees of the Named Insured while those employees are engaged in work under the simultaneous directions and control of the Named Insured and the Additional Insured.		
<input type="checkbox"/> Professional Liability:		

PRIMARY/NON-CONTRIBUTORY: This insurance is primary and is not additional to or contributing with any other insurance carried by or for the benefit of Additional Insureds.

SEVERABILITY OF INTEREST: The insurance afforded by this policy applies separately to each insured who is seeking coverage or against whom a claim is made or a suit is brought, except with respect to the insurer's limit of liability.

PROVISIONS REGARDING THE INSURED'S DUTIES AFTER ACCIDENT OR LOSS: Any failure to comply with reporting provisions of the policy shall not affect coverage provided to the Additional Insured, its elected or appointed officers, officials, employees, or volunteers.

CANCELLATION NOTICE. The insurance afforded by this policy shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice (ten (10) days if canceled due to non-payment) by regular mail return receipt requested has been given to the Additional Insured. Such notice shall be addressed as shown above.

WAIVER OF SUBROGATION: The insurer(s) named above agree to waive all rights of subrogation against the CITY, its elected or appointed officers, officials, agents, volunteers and employees for losses paid under the terms of this policy which arise from work performed by the Named Insured for the CITY.

Nothing herein contained shall vary, alter or extend any provision or condition of the Policy other than as above stated.

SIGNATURE OF INSURER OR AUTHORIZED REPRESENTATIVE OF THE INSURER

I, _____ (print/type name), warrant that I have authority to bind the above-named insurance company and by my signature hereon do so bind this company.

SIGNATURE OF AUTHORIZED REPRESENTATIVE (original signature required)

ORGANIZATION: _____ **TITLE:** _____ **ADDRESS:** _____

_____ **TELEPHONE:** _____ (

) _____ **DATE ISSUED:** _____

ATTACHMENT B

EXHIBIT D COVID-19 AMENDMENT/ATTACHMENT (Consulting Agreement Form)

This COVID-19 Amendment/Attachment amends the Agreement between _____
("City") and _____ ("Consultant") dated _____.

1. Definitions

A. The 2019 novel coronavirus and the disease it causes are collectively referred to herein as "**COVID-19**".

B. A "**COVID-19 Condition**" is something attributable to COVID-19 not caused by the Consultant (which for purposes herein includes all subconsultants) and beyond its reasonable control including but not limited to COVID-19 Proclamations and supply chain disruptions due to COVID-19, and other circumstances concerning COVID-19 not caused by the Consultant and which are beyond its reasonable control.

C. A "**COVID-19 Proclamation**" includes but is not limited to orders, directives and guidance concerning COVID-19 that have been issued, and which may be issued from time to time, by public agencies or regulatory bodies, the CDC or OSHA or Cal/OSHA, including without limitation the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards. Consultant acknowledges that those orders, directives and guidance may require the Project to shut down or otherwise increase the Consultant's cost or time of performance by calling for things such as social distancing and the use of personal protective equipment. In the event of conflicting COVID-19 Proclamations, the Consultant shall follow the most applicable, restrictive and newest COVID-19 Proclamations.

D. An "**Unknown COVID-19 Condition**" is a COVID-19 Condition the Consultant did not know about, and reasonably should not have known about, as of the date the Consultant submitted its proposal. The requirements contained in COVID-19 Proclamations issued before submission of a proposal are not Unknown COVID-19 Conditions, and the Consultant will be deemed to have knowledge of those requirements.

E. An "**Unknown COVID-19 Cost**" is a cost that: (i) is solely attributable to an Unknown COVID-19 Condition; (ii) is reasonable and unavoidable under the circumstances; (iii) is not the result of the Consultant's failure to comply with the contract documents or a COVID-19 Proclamation; and (iv) is not the result of a subconsultants failure to comply with a COVID-19 Proclamation in connection with the performance of the Services.

2. COVID-19 Conditions and Proposal. Consultant is expected to know and is deemed to have known about COVID-19 Conditions when it submits its proposal, and COVID-19 Conditions must be accounted for in the Consultant's price and schedule. In order to be entitled to any relief from a COVID-19 Condition, the Consultant must demonstrate that the issue, cost or delay is due to an Unknown COVID-19 Condition.

3. Compliance with COVID-19 Proclamations.

A. Consultant shall comply with COVID-19 Proclamations in the performance of the Services, irrespective of when the COVID-19 Proclamations are issued, and as they pertain to performance of the Services. The cost of such compliance is non-compensable, except as otherwise expressly stated herein.

B. Consultant is responsible to ensure that its subconsultants and suppliers comply with COVID-19 Proclamations at all times in connection with the performance of their Services.

4. Delay. The Consultant is entitled to a reasonable time extension for an Unknown COVID-19 Condition. Such time extension is non-compensable.

5. City Directed Suspension. The City may suspend Services due to COVID-19 health concerns, even though the Consultant may be allowed to proceed with the Services based on COVID-19 Proclamations. The City may suspend the Services for its convenience. The Consultant is entitled to a time extension for a City Directed Suspension, and the contract amount will be equitably adjusted if and to the extent Consultant incurs increased costs that are Unknown COVID-19 Costs.

6. Compensation for COVID-19 Costs. City will reimburse the Consultant for Unknown COVID-19 Costs that are not included in the schedule of values.

7. Safe Work Practices. Consultant shall implement safe work practices recommended by CDC or OSHA or Cal/OSHA, which may include, inter alia, screening all employees, subconsultants, or others ("worker(s)") at all locations where Services are performed for signs and symptoms of COVID-19; adopting staggered work schedules, e.g., providing alternating workdays or extra shifts, to reduce the total number of employees on a site at any given time and to ensure physical distancing; identifying choke points where workers are forced to stand together, such as hallways and elevators, ingress and egress points, break areas, and buses, and implement policies to maintain social distancing; coordinating deliveries in line with the employer's minimal contact and cleaning protocols; and instituting a rigorous housekeeping program to reduce dust levels at all exterior locations. Consultant remains fully responsible for following and complying with changes to recommended safe work practices from time to time.

8. Monitoring and Reporting. City may require the Consultant to actively monitor the health of its workers through temperature checks and questionnaires of major COVID-19 symptoms, including but not limited to cough, fever above 100.4 degrees Fahrenheit and shortness of breath. Consultant shall immediately report to City any outbreaks of COVID-19 among its workers. The Consultant shall not knowingly allow any worker who has tested positive with COVID-19 to enter a City building. In the event of an outbreak or an exposure to COVID-19, the City may impose appropriate mitigation strategies which may be in consultation with the public health officer.

9. Conflicts. In the event of an inconsistency between this COVID-19 Amendment and the Agreement, this Addendum shall control.

[Signatures on Next Page]

IN WITNESS WHEREOF, the City and Consultant have executed this Covid-19 Amendment as of the date set forth above.

CONSULTANT:

CITY:

Signature

Signature

Print Name & Title

Print Name & Title